

## **Accountable Officer Assessment: Scottish Suckler Beef Climate Scheme**

1. This advice appraises the proposal for a Scottish Suckler Beef Climate Scheme in terms of the requirements for public expenditure set out in the Public Finance and Accountability (Scotland) Act 2000 and the *Scottish Public Finance Manual*.

### **Background and context**

2. The proposal for the scheme Cab Sec RET is seeking to announce shortly is part of a process of developing new long term support mechanisms for agriculture which will enable the sector to meet the agricultural emissions reduction envelope of 2.4MtCo2e by 2032. This envelope was agreed by Cabinet as part of the published Climate Change Plan Update.
3. The potential schemes currently being considered concern support to the suckler beef sector and, in particular the associated first stage enrolment, environmental base-lining and data gathering that are intended to apply to agricultural sectors beyond suckler beef as part of a coherent package for agricultural transformation to be developed over the course of the coming months.
4. The primary method by which this and associated plans are being developed is Farmer Led Groups. The Farmer Led Groups are working with support of Scottish Government officials and additional technical support from expert bodies as required. The Groups do not have decision making authority and decisions on scheme design and the commitment of public funds are for ministers to take, advised by civil servants.
5. The Suckler Beef Climate Group prepared a report containing scheme proposals that was published in October 2020. Officials and the Suckler Beef Climate Group Programme Board have been working since then to seek to turn the report's proposals into final designs, ready to implement. Much progress has been made in the subsequent meetings of the Suckler Beef Implementation Board, However, the work to finalise detailed, implementable and costed scheme designs, to appraise these plans, and to ensure readiness for delivery is not yet complete.
6. This AO assessment is being prepared now because the Cabinet Secretary has given explicit instruction to officials that the schemes, enrolment, baseline and suckler beef support payment, must be launched before the pre-electoral period begins on March 25<sup>th</sup> 2021. This note contains my assessment of the level of assurance that can be given now against the various Accountable Officer tests, describes the nature and level of risk in proceeding to launch now and is intended to support Ministers in forming a view as to whether, given this assessment, they wish to commit public funds now to specific schemes.
7. The overall objective of the suckler beef climate scheme is to provide incentives to farmers to adopt management measures that will reduce emissions from their herds. The enrolment scheme and the baseline data gathering elements are intended to support the suckler beef climate scheme initially but also to provide a route for any farmer to engage with future schemes that will be designed to reduce emissions from farms and support biodiversity. Many of the practices and

measures identified for the suckler beef climate scheme will be common to other farming sectors, and many suckler beef farmers also have other agriculture aspects to their farming business such as sheep and arable.

8. The reports from the other farmer led groups are expected by the end of March or shortly thereafter. These reports will identify practices and measures that are unique to those sectors, in addition to confirming the details behind the common ones. Once all the reports are received the information can be analysed and synthesised to inform the approach to an all-Scotland scheme and service design.
9. In terms of support for the suckler beef sector currently, farmers are able to access the Basic Payment Scheme and associated schemes such as Greening, and the current Scottish Suckler Beef Support Scheme (SSBSS), a form of Voluntary Coupled Support which pays per calf with a total value of £40m per year (£34m for mainland and £6m for islands). The SSBSS is intended to stabilise production levels and maintain the industry. In addition, a five year Beef Efficiency Scheme aimed at improving the efficiency of suckler herds thereby reducing emissions was launched in 2016; smaller payments have been made for the first three years in recognition of the cost of collecting and entering data, and a free advisory service is available to participants. Participants must continue to meet scheme obligations for the remaining two years of the scheme.

## **Assessment against the accountable officer standards**

### **Regularity**

10. Issues of regularity considered are:

- Powers to pay
- Budget provision
- Consequence of proceeding without impact assessments
- Consequence of proceeding without consultation
- Ability to recover monies if farmers fail to fulfil the conditions for payment required
- Subsidy control

### **Powers to pay**

11. SGLD have been engaged in providing advice as to whether Scottish Ministers have appropriate legal powers to pay financial incentives to beef farmers under such a baselining scheme. Three potential powers for payment were considered:

- Small Landowners (S) Act 1911,
- Scottish Rural Development Programme, and
- Environmental Protection Act 1990.

12. The Small Landowners (S) Act 1911 would appear to be the only route that would be available for a March launch; the others may potentially provide a stronger basis but would require secondary legislation with the earliest that that could be completed being autumn 2021. While SGLD have confirmed that Ministers have

the power under the Small Landowners (S) Act 1911 to make payments for the apparent purposes of a Suckler Beef Climate Scheme, they have also advised that the Act is now very old and arguably drafted for a different purpose. It has been used before for example in respect of some payments made using convergence monies (£160m over two financial years), lacking any better power, but reliance on the Act still carries some risk. It does not help therefore that the proposed scheme is likely to prove a more divisive issue, potentially attracting more scrutiny of the legal basis for payment.

#### Budget provision

13. A total of £51m of resource is currently available to encourage agriculture transformation over the combined period 2020/21 and 2021/22 – made available from the completion of the Bew Review. Ministers have flexibility to carry forward unspent funds from this source. The Treasury requires these funds to be allocated to farmers and land managers. In addition there is an additional budget to support capital expenditure. The suckler beef scheme has a suggested annual budget of £16m in its first two years of operation, drawn from these funds to provide payments to farmers to collate baseline data and ensure that they can meet the eligibility criteria for the scheme. This suggested budget does not include the future costs of measures to reduce emissions, unless emissions reduction can be achieved, *per se*, by collecting data alone. Utilising Bew funding for this purpose forgoes its use to mitigate the projected shortfall in funding (circa £170m) from HM Treasury across the CAP budget to 2025.

#### Consequence of proceeding without impact assessments

14. Impact assessments have not yet been completed. This cannot happen until the design of the scheme is closer to completion. Ministers must comply with all applicable legal duties, including for example the public sector equalities duty under the Equalities Act 2010, and the duty to have regard to island communities under the Islands (S) Act 2018. A failure to do so will expose Ministers to the risk of a successful legal challenge to a decision or activity. In terms of the nature of the schemes and how the beef scheme will impact on crofting communities, the absence of an island communities impact assessment may create a particular risk.

#### Consequence of proceeding without consultation

15. Consultation with persons likely to be affected by the decision is a normal part of the decision-making process. It helps to make the process a transparent and fair one and to ensure all relevant information has been considered.

16. In this case, the role of the farmer led groups provides some comfort that relevant bodies and groups have been engaged. However stakeholders not members of the group may feel that a privileged role has been given to certain groups and individuals, including those that will directly benefit financially. So whilst there is no specific legal duty to consult on the scheme, the absence of consultation could create some propriety risk and be relevant in relation to wider assessments about the fairness or rationality of the decision.

### Ability to recover monies if farmers fail to fulfil the conditions for payment required

17. The current scheme proposals envisage payment made up front with the expectation that farmers will subsequently implement the required baselining measures and fulfil the conditions of the grant. The various powers to pay options, including the 1911 Act, do not provide powers to claw back misapplied funds should conditions not be fulfilled. Clawback provisions would need to be included as part of the baselining grant award letter - in effect creating a contract that could then be used for recovery. This is distinct from the basis for CAP payments where the possibility of recovery is included within the legal framework. The creation of a contract that is sufficiently specific in terms of the conditions and how fulfilment of those conditions will be assessed brings complications. A further issue arises from concerns that the market for services that relate to fulfilment of some of the conditions, such as carbon audits, is not developed enough to meet potential demand. For this reason a farmer could claim that they had not been able to meet the conditions as a result of external factors, limiting our ability to enforce the principle of conditionality that forms the core of the Government's approach to policy.

### Subsidy control

18. Any new payment scheme must be assessed against all applicable subsidy control regimes, including potentially the EU state aids regime as it applies in respect of Northern Ireland. The WTO agreement on Agriculture requires signatories, in this case the UK, to notify it of any new agricultural support schemes. The UK has initiated a mechanism for that notification via the UK co-ordinating body which requires Devolved Administrations (DAs) to submit proposals for schemes for consideration by the other DAs before obtaining agreement from the Defra Secretary of State about classification (the type of support it is (green, blue or amber box in WTO terminology)) and thereafter onward transmission to the WTO. This process could take a number of months depending on whether DAs challenge the proposal and whether the UK considers it is compatible with the UK Internal Market Act.

19. The UK co-body and the other DAs are aware of the farmer led group work (through our regular updates) but have not been formally notified of the proposed suckler beef scheme. This is because the proposals are not yet at a stage where they could be described in detail in terms of the operation of the subsidy and its market impact. Assessments of the proposal against these relevant subsidy regimes have not yet been completed.

### **Summary on regularity**

**20. While there appears to be a reasonable basis to make payments to beef farmers that could be utilised for baselining in the first instance, there are other significant risks including: legal challenge; the practical ability to recover money from participants where they are not able to meet conditions of grant; and, compatibility with other subsidy regimes. For these reasons regularity risk is significant and the necessary requirements cannot be met in the time available. A lower risk approach would be to do further work and**

**to develop a more sustainable and appropriate legal basis for the scheme, consult with the UK and other devolved nations in accordance with agreed inter-government procedures, conduct the relevant impact assessments and stakeholder consultation. This would suggest introducing measures, modified as necessary by the relevant considerations, later in the year.**

## **Propriety**

21. A number of propriety issues including feasibility have been considered:

- Confidence in delivery readiness to meet expectations of Parliament and public
- “Real world” practicality of measures proposed for implementation by farmers
- The extent to which professional advice has been taken
- Reputational risks associated with failure to deliver
- Other reputational risks

## Confidence in delivery readiness

22. Before the launch of any scheme, we need to be able to say clearly to potential participants:

- What is being offered
- What they need to do to qualify for these payments and when they will have to complete the work
- When they will be paid
- What happens if they do not do what is required

23. In this case, three distinct elements are being considered: enrolment, baselining (possibly as one scheme applicable to any farmer) and suckler beef climate actions. Full detail against the four points above are not available yet in detail and are subject to further detailed appraisal, design and resourcing. This includes both the RPID staff who will be required to provide guidance and operate the scheme and also the advisors who will be called upon by farmers to undertake certain professionally certified assessments/measurements.

24. All scheme operation will need to be supported by IT and data systems, by detailed guidance and by other regimes such as inspection. The very basic IT Enrolment capability for suckler beef has been developed at pace and is ready for use. However, the next two iterations which involve, firstly, verifying that the applicant meets the entry criteria for joining the scheme and, secondly, making the grant payment and gathering the baseline data, have still to start. As the details of even these initial parts of the scheme are still being developed, the timeframe for development can only be a broad estimate. Assuming requirements are kept to a minimum then, through a mixture of repurposing existing technologies and building new functionality a period of between three to five months after enrolment is feasible.

25. A critical element of the new scheme from the start will be data standards, data gathering and data sharing. This aspect of the scheme design from an Information Governance and Digital perspective is complex. The Scottish Government has

mandated the Scottish Approach to Service Design and Digital Scotland Service standards for all projects. While the approach may be used proportionately for a Suckler Beef “pilot”, the Digital Assurance Office would require a full programme independent appraisal before progress for a solution for all agriculture sectors is commenced.

26. Work would need to continue in parallel to extend what had been developed for suckler beef production as the vanguard application to the other sectors of agriculture.
27. It should be noted that “business as usual (BAU)” for Pillar 1 and Pillar 2 continues, so there will need to be further shifting of priorities from those operations to the new scheme. While some of the IT work can be contracted additional SG positions will need to be filled (or back-filled) increasing the risk to BAU and the delivery of the scheme.

#### Real world practicality

28. We have a working list of conditionality requirements which have been agreed in principle by the Programme Board. However much detail on these conditions is still to be worked out. The Farmer Led Groups also tend to be composed of the most progressive and change-minded farmers. The full acceptability and practicability of the actions has not been tested with broader groups. There are important lessons from the Beef Efficiency Scheme about the extent to which the full suite of measures are adopted in a way that generate actual improvements. Pilot testing would provide further assurance.
29. There are also concerns that the market will not be able to supply the necessary support to businesses to complete the conditions – this is untested.
30. Opening an enrolment process at this stage, without a clear understanding of the detail of the downstream actions the participants are required to take, incurs significant delivery and reputational risks. The necessary systems and support mechanisms are not in place.

#### The extent to which professional advice has been taken

31. The proposal has benefitted from farmer and industry inputs – this is a strength though there are some risks that specific interests (depending on the final design) will not be satisfied or will feel they have not been sufficiently included. These risks are hard to assess fully now because some design issues and data standards (fundamental to the sustainability and success of the scheme for all parties) not yet settled could impact on different groups differently, significantly affecting the response a final scheme gets from industry.
32. Technical advisers from SRUC and NatureScot have been engaged, together with internal advice from RESAS, SGLD and ARE. Advice from SGLD has informed the regularity assessment. Judgements about the nature and extent of payments currently rest on farmer experience, gut instinct and feel. Although this provides valuable insights and inputs, it cannot substitute for an appropriately rigorous

evidence base. All of this would normally be formally set out in a Business Case. The Scottish Public Finance Manual (SPFM) would expect to see an Outline Business Case completed before significant funds are committed to what will be a transformative programme for Scottish agriculture. This process would include consideration of various options, modelled for their costs and benefits. This modelling and appraisal has not yet taken been conducted.

#### Reputational risks associated with failure to deliver

33. The Beef Efficiency Scheme, launched in 2016, quickly ran into problems of uptake including criticism of complexity and lack of clarity about what was expected from participants. Some farmers enrolled for fear of missing out, but then found the scheme conditions hard to implement and were required to refund payments. The improvement conditions proposed here are much more complex than the BES and there is a risk that without further testing, some of the same problems are repeated. On broader agricultural support systems, trust is only now restored after the CAP payment problems. Farmer confidence would be lost quickly if detailed scheme operation or the necessary supporting IT ran into problems through being launched prematurely.

#### Other reputational risks

34. The general absence of consultation with the broader industry or other stakeholders including climate change and environmental stakeholders is a reputational risk. To manage conflicts of interest, a register of interests is in place but this does not fully manage the issue that the policy development has been conducted by the principle recipients of the proposed support scheme. The proposals have not been subjected to wider scrutiny.
35. Parliament has had no opportunity to engage with and scrutinise the policy development. If one of the alternative legal mechanisms requiring secondary legislation were selected as the appropriate legal basis, this would create a formal opportunity to engage Parliament in the development of the policy.
36. Significant expectation has been created in the Programme Board and with some associated stakeholders that the scheme will launch in March. If this does not happen, there is a risk that the energy and momentum will be lost and that stakeholders will believe that they have been working to little benefit and that government has let them down. This can be mitigated to some extent by a strong confirmatory narrative about the general principles and a commitment to further development of detailed schemes on the back of the work of all of the groups.

#### **Summary on propriety**

- 37. A number of factors contribute to a significant propriety risk. These include the absence of detail about the conditions to be applied to payments, incomplete development of the necessary payment systems and the effective recovery of funds where farm businesses cannot fulfil the necessary conditions, and the absence of consultation with Parliament. For these reasons there are significant shortfalls in propriety and the necessary**

**requirements cannot be met in the time available. A lower risk approach would be to develop the detail of the scheme further, to consult a wider range of relevant stakeholders and to pilot aspects of its approach in order to build confidence amongst stakeholder and demonstrate the difficulties associated with previous similar schemes have been overcome.**

## **Value for Money**

38. The three principles of value for money, as outlined by Audit Scotland and the National Audit Office are Effectiveness, Economy and Efficiency

### Effectiveness

39. The objectives of the scheme are to reduce emissions from the suckler beef herd and to restore and enhance environmental quality such as biodiversity. The extent to which the scheme is effective in achieving these objectives will depend upon how many farms join the scheme and the detail of the measures and outcomes that participants are required to achieve. The implementation board estimates that the number of animals that will join the scheme will lie in a range of 160,000 to 300,000 suckler cows. The scheme is focussed on breeding cows and, on the basis of the estimated uptake, the scheme might enrol between around a third and two-thirds of the present suckler breeding cow population in Scotland. The knock-on impacts on the wider pool of cattle associated with the beef industry (around 1.2 million animals in total which alongside breeding cows includes heifers, calves and finished cattle) is unclear.
40. To contribute proportionately to emissions reduction from agriculture as a whole suckler beef production must reduce emissions by 0.8MtCO<sub>2</sub>e by 2032. The SRUC has estimated that the scheme is likely to achieve a reduction in emissions of 0.52MtCO<sub>2</sub>e from suckler beef farms if the targeted improvements in efficiency and performance are achieved. Unforeseen technological developments could over time add to this figure, although equally it may transpire that the real world improvements which can be achieved are less than expected. It is likely, however, that the scheme will not achieve the full extent of the reduction that is required from the suckler beef production leaving a shortfall that would have to be met elsewhere or by additional measures. These additional measures have not been developed or costed.
41. The scheme does not propose specific controls to ensure these emissions savings are achieved at this stage (this is to be established in phase 3). The implementation board has opposed any suggestion of controlling cattle numbers beyond the removal of unproductive animals from the herd on the basis that it will impair the profitability of suckler beef and associated livestock production. It is possible that without controls over cattle numbers, the presence of incentive payments to improve efficiency will cause farms to increase herds – partially or wholly negating the reduction in overall emissions that the scheme is required to produce. This risk is highlighted in the analysis carried out by SRUC.
42. The scheme will deliver other benefits that are likely to improve the productivity and profitability of the industry although these benefits are not yet quantified. The



scheme will also improve biodiversity although the extent of these benefits (and their monetary value) has not as yet been quantified.

### Economy

43. The total cost of the suckler beef scheme will vary according to the number of cattle that are enrolled. At present, the proposals lack any clear mechanism for controlling expenditure or providing additional budget cover if demand and enrolment exceed expectation.
44. Additional budget for SG's implementation costs would also be required. There is no explicit provision for implementation costs including the provision of new IT systems in the portfolio budget currently. There is not yet a completed Outline Business Case to support this budget requirement.
45. There are some risks to committing a large part of these funds at this stage to suckler beef schemes (the Programme Board co-chair Mr Walker has indicated the budget should be £16m) in advance of the other Farmer Led Groups reporting and given that the HMT settlement for agriculture was £170m less than expected over the next four years.

### Efficiency

46. The extent and nature of payments under the scheme is yet to be decided. At present the plan is that the proposed scheme will reward farmers in proportion to the extent of their enrolled herd – with increased rates of payment for the first 20 or so animals in any herd. The Implementation Board has also said that the scheme must provide adequate incentive for farmers to join.
47. There are no detailed calculations as to the extent of the costs that will be incurred by different types of farms joining the proposed suckler beef scheme or the extent of the incentive that is necessary. It is likely that the proposed payment system will result in large payments to businesses with large herds that are many times the cost of participation in the scheme. Payments to farms with smaller herds may or may not cover the current and future costs of participation. Similarly there is no estimate of the extent to which farms will be rewarded again for measures that have already been supported at public expense by other schemes – such as the previous Beef Efficiency Scheme and Agri-Environment Climate Schemes. For these reasons it is likely that the proposals will incur a certain amount of deadweight – although at present it is difficult to estimate the extent of this issue.
48. In addition to these points, the operation of the proposed suckler beef scheme takes no account of the reduction in emissions that must be achieved in those parts of suckler beef production that are not enrolled within the scheme. It is proposed that these farms enrol in other schemes (as yet to be designed) or operate with reduced public support. The feasibility of this approach and the costs associated with a Just Transition have not been considered to date. As such, it is difficult to estimate the extent to which investment in the scheme will assist the reform of agriculture more generally until such time as other farmer led groups have reported a set of proposed measures.

49. In the absence of further specific measures to decarbonise the suckler beef sector, declines in emissions are still likely to occur due to a continuation of pre-existing market pressures forcing some operators to leave the sector or to diversify into other activities and in turn reduce overall livestock numbers. However, such market driven declines in emissions are unlikely to be sufficient to meet the emission envelopes set out in the CCPu, nor would they provide a mechanisms to reduce the carbon intensity of the remaining suckler beef herd as this scheme is intended to do.
50. Opening an enrolment process at this stage, without a clear understanding of the detail of the downstream actions the participants are required to take, in essence the scheme terms and conditions, incurs significant delivery and reputational risks which will jeopardise securing value for money in proceeding. The necessary systems and support mechanisms are not in place. Nor are assurance mechanisms (e.g. audit trail) to ensure that public funds are protected. This risk can be mitigated by further work on the detail, including farmer engagement, and piloting the proposed approach at an appropriate scale.
51. There has as of yet been no options appraisal carried out looking at potential other policy options for achieving the objectives. Therefore it is not possible to provide the necessary assurance at this stage as to whether this particular scheme offers the most efficient means of achieving the stated objectives.

### **Summary on value for money**

- 52. The absence of a detailed scheme design means that the value for money of the scheme cannot be assured.**
- 53. The technical improvements being targeted by the scheme have been informed by expert understanding of agricultural science. However, the means by which they will be achieved, and the associated costs, have not been finalised. Nor are the measures, if achieved, likely to yield sufficient reduction in emissions without un-costed, and undeveloped, additional measures. The adoption of headage payments systems, and a focus on improving economic performance and efficiency in the sector, may also cause some herd sizes to rise negating at least partially the extent of emissions reduction. Although there is budget cover for the scheme, its costs may rise above the intended level without controls on cattle numbers (to which the industry is strongly opposed). There may be significant deadweight costs associated with the scheme. It is difficult at present to establish its contribution to necessary reforms of agriculture as a whole until other farmer led groups have reached their conclusions.**

### **CONCLUSION**

54. Current proposals for a suckler beef climate scheme have been considered the requirements of the Public Finance & Accountability Act (Scotland) 2000 and the Scottish Public Finance Manual. The current proposal does not meet the required standard as regards regularity and propriety and value for money.

55. In order to implement the scheme in its current form, the Accountable Officer would require written authority from the Cabinet Secretary in accordance with the procedure laid out in the Scottish Public Finance Manual.