



T: 0131-244-5598
E: DGEconomy.gov.scot

Jenny Marra MSP
Convener to the Public Audit and Post-legislative Scrutiny Committee
Room T 3.60
The Scottish Parliament
EDINBURGH
EH99 1SP

24 January 2017

Dear Ms Marra

COMMON AGRICULTURAL POLICY: FUTURES PROGRAMME

Thank you for your letter of 22 December to the Permanent Secretary. I have been asked to respond (please see Annex A) and in doing so I also enclose the first of our monthly reports to the Committee. The report outlines progress since the Committee's meeting on 8 December and provides an update on issues arising over that period.

The next monthly report will be provided in the week beginning 27 February.

I have copied this letter to the Convener of the Rural Economy and Connectivity Committee, Edward Mountain MSP.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Liz Ditchburn', with a horizontal line extending to the right.

Liz Ditchburn
Director General Economy

ANNEX A: Response to questions raised by the Public Audit and Post-Legislative Scrutiny Committee (letter, 22 December 2016)

What is the difference between the original budget and the outturns for the Rural Payments Inspections Division (RPID)?

The divisions within Agriculture, Food & Rural Communities Directorate responsible for delivering CAP Reform are the Rural Payments Inspection Division (RPID) and Information Services Division (ISD).

In 2015-16 actual spend for RPID and ISD staff and related costs was £28.1 million against a budget of £28.1 million. The equivalent budget for this year (2016-17) has increased by £3.3 million to £31.4 million. Spend to date is in line with the budget.

What are the legal requirements for payment of the programme? Is the Scottish Government aware of any farmers or NFU Scotland seeking legal advice on whether to seek damages or compensation for hardship caused by the delays and errors in the programme?

EU rules on timescales for payments under Pillar 1 and Pillar 2 are set out in Articles 75(1) and 75(2) of the Horizontal Regulation (EU) No. 1306/2013. This specifies that payments for Pillar 1 should be made within the period from 1 December to 30 June of the following calendar year. For Pillar 2 measures there is no payment window as such in the EU rules.

There is no provision in the EU rules regarding entitlement to interest or other compensation for any payment made after the deadline. We are not aware at present of any legal action being taken against the Scottish Ministers for non-payment of subsidies under domestic law.

Was the conflict of interest, identified at pages 35 and 36 of the AGS report, ever included on the risk register, if so, when?

When the conflict of interest referred to in AGS report was identified, action was taken to manage the substance of the specific case and to change governance arrangements so that the control risk identified was mitigated.

Update of the live police investigation into the conflict of interest that is underway.

We will provide further information to the Committee once we have had feedback from Police Scotland.

With reference to previous information provided on 3 November, and specifically the trigger point defined as “Any critical milestone due within 6 months whose final delivery date, or forecast delivery, slips more than 4 weeks” can you explain how it is decided which issues are escalated to Ministers?

It is important that we clarify that in the table at Annex A of our letter of 3 November, any triggers judged of sufficient magnitude / severity / importance have been, and will continue to be, escalated to Ministers as appropriate. The presence of [M] after some items highlights the triggers that are most likely to require Ministerial attention, in particular where there could be direct and significant impacts on farmers or financial implications for the Government. However judgements are always made on a case-by-case basis and according to the status of the programme overall at any given time. For example at present, issues across the whole range of trigger points set out in the table are likely to be escalated to Ministers.

In relation to the 2016 loan scheme, how many of the 166 individuals who received over-payments have now been contacted, and how many have repaid the money?

All 166 of the affected businesses have now been contacted. To date, 95 have repaid the overpaid amount (worth £404,420).

For completeness, in relation to the 2015 loans scheme, some 150 loan overpayments were made. Of these 6 remain outstanding, with a value of £6,000 and we continue to pursue recovery.

Please provide an update on the Information Commissioner's office's investigation into the data protection breach December 2016.

The Information Commissioner has confirmed they will not be undertaking formal enforcement action as they do not regard the detrimental impact on customers as significant and appropriate remedial action has been taken.

Please provide an update on the technical stock-take review commissioned by the Cabinet Secretary for Rural Economy & Connectivity, including the timescales for this review?

The purpose of this exercise is to review the Futures Technology Platform that has been developed to support the delivery of CAP payments and determine its integrity and overall supportability. A first report will be delivered by the end of January, with the potential for a further analysis if needed.

This is a critical activity as we transition a major programme into business as usual.