

Date : 13 April 2018
To : Scottish Land Commission
From : Gemma Cooper

REVIEW OF OPERATION OF AGENTS

1. NFUS welcomes the opportunity to respond to this consultation. The results of the recent research have demonstrated that, in general, agents function well in the best interests of their clients. Where there are issues, NFUS believes that the current and future Codes produced by the Tenant Farming Commissioner will play a vital role in behavioural change.

Question 1: Do/will the TFC's Codes of Practice enable the issues raised concerning the conduct of agents to be addressed? For example when discussing repairs and maintenance obligations, planning the future of Limited Partnerships and (once agreed) rent reviews?

2. NFUS believes that the existing Codes do address some of the issues but feels that additional provision of a general Agents Code by the Tenant Farming Commissioner would be a positive step. The first three issues in the report relate to lack of information provision, and issues with timeous responses. This Code could build on the paper produced by the Interim Advisor for Tenant Farming entitled 'and focus the importance of information provision, timeous response, and the emotional intelligence which is so important in relation to tenancy discussions.
3. One issue which is hard to deal with, is where a party is engaged in a tenancy discussion and encounters an outcome which does not favour them. Whilst it may not relate directly to the conduct of the agent(s) involved, the result of this is often a negative view of the agent(s) concerned.
4. In relation to the final issue of dishonest conduct or erroneous information, NFUS does not feel that the current Codes provide for this but suggests that this could be covered by the general Agents Code mentioned and formally endorsed by the professional bodies (RICS/SAAVA/SLC).

Question 2: What, if anything, could your organisation do to address these issues of dissatisfaction-bearing in mind the instructions to an agent and the conduct of agents should be fair and reasonable?

5. NFUS has professional members in addition to farming members and would suggest that continued promotion of the Codes within the sector would be an appropriate method by which to underpin discussions and provide confidence.

Question 3: How could professional bodies and membership organisations complaint services be improved?

6. The report notes that usually, complaints are made directly to the agent concerned, very few are made to professional bodies which oversee them. Where complainants have been aware of the potential to complain to professional bodies, it appears that there is feeling that relevant codes will not assist. On The basis that there is already a requirement for a complaints process in firms already, perhaps the only addition which could assist would be a sense of an impartial body having an overview of complaints occurring. Providing the Tenant Farming Commissioner with this as part of a new general Code (as mentioned earlier) would ensure peace of mind for complainants, allow for a tracking of complaints and patterns, and help practitioners adhere to best practice standards.

Question 4: Would better awareness of the other party's long term plans improve relationships between landlords and tenants, and/or make it easier for agents to conduct business in a fair and reasonable manner? If so, how could your organisation support clear communications around long term planning?

7. NFUS feels that there is a role for all stakeholder organisation to promote the importance of long term planning as standard best practice for farming businesses. NFUS could support clear communications around long term planning by ongoing promotion of the Codes and keeping awareness high amongst its membership.

Question 5: In your opinion, what else could be done to ensure continuous improvement of professionals to the benefit of the agricultural holdings sector?

8. NFUS agrees with the sentiment noted in the report, that most negotiations should progress between parties and unimpeded by any outside interference. NFUS feels that there is a gap, particularly in the training provided by the RICS APC route, and in terms of CPD offered to MRICS professionals. There is no training or guidance given in some of the more 'human' aspects of agricultural tenancies. To ensure continuous improvement of professionals, this should be worked into the training framework to ensure that new agents are trained at an early stage and worked into CPD requirements for qualified agents.

Question 6: Are these research findings generally as you would have expected?

9. NFUS is pleased to note that most encounters with agents appear to be positive. Whilst this was a suspicion, the report has provided a basis on which the industry can progress in a more positive manner.

Question 7: Do you have any other observations or comments to make regarding the TFC's review of agents?

10. NFUS has no additional comments to make with regards to the role of agents.

Ends.