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FROM THE DEPUTY PRESIDENT

Rural Proofing Bill Team
DARD
Room 654
Dundonald House
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Dear Sir/Madam,

CONSULTATION ON POLICY PROPOSALS FOR A RURAL PROOFING BILL

Thank you for the opportunity to respond to the above consultation. The Ulster Farmers' Union (UFU) is the largest farming organisation in Northern Ireland representing nearly 12,000 farming families. The UFU represents farmers from all areas of Northern Ireland and across all sectors.

The UFU recognises fully the importance of considering the specific needs of rural areas in policy-making and the planning of services, and we welcome the attention that this proposed Bill is placing on rural needs, however, as you will see from our response, we do have some reservations about what is being proposed and the process that seems to have been followed. We would have serious concerns about the progression of the Bill until these issues are addressed. We believe that once these issues are fully considered and addressed, the Department will be in a much stronger position to bring a Bill which will enjoy the confidence of those who live and work in the countryside.

The definition of 'rural'

As it stands, we are not convinced that a rural proofing Bill will bring any noticeable benefits to rural dwellers in the absence of a clear and appropriate definition of 'rural'. We have noticed that unsatisfactory definitions of key concepts can result in people who require assistance being left unable to access it, but with no route of redress as doing so would lead to "a lack of transparency". For example, in October 2014, we wrote to Minister O'Neill informing her that there were people who were unable to access the services under the *Tackling Rural Poverty and Social Isolation* framework as they were classified as an urban dweller despite being for all intents and purposes rural. The Minister responded, acknowledging that there this situation existed, but that in the interests of ensuring transparency in the process, these people could not be considered eligible for the TRPSI programmes as the definition had already been set.

We responded to the Minister, stating that we did not envisage a change in the definition at present, but that instead would welcome some exemptions to be granted for those who were “for all intents and purposes” rural who needed to access the services. This would not have been outwith the Operating Rules for LEADER funding, which states that:

“The NIRDP will retain the flexibility to support projects located in more urban settings in cases where the projects will principally benefit rural areas and a robust case can be made for the project to be located in a town.”

We went on to give some suggestions for how such a case could be made, highlighting the following criteria for consideration of those dwellers who have “fallen between two stools”:

- *“What is their occupation? If they are involved in agricultural activity as their primary source of income this should count towards them being included as a special case.*
- *What is the distance between them and their nearest Post Office? The choice of the Post Office as a measuring point is quite arbitrary and may be revisable, but we believe it would offer a reasonable guide to how far someone lives from essential services- which is part of the definition of a rural area.*
- *How many dwellings are within a square mile of their residence? We believe that if this number is low then it would count towards them being classed as rural. Neighbours are often the first port of call for help and those without close neighbours nearby can be very isolated and vulnerable- particularly with regard to issues like rural crime which can create a significant amount of fear and anxiety.”*

We believe that we were offering a sensible solution for a problem, the existence of which was not in dispute. The above list was not intended to be exhaustive, but would have provided a starting-point in the consideration of the needs of the people in question. However, we were very disappointed to receive a reply from the Minister again citing the need for transparency in the process and refusing to countenance allowing these exceptions, yet an official from DARD told the Committee for Agriculture and Rural Development that use of the current definition “does not stop interventions in other settlements and looking at flexibility in the programme to make sure that no one loses out.”¹ It is frankly baffling to us why a DARD official would say that there is nothing to stop flexibility being applied to ensure real people do not lose out when only a matter of months ago, the DARD Minister had point blank refused to do just that for a problem she acknowledged existed.

This example highlights why we believe strongly that a suitable definition needs to be in place before legislation is brought which would be of any real, tangible benefit to rural dwellers. Good legislation needs to be testable, and as was highlighted at the meeting attended by DARD officials on 10th March 2015, it is extremely unclear how a rural dweller could be said to have sufficient interest if competing and unsuitable definitions were in place: particularly if Departments are moving from the default definition, whatever that may be. We are aware that NISRA will be publishing a new definition on 26th March 2015 which we hope will be an improvement on the previous definition, but until we have seen this definition, we cannot reasonably be expected to say whether or not the Rural Proofing Bill would be effective or not: if there is no clarity on what the legislation will refer to then there cannot be a simple, predictable and consistent route of redress for rural dwellers who feel that they are not having their needs considered as a result of the process being followed. As well as the lack of a route of redress, there is the issue that allowing Departments to use their own definitions will lead to patch and

¹ <http://data.niassembly.gov.uk/HansardXml/committee-11827.pdf>

inconsistent evidence. This was recently acknowledged by Lord Ewen Cameron in his review of rural proofing in England. Lord Cameron said:

Worryingly, some government departments do not routinely apply the urban-rural definitions to their policy analyses. The consequence of this patchy approach means that urban and rural issues are not being disaggregated and rural dimensions are likely to be missed. Given the variable use, I believe it is now time for all government departments to apply urban-rural analyses to their policy considerations. To not do so is missing a fundamental and critical first step in appraising policy options.²

The need for a consistent mechanism for defining rural areas is therefore of the utmost importance. However, alongside the issue of consistency lies the issue of suitability. Lord Cameron recommended that English Departments adopt the definition used by the ONS, which is the same as is currently used by NISRA. With respect to Lord Cameron, we do not believe that this definition is appropriate or that it captures the heterogeneous nature of rurality.

Rurality is not a monolithic concept. Two rural areas: take for example the glens of Antrim and the Ards Peninsula have very different dynamics and cannot easily be captured within one definition or concept. Sociological concepts such as this are very difficult to pin down in practice and it may be worth figuring out an approach which will attempt to treat each area as appropriately as possible. This approach was suggested by Du Plessis et al, who said that:

“Definition matters. Different definitions generate a different number of “rural” people. Even if the number of “rural” people is the same for two definitions, different people may be classified “rural” with the two definitions. Though the characteristics of “rural” people are different for each definition of “rural,” in general, each definition provides a similar analytical conclusion. Rather than using one of the existing definitions, one option available to an analyst is to assign one (or more) “degrees of rurality” to each territorial unit. This may be specific to a policy debate or a sub-national development issue.”³

Du Plessis et al distinguish between different “levels” of rural, including:

- *Census “Rural Areas” are built from EAs (enumeration areas), which makes this definition particularly useful for considering very localised issues.*
- *“Rural and Small Town” (RST) and MIZ are built from CSDs (towns and municipalities). With these building blocks, they are useful for considering community level issues, such as school location and municipal services. RST (and MIZ) also provide an aggregation of individuals in a similar type of labour market in the sense that all RST residents live in the countryside or in small towns outside the commuting zone of larger urban centres.*
- *OECD “Rural Communities” are built from CCSs (groups of municipalities), which makes them relevant for issues that require broader definitions of community.*
- *OECD “Predominantly Rural Regions” and Beale “Non-Metropolitan Regions” are applied at the level of the CD (region). They are likely to be most useful for understanding regional level issues, such as economic development and labour market issues⁷.*

²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/400695/rural-proofing-imp-review-2015.pdf

³http://www.neighbourhoodaccounts.ca/communityaccounts/CA_GOOGLE_MAPS/PDF_Links/Stats_Canada_Definition_of_Rural_2006.pdf

- *The “Rural” Postal Code definition is useful for analysing databases with postal code designations where comparisons need to be made to other information that has been tabulated by postal codes.*⁴

This highlights how different definitions of rural would be better suited to different situations. This inherent aspect of defining rural cannot be ignored if people are to benefit from rural proofing across the whole breadth of Government policy, but conflicting definitions lead to procedural confusion. It may therefore be worthwhile for DARD to investigate the possibility of, rather than supplying a default and giving Departments the opportunity of shifting from it, giving a list of definitions which could be used for different policies and providing guidance to Departments on which one should be used. Alternatively, Departments could consider the policy through the lens of each of the definitions so that any or all potential disadvantages are caught. This latter option may be quite time-consuming but there are situations where it may be appropriate.

In addition to what is mentioned above, we would insist that any part of the default definition would include any address which is connected to a Farm Business ID. This would deal with the first point we raised to the Minister with the occupation of the person in question, however, this is only a starting point as it does not cover those who perhaps live in these areas who are not farmers themselves but who are in an industry connected to farming: for example agricultural contractors.

As well as the link to occupation, the definition needs to take into account spatial elements intrinsic to rural areas. Using a postcode in an urban setting will tend to catch more consistency in terms of social needs, a rural postcode will catch fewer people and their circumstances will be much more varied than an urban postcode would be. Thus it is very possible that needs of rural dwellers will not be identified and considered in rural proofing assessments. This is especially problematic if a simple cut-off-point definition is used, such as is currently in place.

The timing of this Bill

We have some serious concerns about the timing of the Rural Proofing Bill being launched. It is very close to the end of this Assembly’s mandate and as such we would not be entirely optimistic about the chances of it progressing through the necessary stages with sufficient scrutiny. This is reflected in the vagueness surrounding the policy positions for the Bill. The document seems to have been rushed, with several typographical errors: indeed, the page numbers do not correspond to the contents page, although not indicative of the content, it does not fill us with confidence that this document is the product of a well thought through process.

It would seem to us that the Department may be better advised to commission a review by experts of how successful the current arrangements for rural proofing have been and to come up with recommendations which could then be debated by the Assembly before deciding how to proceed. This would follow the example being set by our counterparts in England, where Lord Ewen Cameron has recently completed a review of the implementation of rural proofing which found that, in the work of the twelve Departments in England:

- *Around half (51%) showed no consideration of rural proofing or rural issues, even though the policy would impact rural areas;*

⁴ *ibid*

- *Just over a third (38%) described rural issues but did not analyse the policy impact;*
- *Only 11% provided robust evidence on rural proofing and indicated how the evidence had been used to inform policy design.⁵*

This knowledge will be of great benefit in deciding which approach is best to take in improving the situation around rural proofing and how it can be made more effective. It seems to us that in the absence of this evidence we cannot possibly agree or disagree that this approach would be appropriate. In particular, given that no other jurisdiction places rural proofing on a statutory basis there is not even any comparator. Striking out in an entirely new policy direction without any evidence to suggest that it would be successful does not strike us as an appropriate course of action. Should the evidence come back saying that legislating on this issue would benefit rural dwellers we would consider it, but in the absence of any evidence specific to Northern Ireland and with Lord Cameron's review going for a "light-touch" approach based on the evidence he and his team have gathered, we cannot see that this is an evidence-based decision.

The Need for a Framework

It is quite simply not the case that a Rural Proofing Bill would succeed in improving the lot of rural dwellers on its own, there needs to be a framework surrounding any rural proofing policy which would support it. Indeed, we suspect that, were an appropriate framework to be put in place, the need for legislation may be entirely mitigated. We are pleased that DARD would continue in its role as a "Rural Champion", but do not feel that this is enough.

It is telling that Lord Cameron recommends the setting up of an inter-Departmental Rural Oversight Group which would bring together all the main Departments, at a senior level, to discuss particular/topical rural issues and identify where policies or delivery could be adjusted; and a Rural Proofing Forum which would work closely with the inter-Departmental Rural Oversight Group to share best practice, information and key messages across government. This would mean that effective communication between Departments and stakeholders would exist and this would help ensure consistency. We believe that this may be a better method of ensuring consistency than primary legislation which is vague by definition.

In addition to this, the Centre for the Rural Economy, based at Newcastle University, found that a factor in disadvantage resulting from policy-making for rural areas has been the abolition of the Rural Advocate and the Commission for Rural Areas. The CRE state that:

Currently there is no specific agency charged with the task of overseeing rural areas. The abolition of the Countryside Agency, then of its successor the Commission for Rural Communities, and of the position of Rural Advocate, together with the closure of the Rural Evidence Research Centre and the Regional Development Agencies has hindered a coordinated approach to rural policy. This has been exacerbated by the loss of instruments such as the Annual State of the Countryside and Rural Proofing Report, creating the need for an independent report such as this⁶

This reflects the same principle expressed by Lord Cameron, there is a need for an independent monitor of rural proofing by Departments and Councils. The CRE suggest that when these independent offices are abolished, accountability goes with them. The point was also raised at the briefing of the UFU's

⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/400695/rural-proofing-imp-review-2015.pdf

⁶ <http://www.ncl.ac.uk/cre/news/NU%20CRE%20Rural%20Policy%20%28web%29.pdf>

Rural Affairs Committee attended by DARD officials where the question was asked whether equality legislation would be effective in the absence of a body like the Equality Commission.

It is understood fully that the creation of an independent oversight office would be expensive, but we do not see how rural proofing would be effective in the absence of such. We would suggest that it may be worth considering whether it is a role that could be taken up by one of the currently existing bodies. As it stands it seems that there will be no independent input into the creation of the report which is to be laid before the Assembly.

The Lack of Clearly-Defined Goals

None of the targets or aims contained within the consultation document would pass a SMART analysis. The policy objectives in the Bill are listed as follows:

- *To require the effective implementation of rural proofing across government;*
- *To establish DARD's role in promoting and encouraging rural proofing across Government and providing advice and guidance;*
- *To require information and data on rural proofing to be made available in a transparent way in a report to be laid before the Assembly; and*
- *To put in place effective arrangements are in place[sic] for co-operation between public authorities and sharing best practice.*

These goals are so vague as to be effectively meaningless. We would like to see some specificity on what we can expect to see should this Bill be put in place, what will the “effective implementation” entail? What will the “effective arrangements” consist of? The aims could be used for just about anything and there is nothing specific linking them to the need for legislation.

In addition to this, there is a lack of clarity around how the aims will be measured. What benefits will rural dwellers receive as a result of the Bill? It is not enough to say that what will be required will be “effective”. As we have mentioned earlier, there is no clearly defined method of accountability so how effectiveness will be measured is very unclear. As well as this, the lack of existing evidence gives us no baseline from which to judge the effectiveness of the Bill.

With no clear goals for what this legislation is designed to achieve, and no clear indication as to how it will achieve them it is very difficult to be enthusiastic about the prospects of the Bill. We would like to see clear examples of how rural proofing has been effective: such as Lord Cameron provided in his review with the case study on the DWP policy on the spare room subsidy. These examples give robust indication of what rural proofing will achieve if joined-up work is carried out between Departments. We believe that these examples in Northern Ireland would give a much stronger steer to policy-making and would help work out the details which are so clearly lacking in the current document.

The Need for Consideration of the Rural Economy

There is little in the document which takes account of the economic reality of rural Northern Ireland. Agriculture is still the largest sector of the Northern Irish economy, and its continued growth and sustainability is paramount to the economic viability of our province. It is undisputed that societies and communities depend on their economic base and that communities from which the economic base is removed soon sees a breakdown in the social infrastructure. One only needs to look at locations once dependent on mining and primary industry to see this.

Northern Ireland's agricultural sector is currently made up of around 24,000 farmers, providing employment for 47,900 people.⁷ The combined agri-food sector employs an estimated 100,000 people, with over 400 food and drink processing companies and £4.4bn sales in 2010. The importance of this industry to Northern Ireland cannot be underestimated, and any proposed measures on rural proofing must take this into account.

This was acknowledged by the Centre for the Rural Economy, who outlined the following in their document *Re-Imagining the Rural*:

*The rural economy is varied and reaches far beyond traditional land management industries. Rural areas can contribute to all economic sectors: around 28 per cent of England's firms are rural and contribute at least 19 per cent of Gross Value Added to the English economy. But local growth strategies and national economic policies often treat rural businesses separately. The people who live in the countryside display high levels of entrepreneurship with more businesses per head of population than in large towns and cities. They are innovative and they want to grow their businesses as much as their urban counterparts. However, they may be impeded by regulation and planning requirements that make it difficult to find suitable premises, and by lack of access to infrastructure, finance and advice, markets and networks and skilled staff. **Effective rural proofing of growth plans and policies is necessary and should include:***

- *Rural growth measures that include, but also look beyond, the farming, forestry, food and environmental sectors.*
- *An acknowledgement of, and support for, the creative and arts industries and the part they play in the rural economies and in rural identity.*
- *Treating rural economies as a cross-cutting theme and embedding them in mainstream plans for economic development, whilst acknowledging the unique challenges faced by rural businesses.*
- *Ensuring the new regional growth bodies, Local Enterprise Partnerships and Combined Authorities, have a strong rural remit which reflects the diversity of businesses in rural areas.*
- *A place-based approach, meeting local constraints and opportunities, and recognising the distinctive make-up of local rural economies.*
- *Investment in affordable housing, business premises, infrastructure and local services.*
- *Continued support for training and business start-ups via the Rural Growth Networks.*
- *Business associations and networks more proactively engaging, mentoring and advising small businesses, peer-to-peer.*

Farmers and land managers should be appropriately rewarded for the work they do in maintaining and enhancing the supply of ecosystems services including food, timber, clean water, carbon storage, valued landscapes, flood management and ecological diversity from the UK countryside.

- *Agri environment schemes that reward farmers for these services could be more effective at landscape scale, with several landowners working in partnership,*

⁷ http://www.dardni.gov.uk/agricultural_census_ni_2014.pdf

particularly in view of environmental change. This would require more flexibility in how payments are allocated.

- *Landscape scale agreements could be particularly useful for managing water catchments and build on the benefits being achieved by Catchment Partnerships.*
- *Policy must take greater account of food security challenges and the need to maximise sustainable production and resource efficiency, while also reducing greenhouse gas emissions and maintaining ecological diversity.*
- *Precision farming techniques and other technical advances will be key to maximising sustainable production, and this requires better, more accessible training facilities for young people in rural areas. There is also a place for online courses although these cannot completely replace hands-on training.*
- *Government must promote more effective knowledge exchange between academia and land management practice; land advisers have a key role to play in this process.*
- *Government must be open to reviewing existing institutional structures and bodies and considering the effectiveness of alternative models for managing environmental functions in different parts of the UK*

This sets out the case for the inclusion of the rural economy, and of farming and agriculture. Northern Ireland is much more dependent on the agricultural sector than our counter-parts in Great Britain, and it is therefore imperative that rural proofing takes account of this. However, we would also include the fact that agriculture depends on a viable rural infrastructure around us: policies which pursue reckless centralisation of services leave this vital part of our economy and those who work in it very isolated and exposed to the consequences of bad decision-making.

As an example, most farms are run as partnerships (often a family team) which means that their disposable income is dependent on how well the business is doing, which more money needing to be drawn down in times of difficulty- consider the scenario where a partner in the business falls ill and requires hospital treatment. Not only will this effectively halve the workforce, it will also result in much greater costs being taken out of the business as it is often essential to travel long distances to hospital. This has a huge effect on the financial stability of the business, not to mention the level of stress imposed upon the individuals affected. This example shows how what is primarily a social issue also has an economic element which needs to be considered.

The Private Sector

The proposed Rural Proofing Bill would only apply to the public sector. However, as has been made clear many times by ourselves and other rural stakeholders, the availability of public sector services is already very limited in rural areas, and a Rural Proofing Bill is unlikely to reverse this. The rural community has, for many years, been dependent on the private sector and the community and voluntary sector for things like transport and advice. However, with the private sector increasingly dominated by large corporations, who have first of all driven out many of the small businesses which once filled rural towns and villages and then decide to move out of these rural areas as they are no longer economically viable. As such, the needs of rural communities count for nothing. The Consumer Council states that:

In practical terms, in order to establish whether markets are working effectively we need to look at whether consumers can make choices: do they have access to good information?; can they switch easily from one category or brand to another?; are prices clear and even and are

*the redress mechanisms there? Failure to meet these needs creates a situation where consumers face being at a disadvantage.*⁸

We believe that a rural element should be included in assessments for fair trading and good commercial practice for Regulators. Other areas of equality law apply to private entities which discriminate against a group of people, and it seems to us that steps could be considered which would apply to rural dwellers and businesses. While we recognise that this is a more complex and long-term goal, we recognise its importance in promoting the wellbeing of rural communities.

As a starting point, we would like to request that if this Bill does go ahead at whatever stage, we would like it to include a clause that any entity which is currently government owned should have to continue to rural proof its policies in the event of its being privatised and still holding a monopoly in its field.

The Concept of “Reasonable Accommodation”

The existing paradigm of ‘reasonable accommodation’ is already well established in other areas of equality law and policy: particularly in disability discrimination. Having mentioned this previously in the stakeholder forum on this Bill we were disappointed that there was no mention of it in the Bill. We believe that it is a vital concept to the idea of rural proofing which cannot be ignored. Reasonable accommodation means that where a disadvantage exists or would be created, the responsible party must take whatever steps they reasonably can to eliminate or minimise that disadvantage. The consultation document mentions that rural areas must be treated “equitably”:

“Equitable” means policies should treat rural areas in a fair or reasonable way and that policies should address the needs of rural areas in a proportionate way, taking into account their unique characteristics.

This paragraph effectively muddles two distinct principles of law: equity and proportionality; and it is unclear what exactly it means. It would have been much simpler to cite the paradigm of reasonable accommodation as it is well established in equality and anti-discrimination law. To quote Lisa Waddington, the Chair of the European Disability Forum:

*Reasonable accommodation recognizes the relevance of “impairment” - if one ignores the impact of an impairment, and treats a person with a disability in exactly the same way as one treats a person without a disability, a de facto situation of inequality will arise.*⁹

This statement could easily be adapted to the urban/rural divide: it is about recognising that in some situations, a person or group’s rurality will mean that, if they are treated in exactly the same way as their urban counterparts, an inequality will exist. As a case in point, the current plans to only provide subsidised school transport for a child’s closest suitable school will have a much greater impact on rural areas than on urban. In other words, something which is equal *de jure* is not always equal *de facto*. Another advantage of reasonable accommodation is that it recognises that each situation is different and must be considered on its own merits, i.e: if residents of a specific rural area can show that it has not been reasonably accommodated, then they have grounds to feel aggrieved. Reasonable accommodation should be adapted for this purpose and DARD should prepare guidance for Departments on how to reasonably accommodate rural dwellers and businesses. This will obviously

⁸ http://www.consumerfocus.org.uk/files/2011/05/rural_consumers_in_the_UK.pdf

⁹ http://www.era-comm.eu/oldoku/Adiskri/07_Disability/2011_09_Waddington_EN.pdf

require much more research to be carried out into rurality in Northern Ireland and the specific needs of our rural communities.

To conclude, we welcome anything which raises the issue of rural disadvantage in Northern Ireland, but have serious reservations about the process, lack of detail and timing of these policy proposals for a piece of primary legislation. If the issues we outline above are addressed then we would consider supporting such a Bill, but until such times, we cannot see that it would bring any advantage to rural dwellers, communities and businesses.

I trust our comments will be given full consideration but should you wish to query any comments raised please do not hesitate to get in touch.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barclay Bell', written in a cursive style. The signature is positioned to the left of a vertical line that extends downwards from the end of the signature.

BARCLAY BELL