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| Reform of farm animal welfare codes – preparation of industry-led meat chicken welfare guidance IA No: Defra 1652 Lead department or agency: Department for Environment, Food and Rural Affairs | Impact Assessment (IA) |
| | Date: 23 October 2015 |
| | Stage: Validation IA |
| | Source of intervention: Domestic |
| | Type of measure: Deregulatory |
| | Contact for enquiries: Serena Cooke: 0207 238 5816 |

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| Summary: Intervention and Options | RPC: Validated |
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| Cost of Preferred (or more likely) Option | | | | |
|---|----------------------------|--|------------------------------|-------------------------------|
| Total Net Present Value | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, One-Out? | Measure qualifies as One-Out? |
| £0.0m | £0.0m | £0.0m | Yes | Out |

What is the problem under consideration? Why is government intervention necessary?

The problem we are addressing is that farmers do not have access to easily understandable and up-to-date guidance on how to comply with current farm animal welfare legislation. Defra’s species specific codes of recommendations (‘codes’) provide guidance on how to comply with legislation, but these are significantly out of date and as they are statutory, cannot be updated easily. Taking a deregulatory approach and moving away from Government-focused statutory guidance to guidance led by the relevant livestock sector who will be using it, will increase buy-in, relevance and potentially lead to improved compliance. This approach is also in line with the Government’s wider deregulatory agenda and has been piloted by the British Poultry Council in partnership with Defra in drafting meat chicken welfare guidance.

The replacement of codes with industry-led guidance requires Government to intervene to revoke the individual statutory codes, after which, Government intervention will be reduced.

Animal welfare is a devolved issue. Scotland, Wales and Northern Ireland each have their own statutory welfare codes and have made no decisions to take a similar approach to England. Thus, the analysis in this IA relates to England only.

What are the policy objectives and the intended effects?

The primary objective is to ensure farmers have access to up to date guidance on how to comply with existing legislation, which reflects both the latest scientific and veterinary knowledge and is presented in the most relevant way for animal keepers. This guidance will retain current animal welfare standards and will be more easily understood, be up to date and thus will increase buy-in from the industry.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 (Do nothing): this would mean retaining statutory codes that are significantly out of date, that do not take account of major legislative changes or the latest scientific and veterinary knowledge.

Option 1 (Preferred approach): Revocation of statutory codes in favour of non-statutory, industry-led, species specific farm animal welfare guidance, of which the meat chicken welfare guidance is an exemplar. This fits with the Government's deregulatory approach. It is in line with recommendations from the independent Farming Regulation Task Force in 2011, that the Government strengthen engagement with industry, including inviting them to take a leading role in drafting jointly-owned guidance on implementation of legislation. The Animal Health and Welfare Board for England has also recommended a move to non-statutory guidance.

Option 2: Government to revise and update statutory codes. This would address the fact that the codes are out of date, but it would do nothing to address the statutory nature of the codes which involve a time consuming parliamentary negative resolution process to update and does not align with the Government's deregulatory approach.

Will the policy be reviewed? Yes. If applicable, set review date: 3 years from publication of meat chicken guidance.

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|--|------------------|--------------------|-----------------------|---------------------------|------------------|
| Does implementation go beyond minimum EU requirements? | | | N/A | | |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base. | Micro Yes | < 20 Yes | Small Yes | Medium Yes | Large Yes |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | | | Traded: N/A | Non-traded: N/A | |

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ George Eustice _____ Date: 22nd February 2016 _____

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce non-statutory welfare guidance on meat chickens with industry leading on the drafting.

FULL ECONOMIC ASSESSMENT

| Price Base Year 2014 | PV Base Year 2014 | Time Period Years | Net Benefit (Present Value (PV)) (£m) | | |
|--|---|----------------------|--|----------------|---|
| | | | Low: Optional | High: Optional | Best Estimate: - |
| COSTS (£m) | Total Transition (Constant Price) Years | | Average Annual (excl. Transition) (Constant Price) | | Total Cost (Present Value) |
| Low | Optional | | Optional | | Optional |
| High | Optional | | Optional | | Optional |
| Best Estimate | 0 | | 0 | | 0 |
| Description and scale of key monetised costs by 'main affected groups' | | | | | |
| This is a remaining Red Tape Challenge commitment and there are no regulatory obligations placed on business and hence no measured regulatory costs. | | | | | |
| Other key non-monetised costs by 'main affected groups' | | | | | |
| There are some costs associated with this measure (described in the evidence base) but these are incurred on a voluntarily basis by business and therefore they have not been measured. | | | | | |
| BENEFITS (£m) | Total Transition (Constant Price) Years | | Average Annual (excl. Transition) (Constant Price) | | Total Benefit (Present Value) |
| Low | Optional | | Optional | | Optional |
| High | Optional | | Optional | | Optional |
| Best Estimate | 0 | | 0 | | 0 |
| Description and scale of key monetised benefits by 'main affected groups' | | | | | |
| None | | | | | |
| Other key non-monetised benefits by 'main affected groups' | | | | | |
| Industry-led guidance, in this instance, on meat chicken welfare prepared by the British Poultry Council, is anticipated to improve animal welfare standards through improved buy-in from the industry resulting in better compliance with the law. | | | | | |
| Key assumptions/sensitivities/risks | | | | | Discount rate (%) |
| We anticipate that non-statutory guidance will be used in the courts in a similar way to how the statutory codes are currently used, that is in a prosecution for breach of the Animal Welfare Act 2006 or farm animal welfare regulations made under it. Failure to comply with relevant provisions of the guidance can be relied upon by the court as tending to establish liability for that offence. | | | | | 3.5 |

BUSINESS ASSESSMENT (Option 1)

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|--|-------------|--------|--------------------------|-----------------------------|
| Direct impact on business (Equivalent Annual) £m: | | | In scope of OIOO? | Measure qualifies as |
| Costs: 0 | Benefits: 0 | Net: 0 | Yes | In |

Evidence Base (for summary sheets)

1. Background

This validation Impact Assessment (IA) follows on from the Regulatory Triage Assessment (RTA) submitted to the RPC on 30 October 2012 (reference RPC12-FT-DEFRA-1628). That RTA was a deregulatory assessment on the principle of moving from statutory farm animal welfare codes to industry-led drafted, non-statutory guidance. A consultation on this principle was then carried out in the summer of 2013 and in parallel, an example of industry-led drafted guidance was consulted on by the meat chicken industry trade body, the British Poultry Council. The intention is to revoke the current statutory welfare code for meat chickens and breeding birds and replace it with this guidance. Reform of the animal welfare codes became a Red Tape Challenge measure after the RTA and consultation exercise. This validation IA relates only to the meat chickens guidance.

2. RPC comments on RTA

The RPC made some comments on the RTA which are addressed in this section.

i) The assumption that the new guidance will improve compliance with welfare legislation should be tested during the informal consultation:

A specific question was asked in Defra's consultation in 2013, about whether reform of the farm animal welfare codes was likely to improve compliance with existing legislation. Of the 44 responses analysed, the response was mixed. About a third of respondents considered industry-led guidance would improve compliance as the guidance would be written by industry and thus would have greater buy-in. About a third considered it might improve compliance, but depended on a number of factors including the format of guidance, its content and how it is disseminated. The remaining respondents either did not consider compliance would be improved and wanted to see the responsibility of preparing guidance on the legislation left to Government or did not answer this particular question.

The assumption that the new guidance has the potential to improve compliance (and thus potentially reduce enforcement costs) will be assessed as part of the policy review.

ii) The RTA does not include specifics on expected dates for implementation and it is not entirely clear whether the driver for change is domestic or EU:

The driver for change is domestic. The intention is that the industry will publish the meat chicken welfare guidance as soon as the statutory code has been revoked, which we anticipate will be in early 2016.

3. The policy issue and rationale for intervention

The species-specific farm animal welfare codes, made under the Animal Welfare Act 2006 and before that, under the Agriculture (Miscellaneous Provisions) Act 1968 are significantly out of date. Some, such as the meat chicken code, have not been updated following major changes in legislation. Others do not contain the latest scientific and veterinary knowledge. As the codes are statutory, they cannot be updated easily. There is, therefore, a need for guidance on how to comply with farm animal welfare legislation which can be more flexible than the statutory nature of the codes currently allows. In addition, we anticipate that by moving away from statutory codes written by Government to guidance drafted and maintained by the livestock sector who will be using it, there will be increased buy-in from producers as it will be better understood. Government will need to intervene to revoke the individual statutory codes, but after that, Government intervention will be reduced.

4. Policy objectives and intended effect

The primary objective is to ensure farmers have access to concise, easily understandable and up-to-date guidance on the requirements of existing animal welfare legislation, as a lever for improving animal welfare standards. This is best achieved by moving away from statutory codes to guidance and for those who will be using the guidance to lead on its drafting.

This new approach has been piloted by the British Poultry Council, in partnership with Defra, in drafting guidance on the regulatory requirements for the welfare of meat chickens and breeding chickens. The guidance will replace the statutory code of recommendations for the welfare of livestock: meat chickens and breeding chickens (2002) and interim guidance which was published in 2011 to provide guidance on new EU rules (Council Directive 2007/43) on conventionally reared meat chickens. These EU rules were implemented in England by the Welfare of Farmed Animals (England) Regulations 2007 (as amended) and the Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2010. The legal requirements are quoted in boxes throughout the new guidance, with practical guidance provided underneath. The guidance is intended to encourage all those who care for chickens to adopt good standards of stockmanship to adequately protect chicken welfare. Adherence to these recommended practices will help keepers to maintain standards required to comply with the legislation.

A move to industry writing and maintaining its own guidance is intended to improve the welfare of livestock as it will be better understood by producers. To this end, the British Poultry Council ensured that its consultation on the meat chicken guidance and an opportunity to engage with its co-design was available to all producers, from the independent non-farm assured farmers to the large integrated companies.

In terms of the intended effect on enforcement, non-statutory guidance will not be classified as a code of practice issued under Section 14 of the Animal Welfare Act 2006. In cases of alleged contravention of welfare laws and for routine on-farm welfare inspections, the Animal and Plant Health Agency will make an assessment on whether the provisions of the law and the relevant species-specific guidance are being met and whether unnecessary suffering of animals is taking place. A person would not commit an offence by not complying with a provision of the guidance document (as has also been the case with statutory codes in force) although in cases that go to court for prosecution, meeting the requirements of the non-statutory guidance, or not, could be used to help establish a person's liability.

5. Application and scope

Animal welfare is a devolved matter. These changes will apply to England only. It is not yet known whether the Devolved Administrations will adopt similar measures.

6. Description of options considered

Option 0 (Do nothing): this would mean retaining statutory codes that are significantly out of date, that do not take account of major legislative changes or the latest scientific and veterinary knowledge.

Option 1 (Preferred approach): Revocation of statutory codes in favour of non-statutory, industry-led, species specific farm animal welfare guidance of which the meat chicken welfare guidance is an exemplar. This would be in line with the Government's wider deregulatory approach and fits with the Animal Health and Welfare Board for England's recommendation to move to non-statutory guidance.

Option 2: Government to revise and update statutory codes. This would address the fact that the codes are out of date, but it would do nothing to address the statutory nature of the codes which involve a complex and time-consuming parliamentary process to update and does not align with the Government's deregulatory approach.

7. Monetised and non-monetised costs and benefits of each option

This is a remaining Red Tape Challenge measure which does not impose any new regulatory burdens on business. The underlying animal welfare laws have not changed and the advice in the guidance is aimed at helping meat chicken producers comply with the law and achieve high standards of animal welfare. Unlike the existing code there is no obligation on farmers to be familiar with the new guidance and taking up the advice in the guidance is voluntary (although of course compliance with the existing welfare law is not).

We anticipate various costs associated with the measure but these are incurred on a voluntary basis and are therefore not measured in this impact assessment. These include: the costs of drafting and consulting on the new guidance incurred by the British Poultry Council; the costs of familiarisation with

the new guidance by poultry keepers and any additional costs (and animal welfare benefits) of improved compliance¹

As most meat chicken producers will be small or micro businesses it is not possible to give them an exemption from the animal welfare regulations without the risk of compromising the welfare of large numbers of chickens. The guidance therefore also applies to all sizes of producer.

8. Risks and assumptions

Following concerns from industry organisations and the National Farmers Union during the consultation about resource implications, Defra held an industry workshop to explain how partnership working would work in practice. The industry was reassured that support would be forthcoming from Defra in drafting the guidance and now several livestock sectors are keen to follow the meat chicken sector and begin work on producing guidance for their producers.

Many respondents to the consultation on the principle of moving from statutory codes were concerned that the reduced evidential weight of non-statutory guidance would hinder prosecutions. Just as it has been the case with statutory codes, a person would not commit an offence of itself by not complying with a provision of the guidance document. In cases that went to court for prosecution, following the advice in the non-statutory guidance, or not, could be used as part of the package of evidence to establish a person's liability. Legal advice is that a move to non-statutory guidance is likely to have a minimal impact on the way in which the guidance can be used in court proceedings and will be outweighed by the benefits of being able to update non-statutory guidance more frequently.

We are aware of concerns that industry-led guidance could lead to a weakening of animal welfare standards. Defra will be working very closely with industry in drafting the guidance and no statutory code will be revoked unless Defra is content that current standards are being maintained. As with the meat chicken guidance, each guidance document will be subject to a consultation, giving all interested parties, including welfare organisations, the opportunity to play an active role in its preparation. It is envisaged that the Farm Animal Welfare Committee (FAWC) will consider each guidance document and ensure that it includes the most up to date scientific and veterinary knowledge. This has been done for the meat chicken guidance and FAWC is satisfied that animal welfare standards will not be lowered if the existing code is replaced with this guidance.

9. Direct costs and benefits to business calculations and One In Two Out

We argue above that it is not appropriate to measure any costs associated with this measure as they are not the result of new regulatory obligations but are taken on voluntarily by business. This is a domestic measure and therefore it's within scope of OITO, but there are no costs.

¹ Full compliance is normally assumed on introduction of a new law or change in the law (para 2.3.47 of Better Regulation Framework Manual). As the underlying chicken welfare regulations have not changed, it is not appropriate to measure any improved compliance associated with the new guidance as this would be double counting.