

Updated Summary of TFF Work Streams – May 2013

The following is a brief summary of the TFF work streams providing an overview of the position and the actions that TFF and TFF members have agreed or should consider as a basis for action.

Work stream	Item	Comment	Status
RENT REVIEW	Rent Review Working Group (RRWG)	RRWG project completed and published Recommendations: No requirement for major change in legislation (possibly minor change on arbitration). Main recommendations for guidance, procedural changes and documentation. 1. Recommendations accepted by TFF as a basis for action. 2. 'Next steps' arising from the report agreed. 3. Minister given written advice of TFF position.	Complete
RRWG (Action 1)	<i>Introduction and Guide to Good Practice</i> – to be issued with rent review notices	1. Paper prepared for issue with the May rent review notices.	Complete
RRWG (Action 2)	<i>Practitioners Guide on Rent Reviews</i>	1. SAAVA and RICS proposal accepted by TFF. 2. Funding in support of development agreed by Scottish Government 3. Document preparation commissioned from CAAVA 4. Project in progress – first draft received beginning of May.	Delivery September
RRWG (Action 3)	<i>Short-form Practitioners Guide on Rent Reviews</i>	1. To be provided by the Executive Summary of the full <i>Practitioners Guide on Rent Reviews</i> .	Delivery September
RRWG (Action 4)	Code of Conduct for those assisting with rent reviews	1. TFF consensus that Code of Conduct should be used by professional bodies e.g. RICS or SAVVA for professionally qualified agents. 2. TFF consensus that persons assisting with rent reviews <u>should</u> be registered in some way but that registration should remain voluntary SAAVA registration is possible. 3. RICS and SAAVA to progress inclusion of requirements of <i>Practitioners Guide on Rent Reviews</i> in their Professional Codes of Practice. Action: TFF to prepare note on use of 'representatives'. Action: SAAVA to develop system for voluntary registration of representatives. Action: STFA to provide paper on its ideas for a new independent rent regulatory body.	Process started in September Completion date outside TFF's control.

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RRWG (Action 5)	Establish voluntary rent register	<ol style="list-style-type: none"> 1. Consensus that the registration of rents should require the agreement of both parties. 2. Scottish Government investigating whether it could provide register information. 3. RICS investigating whether it could play a role. <p>Conclusion: Scottish Government should publish the information to which it has access. Neither Scottish Government nor any of the TFF member bodies can provide an economically sustainable single database that all parties will contribute to or trust. No immediate realistic prospect of taking this proposal forward at the present time. Members to consult internally on member options.</p>	Complete
RRWG (Action 6)	Scottish Land Court Case Management	<ol style="list-style-type: none"> 1. TFF Chairman to discuss with Scottish Land Court. 2. Evolution of practice rather than implementation of new system. 3. Updating of Land Court guidance might be helpful. <p>Action: Arrange meeting with Land Court.</p>	Progress report in May
ARBITRATION	Short-form system for rent arbitration.	<ol style="list-style-type: none"> 1. TFF consensus that simpler arbitration options needed; this was subsequently also recommendation of RRWG. 2. SAAVA proposals for short-form arbitration accepted by TFF as a potential way forward. 3. Progress of proposal has indentified a legal dissonance between the Arbitration (Scotland) Act 2010 and the Agricultural Holdings Acts. As a result arbitration cannot remove the right of appeal to the Land Court. 4. TFF has agreed that, not-with-standing the legal position, SAAVA should introduce its short-form arbitration on the principle that willing parties will seek simpler arbitration. 5. It is possible that this position might be enhanced by the approach taken by the Land Court to its case management system. 6. SAAVA to finalise and launch its short-form rent arbitration system. 7. There is potential for similar procedures in respect of other forms of dispute resolution. <p>Action: Final draft to be considered by TFF in May</p>	Launch in June
FIXED EQUIPMENT	Disputes in regard to fixed equipment and equipment repair or replacement	<ol style="list-style-type: none"> 1. On the basis of an overview paper (25 June 2012) TFF agreed (7 Aug 2012) that changes or additions to the law are not required but that procedural guidance and improved procedures are required. 2. A key change would be the introduction of dilapidation and equipment condition surveys as a regular and routine procedure on all tenanted farms. 3. TFF considered examples of how these surveys could be undertaken and agreed that TFF would publish guidance on recommended approaches. <p>Action: RICS/SAAVA - Andrew Wood and Martin Hall to take lead in preparing draft paper on approach and procedures.</p>	Publish before August

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<p>DIVERSIFICATION</p>	<p>Issues concerning diversification of tenants into business activities in addition to those of farming.</p>	<ol style="list-style-type: none"> 1. On the basis of overview paper (25 June 2012) TFF agreed (7 August) that changes or additions to the law are not required but that procedural guidance and improved procedures are required. 2. Subsequently STFA paper (14/4/13) raised their concerns about the notice period and opportunities for landlords to delay decisions by repeated requests for additional information. Other members pointed out that information 'hurdles' can occur in both directions. Detailed nature and scale of issues are uncertain 3. Existing NFUS paper on Diversification provided after 14/4/13 meeting <p>Action: Colin Clark to explore legal remedies to perceived undue delaying by landowners.</p> <p>Action: STFA to consider detailed nature and scale of perceived issue.</p> <p>Agreed Action: TFF to publish guidance on Diversification.</p>	<p>Publish before August</p>
<p>INVESTMENT</p>	<p>Considerations relate to both landlords and tenants investments in buildings and improvements</p>	<ol style="list-style-type: none"> 1. On the basis of an overview paper (25 June) TFF agreed record of condition and period-review of condition were important. 2. TFF (through Andrew Wood) produced Record of Condition template which might be used as a basis in guidance. 3. TFF agreed to consider developing guidance on recommended approach on investment. 4. SFTA (14/4/13) raised their concerns about consent being withheld and suggested there should be changes in the 2003 Act. Others considered SFTA proposition would be contrary to ECHR. <p>Action: STFA to prepare note on their proposed changes in the 2003 Act, with reasons why they were required.</p> <p>Action: TFF to determine scope of guidance document should in addition to record of condition.</p> <p>Action: TFF to agree on preparation of guidance note.</p>	<p>Publish before August</p>
<p>WAYGO</p>	<p>Estimation of tenants' financial recompense for investment in improvement of holding made at the time a tenancy comes to an end.</p>	<ol style="list-style-type: none"> 1. TFF's initial discussion indicated Waygo issues are substantially influenced by good records and agreements under fixed equipment, diversification and investment (above). 2. TFF agreed to developing guidance on recommended approach 3. Initial paper prepared by Martin Hall (with input from James Dick and Colin Clark). 4. SFTA (14/4/13) raised points related to write down arrangements and improvements made without landowner's approval. <p>Action: Point(s) raised by STFA to be considered on 9/5/13.</p> <p>Action: Paper to be finalised and agreed for publication.</p>	<p>Publish before August</p>

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<p>ASSIGNATIONS AND SUCCESSIONS</p>	<p>Action: Can TFF better define scope?</p>	<p>1. This topic has been raised but not yet formally considered by TFF</p> <p>Action: NFUS (Scott Walker) to provide previous TFF response to Scottish Government Succession law reform.</p> <p>Action: Scottish Government (Fiona Leslie) to determine to investigate Scottish Government Progress on law review.</p> <p>Action: Colin Clark to provide paper on Succession Issues and previous TFF paper prepared by David Sturrock.</p>	<p>To be determined</p>
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