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Affairs Committee

**Dairy Farmers of
Britain**

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Environment, Food and Rural Affairs Committee

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Summary

Dairy Farmers of Britain (DFB) was one of the major players in the UK milk-buying market. Its demise, on 3 June 2009, resulted in substantial financial losses for its 1,813 farmer members—many of whom were owed tens of thousands of pounds that they are unlikely ever to recover. It also resulted in more than a thousand job losses. In addition, the collapse had an effect on the wider UK dairy industry. A market crash was avoided, thanks to the positive response of—among others—the receivers, the Department for Environment, Food and Rural Affairs (Defra), the Welsh Assembly Government, and, in general, the dairy industry itself.

We regard the collapse of an important farmer-owned co-operative as a matter of public concern and launched an inquiry to investigate what went wrong. From its inception in 2002, DFB was a business with ambitions: its strategy was to add value to its members' milk by purchasing processing facilities—or, in other words, to be vertically integrated. The way in which DFB pursued its vertical integration strategy was over-ambitious, given its shortage of capital and the strength of its competitors in the processing industry. Farmers' optimism about taking control over their long-term future was a noble objective, but it was severely hampered by decisions that turned out poorly in practice.

No single factor caused the demise of DFB, although the purchase of Associated Co-operatives Creameries (ACC) for a total of £81 million in 2004 had lasting repercussions that made DFB's future success unlikely. DFB paid too much for ACC, but, more significantly in the long term, it was not fully aware of the implications of what it was buying. This situation was exacerbated by poor communication and governance that was not always of the standard that members were entitled to expect.

We are satisfied that DFB did not fail because it was a co-operative. However, its failure draws attention to a number of ways in which UK dairy co-operatives could be strengthened. As the Department responsible for agriculture, Defra should be offering advice and assistance to support these co-operatives. Capital raising is one of the principal challenges facing UK dairy co-operatives. We urge Defra to set up a task force comprising the Financial Services Authority, members of the banking community and industry representatives to investigate ways to overcome constraints on capitalising agricultural co-operatives. Defra must also raise with the Treasury the need to ensure that farmers are not taxed on money that is only notionally paid out to them and actually retained by their co-operative. The current taxation system discourages investment in co-operatives. We believe that there is much to be learned from older, larger dairy co-operatives in Europe and elsewhere and recommend that Defra produce a report examining governance and capital-raising arrangements in successful co-operatives overseas.

The collapse of DFB also draws attention to the urgent need to update insolvency legislation as it applies to co-operatives.

1 Introduction

Background to the inquiry

1. Until the farmer-owned co-operative Dairy Farmers of Britain (DFB) went into receivership on 3 June 2009, it was one of the major players in the UK milk-buying market. Its annual turnover of around £500 million a year came from handling over 1 billion litres of milk, which amounted to 10% of the UK's total annual milk production.¹ It owned dairies in Blaydon, Bridgend and Lincoln, and creameries, which manufactured cheese, in Llandyrnog and Lubborn. With its demise, two co-operatives, First Milk and Milk Link, and three privately owned companies, Arla Foods UK, Dairy Crest, and Robert Wiseman Dairies, now account for the majority of the UK's milk-buying market.² The collapse of Dairy Farmers of Britain resulted in the loss of 1,113 jobs, out of a total workforce of 1,533.³ It also led to substantial financial losses for its 1,813 farmer members—many of whom were owed tens of thousands of pounds that they are unlikely ever to recover. The co-operative was formed against a background of significant farmer optimism that by joining DFB they would have an opportunity to influence and ultimately determine a strategy that would result in more control over their own destiny and a better milk price. Sadly this inquiry reveals these hopes being cruelly dashed by the management failures which we will now discuss.

2. The failure of a major farmer-owned co-operative was a matter of public concern. Our inquiry focused on trying to establish why the business failed and whether being a co-operative in a highly competitive industry was in itself a reason for the business not being able to continue. We made it clear from the outset that our work would not be a “whodunit” but an effort to see what went wrong and consequently make recommendations that could help strengthen dairy co-operatives in the future. It was not within the scope of our inquiry, nor was it ever its intention, to examine in detail the behaviour of the individuals involved in the management of DFB. However, during the course of our work we received representations suggesting that our inquiry would be incomplete if we did not hear evidence from several key people on DFB's Board and Executive Team. We listened to these concerns and, in January and February 2010, held extra oral evidence sessions with the individuals in question. These sessions added to our understanding of DFB and we are grateful to those who contacted us to suggest extending the inquiry. The inquiry's terms of reference are set out in Appendix 1.

3. If PricewaterhouseCoopers, the receivers for DFB, had uncovered any illegal activity during the course of the receivership, they would have been obliged to report it. In relation to serious mismanagement—as distinct from illegal activity—the situation is more complicated. The Company Directors Disqualification Act 1986 provides for the disqualification of directors in cases where there has been serious mismanagement. When a company fails, if the receiver believes that there has been unfit conduct by the directors of

1 PricewaterhouseCoopers, *Receivers' report to creditors, members and ex-members*, 24 August 2009, p 2; “Dairy Farmers of Britain in receivership: official statement”, *Farmers Guardian*, www.farmersguardian.com

2 Ev 16

3 PricewaterhouseCoopers, *Receivers' report to creditors, members and ex-members*, 24 August 2009, p 13

that company, he or she has a duty to send the Secretary of State a report to this effect. The Secretary of State then decides whether it is in the public interest to consider a disqualification order. Such an order disqualifies a person from acting as a director of a company or taking part in the promotion, formation or management of a company. However, DFB was not a company; it was a co-operative—a form of industrial and provident society (IPS). The Company Directors Disqualification Act does not currently apply to IPSs, except in Northern Ireland. This would be changed under a Private Member’s Bill that was introduced in the 2008–09 session of Parliament by Malcolm Wicks, the Member for Croydon North. The Co-operative and Community Benefit Societies and Credit Unions Bill would amend the Company Directors Disqualification Act to apply it to IPSs, with the aim of bringing IPSs in line with companies in this aspect of their operations. The Bill ran out time in the 2008–09 session, and was re-introduced, in the House of Lords, in the 2009–10 session. It received its third reading in the Lords on 14 January 2010 and went through its Committee stage in the Commons on 3 March 2010.

4. We do not know, and have no way of knowing, whether the receivers would have made a report to the Secretary of State about unfit conduct by the directors of DFB had they been able to do so. However, the fact that the receivers do not feel that they could make such a report even if they wanted to—because of the exclusion of IPSs from the relevant legislation—is a cause for concern. **We welcome the provisions in the Co-operative and Community Benefit Societies and Credit Unions Bill to apply the provisions of the Company Directors Disqualification Act to industrial and provident societies. If this Bill does not complete its passage through Parliament and become law before the 2010 general election, we urge the Government to pursue placing these provisions on the statute book—either through a Government Bill or by supporting the relevant Private Member’s legislation—at the earliest possible opportunity in the new Parliament.**

5. Over the course of our inquiry, we received more than 40 written submissions and held seven oral evidence sessions and a number of informal meetings. We heard a wide range of views from: representative bodies such as Dairy UK, the National Farmers Union, and Co-operatives UK; businesses that had dealings with DFB, such as the Co-operative Group; the receiver; individual farmer members of DFB; and people on the DFB Board, Executive Team, and Members Council. We are most grateful to all who contributed to the inquiry and particularly to those members of the public who took the time to write to us. Our report draws in part on the *Receivers’ report to creditors, members and ex-members* prepared by PricewaterhouseCoopers and we wish also to record our gratitude to the joint receiver, Mr Stephen Oldfield of PricewaterhouseCoopers, for his co-operation with our inquiry.

6. Agriculture is a devolved matter and so our inquiry focuses primarily on England and makes recommendations to the Department for Environment, Food and Rural Affairs (Defra). However, we are conscious that DFB had a large number of farmer members in Wales. The Farmers Union of Wales (FUW) commented that the collapse of DFB resulted in “major financial losses for one in every eight Welsh dairy producers” and threatened “more than 450 Welsh jobs”.⁴ Most of our recommendations have a wider application and we urge Defra to ensure that Ministers in the Welsh Assembly Government are aware of them.

2 Causes and lessons to be learned

7. When people lose large sums of money and in some cases their livelihoods, they not unreasonably want to know why. Often, and equally understandably, they want to find someone, or some group of people, to blame. The people who are suffering as a result of the collapse of DFB are no different from anyone else in this respect. We sympathise with, and respect, this view. However, as we explained at the outset, we decided that our time would best be spent on establishing what lessons could be learned from the collapse to minimise the chances of something similar happening again. We therefore emphasise that this chapter is not intended to be an exhaustive account of the causes of the collapse of DFB.

Associated Co-operative Creameries

The formation of DFB and vertical integration

8. DFB was formed in 2002 from the merger of two smaller co-operatives, the Milk Group and Zenith Milk. Mr Philip Moody, a former Board member of DFB, commented that, at its inception, DFB was “a relatively small and simple business”.⁵ It was, however, from the start a business with ambitions. Mr Moody stated that, at the time of its creation, “there was a very strong sense that farmers needed to do something to take destiny into their own hands to try and create a longer-term sustainable future”.⁶ He commented that the boards of the two smaller co-operatives were approached by a consultancy based in Holland that had experience of working with European co-operatives, and encouraged to join together to pursue a vertical integration strategy in the UK dairy industry.⁷ DFB also wanted to pay a top quartile milk price.⁸

9. It was DFB’s strategy to be vertically integrated—i.e. to add value to its members’ milk by purchasing processing facilities—that led it to purchase Associated Co-operative Creameries (ACC) from the Co-operative Group in August 2004. In adopting a vertical integration strategy, DFB’s options were relatively limited, although it did consider several other deals before the ACC purchase.⁹

10. We heard various views about the reasons for the demise of DFB: the purchase of ACC was cited repeatedly in this context. When we asked two former DFB members what were the significant things that went wrong with DFB, Mr Gordon Brown replied: “There was one significant event and that was the purchase of ACC. When you make a big strategic move like that if you get it right you are a hero and if you get it wrong you end up where we did.”¹⁰ As Mr Brown’s comment emphasises, the purchase of ACC could have turned out

5 Q 527

6 Q 533

7 Q 533

8 Q 297

9 Qq 599–600; Q 646

10 Q 156

to be a great success for DFB. However, there were a number of factors that made this scenario unlikely.

The price paid for ACC

11. The first was the price DFB paid for ACC: a total of £81 million, including acquisition costs.¹¹ As an IPS, DFB was more constrained in its ability to raise capital than a company—a subject to which we return later. It had been in existence only two years in 2004 and certainly had not had time to build up a strategic reserve of capital via contributions from its members. DFB proposed to raise the money for its purchase of ACC principally through loans from a group of four banks: Rabobank, HSBC, Barclays, and the Royal Bank of Scotland. Mr Moody explained: “The intention was that each of those four banks would lend £25 million, presenting a funding capability of £100 million, part of which was bridging future member contributions.”¹² The process involved making an initial bid for the business, after which the Co-operative Group selected suitable bidders to go through to the next stage, when a final bid could be submitted.¹³

12. DFB’s bidding strategy was clearly influenced by the price it thought that its competitors might offer for ACC. DFB received advice from Rabobank, its financial advisers on the deal, about what ACC might be worth to other dairy businesses and the level at which those businesses might bid.¹⁴ Mr Michael Oakes, a Board member of DFB, commented: “we believed [there] were two other serious competitors, both PLCs, and the advice that we were given was that the price we bid at the end of the day was what it would take to look to acquire those factories.”¹⁵ Mr Philip Hardman, Group Counsel at the Co-operative Group, commented that there was “certainly one other player in the market that moved into, internally, what we regarded as a sort of shortlisting phase”.¹⁶ If DFB was trying to ensure that its bid was the highest, it succeeded: Mr Hardman confirmed that DFB “bid the most”.¹⁷

13. The question is whether “the most” was too much. Mr David Messom, Director of Food Retail at the Co-operative Group, and therefore presumably a person in a position to know, commented: “My personal view is that you could argue that they [DFB] paid too much for the Associated Co-operative Creameries business originally which they acquired from the Co-operative Group.”¹⁸ Mr Moody stated: “If you are asking me whether, with the benefit of hindsight, I think Dairy Farmers of Britain paid too much [for ACC], my answer is, yes, unquestionably.”¹⁹ However, even at the time there were signs that DFB’s bid for ACC was too high.

11 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 20

12 Q 606

13 Q 611

14 Q 606

15 Q 399

16 Q 198

17 Q 198

18 Q 190

19 Q 626

14. Mr Malcolm Smith was the Chief Executive of DFB when it purchased ACC. He said that he was not part of the negotiating team for the purchase and was disappointed at not being included as he believed that he had a lot of relevant experience.²⁰ He told us that he thought that DFB paid £12 million more than it needed to for ACC and that he raised concerns about DFB’s bid being too high at the time.²¹ He cited in particular the sale of the Country Life brand to Dairy Crest in the run-up to the purchase of ACC. He believed that the Country Life brand had been part of the ACC deal when DFB made its offer, but stated that even when Country Life was subsequently sold separately, DFB did not reduce its bid for ACC. Mr Smith estimated that the Country Life brand was worth £6 million. He said that he made his views about this known, but was told that DFB should not be seen to be chipping away at the price it had originally offered.²²

15. In bidding at the level it did for ACC, DFB also chose not to take the advice of Rabobank, its financial advisers on the deal. Mr Moody described a meeting of the Acquisition Steering Group—a group consisting of DFB Board and Executive Team members, created in the run-up to the purchase of ACC—in April 2004, at which Rabobank “advised a strategy to the ASG [Acquisition Steering Group] of bidding at a level that was materially lower than the level at which the board ultimately chose to bid”.²³ Mr Moody commented that the difference of opinion “was based around bidding strategy, rather than value”.²⁴ This relates to the points made in paragraph 12 about DFB’s competitors. Ultimately, a business—like any other commodity—is worth what someone is prepared to pay for it. Rabobank was of the opinion that DFB’s bid for ACC was higher than it needed to be to acquire the business.

16. In the run-up to the purchase of ACC, two of the initial four banks in the banking group—the Royal Bank of Scotland and Rabobank—pulled out. In order to complete the deal, DFB borrowed money from the Co-operative Group itself. Mr Hardman of the Co-operative Group described this loan as “short-term” financing, amounting to “several million pounds”.²⁵ Mr Malcolm Smith commented that this was “a bit unusual but not totally”.²⁶ He also said that the loan was contingent on DFB paying a particular price for ACC, although, on further questioning, he stated that this was his opinion “in retrospect” and that there had been no discussion at the time.²⁷

Due diligence

17. In purchasing ACC, DFB had to rely on vendor due diligence, commissioned from KPMG by the Co-operative Group, which it later came to question. Lord Grantchester, the current Chairman of DFB, told us that DFB subsequently found that there were “some very difficult aspects” involved. He listed a “a potential huge tax liability” of £6 million, which

20 Q 760

21 Q 770 and Q 800

22 Qq 760–763

23 Q 621

24 Q 622

25 Q 200

26 Q 795

27 Q 796–97; Q 822–24

DFB managed to avoid but only after spending £1 million on advice, and “a number of commercial contracts that were uncompetitive”. Finally, he noted: “We even began to question how KPMG put the due diligence together as to where the profit of one division stopped and the next division started.”²⁸ What Mr Oakes described as “the big attraction” of ACC—the ready-made customer base in the form of the Co-operative Group—was, in this respect, a drawback.²⁹ DFB was not happy with what it had been told about ACC, but it could hardly pursue this particularly rigorously with the Co-operative Group given that the Co-operative Group was its largest customer. Mr Oakes commented: “Ultimately, what it came down to was: did we really want to take our biggest customer [...] to court [...]?”³⁰

The aftermath of the purchase

18. Mr Gerry Smith, former Head of the Liquid Milk Division at DFB, who joined the business just after the acquisition of ACC, in November 2004, commented that, with the purchase of ACC, DFB acquired what he would argue were “the oldest assets in the dairy industry”. He added that those assets required “significant investment to bring them up to standard”.³¹ Partly because of difficulties in raising capital, to which we return later in this chapter, and partly because of issues arising out of the purchase of ACC, which we discuss in paragraph 20, DFB struggled to make this investment.

19. DFB also struggled with the scale of the task it had taken on in buying ACC. A group from the DFB Members Council commented:

The ACC purchase in terms of scale was a massive acquisition by the newly formed DFB business which at the time only employed 180 people with little experience of operating a major processing business. The acquisition of a business with over 2,300 employees was a major undertaking. There was also a major culture gap between the management styles of the two businesses.³²

Mr Gerry Smith stated that it took until the summer of 2005—almost a year later—before DFB discovered what he described as “a black hole”. He explained that he became involved in the liquids side of the business in the summer of 2005 and commented: “We analysed the business in some detail [...] and personally I came to the conclusion that we had not made any profit in that business since we acquired it.”³³ Lord Grantchester stated that this was not discovered until the summer of 2005 because ACC did not have the mechanisms to enable DFB to find out what was going on.³⁴ This seems to support the view expressed by the group from the DFB Members Council, who commented: “It proved difficult to get proper financial and operational control and understanding of the business.” The group

28 Q 298

29 Q 395

30 Q 403

31 Q 301

32 Ev 221

33 Q 302

34 Q 303 [Lord Grantchester]

concluded: “The ACC acquisition was poorly managed and failed to achieve the objectives.”³⁵

20. Mr Moody contradicted Mr Gerry Smith’s statement about the time taken to discover the problems with the liquids business and commented that “the underperformance of the liquids business was identified as early as November 2004”.³⁶ He stated that there were two reasons for the underperformance: “Llangadog had not returned to breakeven” and was “suffering very considerable losses as a factory” and, more seriously, the purchase of ACC tied DFB into a four-year contract “to supply a competitor to Dairy Farmers of Britain with processed products at a price that caused Dairy Farmers of Britain to suffer losses”.³⁷ Mr Moody commented that the contract generated losses in the order of £4 million a year and “enabled the competitor to use the cheap DFB product to quote against DFB in respect of customers it [DFB] was already supplying, thereby causing it either to lose these customers or reduce its prices with the resultant impact on profit margin”.³⁸ Asked why DFB had not discovered the implications of this contract before it purchased ACC, Mr Moody replied: “The sales process itself was very much on the basis that there was not open and unrestricted access to what the vendor regarded as commercially sensitive information.”³⁹ The problems with the Llangadog creamery were solved relatively easily: the factory was closed early in 2005. However, the issue of the unprofitable contract with a competitor was to have a long-lasting and serious financial impact on DFB.

21. Mr Moody suggested that one of the lessons to be learned from what happened at DFB was “to try and set anticipation and expectation at realistic levels” and commented that “Dairy Farmers of Britain was always challenged in terms of having the financial resources to enable it to be able to effectively carry out what was a huge ask in terms of its strategy”.⁴⁰ Unlike the shareholders of a plc, DFB’s farmer members did not have the opportunity to vote individually on the purchase of ACC and had to rely on decisions made by the people running the co-operative. **The way in which DFB went about pursuing its vertical integration strategy was over-ambitious, given the relative youth of the business and its financial constraints. This is clear in hindsight, but should also have raised concerns at the time. The purchase of ACC by DFB is indicative of the triumph of strategic ambition over financial reality. Farmers’ optimism about taking control over their long-term future was a noble objective, but in this case it was severely hampered by decisions that turned out poorly in practice.** We discuss governance, and the way in which it compounded some of these problems, in Chapter 3.

The 2007 contract with the Co-operative Group

22. At the time of the purchase of ACC, in August 2004, DFB agreed a three-year contract to supply the Co-operative Group with 44 million gallons of fresh milk per annum.⁴¹ In

35 Ev 221

36 Q 634

37 Q 634; Ev 137

38 Ev 137

39 Q 636

40 Q 535

41 Ev 45

August 2007, DFB tendered to renew its contract with the Co-operative Group and was successful, with the exception of the supply of 8 million gallons of milk to stores in the south west, which was awarded to Robert Wiseman Dairies.⁴² Mr Oakes told us that, when the contract was renewed for two years in 2007, all the issues DFB had raised with the Co-operative Group about the ACC business were “put to bed”. He stated: “It was a bit of, ‘If you forget those, you can have this.’ That is my cynical view.”⁴³

23. The 2007 contract resulted in DFB receiving a lower price for its milk than it had under the 2004 contract. Mr Moody stated that the DFB Board had anticipated that the Co-operative Group would put the contract out for open tender when it came up for renewal in 2007 and that “competitors would aggressively price against DFB in that process.”⁴⁴ He commented that DFB had a range of profit improvement programmes designed to make the business competitive by the time of the contract re-negotiations. However, he stated that, although virtually all of these profit improvement programmes were delivered, “their effect was simply to recover some of the losses suffered through the onerous competitor supply contract as opposed to enable the business to become more competitive”.⁴⁵ The “onerous competitor supply contract” is the contract we discussed in paragraph 20. Mr Moody commented:

The 2007 renewal, which ultimately proved to be more competitive than envisaged due to the impact of Wiseman’s new Bridgewater processing plant, resulted in a material reduction in price paid by CRTG [Co-operative Retail Trading Group] that placed a burden on the business from which it was ultimately unable to recover.⁴⁶

In entering milk processing on a large scale with the purchase of ACC, DFB was involving itself in a highly competitive sector alongside major businesses such as Robert Wiseman Dairies who DFB must have realised were likely to bid keenly to increase their market share. DFB was held back from the start by being tied into a loss-making contract that cost it millions and whose effect would make it less certain that DFB would be able to retain the Co-operative Group contract when it came up for renewal.

The 2009 contract with the Co-operative Group

24. The contract agreed between DFB and the Co-operative Group in August 2007 was due to expire in August 2009. PricewaterhouseCooper’s *Receivers’ report* states that DFB’s August 2008 Board minutes contain an acknowledgement that the relationship with the Co-operative Group was in jeopardy at the next tender.⁴⁷ In March 2009, the Board was informed that it had lost the contract.⁴⁸ In April 2009, the Co-operative Group announced publicly that it would not renew the contract with DFB and was awarding contracts instead

42 Ev 45

43 Q 403

44 Ev 138

45 *Ibid*

46 *Ibid*

47 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 24

48 Ev 47

to Robert Wiseman Dairies, Dairy Crest and Yeo Valley.⁴⁹ The fact that the Co-operative Group, the UK's largest co-operative retailer, chose not to renew a contract with another co-operative is worth considering. In a statement appended to evidence from the Financial Services Authority, co-operation among co-operatives is listed as one of the seven co-operative principles.⁵⁰ Lord Grantchester commented that, at all times in its dealings with the Co-operative Group, DFB was “naïve to think the Co-operative had a fellow co-operative ethos”.⁵¹

25. The Co-operative Group stated that it could not promote co-operation amongst co-operatives “at the expense of taking wholly uncommercial decisions”.⁵² It commented that potential bidders for the 2009 contract were assessed against four objectives: price, security of supply, service level, and farmgate price.⁵³ The contract was broken down into five lots and DFB bid for two of them.⁵⁴ The Co-operative Group commented that DFB was “held in high regard” in relation to service level, but that “security of supply was raised with DFB as a concern, following months of media speculation regarding its long term viability”.⁵⁵ In addition, DFB did not place the leading bid in either of the two lots in which it was interested. The Co-operative Group commented: “In both cases, the difference by percentage is less than single figures”. It added: “however, the overall benefit to the Co-operative Group (and the other societies which form CRTG [the Co-operative Retail Trading Group]) of selecting a supplier other than DFB is approximately £2.9 million between 2009 and 2010.”⁵⁶ It also expressed concern about DFB's farmgate prices, commenting that it was “already public knowledge that DFB was offering the lowest farmgate price compared to other processors”. It stated: “When the issue of cost price was raised, DFB was both clear and categorical that any downward movement would automatically be funded by a reduction in farmgate price.”⁵⁷

26. Although it is reasonable to expect co-operatives to support each other to some extent, we recognise that co-operatives' prime responsibility should be to their own members. DFB lost the Co-operative Group contract because it could not make competitive bids in the relevant lots. It is concerning that the Board of DFB did not give more consideration to the consequences of losing the Co-operative Group contract, and the potential of the business to recover from this loss, before they purchased ACC.

The loss of confidence

27. As the Co-operative Group's comment about the months of media speculation surrounding DFB's long-term viability emphasises, confidence in DFB became an

49 Ev 47

50 Ev 196

51 Q 299

52 Ev 48

53 Ev 47

54 *Ibid*

55 *Ibid*

56 *Ibid*

57 *Ibid*

increasing problem. Mr Moody cited 2007 as a significant point. He commented that the weather resulted in milk shortages, which in turn led to an increase in the price that processors were prepared to pay for milk. He argued that, because DFB did not have significant reserves of capital, it could not afford to increase the price it paid its members as quickly as some of its larger competitors and that “that caused a significant degree of membership concern, believing that this was an indicator of an underperformance within the business”.⁵⁸

28. By the end of 2008 and the beginning of 2009 concern among members was increasing rapidly—and the number of resignations was rising. In December 2008, 322 DFB members, supplying a total of 259.81 million litres of milk, resigned: more than resigned in all the preceding months of 2008 put together. The sharp rise in resignations followed DFB’s announcement on 28 November 2008 that the milk price it paid to its members would be cut by 2 pence per litre, with the cut backdated to 1 November 2008.⁵⁹

29. According to the *Receivers’ report*, the price cut was intended to help fund Project 523—DFB’s plan to reduce the number of its dairies from five to three by selling the units at Portsmouth and Fole.⁶⁰ Mr Gerry Smith explained that, prior to Project 523, DFB had an asset utilisation—by which he meant the rate of sales compared with the capacity of the dairies—of 58%, whereas its competitors were closer to 80%.⁶¹ Unfortunately, not only did the need to finance Project 523 in the short term mean that the milk price had to be cut, the loss of the two dairies also meant that DFB could no longer supply Tesco with milk for its Local Choice range in some regions. The *Receivers’ report* states that Tesco was in the process of delisting the Local Choice range in a number of regions in early 2009.⁶² However, Tesco explained that the closure of the Portsmouth and Fole dairies meant that it lost its supply of Local Choice milk from eight Local Choice regions. Tesco stated: “It was this rather than any decision to delist that led us to stop selling Local Choice lines in these regions.”⁶³ Local Choice had been a small, but important part of DFB’s business. Ernst and Young, DFB’s auditors, commented in relation to the 2008 audit: “The success of the relationship with Tesco was an important factor behind DFB’s forecast improvement in results.”⁶⁴

30. The *Receivers’ report* states that, despite the delivery of Project 523 on budget, “the planned cash and profitability improvements did not materialise in the remaining Liquids business prior to the appointment of Receivers”.⁶⁵ Mr Smith stated that this was incorrect and that “in April and May of this year [2009] the liquids part of Dairy Farmers of Britain made a profit of £1.5 million”.⁶⁶ However, Mr Smith also recognised that, by that stage, it

58 Q 640

59 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 26

60 *Ibid*

61 Q 315

62 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 28

63 Ev 76

64 Ev 208

65 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 27

66 Q 316

was too late. He commented: “Business is all about confidence.”⁶⁷ **We agree with Mr Smith’s analysis that “The real reason for Dairy Farmers of Britain going into receivership was that as farmer members lost confidence in us, our other suppliers lost confidence in us and, most importantly, our customers lost confidence [...]”**⁶⁸

31. **By late 2008, DFB was caught in a vicious circle in which lost confidence led to resignations, which in turn led to a further loss of confidence and more resignations. Its fate was not inevitable, but its continued survival grew increasingly unlikely during the early months of 2009.** We discuss the timing of the receivership in more detail in Chapter 4.

The co-operative model

32. We were interested in whether there was anything about the fact that DFB was a co-operative—a form of industrial and provident society—that contributed to, or hastened, its demise. Dairy UK, the trade association of the UK dairy industry, made its views on the subject clear, stating: “Nothing in the failure of DFB can be attributed specifically to its legal form as a co-op. The failure was largely its inability to compete as a processor and consequently it is in no way indicative of the condition of remaining industry operators.”⁶⁹ This view was supported by others, including Mr Gwyn Jones, the NFU National Dairy Board Chairman, who commented that companies, too, fail almost daily and that “does not mean the model is incorrect”.⁷⁰ **We agree that DFB did not fail because it was a co-operative. However, its failure draws attention to a number of ways in which UK dairy co-operatives could be strengthened, if they are to be able to compete successfully in the dairy sector.** In the remainder of this chapter, we consider some wider lessons to be learned. The issues we discuss were not direct causes of the collapse of DFB, but they could help to increase the strength of UK co-operatives and prevent a similar collapse happening again.

Capital raising

33. Throughout our inquiry, comparisons were drawn between dairy co-operatives in the UK and those elsewhere in Europe and further afield. Among the key differences is the amount of capital such co-operatives have at their disposal. This is partly because co-operatives such as Fonterra in New Zealand and Arla Foods in Denmark and Sweden have had the time to build up very substantial capital reserves compared with UK dairy co-operatives.

34. Capital-raising is one of the principal challenges facing UK dairy co-operatives. When DFB wanted to buy ACC it borrowed money from the banks. In practice, this is one of the few options open to a dairy co-operative that wants to raise a substantial capital sum. We asked First Milk whether it would be possible in theory for co-operatives to raise capital by means of the sale of corporate bonds. Mr Jim Maguire, the Finance Director of First Milk,

67 Q 297

68 Q 297

69 Ev 202

70 Q 95

agreed that it would be technically possible for co-operatives to raise money in this way, but commented that there was “not a great demand in the corporate bond market to invest in co-ops, especially since the co-ops in the UK are so young”. He also stated that there could be “a conflict between milk price and the interest on capital that I think we would need to pay out”.⁷¹ Mr Moody made this point in relation to third party equity investment. He stated: “members would want a high milk price whereby investors would want the lowest milk price necessary to secure supply, in order to maximise profits.”⁷²

35. Other than bank loans a co-operative’s other main source of capital is its own members. The Scottish Agricultural Organisation Society (SAOS) explained that, in agricultural co-operatives, farmer members “must carry the burden of providing risk capital, as the option of generating funds from the stock market is not open to them.” It commented: “Given that the number of farmers in any agricultural co-op is limited, the availability of risk capital is inevitably a key business constraint.” It stated that while farmer members “may be able to afford regular, small investments in their co-op [...] they are often unable to make large one-off investments”.⁷³

36. Even those farmers who want to make large investments in their co-operative are currently constrained in their ability to do so. SAOS was one of several witnesses to point out that under current industrial and provident societies legislation, the maximum amount of equity that an individual member may invest in a co-operative is £20,000. SAOS stated that some co-operatives tried to generate additional capital by using member loans, but commented: “such loan funds are a liability, rather than an asset and are discounted by bankers when considering requests for bank loans.”⁷⁴ Mr Maguire of First Milk, explained what this meant in practice:

[A]nything over and above £20,000 becomes a debt instrument which has to be repaid, so there is a bar on the permanent capital that co-ops can currently raise, [...] which in turn makes it more difficult to borrow money from banks because they see the existing debt, whereas if they saw more fixed capital for the business in turn, if need be, we would be able to borrow public funds.⁷⁵

37. The draft Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010, which is currently before Parliament, would remove the £20,000 limit on a member’s maximum transferable shareholding in a co-operative. Both First Milk and Milk Link, the two remaining large dairy co-operatives in the UK, supported this change.⁷⁶ Mr Maguire explained that the change would mean that a member could invest, say, £50,000 in capital “which at some point could become tradable and there would be no requirement on the business to fund the exit”.⁷⁷

71 Q 717

72 Ev 136

73 Ev 179

74 *Ibid*

75 Q 715

76 Q 714; Ev 240

77 Q 716

38. We welcome the proposal in the draft Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 to remove the £20,000 limit on a member's maximum transferable shareholding in a co-operative. This is a step in the right direction. However, we urge Defra to set up a task force comprising the Financial Services Authority, HM Treasury, members of the banking community and industry representatives further to investigate ways to overcome constraints on capitalising UK agricultural co-operatives.

Tax treatment of contributions to co-operatives

39. Another issue that discourages investment is the taxation of members' contributions to co-operatives. Milk Link explained:

At present any capital retained in a co-op (including that raised by member levies) is notionally allocated to members and is subject to taxation as if they had received the monies. We would strongly argue that HM Treasury should treat any such tax liability on retained capital reserves as deferred until these are actually distributed to members.⁷⁸

Mr Oakes commented: "With some of the other European co-ops the tax regime is more friendly for farmers to invest in their own collaborative business than perhaps it is in the UK."⁷⁹ When we raised the matter with the Minister, he said that it had not been drawn to his attention before.⁸⁰ **Money that is retained by agricultural co-operatives and only notionally paid out to farmers should not be taxed at this stage. Instead it should be taxed on withdrawal, in a way that is analogous to the tax treatment of pensions income. We recommend that Defra pursue this with the Treasury as a matter of urgency. It is unacceptable to have a tax system that disincentivises investment in agricultural co-operatives.**

Consolidation in the UK dairy market

40. In countries such as Denmark and New Zealand, the major co-operatives have benefited from a competition regime that has allowed consolidation and expansion over time. This point was illustrated by Mr Maguire of First Milk, who compared the formation and development of Fonterra in New Zealand with the formation and development of the UK dairy co-operatives. He commented that the "New Zealand Government [...] facilitated Fonterra's creation through the merger of two large co-ops" and contrasted this with the situation in the UK, where Milk Marque, a farmer-owned co-operative, was established after the abolition of the milk marketing boards in 1994, but was itself broken up following a recommendation made by the Monopolies and Mergers Commission (now the Competition Commission) in 1999. Mr Maguire stated that "farmers have been encouraged to co-operate and do things for themselves and the UK Government then broke up Milk Marque into three smaller co-ops".⁸¹ Mr Maguire commented that a

78 Ev 240

79 Q 434

80 Q 486

81 Q 710 [Mr Maguire]

common factor in the other countries that First Milk had studied was that “the co-operatives grew up organically and they merged with passive or active encouragement from governments to create the modern co-operatives that we see today”.⁸²

41. In fact, Milk Marque broke up voluntarily, rather than being directly broken up by the Government, but what is being highlighted here is a difference in national approach to competition law. Defra should be championing UK co-operatives to ensure that they can continue to compete with older, larger co-operatives in Europe and elsewhere.

42. Further rationalisation in the UK dairy industry is not in our view an inhibiting factor to competition. In the liquids market, intense competition is provided at a retail level. The dairy industry as a whole operates in a European and in some cases a global market. Restricting consolidation in the UK makes it more difficult for the UK dairy industry to compete with these other players on both a European and global scale.

3 Governance and accountability

43. The governance structure of DFB comprised a Board, an Executive Team and a Members Council. The Members Council were elected from among the farmer members and acted as their representatives. The Members Council voted on Board proposals on members' behalf. A group from the Members Council commented: "The relationship between the board, executive and council appears to have been dysfunctional."⁸³ When we began the inquiry, it was not, as we have explained, our intention to discuss in detail the behaviour or personalities of individuals. However, it is difficult to comment on the governance of DFB without at least touching on personalities. We heard various and sometimes conflicting accounts from those who had been involved in the governance of DFB. Feelings clearly still run high—understandably, given what happened to the business in the end. Some conflict is to be expected when running a business; indeed, some tension may be beneficial. However, there also comes a point when such antagonisms are in danger of becoming a distraction and an obstruction to the effective operation of a business. **In pursuing a challenging vertical integration strategy, with limited capital-raising ability, DFB's difficulties were compounded by a governance structure that did not function as well as its members were entitled to expect.**

The Board and the Executive Team

44. DFB's Board initially consisted of five farmer directors and three non-farmer, non-executive directors.⁸⁴ Later, the ratio changed to six to four.⁸⁵ Unlike Milk Link and First Milk—the two remaining large UK dairy co-operatives—DFB did not have any executive directors on its Board. Mr Knight, the former Chairman of DFB, stated that the relationship between the Board and the Executive Team was "excellent", describing it as "professional, courteous, friendly and testing".⁸⁶ Mr Oakes, a farmer director on the Board, characterised the relationship as "challenging"—by which he seemed to mean that the Board expected the Executive Team to deliver and if they did not, the Board wanted to know why. He commented that the Board had "got rid of one chief executive relatively soon after we had taken over ACC".⁸⁷

45. The Chief Executive in question, Mr Malcolm Smith, stated that, in the course of his career, he had been a CEO "for a lot of years" and that he had "never not been on the board". He described the lack of executive directors on the Board as one of the problems with DFB.⁸⁸ Mr Knight commented that the reason why executives were not on the Board "is because it was not actually provided for within the constitution or the rules of the business".⁸⁹ While Mr Smith may have overstated the case when he commented that his

83 Ev 224

84 Q 657

85 Q 672

86 Q 522

87 Q 414

88 Q 743

89 Q 522

absence from the Board “was a major and fundamental reason why the company went down”, it is hard not to agree with him that DFB’s governance would have been improved by the presence of executive directors on the Board.⁹⁰ **The lack of executive directors on DFB’s Board was a weakness and should have been addressed, even if this meant a rule change. It is important for members of the Executive Team to be represented on the Board in farmer-owned co-operatives, as in other businesses.**

Farmer directors

46. Mr Stephen Yates explained that it was the Members Council, of which he was the Chairman from October 2006 until June 2009, that wanted a majority of farmer directors on the Board, to protect the interests of the farmer members. However, he said that, with hindsight, he thought that the Members Council would have become less concerned about the balance between farmer and non-farmer directors.⁹¹ He commented: “The key strength the farmer directors have is that they are the key communication tool because they can stand up in front of a meeting of farmers and deliver the good, the bad and the ugly in a robust manner.”⁹²

47. Others were concerned about the farmer directors on the Board: one former DFB member described them as “out of their depth”.⁹³ The NFU emphasised the “need for Farmer Directors be properly supported, trained, highly skilled and have the ability to manage large and complex businesses”. It commented: “These requirements are not easy to find when most farmers are accustomed to running single operations or sole trading businesses.”⁹⁴ When we asked Mr Oakes, one of the farmer directors, how he was prepared for his role, he commented: “We did spend quite a bit of time with the non-execs on the board. [...] We learned from them.”⁹⁵ He also mentioned going on a risk management course and attending relevant conferences.⁹⁶ Mr Knight, the former Chairman of the Board, said that he sat down with each of the directors on an eight-weekly basis to “talk about progress and areas that they were feeling confident about or less confident about”.⁹⁷

48. Mr Bill Mustoe, the Chairman of First Milk, told us that he was considering a different approach to choosing farmer directors. At present, farmer directors are elected to First Milk’s Board. He commented that to be successful in the process, you had to be two things: “you have to be a dairy farmer [...] and you have to know how to win local elections.” He suggested a system under which half the directors were elected and the other half were selected. Selection would involve members nominating other farmer members with “proven business acumen” who might not necessarily have come forward under the

90 Q 743

91 Q 672

92 Q 672

93 Ev 218

94 Ev 20

95 Q 420

96 Qq 420–21

97 Q 530

election system. He stated that this would involve a rule change and would need to be put to the AGM.⁹⁸

49. Farmer directors have a valuable part to play on the Boards of farmer-owned businesses, although we are not convinced that they need necessarily make up the majority of the directors. It is vital that both they, and the non-farmer directors, receive regular and appropriate training—from both internal and external sources. The annual reports of agricultural co-operatives should contain a section detailing what steps have been taken to ensure that farmer directors are properly trained and supported for the important job they undertake.

Specific concerns

50. In addition to the more general points that were raised about the Board of DFB, two very specific issues were drawn to our attention by individual farmer members and farmers on the Members Council. First, there was concern about the fact that Mr Knight took on the role of Chief Executive in addition to his role as Chairman, during 2005, after the acquisition of ACC and the dismissal of Mr Malcolm Smith. One former director of DFB who wrote to us referred to “major powers” being placed in the hands of one individual.⁹⁹ A group from the Members Council commented that the dual role was “substantially financially rewarded with over £400,000 paid to the executive-chair in the financial year 2005–2006”.¹⁰⁰ Mr Knight confirmed that his remuneration was “of that sort of order”. He stated that he was “employed right from the outset on a daily rate” and that when he took on the post of Chief Executive, this daily rate, “happened to be then for a full-time period”.¹⁰¹

51. We asked Mr Knight why he had taken on both roles and whether the Board had discussed the matter. He stated that it was “absolutely at the board’s request”, commenting: “when we started to look at the issues we were facing with ACC and the different skill sets which we would need to control a business of that sort of size, that was when we decided to modify and change the people that were in the business at the time”.¹⁰² When we put it to him that it was not recommended practice to combine the roles, he replied: “That is why it was for a short period of time.”¹⁰³ On being asked how long he held both posts, he told us that it was “nine months to a year, perhaps”.¹⁰⁴ A period of nine months to a year does not strike us as a particularly short time. Nor is it clear to us why DFB could not appoint an outside Chief Executive to fill any perceived skills gap, as it did eventually. Moreover, when the daily rate Mr Knight was paid to act as a non-executive Chairman was originally agreed, it was presumably not envisaged that this rate would ever be paid on a full-time basis. We accept that the rate was approved and published in the annual accounts, but we

98 Q 712

99 Ev 212

100 Ev 224

101 Qq 540-41

102 Q 536

103 Q 537

104 Q 538

do not accept that paying a Chief Executive at a daily rate—a rate that was originally agreed for a different and part-time post—offered value for money.

52. The second specific issue that was raised with us concerned Mr Moody. A group from the Members Council commented that there was concern “that there was a board level conflict of interest”. It stated: “DFB board director Philip Moody was also a Director of Smith [and] Williamson Corporate Finance who evaluated proposals and advised in these areas providing support to the chairman and board for considerable financial reward.”¹⁰⁵

53. Mr Moody told us that he was originally approached to join the Board of DFB in July 2003, at a time when he was already working for Smith and Williamson, because DFB’s acquisition-driven strategy meant that there was a need “to have corporate finance skills on its board”.¹⁰⁶ He stated that, whereas larger businesses tended to have their own mergers and acquisitions teams, DFB chose instead to ask him to join the Board and to invite his team “effectively to be an outsource of that M&A [mergers and acquisitions] project management capability that would be done in-house in a larger business”.¹⁰⁷ He commented: “we could not act as independent advisers to the board because that would be in clear conflict with my position as a board director.”¹⁰⁸ Thus when DFB was purchasing ACC, Smith and Williamson were project managers, rather than corporate financial advisers—a role which was taken on by Rabobank. However, Mr Moody said that, in the case of smaller acquisitions, such as the Lincoln dairy, Smith and Williamson did offer advice “because the transactions were of much less significance and it was believed that there were fewer judgmental issues and more process issues involved”.¹⁰⁹

54. Mr Moody stated that he “was not personally involved in either securing work for Dairy Farmers of Britain or in delivery” and that “All of the services delivered by Smith & Williamson were headed up by somebody other than me”, but he added: “of course, in my role as strategic director for Dairy Farmers of Britain, I worked very closely with my team that were engaged to do work for DFB.”¹¹⁰ When we put it to him that he stood to gain financially from the work Smith and Williamson did for DFB, he replied that he was a fixed share partner in Smith and Williamson and stated: “What that meant was that my personal remuneration was not influenced by one penny as a result of the fees paid to my firm.”¹¹¹ When pressed about the perceived conflict of interest he replied: “I am not denying that there was a conflict. What I am saying is that the role of my firm was completely transparent; it was well governed in terms of its corporate finance process.”¹¹² He added: “I am completely satisfied in my own mind that my judgment in acting as a director of Dairy Farmers of Britain was not at any time impaired by the conflict to which you allude.”¹¹³

105 Ev 224

106 Q 545

107 Q 545

108 Q 545

109 Q 545

110 Q 549

111 Q 554

112 Q 555

113 Q 559

55. We have no reason to believe that, in practice, Mr Moody’s judgment as a director of DFB was impaired or influenced by his role at Smith and Williamson. However, it is not difficult to see why, to the wider membership, this relationship must have appeared, as one farmer member put it, “very cosy”.¹¹⁴ **The perception of a conflict of interest can cause damage, even if the individual concerned is satisfied that they have behaved responsibly. For this reason, we believe that advice and assistance, including project management, is best provided by companies and individuals that have no other connection with the directors of the business to which they are providing the service.**

The Members Council

56. Mr Yates, the former Chairman of the Members Council, outlined the Council’s principal role and powers as follows: “the selection and election of the board, the appointment of the auditors, the authorising of any rule changes, [and] the authorising of the business’s ability to borrow money and to spend that money”. The initial ceiling on the Board’s borrowing—that is to say the amount the Board could borrow without the approval of the Members Council—was £100 million, but this was raised to £200 million two years after DFB’s formation.¹¹⁵

57. These are significant responsibilities. Opinion about how successful the Members Council was in discharging them varied, but was largely positive. Mr David Wilkinson, a director of DFB, commented: “Ultimate company governance lay with the council, and it is my opinion they undertook this well.”¹¹⁶ He commented favourably on the amount of external advice that was available to the Members Council.¹¹⁷ Mr Oakes, a director of DFB, told us that DFB “invested a lot of money in training the council”.¹¹⁸

58. One farmer member who wrote to us, however, stated: “the council just rubber stamped any decisions taken by the board. [...] The members of the council did not recognise any of the warning signs that indicated that the company was in trouble.”¹¹⁹ A significant occasion on which the Members Council clearly did not simply rubber stamp decision-making by the Board was on 27 March 2009, when it turned down a Board proposal to raise £20 million of new equity via retention from members’ milk cheques.¹²⁰ However, comments made by Mr Yates himself suggest that there were a few times, particularly in the early days of DFB, when the Members Council was not quite as robust as it might have been. Mr Yates believed that, to start with, the Council was “too large”. Membership was subsequently reduced from 82 to 62 and then to 35.¹²¹ Mr Yates also told us that, when DFB was initially formed, “the non-exec directors at that stage were gifted to us by the interim board” and that the Members Council simply formally elected them.¹²²

114 Ev 217

115 Q 644

116 Ev 231

117 *Ibid*

118 Q 409

119 Ev 215

120 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 4

121 Q 652

122 Q 658

This was a decision he seemed to regret in hindsight. Speaking about the appointment of Mr Knight, he commented: “Last night I read through what we were told, the fact file on the new appointments, and I am aghast that we accepted it then”.¹²³

59. In carrying out its responsibilities effectively, the Members Council depended on communication from the Board. Mr Oakes said the Members Council “could access the board very easily”.¹²⁴ Mr Yates’s comments about the relationship between the Board and the Members Council back this up, although they also make it clear that it was sometimes difficult for the Members Council to obtain the information it needed, particularly in relation to DFB’s banking arrangements. Mr Yates commented that, in addition to formal Council sessions, he met the Chairman of the Board privately “probably once a month” but added: “He was not a man who liked to share information with us.”¹²⁵ He told us: “The area that they [the Board] never took us into was the banking, the key area.”¹²⁶ When we asked why the Council did not press for such information, particularly when changing the ceiling on borrowing limits, Mr Yates replied: “I think it was made pretty clear to us that that was an area of detail that we were not entitled to.”¹²⁷ Mr Knight stated in contrast that the Board were “very open with the council”, but that “the decision and the judgment always was about information that was confidential, that could have been damaging to the business if it got out into the wider world, that was customer sensitive, all sorts of information like that”.¹²⁸

60. While a Members Council can be a useful part of the governance structure of a co-operative, its ultimate effectiveness depends on its willingness to use its powers, and on regular and, so far as is possible, frank communication from the Board. The Council should not have to press the Board for information: sometimes the Council will not be in a position to know what information to seek. **The presumption should be that the Board will actively share information with the Members Council unless it is prevented from doing so by the need to preserve commercial confidentiality. It is hard to see how a Members Council could be in a position to approve changes to the ceiling on borrowing if it did not feel that it could ask detailed questions about banking arrangements.**

Communication with members

61. Related to the issue of communication between the Board and the Members Council is communication with the wider membership. The Farmers Union of Wales commented that in the months leading up to DFB’s collapse, it had been contacted by farmers who had concerns:

Foremost amongst these was the concern that projections and assurances made by DFB officials regarding the financial wellbeing of DFB were unfounded, and that a

123 Q 660

124 Q 412

125 Q 662

126 Q 666

127 Q 667

128 Q 577

lack of transparency regarding such matters was restricting the ability of DFB members to make balanced business decisions.¹²⁹

Mr Brown, a DFB member who sat on the Members Council until 2008, commented: “If I relied upon what had come from Council meetings, what had come through on the official channels, I would have had a completely erroneous view of the business.”¹³⁰

62. As with communication between the Board and the Members Council, commercial confidentiality is clearly a factor when communicating with the wider membership. Mr Oakes, a Board member, commented: “You wanted to tell the membership as much as you can about where the business was. [...] You feel they have a right to know but there is confidential information and there is commercial information there.”¹³¹ There is also a balance to be struck between maintaining members’ confidence in their business and pointing to potential problems. However, there is a danger that guarded communication only encourages speculation about what the true position of the business might be. As Mr Jones, the NFU’s National Dairy Board Chairman, commented: “if you do not communicate effectively others will do it for you, and that is what happened.”¹³² Lord Grantchester told us that he tried to improve communication when he became Chairman in November 2008.¹³³

63. We recognise that it is difficult to strike a balance between providing an accurate picture of the state of a co-operative to its members and not revealing commercially sensitive information. However, we consider that the Board of DFB failed to strike this balance and that DFB members did not receive the quality of information that they were entitled to expect. This breakdown in communication encouraged speculation about the future of DFB and can only have contributed to the business’s difficulties.

Registration and regulation

64. The Financial Services Authority (FSA) registers industrial and provident societies, but does not regulate them. It explained its role as follows:

Our main functions under the [Industrial and Provident Societies] Act are twofold: to register societies which provides them with corporate status; and to register their rules (and subsequent changes to those rules) and other relevant documents; we have no duty to regulate these societies under the Act, nor do we monitor their compliance with their rules.¹³⁴

The FSA also has a duty to make documents, such as accounts, available for public inspection. Mr Joe Egerton told us that it is “far slower and more cumbersome” to obtain documents relating to co-operatives from the FSA than it is to obtain the same information

129 Ev 191

130 Q 155 [Mr Brown]

131 Q 410

132 Q 106

133 Ev 70

134 Ev 193

on companies from Companies House.¹³⁵ **Documents filed by industrial and provident societies should be as easily obtainable as documents filed by companies. We urge the Financial Services Authority to improve the way in which it makes such documents available to the public.**

65. The FSA commented: “On the basis of the facts as we currently understand them, we do not consider that the collapse of DFB could have been prevented by any proportionate, additional powers being conferred on the FSA under the Act.”¹³⁶ In response to the question of whether it thought that there was a need for a regulatory authority for IPSs, the FSA expressed the view that: “Conferring regulatory powers over Industrial and Provident societies on a new, or existing, regulatory authority could undermine control of these societies by their members and prejudice the co-operative principles of autonomy and independence.”¹³⁷

66. Even as a registering authority, rather than a regulatory authority, there is scope for the FSA to encourage best practice. The FSA stated that it was working with stakeholders to develop codes of practice to “represent our guidance to co-operatives on the standards that we expect as a condition of continued registration under the 1965 Act”.¹³⁸ It is also part of a group “established to identify the weaknesses in the co-operative model that have come to light since the collapse of DFB”.¹³⁹ The group, which also involves English Farming and Food Partnerships and Defra, is looking at matters such as skills and training for Board members, governance, and the provision to members of regular trading statements. It plans to publish its conclusions as a code of practice in September 2010.¹⁴⁰

67. The Financial Services Authority has an important role to play in relation to the effective functioning of industrial and provident societies. We welcome the fact that it is developing codes of practice to clarify what is expected of industrial and provident societies.

68. We look forward to reading the conclusions of the group on the co-operative model to which the Financial Services Authority and Defra are contributing. The code of practice developed by this group should aim to create the best possible environment for decision taking whilst providing maximum protection for members’ interests. Attention should be paid in the code of practice to the information requirements of structures such as Members Councils and of ordinary members if they are to be able to act as a check and balance mechanism on decision making by the Board.

Auditing

69. DFB’s auditors were Ernst and Young. They were first appointed in 2002 and issued their last audit opinion on DFB on 31 July 2008. This opinion related to the financial year

135 Ev 244

136 Ev 195

137 Ev 196

138 *Ibid*

139 Ev 197

140 *Ibid*

ending 31 March 2008. No audit opinion was issued for the financial year ending 31 March 2009, because the audit was incomplete.¹⁴¹ Ernst and Young commented that the directors of DFB concluded that the group was a going concern when the 2008 accounts were signed, and stated that it was “satisfied that management’s evaluation was appropriate”.¹⁴² Under the going concern assumption “an entity is ordinarily viewed as continuing in business for the foreseeable future with neither the intention nor the necessity of liquidation, ceasing trading or seeking protection from creditors pursuant to laws or regulations”.¹⁴³ Before agreeing with the going concern evaluation, Ernst and Young performed a number of procedures which are set out in full in its written evidence. The issues taken into account include the fact that, although DFB made a loss in 2008, the losses were broadly in line with DFB’s three year forecasts, which assumed that DFB would break even in 2009 and return to profitability in the year ending 31 March 2010.¹⁴⁴

70. Ernst and Young commented that although DFB was an IPS and was not required to comply with the more prescriptive accounting requirements that apply to listed companies, “the Board of DFB sought to adopt practices that were more akin to those of a listed entity wherever practical” and “this resulted in greater disclosures in the 2008 accounts than would otherwise be required by an Industrial and Provident Society”.¹⁴⁵ It continued: “For example, DFB included within the 2008 accounts a Business Review, a Statement of Corporate Governance and a Remuneration Report.”¹⁴⁶

71. DFB’s decision to adopt some of the auditing standards that apply to listed companies was a move in the right direction. As the case of DFB illustrates, applying these standards cannot prevent the collapse of a business, but it is another way of ensuring that industrial and provident societies are subject to more rigorous evaluation. We recommend that agricultural co-operatives voluntarily adopt such standards wherever possible.

141 Ev 205

142 *Ibid*

143 Ev 206

144 Ev 205

145 Evs 205, 206

146 Ev 206

4 The impact of the collapse

Farmer members and employees

72. The collapse of DFB had a significant impact on the UK dairy industry in general, and on farmer members and employees of DFB in particular. The *Receivers' report* states that the sale of the Llandyrnog and Lubborn creameries, and DFB's liquid milk depots, preserved 420 jobs, but the inability to find a buyer for the Lincoln, Bridgend and Blaydon dairies meant that there were 1,113 direct redundancies as a result of the demise of DFB.¹⁴⁷ The redundancies did not feature prominently in the evidence we received, but we are conscious that, particularly in the present economic climate, these were potentially life-changing events for the people involved.

73. Many of the members of the public who submitted evidence were DFB farmer members who suffered substantial financial losses when their businesses went into receivership. There were two main categories of loss: first, farmers lost money by DFB's failure to pay for the milk collected from its members in May and up to 3 June 2009, when the receivers were called in, and second, farmers lost the money that they had invested in DFB as members of a co-operative. The NFU estimates that the average supplying member lost between £10,000 and £15,000 as a result of the failure to pay the May milk cheque and "may have invested upwards of £50,000 in the company as debt through so-called Member Capital Accounts and other vehicles".¹⁴⁸ Average total losses would therefore be in the region of £60,000 to £65,000. Some people lost considerably more than this. For example, Mr Brown, a member of DFB from its inception in 2002, told us that he lost "circa £120,000 in terms of capital investment and bad debt", and commented that: "Effectively, it means that [...] I would have to work for two years for nothing."¹⁴⁹

74. DFB farmer members are not the only people to lose money as a result of the collapse. Mr Oldfield, joint receiver at PricewaterhouseCoopers, told us that, at the time of the receivership, approximately £10 million was owed to other creditors. Some £5 million of this was owed to Her Majesty's Revenue and Customs and a further £5 million "to other creditors, which included people like packaging companies and hauliers".¹⁵⁰ There is little prospect of the people who have lost money recovering any of it. Mr Oldfield commented that the receivership "is likely to result in a shortfall to the bank of around £4 million" and that this would mean that there was "no further money to distribute".¹⁵¹ When asked how creditors were ranked, Mr Oldfield commented:

Although it [DFB] is a co-operative and there are no preferential creditors [...] there is the ability to create [...] secured creditors. Co-operatives can borrow money from

¹⁴⁷ PricewaterhouseCoopers, *Receivers' report to creditors, members and ex-members*, 24 August 2009, p 13. Blaydon dairy was later sold to Medina Dairies, in January 2010.

¹⁴⁸ Ev 16

¹⁴⁹ Ev 35; Q 145

¹⁵⁰ Q 65

¹⁵¹ Q 66

banks against which they give a debenture charge [...] and that was what happened here, they borrowed money from the bank against a debenture.¹⁵²

Asked whether this meant that the bank had priority over any other creditors, Mr Oldfield replied: “Yes.”¹⁵³

75. The *Receivers’ report* stated: “As always with a Receivership, the option is open to unsecured creditors or member shareholders to petition the court to put DFB into liquidation.”¹⁵⁴ However, Mr Oldfield said that, while technically creditors could petition for the co-operative to be put into liquidation, “there is no money to distribute to those creditors”.¹⁵⁵ Mr Kevin Ellis, Business Recovery Services Partner at PricewaterhouseCoopers, agreed that there would be no point in creditors petitioning for liquidation because it would mean throwing good money after bad.¹⁵⁶

76. DFB farmers and other unsecured creditors lost substantial sums of money as a result of the collapse. Sadly, we see no prospect of this money being recovered. There are some steps the Government could have taken, and could still take, to mitigate the financial impact of the losses. We discuss these in Chapter 5.

The timing of the receivership

77. We heard from several DFB farmer members who were concerned that the timing of the receivership may have increased their losses, because it meant that they were not paid for the milk they supplied during May and the first few days of June. DFB went into receivership on 3 June 2009. However, it is apparent with the benefit of hindsight—and must have been apparent to some people at the time—that the business was in serious difficulties as early as autumn 2008. Mr Moody explained that his resignation, on 30 October 2008, was triggered when “the bankers to the company [DFB] issued the company with a formal notice of default, stating that in the bank’s opinion, the company had created an event of default capable of enabling the bank to summarily withdraw its facilities”.¹⁵⁷ This refers to DFB’s failure to pay its members the interest due on their loan notes, which breached one of the covenants that DFB had agreed with its bankers, HSBC.

78. When we asked Mr Oldfield at what point it became clear that DFB could not survive, he referred to the meeting on 27 March 2009 at which the Members Council turned down a proposal to raise £20 million of new equity via retention from members’ milk cheques. He commented that “that was a sign that there were significant difficulties because the Council did not feel sufficiently comfortable with the position of the co-operative that they wished to support that application [...]. That was a critical point”.¹⁵⁸

152 Q 70

153 Q 71

154 PricewaterhouseCoopers, *Receivers’ report to creditors, members and ex-members*, 24 August 2009, p 15

155 Q 66

156 Q 67

157 Q 583

158 Q 24

79. Several DFB farmer members who wrote to us were also of the view that the events of March 2009—it was also in March that DFB received confirmation that it would lose its contract with the Co-operative Group¹⁵⁹—were something of a watershed and wanted to know why DFB continued to trade throughout April and May 2009. When we put this point to Mr Oldfield, he stated: “The considered view of the vast majority of stakeholders I have spoken to suggests that for Dairy Farmers of Britain to have entered into receivership in March would have been a serious, serious blow to the UK dairy industry.”¹⁶⁰ He explained that the phenomenon known as “the spring flush” means that March “is the time in the UK dairy industry when there is a wall of milk that hits the market”.¹⁶¹ The NFU concurred with the view that, had DFB gone into receivership in March or April, the impact on the dairy industry would have been “an awful lot worse”.¹⁶²

80. For DFB to have gone into receivership at the end of March, at a time when the volume of milk being produced in the UK was particularly high, could have been very destabilising for the UK dairy industry as a whole. However, it could still be argued that DFB members should not have had to suffer the loss of the May milk cheque for the sake of preserving the stability of the wider dairy industry. This was essentially the case put by A. S. E. Crisp and sons, who described the spring flush argument for delaying the receivership as “amazing” and commented: “This enabled DFOB to take our May and June milk without paying for it, adding to the DFOB members’ losses. We should not have been held responsible for not disrupting the whole industry in this way [...]”.¹⁶³

81. The trouble with this argument is that if DFB had gone into receivership in late March or early April, DFB members would have risked the loss of the milk cheque for March, which amounted to £24 million and was due to be paid on 16 April 2009. Mr Oldfield commented that this milk cheque was “in jeopardy” and explained: “What happened was that the bank had to put some more money in.”¹⁶⁴ Following the Members Council meeting on 27 March 2009, HSBC agreed extra banking facilities, to be provided until 11 June 2009. Mr Oldfield commented that they did so “on the back of some advice from me and an understanding in relation to the UK dairy industry and what that meant in the spring flush”.¹⁶⁵

82. Presumably the bank would not have risked putting extra money into DFB at this stage if it thought that this could lead to its own financial losses increasing—banks are not charitable institutions for the preservation of the dairy industry—but it was in HSBC’s interests, as well as the interests of the farmer members, to see if a solution could be found to DFB’s difficulties in the months leading up to June 2009. Mr Ellis commented: “A successful sale of the business outside of insolvency would have been better for everyone and that was what was being pursued at the time.”¹⁶⁶ Mr Oldfield said that there were “a

159 Ev 47

160 Q 28

161 Q 28

162 Q 133

163 Ev 215

164 Q 28

165 Q 28

166 Q 63 [Mr Ellis]

number of interested parties around in March”, although he stated that interest in the liquids part of the business “was not strong”.¹⁶⁷ If HSBC had refused to invest extra money in the spring of 2009, DFB could have been forced to go into receivership at that stage, but it is highly likely that the March milk cheque would not have been paid.

83. On balance, it was reasonable to trade through the spring flush and a receivership at the end of March or beginning of April 2009 probably would not have resulted in significantly smaller financial losses for DFB farmers.

PricewaterhouseCoopers: advisers and receivers

84. Mr Oldfield’s comments about the advice he gave to HSBC make it clear that PricewaterhouseCoopers had an advisory role in relation to DFB that preceded its receivership role. This was a cause of concern to some. Ms Jill Cawood, a DFB member, quoted from a letter from Lord Grantchester to DFB members, written on 12 February 2009, in which he announced that “DFB has engaged leading corporate mergers and acquisitions advisers from PricewaterhouseCoopers” to help DFB review its approach to enhancing “member value”.¹⁶⁸ Ms Cawood stated that PricewaterhouseCoopers also advised DFB’s bank, HSBC, from “at least March 2009”.¹⁶⁹ Lord Grantchester himself commented:

PricewaterhouseCoopers (PwC) was asked by HSBC to undertake an Independent Business Review (IBR) of DFB’s 523 project. PwC was also engaged by DFB with a duty of care to HSBC to market the company in whole or in parts. Thirdly, PwC was also instructed by HSBC as Insolvency Practitioners to undertake the receivership of DFB. The undertaking of all these roles by one organisation is a feature of this case.¹⁷⁰

85. Mr Oldfield told us that PricewaterhouseCooper’s advisory role involved trying to find buyers for parts of the DFB business.¹⁷¹ When asked whether he personally was part of the advisory team, he replied: “I was only part insofar as my industry knowledge [...] All the discussion and all of the M&A [mergers and acquisitions] work was done by separate team, absolutely.”¹⁷² He stated that PricewaterhouseCooper’s prime duty of care in its advisory role was to the bank, not to DFB.¹⁷³

IPs and insolvency legislation

86. In general, there was praise for the way in which PricewaterhouseCoopers handled the receivership. The NFU commented that it wanted to acknowledge the good work that had been done by the receiver: “The process has been openly transparent, well communicated,

167 Q 59

168 Ev 185

169 Ev 184

170 Ev 56

171 Qq 48–9

172 Q 51

173 Qq 52–4

with a practical and clear strategy.”¹⁷⁴ This is all the more commendable given the difficulties that arose in relation to DFB’s status as an industrial and provident society. Mr Ellis of PricewaterhouseCoopers explained that, as an IPS rather than a limited company, DFB was outside the provisions of the Insolvency Act 1986 and the Enterprise Act 2002 and that “as a consequence of that in our duties as Receivers [...] we did not have to communicate with any of the creditors nor produce reports to any of the creditors”.¹⁷⁵ PricewaterhouseCoopers was of the opinion that communication with creditors was important, but it had to go to court to clarify its legal position. Mr Ellis explained:

One thing you do need to maintain stability in such a difficult circumstance as an insolvency is to move very, very quickly and it was not helpful that we had to go to court to get permission. Also, it would not have been helpful to the creditors if we had not found a way of communicating with them.¹⁷⁶

87. Despite the legislative confusion that surrounded the early days of the receivership, PricewaterhouseCoopers managed to act quickly to make contact with DFB members. Mr Oldfield stated that this was his “first priority” following his appointment and that he met nearly 1,400 members in the first five days at meetings in Harrogate, Stoke, Carlisle and St Clears.¹⁷⁷ On 7 September 2009, PricewaterhouseCoopers held a meeting of DFB creditors, employees, members and ex-members, at which the contents of the *Receivers’ report*—itself a clear and informative document—were discussed.

88. There was no statutory obligation on PricewaterhouseCoopers to conduct the insolvency according to the standards that apply to limited companies. That they managed to follow best practice, in spite of this, is to be welcomed. **We recommend that the Government amend the Insolvency Act 1986 and the Enterprise Act 2002 to ensure that insolvency appointments over industrial and provident societies—and the conduct of the ensuing insolvency—are made on the same basis and governed by the same rules as insolvency appointments over limited companies.**

89. PricewaterhouseCoopers also made us aware of two other issues. First, the fact that DFB is an IPS is causing a problem in relation to whether its Golden Vale Dairies pension scheme is covered by the Pension Protection Fund. Second, the fact that DFB is an IPS creates difficulties from the point of view of ending the receivership. IPSs can be dissolved but only by the consent of three quarters of their members: a method which is likely to be impractical for an IPS the size of DFB. The receivers can also resign from office, but the IPS legislation does not comment on how they should do so. **We urge the Government to clarify how the Pension Protection Fund, created under the Pensions Act 2004, applies to industrial and provident societies. People with pensions with DFB should not lose out because it is an industrial and provident society. The Government must also update the Industrial and Provident Societies Act 1965 to simplify and improve the exit routes from an industrial and provident society receivership.**

174 Ev 19

175 Q 14

176 Q 35

177 Q 3

Keeping the milk flowing

90. Mr Oldfield stated that the “key objective of the receivership was to keep the wheels turning and milk flowing”.¹⁷⁸ Judged by this criterion, the receivership was a success. From the date of their appointment on 3 June, the receivers collected and paid for milk from DFB suppliers. Some issues were raised about the price paid for this milk. Milk supplied between 3 June and 16 June was paid for at a rate of 16 pence per litre, paid in three instalments. Milk supplied between 17 June and 16 July was paid for at a rate of 15.7 pence per litre—again paid in three instalments. The NFU commented:

With the average cost of milk production currently estimated to be within the range of 24–27ppl this situation left many dairy farmers in a desperate financial state. Many businesses, while normally profitable and viable, are likely to have experienced, and may continue to experience, substantial cash-flow difficulties.¹⁷⁹

DFB members had been receiving 20.21 pence per litre in April 2009.¹⁸⁰ Mr Oldfield explained the basis on which the milk price was calculated: he commented that the receivers returned to farmers the price they got for selling the milk, “less the cost of collecting it and sending it on”. Costs relating to the receivership, bank borrowing or the closure of any assets further down the line were not factored in.¹⁸¹ The price paid for milk during the receivership must have exacerbated the very difficult financial situation in which DFB farmers found themselves, but the basis on which the receivers calculated this price seems to us fair and transparent and the fact that the milk flow was maintained has to be preferable to the alternative.

Finding new buyers

91. By 26 June 2009, only 144 out of 1,813 farmers remained with DFB. As the NFU pointed out, it was much harder “for farmers in remote locations, or with small volumes to find a new milk buyer as they were not considered attractive prospects to the larger milk buyers”.¹⁸² The 144 producers who were left at the end of June were offered a deal with Milk Link: the receivers state that they believe that 104 members accepted this deal, 16 members retired and the remaining 24 secured alternative supply contracts.¹⁸³ One of the reasons why it was possible for DFB suppliers to switch to new buyers relatively quickly was that the receivers chose not to enforce the 12-month notice periods in the contracts. The NFU commented:

The contract held between DFB and its members did not contain any clause which allowed the contract to be terminated with immediate effect if either party appointed a receiver, or filed for administration. Consequently, DFB suppliers had to be granted permission from the receiver to leave DFB. While the NFU believes that the

178 Q 69 [Mr Oldfield]

179 Ev 16

180 PricewaterhouseCoopers, *Receivers' report to creditors, members and ex-members*, 24 August 2009, p 26

181 Q 73

182 Ev 16

183 PricewaterhouseCoopers, *Receivers' report to creditors, members and ex-members*, 24 August 2009, p 9

receiver acted promptly and rightly in providing farmers with a window in which to leave DFB and find an alternative buyer, there was some initial uncertainty with regard to members' legal positions.¹⁸⁴

It recommended that milk contracts should include the “ability to terminate with immediate effect if either party appoints a receiver or administrator”.¹⁸⁵

92. The speed with which former DFB members found new buyers is a tribute not only to the receivers, but to the dairy industry itself, which, as the NFU commented, “as a whole rose extremely well to the challenge of picking up milk from 1,800 farmers” and thus avoided a market crash.¹⁸⁶ However, the NFU qualified its praise for the dairy industry by stating that not all of the milk that transferred from DFB received “a sustainable price”.¹⁸⁷ It believed that “some milk buyers may be exploiting farmers' vulnerability, and buying milk cheaply in order to build margins, and undermine other sellers in the market”.¹⁸⁸ This was backed up by evidence we received from individual DFB members, one of whom referred to “the pathetically low prices that are currently being paid to ex-DFoB members”.¹⁸⁹

93. When we asked the NFU about ways in which to prevent predatory pricing at a time when farmers are vulnerable and perhaps more likely to sign a contract that they would not consider in other circumstances, Ms Hayley Campbell-Gibbons, the NFU's Chief Dairy Adviser, advocated more flexible contracts and greater transparency about the price at which buyers sell the product on.¹⁹⁰ Both she and Mr Jones, the NFU's National Dairy Board Chairman, stressed that, in general, the NFU advocated long-term partnerships within the supply chain and that short notice periods—Mr Jones suggested a month—should apply only “if prices cannot be agreed”.¹⁹¹

94. The Farmers Union of Wales, which also commented on the inflexibility of current contracts in relation to notice periods, acknowledged that there would be difficulties in addressing this problem:

[T]he introduction of more flexible contracts by any one processor ahead of similar moves by competitors may make it vulnerable to large migrations of producers over short periods, thus weakening its position within the market place, and leaving it particularly vulnerable to aggressive moves by companies wishing to expand their milk fields.¹⁹²

184 Ev 19

185 Ev 20

186 Ev 16

187 *Ibid*

188 Ev 17

189 Ev 188

190 Q 135

191 Q 140

192 Ev 191

It recommended that the Government “introduce regulations that allow more flexibility for all producers”.¹⁹³ It is also worth reflecting that the relative ease with which the rest of the industry coped with ex-DFB farmers’ milk is in itself a commentary on the level of over-capacity in the industry.

95. There is a balance to be struck between achieving long-term relationships in the dairy supply chain and allowing farmers sufficient flexibility to change buyers if something goes wrong. A clause which allows farmers to terminate their contract with a month’s notice in the event of their buyer going into receivership is sensible. Contracts which allow farmers greater flexibility to switch to another buyer in the event that an agreement cannot be reached on the milk price seem like a good way of strengthening the position of farmers in theory. However, we remain to be convinced about how they would work in practice. We recommend that Defra put this issue forward for discussion at the Dairy Supply Chain Forum, which it chairs, and that Defra commission a report within the next 12 months detailing ways in which contracts between farmers and buyers could be improved to ensure that both parties are treated fairly, particularly in times of distress.

5 Defra's response to the collapse

Facilitating discussion and co-operation

96. In previous chapters, we have discussed some of the steps Defra should take to contribute to the continued health of the UK dairy industry and of co-operatives in particular. In this chapter, we look specifically at Defra's response to the collapse of DFB. The Minister for Food, Farming and Environment, Jim Fitzpatrick MP, commented that although it was not Defra's job to monitor the commercial viability of DFB, it was its job "to assist and [...] advise" when necessary.¹⁹⁴

97. Defra was anecdotally aware in late 2008 that DFB was having problems.¹⁹⁵ It was formally approached about DFB in February 2009, when the then Department for Business, Enterprise and Regulatory Reform contacted it to say that it had been approached by DFB about the closure of some of its dairies and the possibility of public funding under the redundancy payments scheme.¹⁹⁶ The following month, in March 2009, Defra was approached by Lord Grantchester, the Chairman of DFB, who explained in confidence DFB's financial situation. Defra commented that DFB did not formally ask the Government for money "but it was clear they were exploring whether any was available". Defra concluded "that there were weak grounds for investing public money into a business that was on the verge of bankruptcy" and "whose business model was uncompetitive", and noted that "there were sufficient competitors to take over viable elements of the business without significantly affecting the competitiveness of the milk supply chain".¹⁹⁷ At this stage, Defra began discussions with various key players, including Dairy UK and the Northwest Regional Development Agency, with the aim of maintaining the milk supply chain and minimising disruption.

98. The process of facilitating discussion continued after DFB went into receivership on 3 June. On 8 June, Defra hosted a meeting with PricewaterhouseCoopers, the Chairman of the DFB Members Council, and representatives from the Welsh Assembly Government, the Government Offices, the Regional Development Agencies, and the Insolvency Service "to ensure that all parties had the full picture, to facilitate information exchange, and to ensure everyone was focused on the priorities of maintaining the milk supply chain within the constraints of Receivership".¹⁹⁸ There was a further meeting, involving a range of interested parties, on 17 June.¹⁹⁹ The NFU commented: "Government responded swiftly and sympathetically to the situation."²⁰⁰ **Defra orchestrated a positive response to the**

194 Q 457

195 Q 456

196 Ev 91. According to Defra, DBERR advised DFB they were eligible for this support but DFB declined it. Defra states: "We understand this was because Scheme conditions mean only statutory redundancy payments are made by BERR while DFB and their employees agreed they would pay enhanced payments."

197 Ev 92

198 *Ibid*

199 Ev 93

200 Ev 18

collapse of DFB. We commend the swift and effective action it took to facilitate co-operation and disseminate information.

Nitrate Vulnerable Zones

99. One way in which it was suggested that the Government could assist former DFB farmers without interfering in the milk market was by approaching the European Commission to extend the deadline for compliance with the new Nitrate Vulnerable Zone requirements. The Nitrates Directive was adopted in 1991 to reduce water pollution caused by nitrates from agricultural sources. It requires member states to designate as Nitrate Vulnerable Zones areas of land that drain into polluted waters and to set up an Action Programme in these zones. In the 2007–08 session of Parliament, we reported on the implementation of the Nitrates Directive and emphasised that, while some of the proposals in Defra’s new Action Programme were welcome and sensible, the slurry storage requirements would place a considerable financial burden on livestock and dairy farmers.²⁰¹ Mr Philip Dunn, a former DFB member, wrote that his thoughts were focused on Nitrate Vulnerable Zone compliance by 2012. He commented: “With the milk prices I am receiving and the losses incurred through the DFoB receivership, I have no idea how I can make the figures stack up to comply with the legislation.”²⁰²

100. The NFU wrote to Defra in June 2009 to ask that, in recognition of the disruption caused by the collapse of DFB, Defra extend the implementation timetable for NVZs by a further year, taking the deadline for complying with the new requirements to 1 January 2013. This request was turned down.²⁰³ When we asked Defra to explain the reasons behind this decision, it commented that it had already extended the compliance period for the slurry storage requirements from two years to three years, following comments made during its original consultation, and that, given that the Action Programme lasted for four years, extending the period by a further year “would as good as remove dairy farmers entirely from the Programme”.²⁰⁴ By itself, this is not a compelling argument. However, Defra also noted that it had secured from the European Commission a derogation allowing grassland livestock farmers to apply for permission to farm to a limit of 250kg, rather than 170kg, of livestock manure nitrogen per hectare. Defra estimated that this derogation reduced the costs of complying with the Directive by between £16.9 million and £21.7 million a year and pointed out that the derogation expires on 31 December 2012. It noted that, in seeking to renew the derogation for a further four years, it was going to be important “that we can convince the Commission and other member states that we have committed ourselves to the Action Programme and that it is effective and successful”.²⁰⁵

101. We recognise the sense in Defra’s argument that it has to show the European Commission that the UK has committed itself to the NVZs Action Programme, but we regret that it did not at least approach the Commission to see how it would regard a further extension to the slurry storage requirements, given the difficult financial

201 Seventh report from the Environment, Food and Rural Affairs Committee, Session 2007–08, *Implementation of the Nitrates Directive in England*, HC 412.

202 Ev 188

203 Q 143

204 Ev 111

205 Ev 112

situation in which a substantial number of UK dairy farmers found themselves after the collapse of DFB.

Her Majesty's Revenue and Customs

102. The second area in which it was suggested that the Government could assist former DFB members relates to taxation. Mr Dunn commented: "Due to DFOB's March 2009 debt for equity swap [...] the capital retention payments held in my MIA [Members Investment Account] are now classed as a capital loss rather than an income loss."²⁰⁶ Mr Oldfield, joint receiver at PricewaterhouseCoopers, confirmed that the debt for equity swap did result in a difference in relation to tax treatment. He stated: "My team are currently liaising with the Inland Revenue with a view to trying to get an answer to this to try to ensure that farmers who were affected by the debt to equity switch back in March are not adversely affected through their tax affairs."²⁰⁷ Defra also stated that it had liaised with Her Majesty's Revenue and Customs (HMRC) in relation to DFB.²⁰⁸

103. In January 2010, HMRC posted guidance on its website about the tax treatment of shares and debts held by former DFB members. The receivers informed us that they considered the guidance to be unclear in a number of areas and that their tax specialist was liaising with HMRC to seek clarity on these points.

104. We wrote to HMRC to ask why it took so long to issue the guidance. HMRC replied that it was first contacted by the receivers in July 2009 about whether DFB members would be entitled to income tax relief on the debt held in DFB.²⁰⁹ HMRC commented: "The difficulty faced by all interested parties was the lack of documentation surrounding the various debts."²¹⁰ HMRC stated that it could not give advice on the capital gains tax position "until the Receiver supplied necessary factual information at the end of 2009".²¹¹ It commented that it was now able to clarify the guidance in response to the points raised by the receivers and that the receivers had agreed to review the revised draft to ensure that it was sufficiently clear.²¹² HMRC issued its revised guidance in February 2010.

105. We also asked HRMC what the tax position of DFB members would have been if the debt for equity swap had not taken place. HRMC replied:

This transaction does not have any effect on the income tax relief available. But had the MIA [Members Investment Accounts] and MCA [Members Capital Accounts] debts not been satisfied by the issue of shares, it might have been possible to claim allowable capital losses in respect of any outstanding amounts of the principal that were not allowable for income tax purposes and which had at the time of claim become irrecoverable.²¹³

206 Ev 189

207 Q 79

208 Ev 92

209 Ev 254

210 *Ibid*

211 *Ibid*

212 *Ibid*

213 *Ibid*

It is just about discernable—if not clear—from the rest of HMRC’s letter that it would still be possible in theory to claim capital gains tax relief on the shares DFB members received as a result of the debt for equity swap. However, HMRC has decided that the market value of these shares “will be the same as the value of the debt at the time of the exchange” and that, from the evidence it has seen, “that figure is likely to be, or to be close to, zero.” The letter adds: “We are, though, inviting representations as to the appropriate figure of cost.”

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106. The majority of farmers affected by the collapse of DFB are unlikely to pay capital gains tax, and therefore would be unlikely to benefit from capital gains tax relief even if HMRC decided to value the shares at a figure higher than zero. What would help these farmers is if the losses could be offset against income tax—the issue about which the receivers approached HMRC in July 2009. HMRC has, however, decided that income tax relief is not available. **We accept that there are constraints on HMRC’s ability to use the taxation system to mitigate the financial losses suffered by former DFB members. However, we urge HMRC, in liaison with the receivers, to reconsider whether the appropriate value of the shares that resulted from the March 2009 debt for equity swap is in fact zero. We regret that HMRC decided that income tax relief was not available in relation to the loss of these shares and urge it to reconsider this position. HMRC should report its stance on this matter as soon as possible to the Financial Secretary to the Treasury.**

The Welsh Assembly Government and single farm payments

107. As we noted at the beginning of our report, DFB had a large number of farmer members in Wales. The Farmers Union of Wales acknowledged that the courses of action available to the Welsh Assembly Government (WAG) following the collapse of DFB were relatively limited and commended the WAG for those actions it did take.²¹⁵ Among other things, the WAG agreed to make early Common Agricultural Policy single payments to farmers who were affected by the collapse of DFB. Payments amounting to 70% of the full value were made available from 16 October 2009. Defra and the Rural Payments Agency did not agree to early single payments in England. The NFU commented that it was disappointed by this and followed the point up in writing with the Chief Executive of the Rural Payments Agency. The NFU stated: “The RPA’s reaction was that while it would theoretically be possible to advance Single Payments it might have a knock-on effect on other farmers and jeopardise the RPA’s recovery.”²¹⁶

108. **We commend the Welsh Assembly Government for making early single payments to former DFB members in Wales. The Rural Payments Agency failed former DFB members in England by being unable to make the same commitment. We continue to take a strong interest in the Rural Payments Agency and it is likely that our successor Committee will want to return to this subject.**

214 Ev 254

215 Ev 192

216 Ev 18

6 Conclusion

109. Mr Mustoe, the Chairman of First Milk, told us that the difference between a plc and a co-operative was brought home to him in his first few months in the job when he met some of First Milk's farmer members. He commented: "they are not ordinary shareholders in the sense that they are expecting a dividend and if it goes down it's annoying but it's not material in terms of their existence." He stated: "The difference with a co-op is that you have the ability as a business to mess with people's lives and if you run your business poorly then those people will suffer".²¹⁷ **DFB did not fail because it was a co-operative. However, dairy co-operatives in the UK are comparatively young and there is much to be learnt from older, larger co-operatives in Europe and elsewhere. Defra should produce a report within the next 12 months examining governance and capital-raising arrangements in these co-operatives, together with the legislative framework that applies, and exploring the lessons these countries offer for dairy co-operatives in the UK.**

110. No single factor—not even the purchase of ACC in and of itself—caused DFB's demise and its problems were not unique: the majority of them could affect any business. DFB experienced some bad luck. More significantly, it suffered from over-ambition, a shortage of capital and, at various points during its existence, poor governance and poor communication. In its final year, it lost the confidence of its members and its customers. Hindsight certainly makes it easier to begin to understand what happened at DFB, but, as we have made clear, some of the issues we have discussed in our report should have caused concern at the time. Ultimately, DFB's members were badly let down. We have suggested some steps which we believe may reduce the chances of other farmers suffering a similar fate. We summarise below the actions that should be taken by the Government.

111. As the Department responsible for agriculture, Defra should be offering advice and assistance to support the growth of agricultural co-operatives. First, Defra must pursue the matter of the taxation of members' contributions to co-operatives with the Treasury. It is manifestly unfair that farmers should have to pay tax on money that is only notionally allocated to them and that is actually invested in their co-operative. Secondly, Defra must co-ordinate the key players to devise solutions for overcoming the constraints on the capitalisation of agricultural co-operatives. The Legislative Reform Order that is currently before Parliament should be regarded as the beginning of this process, rather than a solution by itself. Thirdly, Defra should work with the Financial Services Authority to ensure that issues affecting agricultural co-operatives in particular are taken into account when developing best practice guidance for industrial and provident societies.

112. Clearly the immediate impact of the failure of DFB was a further questioning of confidence in the dairy industry. Defra must recognise this in its work to ensure that the dairy industry has a positive future that reflects the natural advantage of the grass-growing areas of the UK for producing milk.

Conclusions and recommendations

Background to the inquiry

1. We welcome the provisions in the Co-operative and Community Benefit Societies and Credit Unions Bill to apply the provisions of the Company Directors Disqualification Act to industrial and provident societies. If this Bill does not complete its passage through Parliament and become law before the 2010 general election, we urge the Government to pursue placing these provisions on the statute book—either through a Government Bill or by supporting the relevant Private Member’s legislation—at the earliest possible opportunity in the new Parliament. (Paragraph 4)

The aftermath of the purchase

2. The way in which DFB went about pursuing its vertical integration strategy was over-ambitious, given the relative youth of the business and its financial constraints. This is clear in hindsight, but should also have raised concerns at the time. The purchase of ACC by DFB is indicative of the triumph of strategic ambition over financial reality. Farmers’ optimism about taking control over their long-term future was a noble objective, but in this case it was severely hampered by decisions that turned out poorly in practice. (Paragraph 21)

The 2007 contract with the Co-operative Group

3. In entering milk processing on a large scale with the purchase of ACC, DFB was involving itself in a highly competitive sector alongside major businesses such as Robert Wiseman Dairies who DFB must have realised were likely to bid keenly to increase their market share. DFB was held back from the start by being tied into a loss-making contract that cost it millions and whose effect would make it less certain that DFB would be able to retain the Co-operative Group contract when it came up for renewal. (Paragraph 23)

The 2009 contract with the Co-operative Group

4. Although it is reasonable to expect co-operatives to support each other to some extent, we recognise that co-operatives’ prime responsibility should be to their own members. DFB lost the Co-operative Group contract because it could not make competitive bids in the relevant lots. (Paragraph 26)

The loss of confidence

5. We agree with Mr Smith’s analysis that “The real reason for Dairy Farmers of Britain going into receivership was that as farmer members lost confidence in us, our other suppliers lost confidence in us and, most importantly, our customers lost confidence [...]” (Paragraph 30)

6. By late 2008, DFB was caught in a vicious circle in which lost confidence led to resignations, which in turn led to a further loss of confidence and more resignations. Its fate was not inevitable, but its continued survival grew increasingly unlikely during the early months of 2009. (Paragraph 31)

The co-operative model

7. We agree that DFB did not fail because it was a co-operative. However, its failure draws attention to a number of ways in which UK dairy co-operatives could be strengthened, if they are to be able to compete successfully in the dairy sector. (Paragraph 32)

Capital raising

8. We welcome the proposal in the draft Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 to remove the £20,000 limit on a member's maximum transferable shareholding in a co-operative. This is a step in the right direction. However, we urge Defra to set up a task force comprising the Financial Services Authority, HM Treasury, members of the banking community and industry representatives further to investigate ways to overcome constraints on capitalising UK agricultural co-operatives. (Paragraph 38)

Tax treatment of contributions to co-operatives

9. Money that is retained by agricultural co-operatives and only notionally paid out to farmers should not be taxed at this stage. Instead it should be taxed on withdrawal, in a way that is analogous to the tax treatment of pensions income. We recommend that Defra pursue this with the Treasury as a matter of urgency. It is unacceptable to have a tax system that disincentivises investment in agricultural co-operatives. (Paragraph 39)

Consolidation in the UK dairy market

10. Further rationalisation in the UK dairy industry is not in our view an inhibiting factor to competition. In the liquids market, intense competition is provided at a retail level. The dairy industry as a whole operates in a European and in some cases a global market. Restricting consolidation in the UK makes it more difficult for the UK dairy industry to compete with these other players on both a European and global scale. (Paragraph 42)

Governance and accountability

11. In pursuing a challenging vertical integration strategy, with limited capital-raising ability, DFB's difficulties were compounded by a governance structure that did not function as well as its members were entitled to expect. (Paragraph 43)

The Board and the Executive Team

12. The lack of executive directors on DFB's Board was a weakness and should have been addressed, even if this meant a rule change. It is important for members of the Executive Team to be represented on the Board in farmer-owned co-operatives, as in other businesses. (Paragraph 45)

Farmer directors

13. Farmer directors have a valuable part to play on the Boards of farmer-owned businesses, although we are not convinced that they need necessarily make up the majority of the directors. It is vital that both they, and the non-farmer directors, receive regular and appropriate training—from both internal and external sources. The annual reports of agricultural co-operatives should contain a section detailing what steps have been taken to ensure that farmer directors are properly trained and supported for the important job they undertake. (Paragraph 49)

Specific concerns

14. The perception of a conflict of interest can cause damage, even if the individual concerned is satisfied that they have behaved responsibly. For this reason, we believe that advice and assistance, including project management, is best provided by companies and individuals that have no other connection with the directors of the business to which they are providing the service. (Paragraph 55)

The Members Council

15. The presumption should be that the Board will actively share information with the Members Council unless it is prevented from doing so by the need to preserve commercial confidentiality. It is hard to see how a Members Council could be in a position to approve changes to the ceiling on borrowing if it did not feel that it could ask detailed questions about banking arrangements. (Paragraph 60)

Communication with members

16. We recognise that it is difficult to strike a balance between providing an accurate picture of the state of a co-operative to its members and not revealing commercially sensitive information. However, we consider that the Board of DFB failed to strike this balance and that DFB members did not receive the quality of information that they were entitled to expect. This breakdown in communication encouraged speculation about the future of DFB and can only have contributed to the business's difficulties. (Paragraph 63)

Registration and regulation

17. Documents filed by industrial and provident societies should be as easily obtainable as documents filed by companies. We urge the Financial Services Authority to improve the way in which it makes such documents available to the public. (Paragraph 64)

18. The Financial Services Authority has an important role to play in relation to the effective functioning of industrial and provident societies. We welcome the fact that it is developing codes of practice to clarify what is expected of industrial and provident societies. (Paragraph 67)
19. We look forward to reading the conclusions of the group on the co-operative model to which the Financial Services Authority and Defra are contributing. The code of practice developed by this group should aim to create the best possible environment for decision taking whilst providing maximum protection for members' interests. Attention should be paid in the code of practice to the information requirements of structures such as Members Councils and of ordinary members if they are to be able to act as a check and balance mechanism on decision making by the Board. (Paragraph 68)

Auditing

20. DFB's decision to adopt some of the auditing standards that apply to listed companies was a move in the right direction. As the case of DFB illustrates, applying these standards cannot prevent the collapse of a business, but it is another way of ensuring that industrial and provident societies are subject to more rigorous evaluation. We recommend that agricultural co-operatives voluntarily adopt such standards wherever possible. (Paragraph 71)

IPs and insolvency legislation

21. We recommend that the Government amend the Insolvency Act 1986 and the Enterprise Act 2002 to ensure that insolvency appointments over industrial and provident societies—and the conduct of the ensuing insolvency—are made on the same basis and governed by the same rules as insolvency appointments over limited companies. (Paragraph 88)
22. We urge the Government to clarify how the Pension Protection Fund, created under the Pensions Act 2004, applies to industrial and provident societies. People with pensions with DFB should not lose out because it is an industrial and provident society. The Government must also update the Industrial and Provident Societies Act 1965 to simplify and improve the exit routes from an industrial and provident society receivership. (Paragraph 89)

Finding new buyers

23. There is a balance to be struck between achieving long-term relationships in the dairy supply chain and allowing farmers sufficient flexibility to change buyers if something goes wrong. A clause which allows farmers to terminate their contract with a month's notice in the event of their buyer going into receivership is sensible. Contracts which allow farmers greater flexibility to switch to another buyer in the event that an agreement cannot be reached on the milk price seem like a good way of strengthening the position of farmers in theory. However, we remain to be convinced about how they would work in practice. We recommend that Defra put this issue forward for discussion at the Dairy Supply Chain Forum, which it chairs,

and that Defra commission a report within the next 12 months detailing ways in which contracts between farmers and buyers could be improved to ensure that both parties are treated fairly, particularly in times of distress. (Paragraph 95)

Facilitating discussion and co-operation

24. Defra orchestrated a positive response to the collapse of DFB. We commend the swift and effective action it took to facilitate co-operation and disseminate information. (Paragraph 98)

Nitrate Vulnerable Zones

25. We recognise the sense in Defra's argument that it has to show the European Commission that the UK has committed itself to the NVZs Action Programme, but we regret that it did not at least approach the Commission to see how it would regard a further extension to the slurry storage requirements, given the difficult financial situation in which a substantial number of UK dairy farmers found themselves after the collapse of DFB. (Paragraph 101)

Her Majesty's Revenue and Customs

26. We accept that there are constraints on HMRC's ability to use the taxation system to mitigate the financial losses suffered by former DFB members. However, we urge HMRC, in liaison with the receivers, to reconsider whether the appropriate value of the shares that resulted from the March 2009 debt for equity swap is in fact zero. We regret that HMRC decided that income tax relief was not available in relation to the loss of these shares and urge it to reconsider this position. HMRC should report its stance on this matter as soon as possible to the Financial Secretary to the Treasury. (Paragraph 106)

Welsh Assembly Government and single farm payments

27. We commend the Welsh Assembly Government for making early single payments to former DFB members in Wales. The Rural Payments Agency failed former DFB members in England by being unable to make the same commitment. We continue to take a strong interest in the Rural Payments Agency and it is likely that our successor Committee will want to return to this subject. (Paragraph 108)

Conclusion

28. DFB did not fail because it was a co-operative. However, dairy co-operatives in the UK are comparatively young and there is much to be learnt from older, larger co-operatives in Europe and elsewhere. Defra should produce a report within the next 12 months examining governance and capital-raising arrangements in these co-operatives, together with the legislative framework that applies, and exploring the lessons these countries offer for dairy co-operatives in the UK. (Paragraph 109)
29. No single factor—not even the purchase of ACC in and of itself—caused DFB's demise and its problems were not unique: the majority of them could affect any

business. DFB experienced some bad luck. More significantly, it suffered from over-ambition, a shortage of capital and, at various points during its existence, poor governance and poor communication. In its final year, it lost the confidence of its members and its customers. Hindsight certainly makes it easier to begin to understand what happened at DFB, but, as we have made clear, some of the issues we have discussed in our report should have caused concern at the time. Ultimately, DFB's members were badly let down. We have suggested some steps which we believe may reduce the chances of other farmers suffering a similar fate. (Paragraph 110)

30. As the Department responsible for agriculture, Defra should be offering advice and assistance to support the growth of agricultural co-operatives. First, Defra must pursue the matter of the taxation of members' contributions to co-operatives with the Treasury. It is manifestly unfair that farmers should have to pay tax on money that is only notionally allocated to them and that is actually invested in their co-operative. Secondly, Defra must co-ordinate the key players to devise solutions for overcoming the constraints on the capitalisation of agricultural co-operatives. The Legislative Reform Order that is currently before Parliament should be regarded as the beginning of this process, rather than a solution by itself. Thirdly, Defra should work with the Financial Services Authority to ensure that issues affecting agricultural co-operatives in particular are taken into account when developing best practice guidance for industrial and provident societies. (Paragraph 111)
31. Clearly the immediate impact of the failure of DFB was a further questioning of confidence in the dairy industry. Defra must recognise this in its work to ensure that the dairy industry has a positive future that reflects the natural advantage of the grass-growing areas of the UK for producing milk. (Paragraph 112)

Appendix 1: Terms of reference

The Environment, Food and Rural Affairs Committee has decided to examine the implications of the collapse of Dairy Farmers of Britain (DFB). The Committee will consider in particular:

- the impact of the collapse of DFB on dairy farmers and the industry;
- the governance and accountability structures of DFB;
- Defra's response to the collapse of DFB; and
- the causes and lessons to be learned from the collapse of DFB.

The Committee does not intend to consider the issues surrounding the receivership of the co-operative that are expected to be covered in the report by PricewaterhouseCoopers.

Formal Minutes

Wednesday 10 March 2010

Members present:

Mr Michael Jack, in the Chair

Mr David Drew

David Lepper

Miss Anne McIntosh

Dr Gavin Strang

Mr Roger Williams

Draft Report (Dairy Farmers of Britain), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 112 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chair do make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No.134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 17 March at 2.30 pm

Witnesses

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Wednesday 14 October 2009	
Mr Gwyn Jones , Dairy National Dairy Board Chairman and Ms Hayley Campbell-Gibbons , Chief Dairy Adviser, National Farmers' Union	Ev 25
Mr Peter Pearson , former Dairy Farmers' Board member, Mr Gordon Brown , former Dairy Farmers' Board member and Mr John Gregory , Director, Rock Farm Dairy	Ev 37
Wednesday 21 October 2009	
Mr David Messom , Director of Food Retail and Mr Philip Hardman , Group Counsel, The Co-Operative Group	Ev 48
Lord Grantchester , former Chairman of Dairy Farmers of Britain Board and Mr Gerry Smith , former member of the Executive Team, Head of the Liquid and Milk Division, Dairy Farmers of Britain	Ev 57
Wednesday 28 October 2009	
Ms Emma Reynolds , Government Affairs Manager, Tesco	Ev 77
Mr Michael Oakes , former director of Dairy Farmers of Britain and former member of Dairy Farmers of Britain Board	Ev 84
Mr Jim Fitzpatrick MP , Minister for Food, Farming and the Environment and Mr John Bourne , Deputy Director for Livestock and Livestock Production, Department for Environment, Food and Rural Affairs	Ev 99
Wednesday 6 January 2010	
Mr Andrew Cooksey , former Chief Executive, Mr Rob Knight , former Chairman and Mr Philip Moody , former Board Member, Dairy Farmers of Britain	Ev 113
Wednesday 3 February 2010	
Mr Stephen Yates , former Chairman of the Members Council, Dairy Farmers of Britain	Ev 139
Mr Bill Mustoe , Chairman and Mr Jim Maguire , Finance Director, First Milk	Ev 150
Wednesday 10 February 2010	
Mr Malcolm Smith , former Chief Executive, Dairy Farmers of Britain	Ev 158

List of written evidence

Gordon Brown	Ev 35
Jill Cawood	Ev 183
W Geoffrey Chapman	Ev 212
Simon Constable	Ev 218
The Co-Operative Group	Evs 45, 55
Co-operatives UK	Ev 181
A S E Crisp and Sons	Ev 215
Dairy UK	Ev 198
David Lloyd Davies	Ev 176
Michael T Davies	Ev 213
Department for Environment, Food and Rural Affairs	Evs 91, 93, 110
Philip Dunn	Ev 187
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Philip Moody	Evs 132, 133, 135
New Zealand High Commission	Ev 227
PricewaterhouseCoopers	Ev 13
R C Mitchell and Sons	Ev 214
National Farmers' Union	Evs 16, 24, 34
W Paul L Peters	Ev 216
Regional Development Agency	Ev 209
Scottish Agricultural Organisation Society	Ev 178
Gerry Smith	Ev 71
Rodney Smith	Ev 219
G R Smyth/Nicholson and Sons	Ev 214
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Mr & Mrs D W Terpstra	Ev 229
James Turnock	Ev 250
David Wilkinson	Ev 229

List of reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2009–10

Fourth Report	The National Forest	HC 281
Third Report	Waste Strategy for England 2007	HC 230
Second Report	The work of the Committee in 2008–09	HC 148
First Report	Appointment of the Chair of Natural England	HC 68

Session 2008–09

Sixth Report	The Draft Flood and Water Management Bill	HC 555-I (CM 7741)
Fifth Report	Ofwat Price Review 2009	HC 544-I (HC 1023)
Fourth Report	Securing food supplies up to 2050: the challenges faced by the UK	HC 213-I (HC 1022)
Third Report	Energy efficiency and fuel poverty	HC 37 (CM 7719)
Second Report	Work of the Committee in 2007–08	HC 95
First Report	The English pig industry	HC 96 (HC 391)

Session 2007–08

Fifth Special Report	Energy efficiency and fuel poverty: written evidence	HC 1099
Eleventh Report	The potential of England's rural economy	HC 544-I (HC 155, 08–09)
Tenth Report	Badgers and cattle TB: the final report of the Independent Scientific Group on Cattle TB: Government response to the Committee's Fourth Report of Session 2007–08	HC 1010 (HC 1178)
Ninth Report	Draft Marine Bill: Coastal Access Provisions	HC 656-I (CM 7422)
Eighth Report	British Waterways: follow-up	HC 438 (HC 1081)
Seventh Report	Implementation of the Nitrates Directive in England	HC 412 (HC 1080)
Sixth Report	The Veterinary Surgeons Act 1966	HC 348 (HC 1011)
Fifth Report	Flooding	HC 49-I (HC 901)
Fourth Report	Badgers and cattle TB: the final report of the Independent Scientific Group on Cattle TB	HC 130-I (HC 1010)
Third Report	The work of the Committee in 2007	HC 250
Second Report	Climate change: the "citizen's agenda": Government response to the Committee's Eighth Report, Session 2006–07	HC 189
First Report	The UK Government's "Vision for the Common Agricultural Policy: Government response to the Committee's Fourth Report, Session 2006–07	HC 48

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Eighth Report	Climate change: the "citizen's agenda"	HC 88-I (HC 189 07–08)
Seventh Report	British Waterways	HC 345-I (HC 1059)
Sixth Report	The Implementation of the Environmental Liability	HC 694 (HC 1058)

	Directive	
Fifth Report	Draft Climate Change Bill	HC 534-I (CM 7225)
Fourth Report	The UK Government's "Vision for the Common Agricultural Policy"	HC 546-I (HC 48 07-08)
Third Report	The Rural Payments Agency and the implementation of the Single Payment Scheme	HC 107-I (HC 956)
Second Report	Defra's Annual Report 2006 and Defra's budget	HC 132 (HC 522)
First Report	The work of the Committee in 2005-06	HC 213
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Eighth Report	Climate change: the role of bioenergy	HC 965-I (HC 131 06-07)
Seventh Report	The Environment Agency	HC 780-I (HC 1519)
Sixth Report	Bovine TB: badger culling	HC 905-I
Fifth Report	Rural Payments Agency: interim report	HC 840
Fourth Report	The Departmental Annual Report 2005	HC 693-I (HC 966)
Third Report	The Animal Welfare Bill	HC 683
Second Report	Reform of the EU Sugar Regime	HC 585-I (HC 927)
First Report	The future for UK fishing: Government Response	HC 532