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Prince, Nick, Maye, Damian ORCID logoORCID: <https://orcid.org/0000-0002-4459-6630>, Ilbery, Brian W and Kirwan, James R ORCID logoORCID: <https://orcid.org/0000-0002-4626-9940> (2022) 'Real' regulation and property relations on agricultural estates: reducing opportunities for new entrants to agriculture. Land Use Policy, 114. Art 105976. doi:10.1016/j.landusepol.2022.105976

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‘Real’ regulation and property relations on agricultural estates: reducing opportunities for new entrants to agriculture

Nick Prince*, Damian Maye, Brian Ilbery and James Kirwan

Countryside and Community Research Institute, University of Gloucestershire,
Francis Close Hall campus, Swindon Road, Cheltenham, Gloucestershire GL50 4AZ.

*Corresponding Author: nicktprince@yahoo.co.uk +44 1969 667203

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Abstract

A decline in the availability of opportunities for new entrants to agriculture is a recognised consequence of the agricultural restructuring process. Under the Common Agricultural Policy, various support schemes have attempted to address such concerns, with limited success. A number of these schemes focus on the provision of agricultural property rights for new entrants, but there appears to be limited justification for this. This paper argues the new entrant problem is as much about progression and exit as it is about entry, with such considerations generally not included in support frameworks. To develop this argument, the paper re-engages with the concept of 'real' regulation to examine rural property relationships on agricultural estates held by local authorities and county councils within England and Wales (i.e. the county farms estate). 'Real' regulation influences property-owner behaviour in three-ways: regulation of land occupancy; regulation of landowner behaviour; and, regulation of land use. These three regimes allow property owners to determine management strategies based on economic, social and environmental considerations. The flexibility afforded by 'real' regulation, and in particular, the regulation of land occupancy, and of landowner behaviour, allows property-owners the option to shift focus between these regimes, especially when faced with unfavourable market conditions. Analysis of different estate management strategies (consolidation, partial disinvestment, disinvestment), shows how this severely restricts the provision of property rights to new entrants and progressing tenants, as property-owners look to protect their interests. For these reasons, current new entrant support networks have limited success, irrespective of the political approach driving them.

Keywords: new entrants; agricultural tenancy; property rights; 'real' regulation; county farms estate; rural restructuring

1. Introduction

On-going structural change within the agricultural industry continues to have an impact on the availability of opportunities for tenant farmers and new entrants. Factors, such as the trend towards fewer, larger, more capital-intensive holdings (ADAS, 2004; Ilbery et al., 2009), have contributed to a reduction in the size of the agricultural workforce and an ageing farmer profile (Joose & Grubbstrom, 2017; Williams, 2006). Coupled with this, a decline in the financial returns from agriculture, particularly when compared to other sectors (Pindado et al., 2018; Barr, 2014), and the increasing desirability of rural property to non-agricultural capital (Blomley, 2005; Sutherland, 2019), have created conditions that encourage a “high degree of ‘closure’ of the industry to new entrants” (Munton and Marsden, 1991: p. 111). These disabling conditions remain 30 years later, particularly within the UK (Hubbard, 2020), the European Union (e.g., Scottish Government, 2019; EIP-AGRI, 2016; Fisher and Burton, 2014), the US (Bruce, 2019) and Australia (Downey et al., 2017; Barr, 2014).

Research on new entrants to agriculture typically focuses on one of three specific new entrant groups, each defined by their relationship with property and the rights associated with it. First, younger farmers entering the industry from existing farming families, where issues of property relate to the succession of business assets, including property between different generations (Conway et al., 2017; Downey et al., 2017; Leonard et al., 2017; Gasson and Errington, 1993). Secondly, new entrants entering the industry with no family connections, who require access to property on which to establish a farming business (Ilbery et al., 2012; 2010; 2009; 2006; Munton, 2009). Thirdly, those from outside the industry who utilise external capital to purchase agricultural property. A significant body of research has been devoted to those who do so for residential purposes (e.g. Sutherland, 2019; Harrison, 2019; Shucksmith, 2012). A smaller proportion of new entrants enter to engage in agricultural activity, but evidence here is more anecdotal and often described with reference to celebrity farmers or entrepreneurs, such as Alex James, Jeremy Clarkson or James Dyson. As Taylor (2015) observes, new entrants to

agriculture in general receive limited academic attention, with little known in relation to different methods of entry.

In this paper, we argue that access to property is a key mechanism to understand new entrants and associated methods of entry to the industry. Whilst property was once central to the new entrant debate (Newby et al., 1978; Whatmore et al., 1990; Ilbery et al., 2006; 2010), its significance has diminished as other issues have been considered. Conway et al. (2017), Downey et al. (2017) and Leonard et al. (2017), for example, all focused on the significance of business structure and the succession of assets, rather than access to property as the key driver of farm household adjustment strategies. This approach is reflective of the high number of young farmers coming into the industry from existing farming families, so allows for consideration of progression and exit strategies alongside entry issues. Williams (2006), for example, identified how many ageing farmers struggle with industry exit due to their unfavourable economic position. Ironically, within the European Union, many farmers are encouraged to stay in occupation on their farms due to the availability of land-based agricultural support payments (Leonard et al., 2017; Ilbery et al., 2009). Ageing farmers are also reluctant to relinquish control of the farm by retiring, even when they have passed on managerial responsibility to younger successors (Conway et al., 2017; Ilbery et al., 2009; 2012; Williams, 2006). Downey et al. (2017) noted that this was due to the strong attachment to land and the unique relationship farmers have with holdings as both their home and site of production. Duesberg et al. (2017) noted the negative impact of this on new entrants, with around two thirds of participants in a survey of Irish farmers having no plans to retire fully in the future.

Whilst the financial implications of historic policy have encouraged continued occupation by older farmers, other interventions aimed specifically at assisting new entrants have struggled to deliver beneficial outcomes. This is particularly evident within the European Union, where there has been a strong interest in the new entrant issue, with provision for aid included in previous and current iterations of the Common Agricultural Policy. However, questions have

been raised about the success of some new entrant support frameworks, due in part at least to a lack of clarity between the requirements of young farmers from established farming families and new entrants from outside the industry. The New Entrants Scheme adopted by the Irish Government, for example, aimed to empower new entrants by apportioning them part of the annual milk quota. McDonald et al. (2014) identified how the majority of those engaging with this programme were from farming backgrounds or had previous experience within the dairy sector. This raises questions regarding the success of such projects as they often enable extension of an existing family business. Indeed, May et al. (2019) argued that such policies had become a means of encouraging established young farmers to stay in the industry, rather than allowing others from outside to enter it.

One support mechanism to address property access issues for non-family new entrants in the UK was the Fresh Start Initiative in Cornwall (Ingram and Kirwan, 2011). This scheme looked to emulate the use of contract or share farming agreements utilised in the private sector to bring together individuals who between them have the assets required to run a farm business (Bijman, 2008). Within such agreements the retiree provides land and buildings with the new entrant contractor providing the labour and management skills. The purpose of such schemes is to allow the older farmer to transit towards retirement, whilst the new entrant can build capital with the aim to take over the business (Ingram and Kirwan, 2011). Commenting on the use of such agreements in the private sector, Butler and Winter (2008) argued that they had become popular as they allowed the landowner access to continued land-based subsidy payments. More recently, the CAAV (2020) reported that the use of share farming agreements has been limited in England. Instead, owners have favoured the use of short-term contract farming agreements, which benefit established farmers.

The failure of policies designed to help new entrants is driven by the ability of existing farmers and landowners to manipulate their property relationships and the policies that regulate them to their favour. This relationship between those with access to property, and the regulation of it, can be explained through the concept of 'real' regulation. Munton (1995), for example,

determined that within agricultural property relationships, the State always maintains some level of intervention, through the presence of three-regimes of regulation: the regulation of land occupation; the regulation of landowner behaviour; and, the regulation of uses to which land can be put (see also Spencer, 1998; 2000). In this context, 'real' regulation refers to regulation developed by the State in order to address social and economic issues associated with rural landscapes. Appropriate authorities at lower geographical levels implement this policy, although negotiation between associated parties becomes a central proviso. This diffusion of 'real' regulation encourages differences in its interpretation, promoting geographical variations and shaping market forces due to the regulation of the uses to which property can be put (Clark, 1992; Munton, 1995; Spencer, 1998; Henderson, 2003; Ilbery et al., 2010).

Agricultural research has increasingly shifted attention away from theories of 'real' regulation and political economy more generally, but as we show below, the ability of landowners to shift the focus of engagement between regimes of regulation continues to influence the structure of agriculture and rural landscapes. Regulatory approaches are valuable to interpret new entrant property relations, particularly for somewhere like the UK where the sustained influence of 'real' regulation in property is evident to the detriment of new entrants to agriculture. Agriculture in the UK is devolved to individual member nations and different policy frameworks are being implemented to regulate rural property ownership and use. Whilst England and Wales have until recently adopted the same policy frameworks, those implemented in Scotland have been markedly different, especially in terms of land occupation, landowner behaviour and provision of opportunities for new entrants. Despite this, landowners operating within these different political environments are able to shift between regimes of regulation, with a detrimental impact on new entrants.

This paper develops this argument about the sustained value of 'real' regulation by engaging with the example of the County Farms Estate (CFE) in England and Wales. We use this case study to explain how 'real' regulation promotes the interests of those who already have access

to property, at the expense of those who do not. The CFE comprises a network of individual farms, regulated by the State, but owned and operated by local authorities and county councils across England and Wales. Established to counter social concerns for the landless in the 19th Century, they became one of the most recognisable means of industry entry during the early parts of the 20th Century (Wise Committee Report, 1966). However, following Clark (1992), the 'real' regulation process empowers local authorities and county councils to represent wider societal demands on property ownership through negotiation. The ability to negotiate specific strategies for CFE management at the local authority level has increasingly been determined by financial influences, resulting in the adoption of various asset management strategies, all of which limit the availability of opportunities to new entrants to agriculture.

The rest of the paper is structured as follows. The next section explores agricultural property rights and the different approaches to rural property regulation across the UK, specifically in terms of land occupation and landowner behaviour. Section three outlines an understanding of the landowner decision making process, allowing the development of a theoretical framework that categorises the implications of management decisions on the distribution of property rights. Section four outlines the methods, materials and primary research undertaken to examine the CFE in England and Wales. Sections five and six then explore how 'real' regulation has shaped the development of the CFE and its role within the wider agricultural sector. The discussion and conclusion sections relate the CFE analysis back to wider thinking about property relations in agriculture.

2. Agricultural property rights and the regulation of property

The rights associated with property are regulated and distributed as ownership, occupation and user rights (Whatmore et al., 1990). Residential property, for example, provides freehold ownership and occupation rights. If the freehold owner occupies the property, then they retain all the rights. However, if the owner chooses to let the property to a renter, then there is a dissemination of ownership and occupation rights between the parties. With agricultural land,

user rights can also be claimed, which allow the use and exploitation of resources, without the user necessarily holding additional rights over the property (Marsden et al., 1993). Historic debates relating to new entrants and the distribution of agricultural property rights invariably focused on the agricultural tenanted sector as a means of distributing these rights (Newby et al., 1978). However, in more contemporary analysis a focus on the exclusivity of residential property (e.g. Blomley, 2005) and the incursion of non-agricultural capital into rural property (e.g. Sutherland, 2019) has marginalised research on the agricultural tenanted sector (bar some notable exceptions e.g. Ilbery et al., 2010 and Munton, 2009).

2.1 Regulation of land occupation

In an informative paper, Ravenscroft (1999) utilised the earlier work of Bromley (1998) to distil three types of global tenure arrangements; 'feudal', 'neo-feudal' or 'post-feudal', with each determined by its influence on economic activity and the position of power within the landlord/tenant relationship (Figure 1). The feudal system is indicative of a closed lease system where landowners exercise power. Based on social concerns for equity and employment, the speculative benefits of property ownership are discouraged. Socio-economic objectives to improve conditions for tenants underpin the neo-feudal system, requiring a heightened level of State intervention to shift the balance of power away from the landowner. The neo-feudal system encourages longevity of tenure and security, promoting the 'career' tenant. Examples of the neo-feudal system include Full Agricultural Tenancies (FATs) in England and Wales, and Limited Partnership Tenancies in Scotland. Finally, the post-feudal system relies on investor-farmer relations and the power lies within the de-regulated contract. The State withdraws from this process promoting a dyadic relationship between landlord and tenant. Implementation of the Farm Business Tenancy (FBT) in England, first introduced in 1995, is an example of the transition to a post-feudal system, but it may also constitute other less formal tenure arrangements and forms of private regulation.

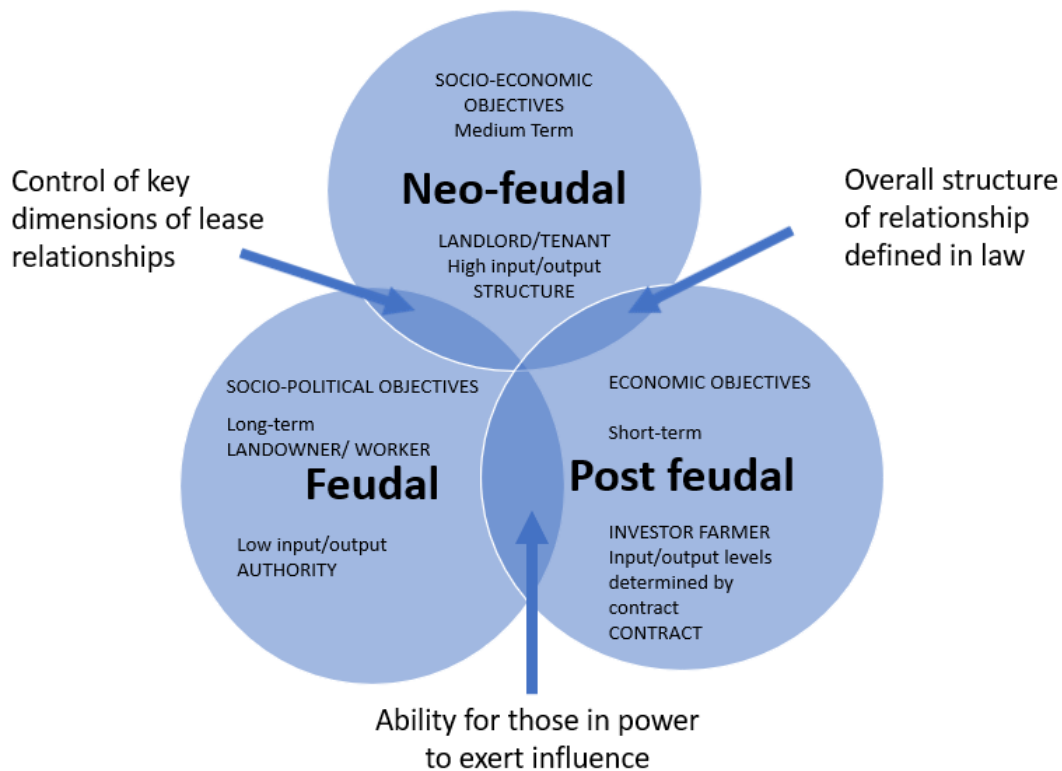


Figure 1: The structure of leasing arrangements (adapted from Ravenscroft, 1999: p. 251)

Ravenscroft argued that any transition between these tenure structures was not a linear process, with both the feudal and post-feudal systems open to exploitation. As such, he concluded that the neo-feudal system offered the best arrangement and long-term stability, as the State assumes a pivotal role in supporting both landowners and tenants alike. This is a valuable observation, but here we argue that the flexibility of ‘real’ regulation allows the legally defined relationships within neo-feudal or post-feudal arrangements to be renegotiated by those with access to property. This is demonstrated by a notable withdrawal of landowners from legally defined neo-feudal arrangements in Scotland, for example, encouraging the CAAV (2018: p. 2) to declare that the Scottish agricultural tenancy system is in “palliative care”.

2.2 Regulation of landowner behaviour

Reform of the agricultural tenanted sector in Scotland has been an integral part of the continuing land reform process driven by social, economic, moral and collective concerns towards concentrated landownership patterns (Brown, 2007a; 2007b). The Land Reform (Scotland) Act 2016 has two significant sections. The first is devoted to reform of the agricultural tenanted sector, with the aim of re-aligning the position of power back towards the tenant. The second is to increase the level of engagement by local communities in the management of land, through consultation or the right to buy. Hoffman (2013), for example, explained how the encouragement of community ownership and control of property could increase the provision of outputs that may not necessarily be attractive to the private investor. The benefits of which, such as wealth and services, are retained in the community aiding locals and maintaining the local population. There have been obvious benefits of this approach, as Community Right to Buy legislation has enabled changes in landownership patterns and the Farming Opportunities for New Entrants group has facilitated occupation for 67 new entrants across 6,674 hectares of land (Thomson, 2020; Scottish Government, 2020). However, as landowners continue to withdraw from letting property through the agricultural tenanted sector in Scotland, progression opportunities for these new entrants will be limited.

In contrast to Scotland, the approach to land reform in England and Wales has been a continuation of the deregulation of property under the auspice of neoliberalism (Harvey, 2005: p.5). In this sense, the regulation of the agricultural tenanted sector through the post-feudal FBT reflects an institutional framework that favours strong private property rights and the marketisation of assets, but as many proponents of neoliberalism note, arrangements are often hybrid in form. In this regard, Hodge and Adams (2014) note, for example, that the scope of State regulation has increased in other areas concerning the use of rural land. Specifically, they identified a shift in regulation to facilitate the increased provision of socio-environmental outputs, or public goods, through land management. They argued this shift in regulation represents a post-neoliberal agenda, promoting non-governmental organisations and the emergence of large conservation area initiatives (ibid: p. 453). Despite the different political

ideologies, land reform in the UK continues to promote the significance of non-property-owning groups and organisations within rural property relationships. Whilst this is a direct goal of Scottish policy, Hodge and Adams (2014: p. 453) note that the regulation of land-use towards the provision of public goods in England and Wales has reached the point where “free-hold rights have been attenuated”.

3. Understanding the landowner decision-making process

It is a difficult task to determine the behavioural characteristics of private landowners, not least because they enjoy high levels of anonymity (Cahill, 2002). This appears to have discouraged research on the landowner decision-making process, except for areas where policy change seriously challenges ownership patterns; such as the land reform process in Scotland (e.g. McKee, 2015; McKee et al. 2013; Bryden and Geisler, 2007). Elsewhere, Munton (2009) reviewed land ownership patterns within the UK, noting the heterogeneous nature of land ownership. He reasoned this was down to the variation in political, economic and environmental drivers, along with the differing ideology of ownership and the diversity of rural areas. This complexity was demonstrated in Munton’s previous work (see e.g. Goodchild and Munton, 1985), where influences were conceptualised within three broad groups of factors, namely: contextual factors (land price, taxation policy, planning policy); site characteristics (size, current use, location, level of fixed investment, physical characteristics, planning status); and landowner characteristics (legal personality, occupancy status, sources of income/wealth, means of acquisition, knowledge and attitude to risk).

Building on this work, Spencer (1998, 2000) utilised the greater transparency of public and semi-public bodies to theorise a model of optimising landowner behaviour. Using the example of the Oxford Colleges, who have historically been regulated as landowners to deliver collegiate services, Spencer (1998) argued that the State redefined their regulation in the 1980s and 1990s, resulting in a shift between the regimes of ‘real’ regulation. He reasoned that the main regulatory influence shifted away from directly defining estate management

activity towards the use of estate property to help the Colleges deliver their wider social purposes. This allowed individual Colleges to redefine the purpose of estate ownership to best suit their own needs. In general, this encouraged former agricultural estates to be regarded as commercial estate portfolios, encouraging a process of restructuring in order to optimise financial performance. Spencer (1998: p. 339) argued that this allows management strategies to be determined on the perceived net return on investment of property, rather than by specific State regulation. The net return is deemed as either adequate or inadequate, resulting in the adoption of one of four management strategies: consolidation; rationalisation; partial disinvestment; or comprehensive disinvestment. The consequences of these strategies encouraged different levels of estate investment or disinvestment, culminating in rural restructuring. Spencer demonstrated how each management strategy influences the process of tenurial restructuring, in terms of: retention of the landlord / tenant system; owner occupation; or the fragmentation of property ownership, allowing development, suburbanisation and gentrification.

There are two specific limitations of Spencer's work when considering contemporary rural property relationships. Firstly, it fails to differentiate fully the implications of restructuring on the redistribution of ownership, occupation and user rights. The work of Ilbery et al. (2006), for example, highlighted how the framework of the FBT in England and Wales promotes the letting of bare land only (user rights), as landowners seek to gain additional income from the non-agricultural use of property and in order to retain land based support payments. These bare land facilities are less useful to new entrants and so become add-ons to existing holdings of established farmers. Thus, the definition of the tenanted sector has become increasingly blurred, as it progressively becomes a service for existing farmers to expand their businesses (Ilbery et al., 2010). The second limitation of Spencer's work is that its focus on agricultural property downplays the impact of non-agricultural capital within rural restructuring. This incursion of non-agricultural capital inflates the value of rural property beyond its agricultural worth, maintaining the influence of class (Shucksmith, 2012) and gentrification (Sutherland,

2019). It also encourages NIMBYism (Harrison, 2019) as wealthy rural occupants look to protect their rural idyll. As a result, property rights are protected and their redistribution is restricted to the letting of agricultural user rights on short-term agreements as owners look to retain their landed interests (Ilbery et al., 2010). This process excludes new entrants through the high price of property (Sutherland, 2019) and because they cannot access occupation rights on which to develop an agricultural business (Whatmore et al., 1990).

Figure 2 outlines the conceptual framework this paper uses to demonstrate how policy influences management strategies and the consequential impact on new entrants. In this framework policies form part of the landowner decision-making process, which leads to three management strategy outcomes: consolidation; partial disinvestment; or comprehensive disinvestment. The typology differs from that proposed by Spencer (1998) as rationalisation is a part of all approaches, rather than a stand-alone management strategy (see also Millard, 2009). The outcomes of each management strategy then influences a process of tenorial restructuring, which redefines the distribution of property rights. Crucially, this process reduces or enhances the opportunities for new entrants and existing farmers.

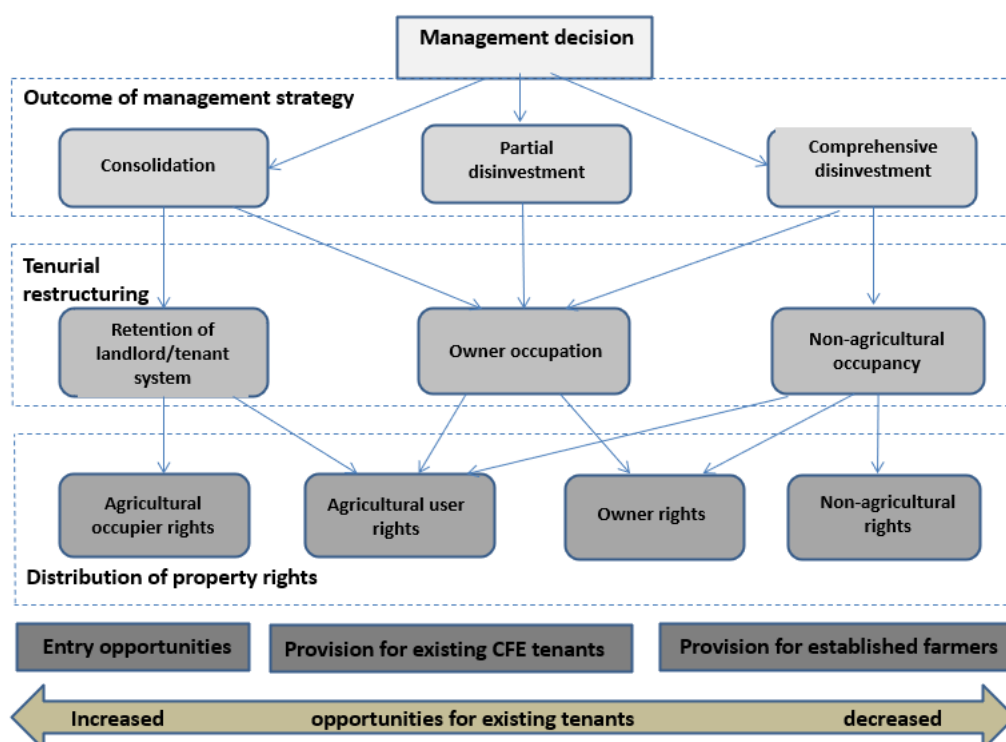


Figure 2: Landowner management decision-making process and its impact on the distribution of property rights.

4. Methods and materials

A study of the CFE was undertaken focusing on its temporal and spatial development between 1907 and 2018. The main body of research was conducted as part of a PhD thesis between 2007 and 2011, involving a three-phase mixed methods approach: a desk-based review of secondary data; an electronic questionnaire survey of estate managers; and three case studies. These data sources were latterly supplemented with additional desk-based research to ensure the discussion remains relevant and up to date, as well as to extend the change over time analysis for the contemporary element of the CFE. This phase of work included analysis of recent CFE and agricultural holdings data and regular reviews and interpretation of policy documents related to farm subsidy, tenancy arrangements and CFE regulation at national and case study (estate) levels.

Historic data relating to the CFE is limited, but the Inquiry into Statutory Smallholdings (Wise Committee Report, 1966) provided a good source of information. This was supported by contemporary datasets published annually by The Chartered Institute of Public Finance and Accountancy (CIPFA). From the desk-based study, four areas were identified to inform a questionnaire survey to examine respectively: patterns of structural changes; entry and movement of new and existing tenants; the use of the estate beyond agriculture; and, likely future changes to management strategy. Based around these topics, a 21-question electronic survey was sent to the 62 CFE owning local authorities across England and Wales. In total, 40 of these 62 local authorities made some level of response. The results were analysed thematically, and alongside findings from the literature review, key themes were identified to inform the next phase of the research. This consisted of three in-depth case studies undertaken in Cambridgeshire, Powys and Gloucestershire to represent variation in farm type,

geography and approach to CFE management. Each case study comprised four elements of research:

- i. Face-to-face interviews with the estate management team. These interviews were informal conversations, which allowed a more detailed discussion of the points raised in the original questionnaire survey response.
- ii. Face-to-face interviews with 60 individual tenants: 25 in Cambridgeshire; 17 in Gloucestershire; and, 18 in Powys. These interviews were semi-structured based around the following themes: tenant's background, tenure arrangements, the nature of the landlord/tenant relationship, current farm business, progression plans and overall opinion of the CFE service. The tenants were given the chance to raise any issues deemed important to them relating to the CFE and wider tenanted sector.
- iii. A further 20 face-to-face interviews with other significant actors across the three CFE. Participants were identified across the earlier interviews and included local authority personnel, advisers on land management issues and political figures. Interviews were much less structured, with an emphasis on the participant's specific role and relationship with the CFE.
- iv. Finally, a focus group meeting was held in each area as part of the data validation process. Between five and seven attendees, representing a mix of those who had participated in the early interviews, were invited along to discuss five key themes: defining the present CFE service; the optimum size of holdings; issues of succession; the length of tenancy agreements; and the future of the CFE. Each question was discussed for a set time, allowing all participants chance to voice their opinion.

Interviews were recorded electronically and notes were taken throughout. A summary of findings was written up immediately after the interview and interviews subsequently fully transcribed. The research findings are utilised in the sections below as a platform to discuss the impact of rural policies on the provision of opportunities for new entrants to the agriculture industry, starting with analysis of CFE regulations over time.

5. The temporal development of the CFE: changing regimes of ‘real’ regulation

Figure 3 depicts the changing land area and number of holdings across the CFE in England and Wales from 1907 to 2018. The temporal development of the CFE demonstrates three phases of development, each of which we argue are strongly influenced by State regulation: first, sustained growth – 1907 to 1938; second, loss of holdings – 1939 to 1969; and third, loss of area and holdings – 1970 to 2018.

Historically, the development of the CFE was driven by social and economic concerns and particularly during the nineteenth century reflected the concentration of land ownership in the hands of a limited number of people (Orwin and Whetham, 1964). Numerous attempts at land reform were made to distribute property rights more evenly across society (see Levy, 1911; Smith, 1946; Wise Committee Report, 1966). The forerunner of the CFE appeared under the legislative guidance of the Small Holdings Act 1892, but real progress only came following ratification of the Small Holdings and Allotments Act 1908. This Act stipulated a statutory requirement for local authorities to provide smallholdings where a need existed. Further legislative support was afforded by the Land Settlement (Facilities) Act 1919, introduced to provide opportunities for ex-servicemen and to address issues of food security (Smith, 1946). The CFE continued to increase in area and holdings until the on-set of World War Two in 1939, during which, some property was utilised for defence and development purposes (Wise Committee Report, 1966).

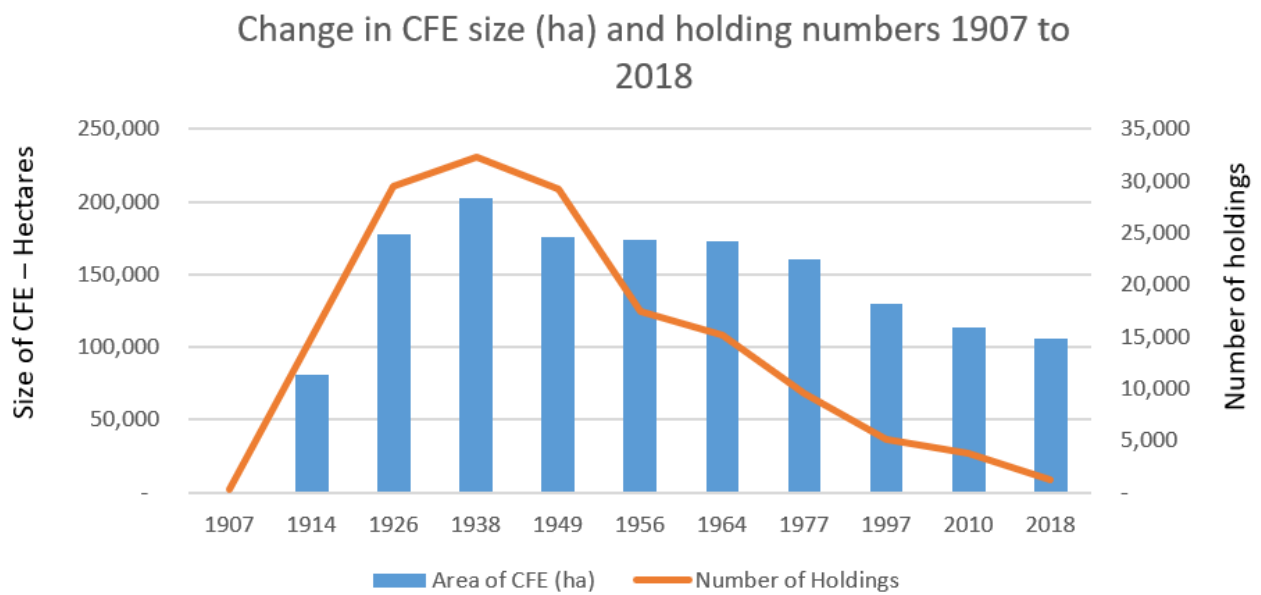


Figure 3: The area and number of holdings on the County Farms Estate, 1907 to 2018.

The inclusion of CFE legislation within the Agriculture Act 1947 represents a shift in focus of its regulation. Under this Act, the CFE was no longer considered in isolation, but as part of an integrated agricultural sector. The Act removed the statutory need to provide new opportunities and local authorities were encouraged to amalgamate property to create larger holdings in the quest for agricultural efficiencies. The consequences of this had minimal impact on the area of the CFE, but the number of both holdings and tenants decreased markedly (Figure 3). This regulatory approach continued through ratification of the Agriculture Act 1970, which stipulated local authorities should “*have regard to the general interest of agriculture and of good estate management, shall make it their general aim to provide opportunities for persons to be farmers on their own account*” (Agriculture Act 1970: Part III, Section 39). The ambiguity of this statement, as the last piece of direct CFE legislation, has allowed local authorities the freedom to dispose of the CFE. Initially, disposals came about as part of the amalgamation process, such as the development of the Halls Farm Estate in Cambridgeshire. Back in 1988, this small estate constituted four individual farms. As older tenants retired, land was amalgamated with adjoining holdings to improve agricultural efficiency. By 2004, one tenant occupied all the land with surplus residential and agricultural property sold. This amalgamation process provides

the property owner with sale revenue, a reduction in property maintenance liability and administrative costs whilst maintaining most of the land bank. However, it has reduced the number of entry opportunities by 75% over a sixteen-year period.

5.1 *De-regulating the uses to which land can be put*

As local authorities have increased the disposal of CFE property, successive governments have refused to directly intervene. This has allowed them the freedom to manage the CFE as a property asset to satisfy wider statutory demands and for local needs. Ultimately this comes down to economic performance given the income generating potential of property. To illustrate the impacts of de-regulation on the uses to which land can be put we summarise below key changes on the three estates, beginning with Cambridgeshire. As the largest individual CFE, the Cambridgeshire estate sits alone in being relatively secure in its medium to long-term future. Ironically, this occurs as management strategy has disengaged fully from State defined CFE regulation. This position was emphasised during an interview with the then Head of Strategy and Estates for Cambridgeshire County Council in 2009 who at that time reasoned:

“Life has moved on [since the Agriculture Act 1970]...the estate is one for the 21st century. If you go back to the Agriculture Act, it was all about agriculture...whereas estates these days do have that multitude of objectives. If we only kept an estate that did agriculture, we wouldn't have one...if that was the sole purpose of an estate it would not work...it would not be sustainable”¹.

As such, the Cambridgeshire CFE is a significant asset, generating £5 million a year in rental returns and more than £51 million in capital sales from 1993 to 2019 (Cambridgeshire County Council, 2019). This commercial approach allows the estate to generate non-agricultural rental and renewable energy income as well as providing environmental, educational and recreational outputs alongside its continued agricultural provision. A notable benefit of this

¹ Head of Strategy and Estates, Cambridgeshire County Council, personal communication, 10/07/2009

approach is the Red Tile Wind Farm developed on estate land near the town of Warboys. This development provides economic returns way beyond the lands agricultural worth and allows the Council to meet environmental obligations, such as the Carbon Reduction Commitment.

In contrast, the Gloucestershire estate demonstrates the frailties of the CFE in a de-regulated political environment. Back in 2008, it was promoted as an exemplar of a prudently managed estate (Curry, 2008). Management strategies encouraged the retention of an agricultural estate and the use of property to maximise development potential. This approach benefited the long-term future of the CFE as only limited, high value property sales were made, thus minimising the amount of property sold. The reorganisation of the Ampney-St-Mary estate close to Cirencester provided a good example of this restructuring process. This small estate originally contained five dairy holdings situated in and around the village. Upon the retirement of two older tenants, two farmhouses and some of the buildings were sold to release their residential development capital value. Using some of the capital generated from these disposals, the council re-invested in the remaining holdings. By doing so, they created three modern, well-equipped 100-cow dairy units. It also allowed the Council to retain some property within the village and the residential development value associated with it. Whilst retaining land, this restructuring reduced opportunities for new entrants, but improved the prospects of progressing tenants.

Unfortunately, the longevity of the CFE is always under scrutiny given the substantial capital gain to be made from property sales. This is compounded by the relatively short lifecycle of political structures, so the CFE future repeatedly comes under review as political personnel change. In 2010, the Gloucestershire estate underwent a strategic review, which led to the adoption of a new management strategy to improve the economic performance of the estate which included plans to reduce its size by 25 per cent and holding numbers by over 40 per cent (Gloucestershire County Council, 2010). A subsequent review in 2016 has seen plans implemented to reduce the core agricultural estate down to 2,266 ha of land and 40 farms (Gloucestershire County Council, 2016). Economic drivers to generate capital income and

reduce maintenance liabilities underpin the justification for this continuing rationalisation along with wider State guidance on the management of local authority assets. The 2016 strategic estates review document encapsulated these realities succinctly:

“A restructured, re-serviced estate with a reduced number of enlarged holdings will create progression opportunities and maximise estate output. The...Plan will enable the rural estate to evolve on a more sustainable footing whilst securing additional receipts which could both underpin the Councils... savings target and / or be reinvested in core Council services” (Gloucestershire County Council, 2016).

The Powys estate appears to occupy a slightly more secure position as both an agricultural and economic asset. This still creates uncertainty towards its future, typified by the four-year development of the County Farm Estate Delivery Plan 2018. The review process started in June 2015, with the plan only ratified in July 2018 (Powys County Council, 2018). Again, this document demonstrates the complexities facing estate owning local authorities. On the one hand, the document explains:

“the Council continues to face year on year real-term funding cuts in its Welsh Government budgetary settlements. It therefore remains essential that the Council manage its agricultural estate prudently, efficiently, and professionally. As with any property asset, judicious investment will be required to ensure the portfolio continues to both meet the requirements of Service users and generate a financial return to the Council” (ibid, p: 2).

However, it also explores how:

“the impact from the Estate in the overall context of service delivery in Powys may be seen as modest, as the service only provides active employment (and homes) for around 140 families of Powys, it plays an important role in community cohesion, skill development and the retention of young people who might otherwise leave the area. Indeed the Estate retains the ability to attract economically active young people to Powys which is of course an increasingly rare attribute” (ibid, p: 4).

As the amalgamation of CFE holdings continues, the number of entry and progression opportunities declines. This significantly diminishes its perceived agricultural worth, making it more difficult to suppress dissent and justify its retention based on the limited number of beneficiaries. To this end, the following section evaluates the changing role of the CFE within the contemporary agricultural sector.

6. The changing role of the CFE within the agricultural sector

In 2018, the CFE extended to 105,461 ha of land, providing 1,207 holdings (Welsh Government, 2019; Defra, 2019). This equates to approximately one percent of agricultural land area across England and Wales. Despite this small size, it continues to provide a significant service to the agricultural industry, as recorded by the CAAV (2018).

- From 2013 to 2017, the CFE provided 11.6 per cent of all recorded new let holdings.
- In 2017, it offered 59 per cent of all new lettings for fully equipped holdings (land, buildings and residential property).
- In 2017, it provided 22 of the recorded 45 holdings let to new entrants.
- From 2008 to 2017, the average CFE tenancy period was 6.1 year, compared to private landowners (4.2 years), financial institutions (3.6 years) and other traditional institutional estates (3.5 years).

These statistics highlight the sustained importance of the CFE as a mechanism for distributing agricultural occupation and user rights to address market failure in the wider tenanted sector. Across England and Wales, the presence of neo-feudal FATs and post-feudal FBTs have encouraged tenant stagnation and the short-term distribution of agricultural user rights respectively (Ilbery et al., 2010; 2006). Whilst this promotes the significance of the CFE as an entry mechanism, it also diminishes its performance due to the lack of progression opportunities available for established CFE tenants. This observation is borne out in CFE statistics, which highlight that during the four-year period from 2007 to 2010, the average annual intake of new entrants represented just over one per cent of the total CFE tenant

number.² The implications of this were observed during the empirical research, where 19 of the tenants (32%) said they had tried to progress beyond the CFE, but had been unable to do so. This encouraged them to take on additional bare land lets to complement their CFE holding as a means of business expansion. Consequently, of the 60 tenants interviewed, 45 (75%) had been granted additional CFE land and 41 (68%) had bought or rented land in the private sector. Tenants recognised this went against the ethos of the CFE, but felt they had little option. One interviewee in Gloucestershire noted:

“We have succeeded [in developing the farm business] but we’ve also failed... but it’s difficult to progress, because the next steps [on the farming ladder] aren’t really there. We have tried to leave this holding”.

Other interviewees had developed business interest through on-farm diversification (n = 21 / 35%) or by taking off-farm employment (n = 33 / 55%). These business development strategies are geographically defined and therefore tie tenants to their existing CFE holdings. This encouraged tenants to use capital investment as a tool to secure long-term tenure for themselves or their children. Across Gloucestershire (n = 11) and Powys (n = 10), 21 of the 35 interviewed tenants had undertaken personal investment, either on their own or in conjunction with the landlord, as a tool to secure future tenure. A good example of this was noted in Powys, where a tenant occupied a 31 ha dairy holding on a lifetime FAT. He retained a good working relationship with the landlord, but recognised the financial constraints they work under. As a result, he invested his own money to upgrade the milking parlour and dairy facilities. These were undertaken as tenant improvements, ensuring he is entitled to compensation on the termination of the tenancy. However, the tenant believed that the landlord would be unwilling to make such compensatory payments, placing his son in a strong position to take on the tenancy of the holding. Evidence suggests that this approach is

² During the period 2007 to 2010, the respective annual intake of new entrants taking on a CFE tenancy was 37, 54, 38 and 19 (148). At the end of this period, there were a total of 3,223 CFE tenants (CIPFA, 2007; 2008; 2009; 2010).

successful as 11 of the 60 tenants interviewed (18%) had succeeded their parents to become tenant. This prompted three interviewees to question if some new CFE tenancies were effectively extensions of the family business, rather than businesses in their own right.

The innovative approaches towards securing future tenure were not uncommon, with tenancy regulation utilised as an aid. Those tenants holding FAT agreements retain the balance of power through security of tenure and the ability to dictate their exit from the CFE. However, the *freedom of contract* offered by FBT legislation has allowed local authorities the impetus to contest this distribution of power. They are prepared to grant existing tenants additional land or succession rights if they surrender existing FAT and replace them with shorter-term FBT agreements³. The motivation for this landlord behaviour is three-fold. Firstly, it provides them with more control over the length of tenure arrangements. In particular, by replacing long-term FAT agreements with shorter FBT arrangements it is possible to pre-determine the end of tenancies. This strategy reduces the continued occupation by elderly tenants and the problems associated with this. These include the need to provide alternative accommodation and the deterioration of holding conditions as older tenants struggle to cope with the necessary workload. Secondly, the addition of extra land to existing tenants allows local authorities to take in-hand residential and high value property as part of the on-going restructuring process. Finally, succession by family members provides continuity and facilitates a smoother transition between outgoing and incoming tenants.

7. Discussion

Despite the continuing decline in the size of the CFE, it remains a significant means of entry into the agricultural industry. However, this we argue is something of an illusion, reflecting more the failings of the wider agricultural sector rather than highlighting the high performance of the CFE as an entry mechanism. This failure of the tenanted sector in England to empower

³ Under normal circumstances, CFE tenants occupying a holding on a FAT agreement would not be entitled to the succession rights available to those occupying holdings on similar agreements in the private sector.

new entrants can be seen as an expected outcome of Ravenscroft's (1999) post-feudal tenure arrangements. However, once in occupation of property, CFE tenants are able to shift engagement between neo-feudal and post-feudal tenure regulation to contest the position of power with local authority landowners. This significance of property within post-feudal FBT relationships places these research findings at odds with those of Gibbard et al. (1999: p.276), who argued that the contractual nature of the FBT allows a shift in the emphasis of negotiation away from property to be displaced with "contract as the dominant artefact of significance in the landlord/tenant relationship." Rather than becoming "the last vestiges of rural peasantry" (Gibbard et al., 1999: p. 277), CFE tenants are becoming the epitome of Ravenscroft's (1999) post-feudal tenancy arrangement, operating with flexibility in a short-term, multi-tenure contract system.

These findings resonate with those of Ilbery et al. (2010) who noted that post-feudal FBT regulation in England is increasingly being used to provide add-ons to existing farms, rather than opportunities for new entrants. This also questions the significance of contract as the key element within the post-feudal system. Whilst it remains an important aspect of tenure relationships, it is only accessible to those who already have access to property. To this end, the post-feudal system is enabled by property and facilitated by contract.

The ability of CFE tenants to empower themselves through this existing legal framework suggests updates are needed to draw the influence of 'real' regulation into Ravenscroft's (1999) leasing arrangements structure. Throughout this paper, it has been demonstrated that tenants in England are able to engage with the legislative approaches associated with both neo-feudal and post-feudal arrangements. As such, the post-feudal system described by Ravenscroft does not act solely as a leasing arrangement, but as a tenorial structure through which landlord and tenant objectives are being delivered. This is not to say that post-feudal leasing agreements are not utilised; instead, the use of short-term contractual agreements remains a highly significant leasing arrangement for both landlords and tenants alike. However, rather than being standalone arrangements, they form part of the wider post-feudal

tenurial structure which underpins the distribution of agricultural property rights in England. Interestingly, a similar pattern can be observed in Scotland, where the unfavourable conditions surrounding land occupancy regulation have encouraged landowners to withdraw from this legal framework. Instead, a landowner / worker relationship is becoming common where farming is undertaken in-house, or there is increasing engagement with short-term contractual arrangements to facilitate the distribution of property rights. Despite this role of 'real' regulation in empowering landowners, the same process has also promoted the influence of non-agricultural actors and organisations in the development of land use policies. In line with Hodge and Adams (2014), this diminishes the sphere of influence of tenure arrangements, promoting instead a wider provision of the social, environmental and economic outputs sought from land use. As this occurs in both the neo-feudal and post-feudal tenurial structures, the differential between them is becoming less well-defined (Figure 4).

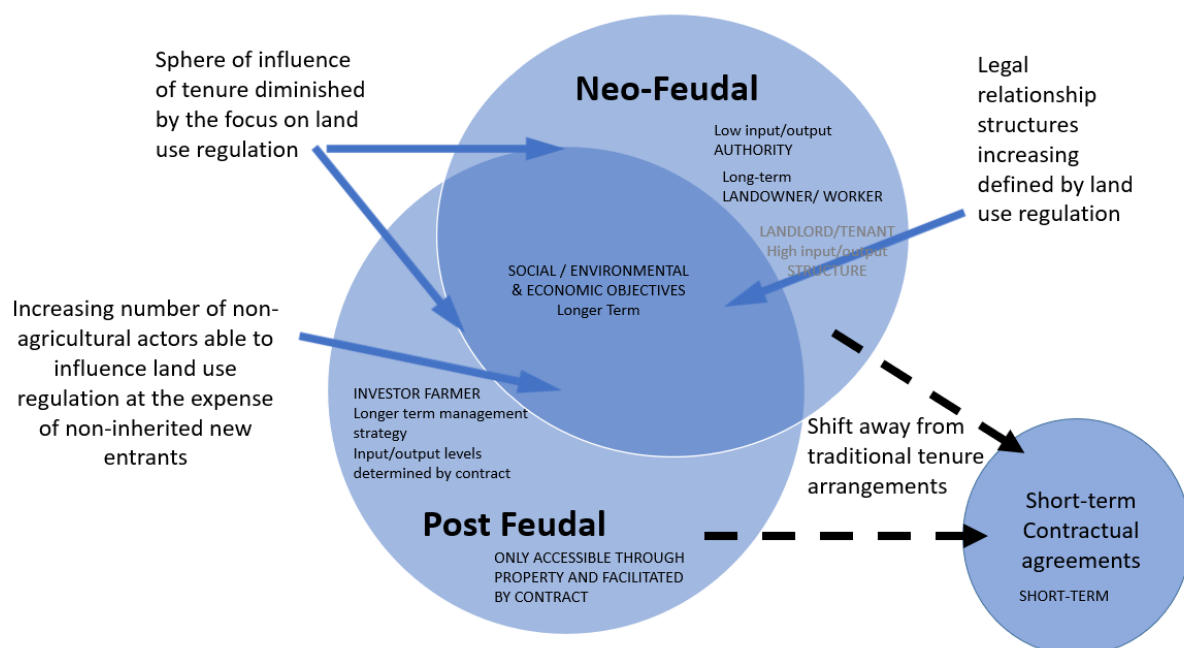


Figure 4 highlights how the incursion of non-agricultural influences restricts the scope of landowners to freely define land use strategies. In an attempt to regain power and ensure

economic viability, they have switched managerial focus towards land occupancy and the use of short-term contract agreements. The cumulative effect of these actions, driven by 'real' regulation, all but eliminates the provision of agricultural property rights to non-inherited new entrants in both the neo-feudal and post-feudal tenurial structures. As such, policy aimed at empowering these non-inherited new entrants can only be successful where a statutory obligation to provide farms exists, such as the early CFE model or the Farming Opportunities for New Entrants in Scotland. Even then, there should be no expectation for tenants to progress beyond their first holding, as failings in the wider agricultural sector are likely to restrict opportunities.

Furthermore, the increasing emphasis of regulation that focuses on land use, rather than land occupancy, is empowering the provision of wider social, environmental and economic outputs from land. This is evidenced in the management strategies developed by CFE-owning local authorities, even those such as Cambridgeshire, where the adoption of what we term a 'consolidation management strategy' ensures the vast majority of the CFE is retained. As retained property comes back under landlord control it allows the rationalisation process to be enacted. There are four potential outcomes of this: the property is re-let with occupation rights to new entrants; land is added to retained holdings with user rights to enable progression for existing tenants; property is removed from agricultural use to satisfy wider local authority objectives; or, property is sold as surplus encouraging non-agricultural occupation. Whilst this strategy enables retention of the landlord/tenant system, it invariably restricts the provision of opportunities for new entrants given the ability of existing tenants to compete for additional land. That said, the Cambridgeshire estate continues to provide the greatest number of entry opportunities of all individual local authority estates. The implication of this process in terms of the redistribution of agricultural property rights are evident in Figure 5, with the wider distribution of property rights limiting the level of rights / opportunities available to new entrants.

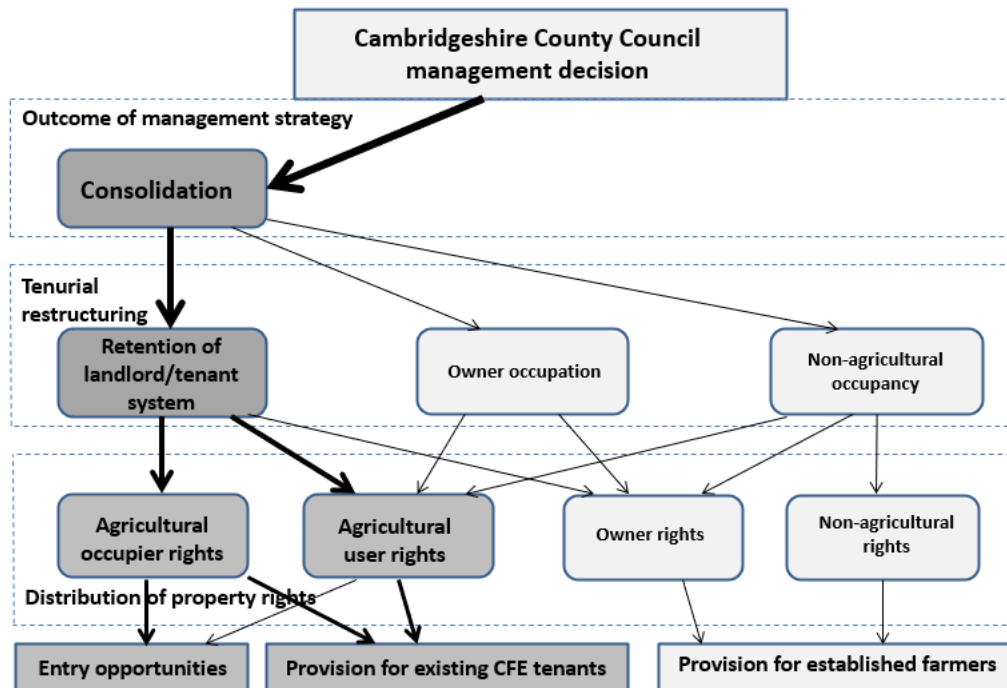


Figure 5: the distribution of agricultural property rights as defined by the consolidation management strategy adopted by Cambridgeshire County Council.

A combination of factors renders existing CFE regulation moribund as local authorities adopt commercial approaches to rural estate management. In both the Powys and Gloucestershire County Council case studies, for example, we see the adoption of a second management strategy, which we term ‘partial disinvestment’, whereby the creation of fewer, larger holdings allows significant sales of property (Figure 6). The two case studies differ slightly in terms of management of estate assets, with Powys adopting a ‘rationalisation’ strategy where the main objective of estate restructuring is to improve economic and agricultural efficiency. This differs from the Gloucestershire approach, categorised as ‘core estate’, which encourages a uniform disposal of property to leave a core agricultural estate. What is significant and common in both cases, and this particular strategy, is how the amalgamation of land with existing holdings provides additional user rights to *established* tenants. Alongside this, the sale of property facilitates the distribution of non-agricultural rights, so opportunities for new entrants are significantly reduced compared to the consolidation approach, for example.

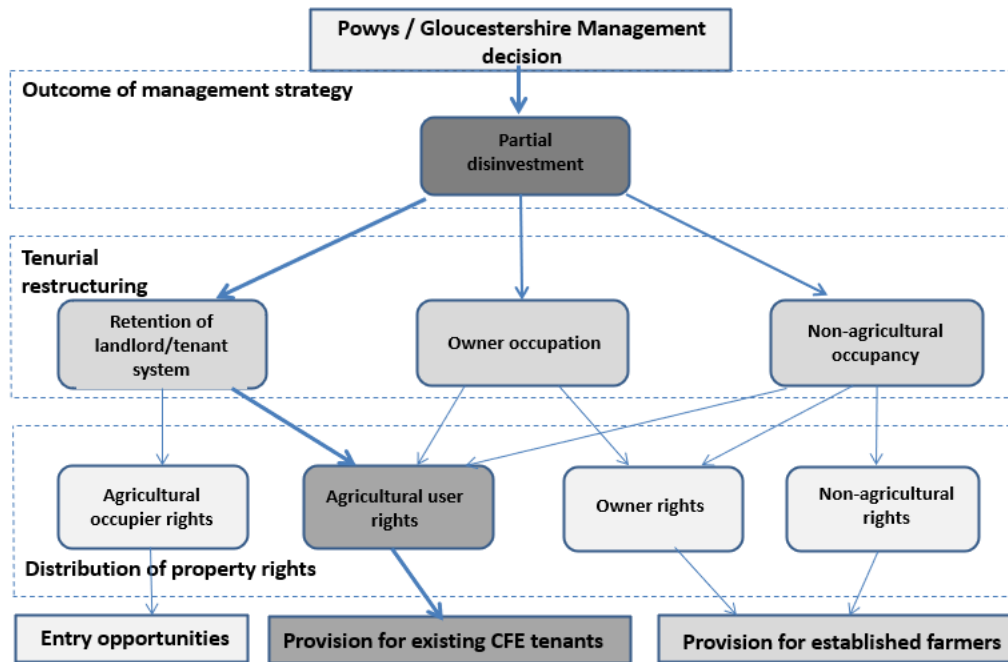


Figure 6: the distribution of agricultural property rights as defined by the partial disinvestment strategies as adopted in both Powys and Gloucestershire.

A third model emerges from the wider CFE analysis, which is where local authorities, e.g. Northumberland, North Yorkshire, Kent and Essex, have chosen to dispose of their estates completely, as part of 'comprehensive disinvestment strategy' (Figure 7). Such strategies encourage the sale of property, bringing to an end the landlord/tenant system. This process eradicates agricultural occupation rights, as purchasers are likely to be established farmers or investing with non-agricultural capital. Limited agricultural user rights may be available if the new owner chooses to re-distribute those rights. However, in most cases the majority of these rights are unavailable to new entrants.

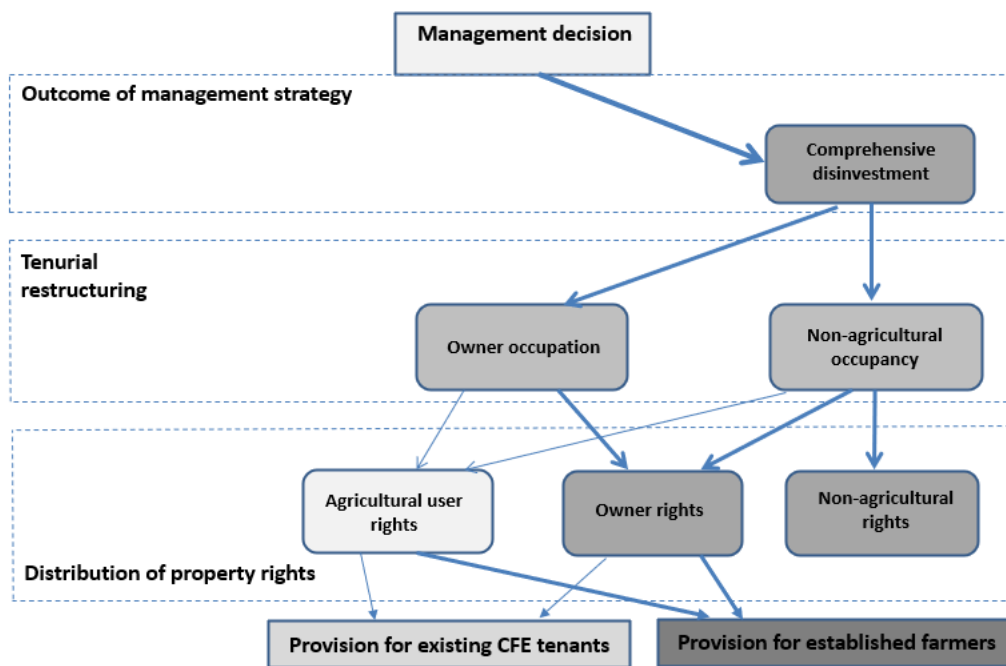


Figure 7: the distribution of agricultural property rights as defined by the comprehensive disinvestment strategies as adopted in Northumberland, North Yorkshire, Kent and Essex.

8. Conclusions

The story of the CFE in England and Wales provides a powerful window to study the role of State regulation in determining rural property relationships and the re-distribution of agricultural property rights. It also demonstrates how the concept of ‘real’ regulation remains a relevant theoretical approach to understand the complexities of on-going rural policy reform. Through the ability of landowners to engage with different regimes of regulation and the inclusion of wider societal voices in the negotiation process, non-inheriting new entrants are marginalised in the distribution of agricultural property rights. Ultimately, this occurs as those with access to property are able to engage with different regimes of regulation to manipulate the distribution of these rights. Whilst this has been demonstrated in England and Wales through analysis of their respective estates and local cases, there is strong evidence that similar patterns are mirrored in Scotland, even though different political approaches underpin the regulation of agricultural property.

In demonstrating how contemporary landowners are engaging with 'real' regulation to best represent their own interests, the paper has highlighted a general lack of clarity within academia and land use policy relating to who new entrants actually are and what support frameworks are most appropriate for their specific needs. In particular, there are significant differences in the requirements of those entering the industry as younger farmers from existing farming families, in contrast to those entering with no family connections. These sentiments are comparable with those of Zagata and Sutherland (2015: p. 39) who called for a "more consistent conceptualisation of the young farmer problem". This paper reiterates and supports this call, noting a fundamental and sustained lack of clarity in the 'new entrant' and 'young farmer' categories. This has real implications for policy support frameworks in the UK and Europe more generally given that policies are not well aligned with more granular insights regarding agricultural property rights. Instead, they appear driven by statistical analysis based on the low number of young people as the head of a farming business and the ageing profile of the farming population (European Commission, 2017).

Given the implications of 'real' regulation on new entrant opportunities, alternative ways to encourage landowners to re-distribute property rights need consideration. One such approach could be the use of taxation incentives to encourage landowners to re-enter the market (e.g. McKee et al., 2018). The CAAV (2017), for example, argued that tax reform could not only stimulate entry and progression opportunities, but also promote investment, innovation, productivity, environmental performance and risk management.

Interestingly, the CFE received a resurgence in support in the run-up to the 2019 UK general election. The ideological vision of the CFE as part of a wider programme of 'land for the many' was a central rhetoric of the Labour Party manifesto. Within this manifesto, a re-invigorated CFE was proposed as a means to empower new entrants to agriculture, and as a mechanism to provide employment and bolster the rural economy (see e.g. Graham et al., 2019; Monbiot et al., 2019). However, societal demands beyond the confines of agricultural production placed on land continue to grow. Within the UK, many local authorities have declared climate and

biodiversity emergencies (Buckwell, 2019). This has encouraged York City Council, for example, a former CFE owner, to purchase agricultural land on which to create a new community woodland as part of its ambition to become net-zero Carbon by 2030 (York City Council, 2021). This marks a significant turnaround in the value of land within a local authority's asset portfolio. However, it may also continue the displacement of new entrants from rural property and land use rights, who are becoming if anything further excluded from the 'real' regulation process by established farmers, non-agricultural capital and the expanding array of societal demands placed on land and rural property.

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