



Double Funding and Environmental Stewardship agreements

This briefing and Q&A sets out how the risk of double-funding between greening and Environmental Stewardship agreements will be addressed. Defra Ministers have been mindful of the assurances given at the start of the CAP Reform negotiations that farmers who had been ahead of the game on environmental delivery should not be disadvantaged by greening. They have succeeded in securing an outcome that fulfils that commitment

- **90% of Entry Level Stewardship (ELS) and all Higher Level Stewardship (HLS) agreements will not have to have their payments adjusted for greening.**
- However, around 4,000 ELS agreements (including Organic ELS) which started on 1 January 2012 or later could have their payments reduced where they include 'double funded' options (the complete list of these options is at **Q10** below).
- Where double-funded options are present in ELS agreements which started on or after 1 January 2012 you will be able to do the following:
 - If you are delivering options in your agreement above the ELS points threshold (for which you are not being currently paid), you may have enough 'surplus' options in place for your payments to be unaffected by greening – i.e. after the greening reduction is made you can still receive your full ELS payment. In this case, you need take no action.
 - If you do not have 'surplus' options in place, and are therefore faced with an ELS payment reduction, your choices are:
 1. amend your agreement to add more options to avoid any reduction in payment; or
 2. accept the reduced payment; or
 3. exit the scheme without penalty.
- Natural England will be writing to all agreement holders who may be affected from mid-summer onwards, setting out the choices available. If your payment has to be reduced, you have until 15 November 2014 to tell Natural England whether you want to do 1, 2

or 3 above. If Natural England does not hear from you by then, it will assume you are happy to take a payment reduction.

- This approach meets Defra Ministers' commitments, while minimising the risk of EU fines (disallowance) and keeping administrative costs to a minimum.
- We have to ensure that the new environmental land management scheme similarly avoids the risk of double funding. We will provide further details over the next few months.

Double Funding and Environmental Stewardship agreements: Questions and answers

WHAT AND WHY

Q1. What is double funding?

A. Double funding is receiving payment for the same thing twice: for example, using an ELS buffer strip (for which you are already being paid) to meet your Ecological Focus Area (EFA) requirement. In such cases, EU rules require that we reduce the ELS payment, but the greening payment is unaffected.

Q2. Why are these changes being introduced?

A. The EU rules, which we strongly supported during the CAP negotiations, are absolutely clear that there must be no double funding of measures which can be used both to meet greening requirements in Pillar 1 and to meet Environmental Stewardship (ES) agreements. Therefore, when calculating the payments for ES agreements, we must deduct the amount necessary to exclude double funding.

Q3. What did the “Paice pledge” say?

A. When the greening proposals were published in the autumn of 2011, Defra Ministers undertook to ensure that everything possible would be done so that no farmers in an agri-environment scheme should be disadvantaged because of greening (the so-called “Paice Pledge”). This was set out in a letter to the Campaign for the Farmed Environment (CFE), in which Ministers undertook to work with partners to make any necessary adjustments in a way that met the following criteria:

- Not leaving those who have entered into long-term agreements in advance of clarity about changes to the CAP worse off.
- Continuing to pay agri-environment agreements holders for measures they deliver that go beyond the requirements under Pillar 1.
- Maintaining land management practices that need to be in place for a number of years in order to deliver environmental benefits.
- Not adjusting existing agri-environment agreements so as to *require* farmers to take additional land out of production beyond the requirements of cross-compliance and greening measures.
- Delivering effective agri-environment schemes that deliver high-quality environmental goods.

WHICH AGREEMENTS ARE AFFECTED?

Q4 The types of agreements affected are as follows:

| | |
|--|---|
| <p>Higher Level Stewardship (HLS), including HLS agreements underpinned by ELS / Organic ELS</p> | <p>Not affected.</p> |
| <p>Entry Level Stewardship/ Organic ELS agreements <u>which started before 1 January 2012</u></p> | <p>Not affected.</p> |
| <p>ELS/Organic ELS agreements <u>which started on or after 1 January 2012</u></p> | <p>Payment reductions will apply. The revision clause in these agreements means that if they contain any double funded options (listed at Q10 below) they will have to be adjusted to take account of double funding.</p> <p>Even if you are not using any of the double funding options in your agreement to meet your greening requirements, Natural England will still have to reduce your payments because of the risk of double funding. For example, although you may not want to use your agreement options to meet your EFA requirements in 2015, you might choose to do so in subsequent years, and we have to remove any risk of such double funding over the lifetime of your agreement.</p> |

Q5. Why are Organic Entry Level Stewardship (OELS) options affected if organic farmers are automatically entitled to the greening payment?

A. The European Commission guidance is clear that agri-environment payments made to organic farmers can only be granted for commitments which go beyond the greening practices. Organic farms, including those undergoing conversion, are not required to undertake greening, but they are still subject to the same double funding principle as conventional farms. For this reason, the organic option payments must be reduced in the same way.

Q6. Will I be affected if the arable land on my holding falls below the 15ha threshold or if I am otherwise exempt from the Ecological Focus Area requirement?

A. Yes. The European Commission guidance makes it clear that your agri-environment payment must be reduced because you receive the full Pillar 1 direct payment, which includes the greening component.

Q7. I am a landlord claiming Pillar 2 agri-environment payments while my tenant is claiming the Pillar 1 direct payment. Will my Environmental Stewardship agreement be affected?

A. Yes. A payment reduction will be necessary because otherwise the land would be benefitting from double funding for the same environmental requirements.

Q8. The Basic Payment Scheme (BPS) isn't claimed on the land in my Environmental Stewardship agreement – are my Environmental Stewardship payments affected by greening?

A. No. In the absence of a BPS claim on the same area of land, there is no double funding.

Q9. What happens if land under a pre-2012 agreement is transferred to a customer with an ELS/OELS agreement which started on or after 1 January 2012?

A. In this case, two separate agreements would be maintained with their original end dates left untouched. The relevant payment reduction would be applied to the agreement which started on or after 1 January 2012.

THE GREENING OPTIONS

Q10. Which ELS/OELS options are regarded as double funding?

A. 19 ELS and 18 OELS options count as double funding:

| | Option | Code | |
|----|--|------|------|
| | | ELS | OELS |
| 1. | Management of Woodland Edges | EC4 | OC4 |
| 2. | Hedgerow tree buffer on cultivated land | EC24 | OC24 |
| 3. | Take out of cultivation archaeological features on cultivated land | ED2 | OD2 |
| 4. | 2m buffer strips on cultivated land | EE1 | OE1 |

| | Option | Code | |
|-----|---|------|---------------|
| | | ELS | OELS |
| 5. | 4m buffer strips on cultivated land | EE2 | OE2 |
| 6. | 6m buffer strips on cultivated land | EE3 | OE3 |
| 7. | Buffering in-field ponds on arable land | EE8 | OE8 |
| 8. | 6m buffer strips on cultivated land next to a watercourse | EE9 | OE9 |
| 9. | Field Corner Management | EF1 | OF1 |
| 10. | Wild Bird Seed Mixture | EF2 | OF2 |
| 11. | Nectar Flower Mixture | EF4 | OF4 |
| 12. | Beetle Banks | EF7 | OF7 |
| 13. | Skylark Plots | EF8 | OF8 |
| 14. | Uncropped cultivated margins for rare plants | EF11 | OF11 |
| 15. | Uncropped cultivated areas for ground-nesting birds | EF13 | OF13 |
| 16. | Extended overwintered stubbles | EF22 | Not Available |
| 17. | In-field grass areas to prevent erosion and run-off | EJ5 | OJ5 |
| 18. | 12m buffer strips for watercourses on cultivated land | EJ9 | OJ9 |
| 19. | Winter cover crops | EJ13 | OJ13 |

Q11. If I have an HLS agreement or a pre January 2012 ELS agreement, can I use my agri-environment options to count towards greening?

A. Yes. You will be able to count relevant options in your ES agreement towards your greening obligations until the agreement expires, without any changes to your agreement payment.

AFFECTED AGREEMENTS: WHAT WILL HAPPEN AND WHAT YOU NEED TO DO?

Q12. I have 'surplus points' in my agreement - will these be used to mitigate the payment reduction?

A. Yes. We will take into account any surplus points when deciding whether we need to reduce your payment. If you are delivering options in your agreements above the ELS points threshold (for which you are not being currently paid), you may have enough surplus options in place for your payments to be unaffected by greening – i.e. after the greening reduction is made you can still receive your full ELS payment. In this case, you need take no action.

Please bear in mind that where you use surplus points to maintain your current level of payment, the total points remaining may be close to or the same as your points target. In these circumstances you may find that you have little or no margin for error if questions are later raised about the eligibility of particular options or your compliance with option prescriptions.

Q13. I don't have 'surplus points' in my agreement – what do I need to do?

Natural England will write to you and explain the three choices open to you:

- **Continue with your existing agreement but with reduced payments:** If your payments will be less in future than they are now, you can choose to accept the reduced payment and continue to manage all your existing options.
- **Amend your agreement to add in further options or increase the area covered by existing options:** If your payments are adversely affected by greening, you can amend your agreement to bring your payments back up to the previous level. This may involve adding further options, increasing the area covered by existing options and removing affected options. This amendment will be permitted in addition to any other amendment you may already have requested or plan to request in the future, under the rules of the scheme.
- **Close your agreement early without penalty:** If you select this option, your agreement will end at midnight on 31 December 2014 and you will be paid pro-rata for what you have delivered up to that date. You will be sent a revised schedule setting out payment dates and values.

The letter from Natural England will ask you to complete a reply slip to confirm what you want to do. This must be returned to Natural England by 15 November 2014. **If you do not return the reply slip by 15 November 2014, Natural England will assume you are happy with how your agreement is affected by the changes, including any reduction in your payments.** After this date, Natural England cannot process any amendments or early closure requests in respect of greening.

Q14. When can I expect to receive detail on how my agreement is affected?

A. All customers whose ELS/OELS agreements started on or after 1 Jan 2012 and whose agreements include the 'double funding' options will receive a letter from Natural England from mid-Summer onwards. This will include a schedule which sets out the impact on your individual agreement and the choices which are open to you (see Q13 above).

Q15. My payment has fallen as a result of greening/double funding - can I take land with affected options out of my agreement?

A. No. ELS is a whole farm scheme. See Q13 above for your options.

HOW GREENING REDUCTIONS ARE CALCULATED

Q16. How have you calculated the reduction for these options?

A. We can only pay for the extra costs of any management which is above the requirements of greening. We therefore have to exclude income foregone, additional costs and transaction costs plus any savings on fixed costs and working capital - which will have already been incurred as part of the greening payment.

The methodology has been checked by an independent verifier, to ensure the correct payment reductions have been applied.

Q17. Why is my payment reduction different to my neighbour's?

A. Payment reductions will vary between agreements since any reduction will depend on which double funded options are included and the amount in each individual agreement.

Q18. Will my points threshold be affected?

A. No. The reduction is to your payments only, not to your points.

OTHER INFORMATION

Q19. How many customers might be affected by double funding?

A. Around 4,000 ELS/OELS agreements have started since 1 Jan 2012 and contain the 'double funding' options. Of these agreements, we expect about one third to have sufficient 'surplus' ELS options (over and above the points threshold) so their payments

will be unaffected. We expect the remaining two thirds to have their payments reduced unless they add extra options as set out above. Removing double funding would mean an estimated saving of up to £13.5m over the life of these agreements, which can then be made available for future agri-environment agreements.

Q20. Who do I talk to if I want more information?

A. In the first instance, please contact Natural England on 0300 060 3900.