



Double Funding and Environmental Stewardship agreements [Revised October 2014]

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.

In summary: all appropriate ELS/OELS options can be used to meet Ecological Focus Area (EFA) requirements under greening, provided they meet the relevant EFA requirements and the ELS option requirements. Some ELS/OELS agreements will have the payment for certain options reduced where there is a risk of double-funding. This payment reduction will be applied regardless of whether the farmer uses the affected option to meet EFA requirements or not.

- **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 **Q11** 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 your 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 double funding – 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. accept the reduced payment; or
 2. amend your agreement to include options which contribute towards your 30 points per ha threshold and avoid any reduction in payment; or
 3. exit the scheme without penalty or recovery of payments.
- Natural England will be writing to all agreement holders who may be affected in the early autumn, 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 content to accept the reduced payment. This approach meets Defra Ministers' commitments, while minimising the risk of EU fines (disallowance) and keeping administrative costs to a minimum. It also gives affected agreement holders a wide range of choices.

- 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, if you were to use 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. This aspect of the EU rules, which we strongly supported during the CAP negotiations, is 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 in Pillar 2. Therefore, when calculating the payments for ES agreements, we must deduct the amount necessary to avoid 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 (known as the “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.

IS MY AGREEMENT AFFECTED?

Q4. The types of agreement affected are:

<p>Higher Level Stewardship (HLS), including HLS underpinned by ELS/Organic ELS. (Includes all HLS agreements entered into in 2014)</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. These agreements have a revision clause which means that if they contain any double funded options they will have to be adjusted to take account of double funding. There's a list of double funded options at Q11.</p> <p><u>Even if you're 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.</u> For example, you may not want to use your agreement options to meet your EFA requirements in 2015, but you might choose to do so in subsequent years. We have to reduce the payment to remove any risk of 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: we can only make agri-environment payments to organic farmers for commitments which go beyond the greening practices. Organic farms, including those undergoing conversion, do not have to undertake greening, but they are still subject to the same double funding principle as conventional farms. For this reason, we have to reduce the ELS part of the organic option payment.

The elements of the organic option payment covering conversion and maintenance will therefore remain unaffected and the reduction will apply only to the ELS option payment which sits above these elements. So the £30/ha payment for maintaining your organic status will be unaffected. The reduction would be on the £30/ha payment you receive for ELS options on your organic land.

Q6. Will I be affected if the arable land on my holding is equal to or falls below the 15ha threshold?

A. No. However, if you do not qualify for an exemption in future BPS years, we may have to apply a payment reduction in future. *[Answer updated following further clarification of the EU Commission guidance on double funding.]*

Q7. I am a landlord with an ELS/OELS agreement which starts on 1 January 2012 or later and my tenant will be claiming the Basic Payment Scheme (BPS) under Pillar 1. Will my ELS/OELS payment be affected?

A. Yes. A payment reduction will be applied regardless of whether your tenant uses the ELS option for EFA or not: otherwise the land would be benefitting from double funding for the same environmental requirements. However, if your tenant has 15ha or less of arable land and is therefore exempt from the Ecological Focus Area requirements, there is no risk of double funding and your payments will not be affected. *[Answer updated following further clarification of the EU Commission guidance on double funding.]*

Q8. The Basic Payment Scheme (BPS) isn't claimed on any of the land in my ELS/OELS agreement that started on 1 January 2012 or later - or the person claiming BPS has 15ha or less of arable land – are my ELS/OELS payments affected by double funding?

A. No. If none of the land in your ELS/OELS agreement that started 1 January 2012 or later is used to claim BPS in 2015 by you or your tenant/licensee there will be no double funding. However, if any of the land in your ELS/OELS agreement is used to claim BPS in subsequent years, the double funding reduction will need to be applied. Similarly, if the person claiming BPS has 15ha or less of arable land and is exempt from the Ecological Focus Area requirements, there is no risk of double funding and your payment will not be affected.

If you are the tenant/licensee and do not submit a BPS claim, you will need to check with your landlord/owner of the land whether he does submit a BPS claim on any of his land that is included in the ELS/OELS agreement. If he does, you will not be exempt from double funding unless he has 15ha or less of arable land.

Amending ELS/OELS agreements to avoid double funding is a one-off opportunity. So if you do not currently claim SPS but think you might want to in future, you may want to consider adding extra options now, in case the land is used to claim BPS in the future.

[Answer updated following further clarification of EU Commission guidance on double funding.]

Q9. I have an ELS/OELS agreement with a start date of 1 January 2012 or later that includes double funded options. If I don't use them to meet my EFA requirements, can I avoid double funding?

A. No. We have to reduce the payments for these options, whether or not you use them to meet your EFA requirements. We have to do this because of the risk of double funding (see Q4 above).

Q10. What happens if land under a pre-2012 ELS/OELS 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 ELS/OELS agreements would be maintained with their original end dates left untouched. We will apply the relevant payment reduction to the agreement which started on or after 1 January 2012.

THE DOUBLE FUNDING ELS/OELS OPTIONS

Q11. Which ELS/OELS options are regarded as “double funding”?

A. 19 ELS and 18 OELS options count as double funding. The table below shows the current payment rate and the new reduced value for each of the 37 affected options from 1 January 2015. If your agreement has a start date from 1st January 2012 to 1st December 2012 (the 3rd Edition Handbook), a different rate may apply to some of the options. These different rates are set out in the table.

Option Code	Option Description	4th Edition Handbook			3rd Edition Handbook (if rates are different to 4th edition)		
		Current Rate	Greening Deduction	New Value	Current Rate	Greening Reduction	New Value
EC4	Management of Woodland Edges	380	£380	£0			
OC4	Organic Management of Woodland Edges	380	£380	£0			
EC24	Hedgerow tree buffer on cultivated land	400	£324	£76			
OC24	Organic Hedgerow tree buffer on cultivated land	500	£403	£97			
ED2	Take out of cultivation archaeological features on cultivated land	460	£333	£127			
OD2	Organic Take out of cultivation archaeological features on cultivated land	600	£503	£97			
EE1	2m buffer strips on cultivated land	255	£207	£48	300	£243	£57
OE1	Organic 2m buffer strips on cultivated land	340	£273	£67	400	£322	£78
EE2	4m buffer strips on cultivated land	340	£276	£64	400	£324	£76
OE2	Organic 4m buffer strips on cultivated land	425	£342	£83	500	£402	£98
EE3	6m buffer strips on cultivated land	340	£276	£64	400	£324	£76
OE3	Organic 6m buffer strips on cultivated land	425	£342	£83	500	£402	£98

Option Code	Option Description	4th Edition Handbook			3rd Edition Handbook (if rates are different to 4th edition)		
		Current Rate	Greening Deduction	New Value	Current Rate	Greening Reduction	New Value
EE8	Buffering in-field ponds on arable land	400	£318	£82			
OE8	Organic Buffering in-field ponds on arable land	500	£404	£96			
EE9	6m buffer strips on cultivated land next to a watercourse	400	£324	£76			
OE9	Organic 6m buffer strips on cultivated land next to a watercourse	500	£403	£97			
EF1	Field Corner Management	400	£318	£82			
OF1	Organic Field Corner Management	500	£448	£52			
EF2	Wild Bird Seed Mixture	450	£330	£120			
OF2	Organic Wild Bird Seed Mixture	550	£426	£124			
EF4	Nectar Flower Mixture	450	£355	£95			
OF4	Organic Nectar Flower Mixture	550	£460	£90			
EF7	Beetle Banks	580	£454	£126			
OF7	Organic Beetle Banks	750	£621	£129			
EF8	Skylark Plots	5	£5	£0			
OF8	Organic Skylark Plots	5	£5	£0			
EF11	Uncropped cultivated margins for rare plants	400	£269	£131			
OF11	Organic Uncropped cultivated margins for rare plants	460	£308	£152			
EF13	Uncropped cultivated areas for ground-nesting birds	360	£267	£93			
OF13	Organic Uncropped cultivated areas for ground nesting birds	360	£267	£93			
EF22	Extended overwintered stubbles	410	£363	£47			
EJ5	In-field grass areas to prevent erosion and run-off	454	£379	£75	350	£292	£58
OJ5	Organic In-field grass areas to prevent erosion and run-off	454	£379	£75	350	£292	£58

Option Code	Option Description	4th Edition Handbook			3rd Edition Handbook (if rates are different to 4th edition)		
		Current Rate	Greening Deduction	New Value	Current Rate	Greening Reduction	New Value
EJ9	12m buffer strips for watercourses on cultivated land	400	£328	£72			
OJ9	Organic 12m buffer strips for watercourses on cultivated land	500	£403	£97			
EJ13	Winter cover crops	65	£65	£0			
OJ13	Organic Winter cover crops	65	£65	£0			

Q12 Why do ELS Wild Bird Seed Mix and Nectar Flower Mix count as double funding?

A. Wild bird seed and nectar flower mix payments under ELS include compensation for: taking land out of production; losing a crop that could otherwise have been grown on the land; *and* the costs of establishing these mixtures on this land. Wild bird seed and nectar flower mixes under ELS will be declared as being on arable land for BPS purposes. Because there is no commercial crop on that land, it has to be classified as 'fallow land'.

The greening requirements do not allow production on EFA fallow land but do allow it to be sown with wild bird seed and nectar flower mixes. We cannot therefore pay for taking the land out of production or a lost crop and we have to remove these elements of the ELS payment. However, we can continue to pay for the establishment of the mix because this is voluntary rather than a requirement of the EFA fallow rules.

Q13. If I have an HLS agreement or a pre-January 2012 ELS/OELS agreement, can I use my agreement options to count towards greening?

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

Q14. If I have an ELS/OELS agreement which started on or after 1 January 2012, can I use my agreement options to count towards my EFA requirements, even if the payment has been reduced?

A. Yes. You can count any of your agreement options (including those affected by double funding) towards your EFA requirement, providing you can meet the requirements of both EFA and the option. Retaining the affected options will continue to deliver the environmental benefits on your farm and will help support the industry led Campaign for the Farmed Environment (CFE).

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

Q15. 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 if we need to reduce your payment.

Your payment may not be affected if

- you are delivering options in your agreement above the ELS points threshold; and
- you are not currently paid for these options.

You may have enough surplus options in place for your payments to be unaffected by double funding – i.e. after the double funding reduction is made you can still receive your full ELS payment. If this is the case, you need take no action. However, you may amend your agreement to remove the double funding options altogether – see Q 16 below.

These changes to options value may impact on the amount of money you receive under your agreement. They do not, however, affect the number of points in your agreement or its threshold, just the payment rates associated with the options. Please note that you must continue to deliver all the ELS options in your agreement until it expires, even where the payment has been reduced, unless you remove these options as set out under Q16 below.

Q16. 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 (a worked example is at Annex A):

- **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. The reduced payment would apply from 1 January 2015.
- **Amend your agreement to add in further options or increase the area covered by existing options or remove any affected options:** If your payments have to be reduced because of 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. *Please note: removing affected options (and their associated points) may take you below your points threshold and you will need to add further options to ensure your threshold is met: falling below the threshold means that you would no longer be eligible for future payments.* 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. The amendment would take effect from 1 January 2015.
- **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 have to continue with the required management until midnight on 31 December 2014.

The letter from Natural England will ask you to complete a reply slip to confirm what you want to do. You must return this 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 content to accept any necessary reduction in your payment.** After this date, Natural England cannot guarantee to process any amendments or early closure requests in respect of greening.

If you wish to amend your agreement, you must also complete Annex 3 of the reply slip to specify the changes and **return this to Natural England no later than 20th December 2014.**

Please note: amending ELS/OELS agreements to avoid double funding is a one-off opportunity. You will not be able to change your mind at a later date.

Q17. When will I receive my letter on how my agreement is affected?

A. All customers whose ELS/OELS agreements started on or after 1 January 2012 and whose agreements include the 'double funding' options will receive a letter from Natural England from early autumn onwards. This will include a schedule which sets out the impact on your individual agreement and the choices which are open to you (see Q16 above).

Q18. My payment has been reduced as a result of double funding - can I take land with affected options out of my agreement?

A. No. ELS is a whole farm scheme. See Q16 above for your options.

HOW DOUBLE FUNDING REDUCTIONS ARE CALCULATED

Q19. How have you calculated the payment reduction for the double funding 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.

To help you work out your payments an agreement payment calculator (in Microsoft Excel format) has been published on GOV.UK alongside this briefing and Q&A (and can be found via www.gov.uk/cap-reform)

Q20. 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 area of those options in each individual agreement.

Q21. Will my points threshold be affected?

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

If you want to amend your agreement by removing affected options and their associated points, please see Q16 above about how this might affect your points threshold.

OTHER INFORMATION

Q22. How many customers might be affected by double funding?

A. Around 4,000 ELS/OELS agreements with a start date of 1 January 2012 or later 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.

Some Uplands ELS agreements may also be affected where these contain ELS options.

Q23. Who do I talk to if I want more information?

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

Annex A: An Entry Level Stewardship example:

1. Summary of your current agreement points			
Points type	ELS	OELS (if applicable)	Total
Target points – threshold/payment of your agreement	3000	N/A	3000
Actual agreement points – including 'surplus'	3060		3060

Tables 2 and 3 will only be populated if you have any of the reduced options in your agreement

2. Summary of your affected ELS options			
Option code	Area (in Ha) / Number	2014 £/value	2015 £/value
EF1	1.00	400.00	82.00
EF2	2.00	900.00	240.00
EF8	18.00	90.00	0.0
EJ9	1.50	600.00	108.00
Total		1990.00	430.00

3. Summary of your affected OELS options			
Option code	Area (in Ha) / Number	2014 £/value	2015 £/value
N/A			
Total			

4. How Double Funding impacts your agreement	Entry Level	Organic (if applicable)
Annual payment before double funding calculation.	£3000.00	£0.0
If you accept the reduction, which takes account of any surplus points you may have originally included in your agreement, your new payment from 2015 will be:	£1500.00	£0.0
If you decide to amend your agreement, this is the minimum number of additional option points you need to bring the value of your payment in 2015 back up to its 2014 level, based on selecting 'unabated' options that are still worth £1 per point.	1500	0

Please note

If your agreement contains sufficient surplus points to compensate for the reduction in payment due to double funding, your payment will be unaffected and will continue at its 2014 level. If after applying the greening reduction your payment has been reduced and you do not add any new options, your agreement will remain at its current points level, and will be valid, but your payment will be less.