

Section 4

How to apply for ELS and Uplands ELS

4.1 Before you apply

4.1.1 Things to do before you apply

Before you apply, you need to make sure that:

- You understand the scheme requirements – see Section 5.
- You have read the scheme rules – see Section 5.
- You are eligible to apply for the scheme – see Section 5.3.
- Your land is eligible to be included in your application – see Section 5.4.
- You have registered all of your farm land on your holding, on the Rural Land Register (RLR) administered by the Rural Payments Agency (RPA) (see Appendix 2 for contact details).
- You have a vendor number, County Parish Holding (CPH) number and Single Business Identifier (SBI) number. If you have previously claimed payments under the Single Payment Scheme (SPS), an England Rural Development Programme (ERDP) or Rural Development Programme for England (RDPE) scheme, you will already have been issued with a vendor number. The CPH number enables Natural England to identify the location of your holding and provide your application maps. If you do not have a vendor number or CPH number you must obtain one from the RPA (see Appendix 2 for contact details).

You can choose to apply for ELS and Uplands ELS online or by post.

4.1.2 Apply for ELS online

ELS Online is a software package that will enable anyone who wishes to apply for ELS (or Uplands ELS) only – either for themselves or acting as an agent or intermediary for someone else – to prepare an application on their computer and submit it to Natural England via the internet. It is a secure process and the package includes a step-by-step guide to using the software to complete your application.

Applying online is quick and easy and has many advantages:

- easy to download software with user friendly functions;
- an online team provides dedicated customer support;
- there is no limit to how many applications can be submitted, which is of particular benefit to agents making multiple applications;
- it is easier to make alterations to your application before it is submitted;
- there is a calculator to convert your mapping measurements into ELS points (please note it is the applicant's responsibility to ensure the area/length of options included within the agreement is correct); and
- it saves considerable time when submitting applications.

Users will need a connection to the internet, preferably by broadband, due to the large size of the software application and supporting information. The software application is almost 20 megabytes (MB) in size and although a conventional 56 kb 'dial-up' modem will work, the download could take approximately 60 minutes using this method.

To apply online:

- visit our website at www.naturalengland.org.uk/ourwork/farming/funding/es/els/online/default.aspx
- e-mail: els.online@naturalengland.org.uk or
- phone: 0300 060 3934

4.1.3 Obtain an application form and maps to apply by post

To apply by post, you will have to obtain an application pack. To do so, you should call your local Natural England office (see Appendix 1 for contact details).

You will be asked to confirm the following:

- your name and correspondence address;
- your vendor number; and
- the CPH numbers covering the eligible RLR land parcels you are entering into ELS.

You should also have a list of your land parcel details to hand, in case you also need to confirm one or both of the following:

- Individual RLR parcel number(s) for any ineligible land registered under your CPH number(s), so that these parcels can be omitted from your application (see Section 5.4.2).
- Individual RLR parcel number(s) for any additional eligible parcels that are not registered under your CPH number(s) so that these can be added to your application (see Section 5.4.1).

You may also request the following forms:

- Common land supplementary application form (NE-CLA4) (see Section 5.3.9)
- Agent authorisation form (NE-auth) (see Section 1.2.8)
- Supplementary land ownership and control form (NE-LOC) (see Section 5.3.2).

Natural England will then send you your personalised application form and application maps which you will need in order to prepare your postal application (see Section 4.3.3 for how to complete these).

Please note that requesting and receiving a set of maps and a personalised application does not oblige you to apply for the scheme. Your commitment to the scheme will only be made once you send in your application and have received confirmation of acceptance into the scheme from Natural England.

4.1.4 Check your application pack is complete

Your application pack will include:

- A personalised application form, which has been pre-filled with information about you and your land, including RLR parcel numbers and areas. You must ensure that you choose enough options to reach your points target and use this form to submit your application.
- Your Environmental Information Map. This map shows national designations on your land such as Sites of Special Scientific Interest (SSSIs), Scheduled Monuments and Severely Disadvantaged Areas (SDAs), along with a selection of other undesignated environmental features. This map should help you to identify high-priority features on your land that would benefit from the introduction of appropriate scheme options.
- Your Farm Environment Record (FER) Map. This map of your land should be used to prepare your FER (see Section 4.3.3 Step 2 and the example FER Map included with this handbook), and should be returned with your application form.
- Your Options Map. This map of your land should be used to mark where you are putting your scheme options (see Section 4.3.3 Step 4 and the example Options Map included with this handbook) and should be returned with your application form.

Step-by-step advice on completing the application form is given at Section 4.3.2.

4.2 Choosing your options

4.2.1 Selecting the right options for your farm

Choosing the right combination of options and locating these in the right places on your land can make a huge difference to the environmental outcomes you see through the scheme. By carrying out the following simple steps you will ensure your ELS agreement makes a positive contribution to the environment whilst complementing your farming system.

- a. First read the information about the aims and objectives of ELS in Section 2.
- b. The maps in the theme pages and at www.naturalengland.org.uk/es will show you which of the objectives are a priority in your area.
- c. Use this information to select which of the schemes objectives you want your ELS agreement to address. You can choose to address more than one objective, depending on which ones are a priority in your area.
- d. The Environmental Information Map included in your application pack will show any features of particular historic, landscape or wildlife interest on your farm. Use this to complete your FER.
- e. Match the options in your selected theme or themes against the features listed in your FER. Where there is a clear link, select these options first.
- f. Make up the balance of points by selecting other options from within your chosen theme(s). A mixture of different options within an agreement is always preferable. The theme pages provide details about the best combinations of options.
- g. Position your options where they will deliver the maximum benefit for your local environment. The theme pages provide information about where to locate your options.
- h. You must ensure that you do not locate any options where they would be detrimental to an environmental feature.

Section 3 of this handbook, the Options directory, contains the complete list of ELS and Uplands ELS options. It describes in detail the management to be carried out for each option and the standards that must be met. If you include any option in your application, you are agreeing to carry out the management prescriptions for that option. You should read the guidelines for each option carefully, to ensure you understand the management you will be required to undertake, and the standards you must meet. A number of options have area constraints requirements so you must ensure that you do not exceed the limit for the options you select.

4.2.2 Further help: free farm visits and events

Natural England can provide a free ELS farm visit from a farming and environment specialist. The support provided can include:

- a discussion on the options most suited to your farm to benefit farmland birds, wildlife, water, soil, the historic environment and climate change;
- practical suggestions on option location and management, such as tips on establishing wild bird seed and nectar flower mixes, guidance on buffer strip weed control, how to get a good sward structure;
- information on new and updated options;
- an explanation of the financial benefits of the scheme and how options can complement your existing farming practices;
- information and support on applying for ELS by paper or online.

Natural England also runs a programme of farm events to deal with the above topics from a local perspective. To arrange a FREE farm visit or to book a place on a farm event please contact our events team on 0300 060 1695. You should note that our advisers cannot complete your application for you, but can advise on suitable options for your holding.

4.2.3 Meet your points target

Your application form will be pre-populated with a points target, based on the area of your eligible land (see Introduction). To join the scheme, you will need to choose enough options to reach your points target.

Each option that you choose will earn points towards your points target. You will also earn 1 point per hectare for completing your FER. In Uplands ELS, the compulsory requirements UX2 and UX3 will also earn you points towards your points target whereas UX1 is paid at £5 per hectare.

Your ELS points target and the associated payment rate is fixed. This means that there is no higher payment for delivery of additional options over and above your required target. You are responsible for ensuring any areas or lengths entered on the application form are accurate. These will be checked by the RPA during an inspection and a penalty could be applied if they are wrong. If you want to make sure that there is some margin for error, you may wish to consider delivering options slightly in excess of your target in case, on

inspection, questions are raised about the eligibility of particular options or your compliance with option prescriptions. It is essential that you do not fall below your points target or you will be in breach of your agreement (see Section 5.7).

For Uplands ELS you can use any combination of Uplands ELS and ELS options to meet your points target, provided the individual option eligibility requirements are met.

4.2.4 Can you have more than one option on the same area of land?

Under ELS, there are a number of instances where you can have up to **two** land management options overlapping on the same area of land at the same time.

Under Uplands ELS, you can have up to **three** land management options overlapping on the same area of land at the same time. However, three options can only be co-located (overlapping) in the following circumstances: 1) when the parcel is within the SDA **and** 2) when there is at least one Uplands ELS option on the parcel (excluding compulsory requirements and UL18).

Table 6 in Section 3.4 shows combinations of options that may be located in the same place at the same time. **Only combinations of options shown in this table are permitted.** Other combinations of part-parcel options may be placed in the same land parcel, as long as they do not overlap on the ground.

4.2.5 What should you do if you have already sown your crops?

If you have a crop in place at the start of your agreement, and the crop would need to be destroyed to establish your option (for example, nectar mixture or buffer strips), you may keep the crop in place until harvest. However, you must ensure that the land concerned does not receive any fertiliser, spray or other inputs between the agreement start date and harvest. The scheme options should then be established as soon as possible after harvest, and this must be within 12 months of your agreement start date. For other options, you must comply with the management prescriptions from the start date of your agreement.

If your options involve work that can only take place at certain times of year or under certain conditions (for example fencing options, creating beetle banks), you must complete the work and comply with the option prescriptions as soon as possible within the first 12 months of your agreement.

4.3 How to complete your paper application

4.3.1 Before you begin

To mark up your FER and Options Maps, you will need a number of different coloured pencils. Please keep to the colours shown on the colour keys for individual maps.

If any of your details change between receiving the pre-filled application form and being ready to apply, the form will be out of date. If this is the case, do not amend the application form; contact your Natural England office for an updated form before applying.

Detailed instructions and guidance on how to complete the application form and how to prepare the maps are provided below. Table 7 provides a step-by-step summary of the application process.

4.3.2 Step-by-step summary of how to apply

Please read Section 5, Terms and conditions in this handbook to make sure that you and your land are eligible before you start to complete your application. This step-by-step guide covers both ELS and Uplands ELS.

Table 7 Step-by-step summary of how to apply

Step 1	Check that your maps and the pre-filled details on your application form are correct. Check that your RLR field details on your Field Data Sheet in Annex 2 of your application form are correct and that all the land is eligible. If you delete any fields you must also check and amend your ELS points target.
Step 2	Complete your FER by marking the features on your land on your FER Map and adding your points for the FER to Annex 1 of the application form.
Step 3	Identify and record on your FER Map any fields at risk from soil erosion or run-off.
Step 4	Choose which options to include on your ELS-eligible land, mark your ELS option choices on the Options Map, and add the options to Annex 1 or 2 of the application form. Check if the option has an area constraint requirement and that you have not exceeded the limit for that option.
Step 5	Complete Sections 1 and 2 of your application form, making sure that: <ul style="list-style-type: none"> ■ you have chosen your preferred agreement start date by ticking the relevant box in Question 7; ■ if you are making a countersigned application, you have completed Question 8 and the relevant person has completed Question 8a–d and completed and signed the Land Ownership and Control Declaration and Undertakings section; and ■ You have entered details of your farm enterprise(s) at Question 12.
Step 6	Complete Section 3 of your application form and check that you have met or exceeded your points target on your ELS-eligible land.
Step 7	Complete the Checklist and complete and sign Section 4 of your application form, making sure that: <ul style="list-style-type: none"> ■ you have checked that you have completed all sections of the application form and included any supplementary forms or photographs if required with your application; ■ you have checked the box in Section 4 to confirm which scheme you are applying for; ■ you have read and understood all the terms and conditions contained in this handbook; ■ if you are making a countersigned application, you and the counter signatory have read and understood the declarations and undertakings in Section 2; and ■ you have read and understood the declarations and undertakings in Section 4.
Step 8	Submit your application to your Natural England office in the envelope provided.

4.3.3 How to fill in your application form and mark your maps

Step 1: Check your pre-filled details and maps

Please note that if your application is approved, it will form part of your legal agreement with Natural England. Therefore, do not use correcting fluid. If you have to make any alterations to your application form, they must be made in block capitals using black ink and must be initialled by you. It may be helpful to make a rough copy of your application and transfer this onto your application form when you are sure it is correct.

Please check the following pre-filled details in Section 1 and Annex 2 of your application form:

- Section 1 – Applicant details. Your application form should have been pre-filled with your contact details and points target. Please check that these details are correct and complete any missing information. Please also ensure you confirm your preferred method of communication, and main contact details if they differ from those pre-recorded on the form.
- Annex 2 – Field Data Sheet. It is your responsibility to ensure that all the land listed at Annex 2 (the Field Data Sheet) and identified on your maps is fully eligible for the scheme, by carefully studying the rules on eligibility in the Terms and conditions section of this handbook.

If you find that some of your eligible land parcels have not been included in the Field Data Sheet, you must contact the Natural England office for a new application form and maps. You must not add any parcels to your pre-filled details on the Field Data Sheet.

If you need to delete any parcels, for example, if a Countryside Stewardship Scheme (CSS) or Environmentally Sensitive Area (ESA) option covers the whole parcel and therefore is not eligible for ELS, please follow these instructions:

- Using the Field Data Sheet(s) at Annex 2 of your application form, delete each ineligible parcel number and associated gross parcel area from the RLR field size column.
- Amend the corresponding total area of land in Box 1 or Box 2 as appropriate at the base of the RLR field size column. For Uplands ELS applications, Box 1a, 1b, 2a or 2b should be amended.
- At Table A, Section 3 of your application form, make the corresponding amendments to the total land area(s). For applications which include SDA land, this will be Part 1 of Table A if you are applying for ELS without Uplands, or Part 2 of Table A if you are applying for Uplands ELS.
- If you have deleted any fields from your application you should now check and amend your points target.
- Alternatively, you may find it easier to contact us and ask for a replacement application form and map(s) covering the correct parcels.

When you have checked that your land is eligible and you are sure that the pre-filled land parcel details listed in Annex 2 of your application form are correct, proceed to Step 2.

Step 2: Complete your Farm Environment Record (FER)

You will need:

- your FER Map(s);
- the example FER Map (included in this handbook), which will help to show you how to mark your map;
- Section 3 and Annex 1 of your application form.

As a condition of the scheme, you must agree to identify, map and retain the features listed and described on the FER Map key that are present on your land. These are your 'FER features'. Please complete your FER by marking your FER features on your FER Map(s). Walking your holding and marking the features on a copy of your FER Map as you go may help you to make sure that you do not miss any.

Use the colours on the map key for marking each feature. Confirm that you have a feature on your land by marking the corresponding blank symbol on the right side of the map key with the coloured pencil you have used to mark that feature on the map. The completed map(s) must be submitted as part of your application. If you are applying for Uplands ELS you will need to map additional features (marked with an asterisk on the map key) on your land **below the Moorland Line only**, that is, your non-moorland parcels. Please note that for scrub, you are only required to map scrub that is covered by the UX2 requirement.

Your Environmental Information Map may also indicate features that require marking on your FER Map(s).

Only boundaries with, on average, one or more eligible trees per 100 m need to be marked as 'boundaries with trees'. For example, a hedgerow of 400 m would need to have at least four eligible trees along its length. Eligible trees are those that are native species, standing within 1 m of a hedgerow and over 30 cm diameter at breast height. These boundaries are simply marked with a green cross over the boundary line. This is illustrated on the example FER Map in this handbook. (In-field trees still need to be counted and marked as shown on the key.)

You will receive one point per ha of land for completing your FER and retaining all your FER features for the lifetime of your agreement. Take time to complete it as clearly and accurately as you can. As long as the markings you make are clear and understandable, Natural England will be able to accept your map(s).

Record your points score for the FER as follows:

- Refer to your total eligible land area in hectares recorded at Table A in Section 3 of the application form or, where necessary, calculate your total eligible land area by adding the areas recorded in the 'Area (ha)' column of Table A. For applications which include SDA land, this will be Part 1 of Table A if you are applying for ELS without Uplands, or Part 2 of Table A if you are applying for Uplands ELS.
- Use your total ELS-eligible land area to give your points score for your FER on your ELS-eligible land. Record your points score in the Compulsory Farm Environment Record row of the table in Annex 1 of the application form.

Step 3: Identify fields where soil erosion and run-off occur, or may do so in the future

You will need:

- your FER Map; and
- Annex 2 of your application form (your Field Data Sheet).

As part of your FER, you must consider whether any of your land is at risk from soil erosion or run-off. Controlling the problem could protect the environment and improve the productivity of your land. Please read Section 3J Options to protect soil and water of this handbook for further information on soil erosion.

First identify where soil erosion and run-off occur. Consider each of your fields and mark them in dark-brown hatching on your FER Map and put a tick in the column titled 'Soil erosion/run-off risk' of Annex 2 if any of the following apply (even if this happens occasionally or only when a certain crop is grown in that parcel or when stock have poached the soil):

- if rills or gullies develop in wet weather, including along tramlines;
- if muddy water from the parcel enters a ditch, stream or river, or sediment is deposited on a road or neighbouring properties; or
- if wind erosion of sandy or peaty soil occurs from fine dry seedbeds.

Then identify where soil erosion and run-off may occur in the future. Mark your FER Map in the same way (dark-brown hatching) and tick the column titled 'Soil erosion/run-off risk' of Annex 2 if all of the following apply and you intend to change the management of the land (particularly if you want to cultivate grassland or increase the intensity of cropping or grazing):

- the soil is sandy or silty;
- there are slopes in all or part of the parcel that may cause run-off and erosion; and
- run-off will reach ditches, streams, rivers, roads, or neighbouring properties down-slope of the parcel.

If you have identified that soil erosion and run-off occur, or are likely to occur, consider choosing management options to reduce run-off and soil erosion. See Section 3J Options to protect soils and water of this handbook.

Step 4: Choose which options to include on your ELS-eligible land

You will need:

- your Options Map;
- the example Options Map (included in this handbook), which will help to show you how to mark your map; and
- Annexes 1 and 2, and Section 3 of your application form.

You must include sufficient options to meet your points target. Section 1.2.5 explains how your points target is calculated. Your points target will be shown in Table A on your application form.

Read Section 2 of this handbook to find out which options are a priority for your area. Please read through the option prescriptions for the individual options you are considering to ensure you understand the management requirements before you include them in your application (see Section 3). For Uplands ELS applications only, compulsory options UX2 (Upland grassland and arable requirements) and UX3 (Moorland requirements) must be included where the respective land type is part of your application.

Refer to your Environmental Information Map and FER to ensure that your selected option will help to protect and manage the environmental features on your land.

For each of your chosen options on your ELS-eligible land, you must:

- decide where the option is to be located (you may decide you want to have the option in more than one location);
- check if the option has an area constraint requirement and that you have not exceeded the limit for that option (see Section 3);
- mark every instance of the option with a coloured pencil on your Options Map(s) using the appropriate colour for that option as specified on the Options Map key. Do not mark rotational options on your Options Map – these are recorded at Annex 1 of your application form; and
- write the appropriate option code, using a fine black pen, on or against the option in each place where you have marked it on your Options Map(s).

In addition, if you have any CSS, ESA or ECS non-rotational options on a part-parcel basis, you must mark their location on your Options Map(s). Please note that if a CSS or ESA option covers a whole parcel, the parcel is not eligible for ELS. See Section 5.4.4 for details. **If you have any CSS or ESA options on a part-parcel, that parcel is not eligible for Uplands ELS.**

Please take care to measure option lengths or areas and then calculate the points values accurately, as errors may lead to the reduction of payments and to penalties being imposed.

Having marked your Options Map(s), you will now need to record your choices and calculate the points you have accumulated on your ELS-eligible land, using Annexes 1 and 2 of your application form:

- Use Annex 1 for ELS boundary, rotational and traditional farm building options. Instructions and guidance on how to complete Annex 1 are provided in Figure 9.
- Use Annex 2 (the Field Data Sheet) for ELS non-rotational options within fields (eg buffer strips). Instructions and guidance on how to complete Annex 2 are provided in Figure 10.

Step 5: Complete Sections 1 and 2 of your application form

Complete Sections 1 and 2 of your application form, making sure that:

- **You have chosen your preferred agreement start date** by ticking the relevant box at Question 7. Your farming system and choice of options may influence the time of year when you would like your agreement to start. ELS has monthly start dates with agreements commencing on the first date of each month. At Section 2 of your application form, you can select your preferred agreement start date or simply opt for the next one available. You should note that your choice of start date will affect the timing of your payments (see Section 1.2.6).
- **If you are making a countersigned application**, you have completed Question 8 and the relevant person has completed Questions 8a–d and completed and signed the Land Ownership and Control Declaration and Undertakings section.
- **You have entered details of your farm enterprise** at Question 12, by entering a '1' in the corresponding box for your primary farming enterprise, and, where you have a secondary farming enterprise only, entering a '2' in the corresponding box.

Step 6: Complete Section 3 of the application form and check that you have met your points target on your ELS-eligible land

You will need:

- Annexes 1 and 2, and Section 3 of the application form.

Once you have chosen your ELS options, calculate the total ELS points that you have accumulated, as follows:

- Transfer your total ELS points from Annex 1 and Annex 2 (including any continuation sheets) to the corresponding boxes in Table B of Section 3 of the application form.
- Add these two figures together to determine your total ELS points and record this in Table B. This figure must meet or exceed your Total ELS Points Target (Table A) to qualify for entry to the scheme.

Please note you must meet or exceed your ELS points target for your application to be successful. You will need to do a similar calculation to ensure you have met your Uplands ELS points target.

You are also responsible for ensuring that all the options listed at Annexes 1 and 2 on your application form are delivered. This information forms the basis of your agreement with Natural England.

Step 7: Complete the Checklist and Section 4 of your application form

You will need:

- Checklist and Section 4 of the application form.

Complete the Checklist and complete and sign Section 4 of your application form, making sure that:

- you have checked that you have completed all sections of the application form and included any supplementary forms or photographs if required with your application;
- you have checked the box in Section 4 to confirm which scheme you are applying for;
- you have read and understood all the terms and conditions contained in this handbook;
- if you are making a countersigned application, you and the counter signatory have read and understood the declarations and undertakings in Section 2; and
- you have read and understood the declarations and undertakings in Section 4.

Step 8: Submit your application

Natural England contact details are provided in Appendix 1 of this handbook.

Please return the following to Natural England in the envelope provided with your application pack:

- your completed and signed application form;
- annexes 1 and 2 of your application form;
- your Options Map marked with the options you have chosen.

Where appropriate you should also include:

- a Common Land Supplementary Application Form (NE-CLA4)
- Agent Authorisation form (NE-auth)
- Supplementary Land Ownership and Control Form(s) (NE-LOC)
- any photographs you are required to submit (options EB11, EB14 and ED1, Uplands ELS options UB15 to UB17, UD12 and UD13).

It is recommended that you obtain proof of postage for these and any other documents you send to Natural England. You are advised to retain a copy of your completed application form and your FER and Options Maps.

4.4 What happens next?

4.4.1 What happens once you have submitted your application?

Once your application has been received by Natural England, it will be checked to see:

- if you meet the eligibility requirements;
- that all the necessary details have been entered on your application form; and
- that all your maps have been completed.

If your application passes these simple checks, Natural England will notify you that you have been accepted into the scheme and provide you with an agreement reference number that you should quote in future correspondence. You can expect to receive a decision within three months of submitting your application.

4.4.2 What will you receive if your application has been successful?

If your application has been completed accurately and you have met your ELS points target, Natural England will send you a letter confirming:

- your acceptance into the scheme;
- your agreement start date;
- your total annual payment; and
- the ELS options you have chosen, the locations for non-rotational options and the total amounts for each option, including rotational options.

Your FER and Options Maps will also be returned to you. You must retain these documents as you may be asked to show them during inspections (see Section 5.5.7).

You must also retain this handbook, as it forms part of your legal contract with Natural England.

4.4.3 What if your application is unsuccessful?

Provided your application has been completed correctly and you have met your points target, it is very unlikely that your application will be unsuccessful.

If your application is unsuccessful, you will receive a letter explaining the reasons for the decision.

If you are unhappy with the decision, see Section 5.7.4.



Tree sparrow

Annex 1

Please record your choice of ELS boundary, rotational and traditional farm buildings options on the table below. Completion of the Farm Environment Record and map and selection of option EA1 is compulsory.

Code	Description	Points available	Measurement	Your points
EA1	Compulsory Farm Environment Record	1 per ha	65ha	65
EB1	Hedgerow management for landscape (on both sides of a hedge)	16 per 100m	263m	42
EB2	Hedgerow management for landscape (on one side of a hedge)	8 per 100m	m	
EB3	Hedgerow management for landscape and wildlife	42 per 100m	m	
EB4	Stone-faced hedge bank management on both sides	16 per 100m	m	
EB5	Stone-faced hedge bank management on one side	8 per 100m	m	
EB6	Ditch management	24 per 100m	417m	100
EB7	Half ditch management	8 per 100m	m	
EB8	Combined hedge and ditch management (incorporating EB1 Hedgerow management for landscape)	38 per 100m	m	
EB9	Combined hedge and ditch management (incorporating EB2 Hedgerow management for landscape)	26 per 100m	m	
EB10	Combined hedge and ditch management (incorporating EB3 Hedgerow management for landscape and wildlife)	56 per 100m	m	
EB11	Stone wall protection and maintenance	15 per 100m	m	
EB12	Earth bank management on both sides	14 per 100m	m	
EB13	Earth bank management on one side	7 per 100m	m	
EB14	Hedgerow restoration	10 per m	m	
EC3	Maintenance of woodland fences	4 per 100m	m	
EC23	Establishment of hedgerow trees by tagging	1 per tree	tree	
ED1	Maintenance of weatherproof traditional farm buildings	2 per m ²	40m ²	80
EF2	Wild bird seed mixture	450 per ha	0.40ha	180
EF4	Nectar flower mixture	450 per ha	ha	
EF6	Overwintered stubble	120 per ha	ha	
EF8	Skylark plots	5 per plot	10 plots	50
EF9	Cereal headlands for birds	100 per ha	ha	
EF10	Unharvested cereal headlands for birds and rare arable plants	330 per ha	ha	
EF13	Uncropped, cultivated areas for ground-nesting birds on arable land	360 per ha	ha	
EF15	Reduced herbicide cereal crops followed by overwintered stubble	195 per ha	ha	
EF22	Extended overwintered stubble	410 per ha	ha	
EF23	Supplementary feeding in winter for farmland birds	630 per tonne	tonne(s)	
EG1	Undersown spring cereals	200 per ha	ha	
EG4	Cereals for whole-crop silage followed by overwintered stubble	230 per ha	ha	
EJ2	Management of maize crops to reduce soil erosion	18 per ha	ha	
EJ10	Enhanced management of maize crops to reduce soil erosion and run-off	94 per ha	ha	
EJ11	Maintenance of watercourse fencing	4 per 100m	m	
EJ13	Winter cover crops	65 per ha	ha	
EK20	Ryegrass seed-set as winter/spring food for birds	80 per ha	ha	
EK21	Legume- and herb-rich swards	200 per ha	ha	

The following options can only be chosen if you are applying for Uplands ELS				
UB4	Stone-faced hedgebank management on both sides on or above the Moorland Line	24 per 100m	m	
UB5	Stone-faced hedgebank management on one side on or above the Moorland Line	12 per 100m	m	
UB11	Stone wall protection and maintenance on or above the Moorland Line	32 per 100m	m	
UB12	Earth bank management on both sides on or above the Moorland Line	18 per 100m	m	
UB13	Earth bank management on one side on or above the Moorland Line	9 per 100m	m	
UB15	Stone-faced hedgebank restoration	55 per m	m	
UB16	Earth bank restoration	12.5 per m	m	
UB17	Stone wall restoration	30 per m	m	
UC5	Sheep fencing around small woodlands	50 per 100m	m	
UD12	Maintenance of weatherproof traditional farm buildings in remote locations	4 per m ²	m ²	
UJ3	Post and wire fencing along watercourses	50 per 100m	m	

Total points for Annex 1				517
Please enter this total in the box at Section 3 table B of this application form				

Figure 9 How to complete Annex 1

To record your FER:

- Record the total ELS-eligible area in the 'Measurement' column.
- Convert the measurement to points (multiply the total ELS-eligible area by 1 point per ha) and record this figure, to the nearest whole point, in the 'Your points' column.

To record Boundary options (including EJ11):

- Measure the total length of each option you have selected. Please note that it is acceptable to use the maps provided to measure boundary lengths. You do not have to measure boundary lengths on the ground.
- Record each measurement, to the nearest metre, in the relevant row.
- Convert the measurement to points, to the nearest whole point, and record this figure in the 'Your points' column.

To record buildings to be managed under the 'Maintenance of Traditional Farm Buildings' option:

- Measure the total ground floor area of buildings to be included in this option.
- Record the total area in the 'Measurement' column.
- Convert the measurement to points, to the nearest whole point, and record this figure in the 'Your points' column.

To record rotational options:

- Assess the area of land to be managed under the rotational option.
- Record the area in the 'Measurement' column of the relevant row. Record the area measurement to the nearest 0.01 ha (or for EF8 (Skylark plots), record the number of plots, or for EF23 (Supplementary feeding in winter for farmland birds) the amount of feed in tonnes).
- Convert the measurement to points and record this in the 'Your points' column. Do not mark the location of rotational options in the Options Map as these will move location from year to year. However, you must ensure that the area is entered at Annex 1 and that the declared area and required management is delivered in every year of your agreement.

For applications that include SDA land, Uplands ELS boundary and building options will also be listed on Annex 1. If you are applying for Uplands ELS, these should be recorded in the same way.

Once you have recorded all your chosen options at Annex 1, you must calculate your total ELS points for these options and record this figure at the base of the 'Your points' column. Copy this figure to Table B in Section 3 of your application form.

Figure 10
How to complete Annex 2
– your ELS Field Data Sheet

If you need to remove any fields

Step A: Where necessary, remove any ineligible fields by deleting the parcel number and field area. Additional fields must not be added manually.

Step B: Where necessary, re-calculate the total area of all land eligible for ELS, excluding parcels of 15 ha or more above the Moorland Line. Record this figure in Box 1, and in Table A (Part 1 for applications which include SDA land) at Section 3 of your application form.

Step C: Where necessary, re-calculate the area of all parcels of 15 ha or more that are above the Moorland Line. Record this figure in Box 2 and in Table A (Part 1 for applications which include SDA land) at Section 3 of your application form.

To record soil erosion and run-off risk

Step D: Place a tick in the column headed 'Soil erosion/run-off risk' for each relevant field (see Section 4.3.3 Step 3).

Annex 2: Field Data Sheet for ELS non-rotational options within fields

Please enter all ELS non-rotational options within fields that you have chosen into this data sheet. Details of the options available are provided in the ELS Handbook and supplements (if any).

Application reference

RLR field no./boundry no.	RLR field size (ha)	LFA Status*	Soil erosion/run off risk? (tick if YES)	Options											Total ELS points/£s	
				UX2 Upland grassland & arable requirements (Ha)	UX3 Moorland requirements (ha)	EE2 Amount (ha/100m/ no.)	ED4 Amount (ha/100m/ no.)	EC2 Amount (ha/100m/ no.)	EF7 Amount (ha/100m/ no.)	EE3 Amount (ha/100m/ no.)						
XX1234 5678	8.63	N					3.18	7								
XX1234 6789	19.83	N				0.93										
XX1234 7890	21.54	N						10								
XX1234 8901	8.24	N	✓													
XX1234 9012	8.95	N	✓													
XX1234 0123	10.27	N	✓													
XX1234 1234	19.45	N	✓									0.73				
XX1234 2345	5.31	N	✓							0.40		1.30				
Total amount (ha/100/no.)						0.93	3.18	17	0.40	2.03						
ELS points per unit						340	120	11	580	340						
ELS points						316	382	187	232	690						3 1,807
£ per unit Uplands ELS Moorland commons and shared grazing requirements																3a
£s Uplands ELS Moorland commons and shared grazing requirements																
* N = non-Less Favoured Area (LFA) land, LFA land: D = Disadvantaged land, MD = Disadvantaged Land above the Moorland Line, S = Severely Disadvantaged Land, MS = Severely Disadvantaged Land above the Moorland Line																
Land area totals																
ELS (without Uplands)	1		Total area of land, excluding parcels of 15 ha or more above the Moorland Line and ineligible land (this sheet)													
	102.22															
		2		Total area of parcels of 15 ha or more above the Moorland Line, excluding ineligible land (this sheet)												
Uplands ELS	1a		Total area of non-LFA land (N), Disadvantaged land (D) and parcels under 15 ha of Disadvantaged land above the Moorland Line (MD), excluding ineligible land (this sheet)													
	1b		Total area of Severely Disadvantaged land (S) and parcels under 15 ha of Severely Disadvantaged land above the Moorland Line (MS), excluding ineligible land (this sheet)													
	2a		Total area of parcels of 15 ha or more of Disadvantaged land above the Moorland Line (MD), excluding ineligible land (this sheet)													
	2b		Total area of parcels of 15 ha or more of Severely Disadvantaged land above the Moorland Line (MS), excluding ineligible land (this sheet)													

1, 2, (1a, 1b, 2a, 2b for Uplands ELS) Total area for this sheet when added to any continuation sheets should equal the figures in table A at Section 3.
 3 Total ELS points for this sheet should be added to the total on any continuation sheets and entered into table B at Section 3.
 3a Total value of Uplands ELS Moorland commons and shared grazing requirements for this sheet.

If necessary, please continue on additional sheets and indicate in the box how many have been attached.....

To record your compulsory requirements (Uplands ELS only)

Step E: For applications that include SDA land, compulsory requirements UX2 and UX3 will be shown to the right of the 'Soil erosion' column. If you are applying for Uplands ELS, record the area of each parcel (to the nearest 0.01 ha (100 m²) in its corresponding row, as follows:

- UX2 column: all SDA parcels below the Moorland Line
- UX3 column: all SDA parcels above the Moorland Line.

To record your option choices

Step F: Write the code of one of your chosen options at the top of one of the 'ELS options' columns, working from left to right.

Step G: Work out the amount of this option for each field parcel that you have decided to put it in, remembering to deduct any areas ineligible for the options, such as ponds.

Step H: Record these amounts in the corresponding row of the 'ELS options' column. For each entry, calculate the area in hectares to the nearest 0.01 ha (100 m²) or the number of trees (for options EC1, EC2 and EC23). See Example 1.

Step I: Calculate the total amount of your chosen option for all field parcels. Enter this figure at the bottom of the column, in the row marked 'Total amount (ha/no.)'. See Example 2.

Step J: Record the points per ha or number available for the option in the row marked 'ELS points per unit', eg for option EE2, you would enter 340.

Step K: Calculate the number of points the option has contributed towards your total points target. Record this value to the nearest whole point in the row marked 'ELS points'.

Step L: Repeat Steps F to K for your remaining ELS and Uplands ELS non-rotational option choices.

Step M: Once you have recorded all of your non-rotational options within fields, you must calculate your total 'ELS points' for the options you have chosen and record this figure at the base of the 'Total points' column in Box 3. Copy this figure to Table B of Section 3 of your application form.

Example 1

This shows the entry for a 4 m buffer strip of 2,324 m in length. This measurement has been converted to hectares, to the nearest 0.01 ha. An example calculation is provided below:
A 4 m wide buffer strip of 2,324 m in length would occupy $(4 \times 2,324) = 9,296 \text{ m}^2$. A hectare is 10,000 m² so the area occupied in hectares is 0.9296 ha (9,296/10,000). This would be recorded at Annex 2 as 0.93 ha (to the nearest 0.01 ha).

Example 2

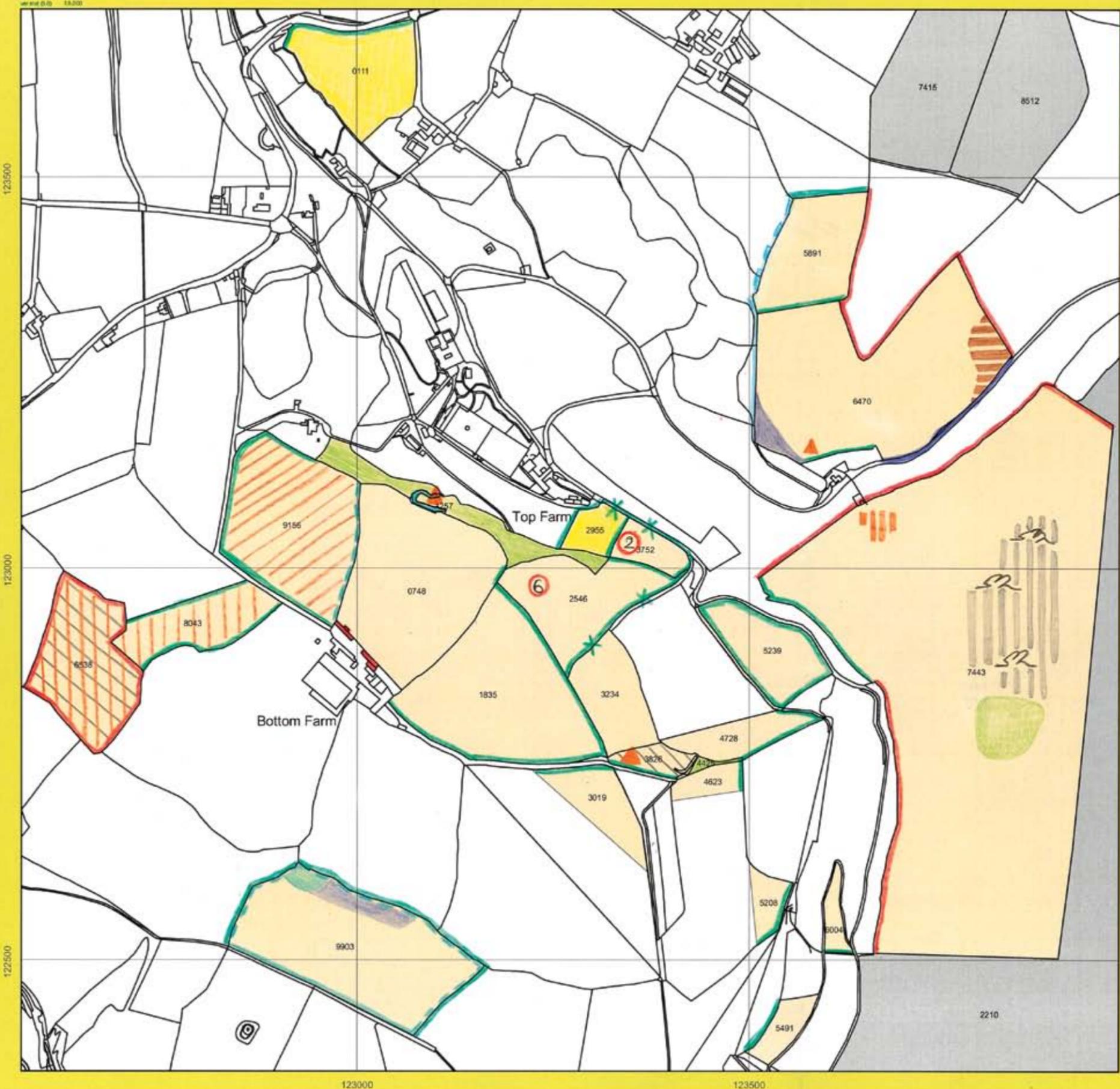
To calculate your ELS points for each option, multiply the total amount by the ELS points per unit. In this case the option is ED4, Management of scrub on archaeological sites, so the calculation is:
3.18 ha x 120 points/ha = 382 points (to the nearest whole point).

Uplands ELS commons applications only:

- Enter details of the Uplands ELS Moorland commons and shared grazing requirement UX1 as described in Steps F to H above.
- Enter the cost per hectare for this requirement (£5) in the row marked '£ per unit Uplands ELS Moorland commons and shared grazing requirements'.
- Multiply the total hectares of UX1 by the £5 per unit figure and enter the total in the '£s Uplands ELS Moorland commons and shared grazing requirements' box.
- Record this value in Box 3a of the 'Total Points/£s' column.

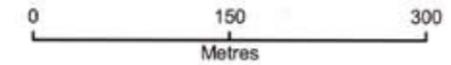
Entry Level Stewardship Farm Environment Record

Entry Level Stewardship Farm Environment Record



- | Assigned colour | Applicants colour match |
|---|---|
| Hedgerows | Hedgerows |
| Stone walls and stone faced banks | Stone walls and stone faced banks |
| Earth banks | Earth banks |
| Archaeological and historic features (including features identified on your Environmental Information map) | Archaeological and historic features |
| Traditional farm buildings (weatherproof buildings, pre-dating 1940) | Traditional farm buildings |
| In-field trees (over 30cm in diameter at chest height) (value = total number of trees in parcel) | In-field trees |
| *Boulders and rocky outcrops | *Boulders and rocky outcrops |
| Ponds and lakes | Ponds and lakes |
| Wet ditches (ditches which regularly contain standing or running water) | Wet ditches |
| Rivers and streams | Rivers and streams |
| Other wetlands (marsh, fen, saltmarsh, open water, reed beds) | Other wetlands |
| Traditional orchards | Traditional orchards |
| Woodlands (groups of 4 or more trees, including copses, shelter belts and groups of trees) | Woodlands |
| Unimproved land (land which has not been ploughed and has not received artificial fertiliser in the last 20 years) | Unimproved land |
| Fields on which soil erosion or run-off may occur (see guidance in Scheme Handbook) | Fields on which soil erosion or run-off may occur |
| *Areas of bracken | *Areas of bracken |
| *Areas of scrub | *Areas of scrub |
| 1234 RLR field number | |
| Holding parcels (buff coloured parcels are to be marked up on this map. Any grey parcels are covered on other maps) | |

*** Features specific to uplands agreements**



This map has been provided for the sole purpose of supporting ES Scheme Applications and Agreements. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Natural England Licence No. 100046223, 2009. Map produced by Natural England.

Application Ref: AG12345678



Map produced 18/03/09

Printed on recycled paper containing 100% post consumer waste

Entry Level Stewardship Options Map



Yellow Iris

Section 5

Terms and conditions

5.1 Introduction

Environmental Stewardship forms the major part of the Rural Development Programme for England (2007–2013) (RDPE) and is governed by EU Council Regulation 1698/2005 and Commission Regulations 1974/2006 and 65/2011 (as amended or as may be amended).

This section provides the terms and conditions that apply to Entry Level Stewardship (ELS), (including Uplands ELS) agreements. **If you sign up to an ELS agreement the terms and conditions provided in this section will apply to you.**

5.2 About your agreement

5.2.1 What are you agreeing to do?

In signing your application form, you are agreeing to:

- **map and retain the environmental features** on your Farm Environment Record (FER) for the duration of the agreement;
- **choose sufficient options** so that together with your compulsory requirements (ie the FER and Upland ELS options UX1 – UX3) you meet your points target for your agreement land;
- **manage the land parcels shown on your ELS Options Map(s)**, in accordance with your choice of management options, as set out in the ELS/Uplands ELS option descriptions, for the duration of the agreement;
- (Uplands ELS only) **carry out the Uplands ELS compulsory requirements on your SDA land** as set out in the Uplands ELS compulsory requirements descriptions; and
- **follow the scheme terms and conditions contained in this handbook**, including meeting cross compliance rules across all of your land, and complying with the other additional requirements listed (see Section 5.5).

5.2.2 What documentation is included in your agreement?

The agreement includes the following documents:

- an introductory letter;
- Part 1 of the agreement: outlining the payment schedule for the agreement;
- Part 2 of the agreement: setting out the options you have chosen;
- your Options Map(s), which shows the location of your options;
- Farm Environmental Record (FER) map(s), which shows the environmental features present on your farm and any fields at risk from soil erosion or run-off;
- this handbook, including the option descriptions (for the options that you have chosen for your land) and the terms and conditions are part of the agreement documentation. Each option description sets out the land management that you are agreeing to deliver under that option.

You must keep copies of all of these documents for future reference. If any are missing, please contact us and we will send another copy.

5.2.3 Duration of your agreement

Agreements last five years and you must fulfil your obligations for the full five-year term. You will incur a penalty if you withdraw from the scheme early or breach the terms of your agreement (see Section 5.7). There is no penalty if you transfer, with our approval, into Uplands ELS, OELS or HLS.

5.2.4 What payments will you receive?

For all the land you enter into ELS, you will receive the following rates of payment (£/ha/annum):

Table 8 Rates of payment for ELS and Uplands ELS

Land Parcel	ELS	
	ELS	Uplands ELS (SDA only)
Parcels below the Moorland Line	30	62
Parcels above the Moorland Line less than 15ha	30	62
Parcels above the Moorland Line 15ha or more	8	23

(Uplands ELS only) In addition, the UX1 (Moorland commons and shared grazing) requirements must be located on all common land and shared grazing above the Moorland Line where there are two or more active graziers. This attracts an additional payment of £5/ha.

Subject to changes in EU rules (see Section 5.6.7), these payment rates will remain the same for the five years of your agreement, even if the rates are reviewed during that time. New rates will apply only to new agreements.

Details of the timing of payments are set out in the Introduction section of this handbook and on the Natural England website at www.naturalengland.org.uk/ourwork/farming/funding/developments.aspx.

5.2.5 How will you be paid?

Your Environmental Stewardship payments are managed by the Rural Payments Agency (RPA). The RPA will make payments directly into your bank account. If the RPA does not have your bank details, please contact them on **0845 603 7777** and request a Customer Registration form or visit the RPA website (see Appendix 2). Without your bank details, the RPA will not be able to pay you.

5.2.6 Will your details be made public?

The data controller is Natural England, Foundry House, 3 Millsands, Riverside Exchange, Sheffield, S3 8NH.

Your information will be stored and processed in accordance with the Data Protection Act 1998. This Act gives you, as an individual, the right to know what data we hold on you, how we use it, with whom we share it and to ensure that it is accurate.

We will use the data for administering and analysing applications, agreements and claims under Environmental Stewardship. We will circulate and discuss it, in confidence, with those persons or organisations helping us to assess and monitor applications, agreements and claims. Some information will be shared with other grant distribution bodies and government departments, to enable them to detect fraudulent applications, agreements and claims and to co-ordinate the processing of complementary applications, agreements and claims. To do this, we may have to discuss applications, agreements and claims with third parties or disclose information about funding decisions.

Participation in Environmental Stewardship involves expenditure of public money and is therefore a matter of public interest. We make information about Environmental Stewardship applications, agreements and claims publicly available, in line with European Regulations, for example on a website such as www.natureonthemap.org.uk. Details disclosed may include, but are not limited to, your name, the name and address of your farm or business, postal town/parish, first part of your postcode, grid references, the total area under agreement, the payments you receive, the location of parcels, details of the environmental features and management options they contain and details of inspections by Defra or its agents (see Section 5.5.7). On request, copies of individual applications and agreements will be made available.

We, or our appointed agents, may use the name, address and other details on your application form to contact you in connection with customer research aimed at improving the services that we provide to you.

We will respect personal privacy while complying with access to information requests to the extent necessary to enable Natural England to comply with its statutory obligations under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.

5.3 Who can apply?

5.3.1 Who can join the scheme?

ELS is open to all farmers and land managers who are one of the following:

- owner occupiers;
- tenants (including farmers who may have an agreement labelled as a licence but who in practice have wider land management responsibilities) (see Sections 5.3.2 and 5.3.3);
- landlords (see Section 5.3.4);
- licensors (see Section 5.3.5); and
- common land rights holders (see Section 5.3.9).

You must have control of all the activities needed to meet the compulsory scheme requirements and prescriptions of the ELS and Uplands ELS land management options that you have selected. If you do not have full control of all such activities, for instance, due to the land being common land or where separate sporting tenancies are in place, please refer to Sections 5.3.9 and 5.3.10.

You must also have management control of the land for the entire five years of your ELS agreement. If you are not certain to have management control lasting for five years, please refer to Section 5.3.2.

If Natural England find that you are ineligible to have an ELS agreement on any land, reductions and penalties as set out in Section 5.7.2 may apply. You may want to seek independent professional advice relating to your circumstances.

5.3.2 What if you are a tenant?

When deciding if your occupation of land is sufficient to allow it to be eligible to include in an ELS agreement, it is the rights and responsibilities that you have for the land, and how they operate in practice, that is more important than what any agreement with another party is called. For example, if you only have access to graze or mow land under a grazing licence you will not have sufficient management control of that land for you to use it to claim ELS. If, however, your agreement gives you other responsibilities for the management control of the land, you may in practice have a tenancy and may be able to use that land to apply for ELS.

If you are a tenant under the Agricultural Holdings Act 1986, Agricultural Tenancies Act 1995 (a Farm Business Tenancy) or equivalent, you must ensure that by joining ELS you do not breach the conditions of your tenancy.

To make an application in your own name you must have both:

- control of all the activities needed to meet the ELS and Uplands ELS compulsory requirements and the prescriptions of the selected ELS land management options; **and**
- management control of the land for the entire duration of the ELS agreement.

If you have control of all necessary activities, but do not have security of tenure over the five year duration of the ELS agreement (even if an extension or renewal to your tenancy is expected) you will not have sufficient management control of the land for the five year period of the ELS agreement. You will therefore need to submit an application countersigned by your landlord. You must discuss the proposal with your landlord and complete Section 2 of the application form. The relevant person must sign the declaration at Section 2 of the application form to confirm they will ensure that your agreement commitments are fulfilled, if for any reason you cease to have control over the land during the five years of your ELS agreement.

If you have more than one tenancy with less than five years to run, you need to complete a supplementary land ownership and control form (NE-LOC) for each additional tenancy. These forms are available from your Natural England office (see Appendix 1 for contact details) and can be downloaded from our website at www.naturalengland.org.uk/ourwork/farming/funding/es/forms/default.aspx.

If a countersigned application is not possible on a part of your farm, this part may be omitted from the application and an agreement made on the remaining part.

A tenant's loss of management control of some or all the land under agreement because of the changing circumstances of their landlord is not a permitted category under force majeure, and will generally require the recovery of all payments on the affected land (see Section 5.7) save for in exceptional circumstances. If your ability to comply with scheme requirements will be partly dependent on a third party (eg a landlord) it is your responsibility to put arrangements in place to safeguard your position should the circumstances of the third party change.

If you are including land in an ELS agreement and another business is using the same land to claim for the Single Payment Scheme (SPS), please refer to Section 5.4.15 of this handbook and to the current *SPS Handbook* (and any supplements), details in Appendix 2.

5.3.3 What if you are a licensee?

In most cases, licensees will not have sufficient control of the range of agricultural activities that is needed to meet the scheme requirements and ELS and Uplands ELS land management option prescriptions.

When deciding if your occupation of land is sufficient to allow it to be eligible to include in an ES agreement, it is the rights and responsibilities that you have for the land, and how they operate in practice, that is more important than what any agreement with another party is called. For example, if you only have access to graze or mow land under a grazing licence you will not have sufficient management control of that land for you to use it to claim ELS. If, however, your agreement gives you other responsibilities for the management control of the land, you may in practice have a tenancy and may be able to use that land to apply for ELS.

5.3.4 What if you are a landlord?

Provided you can demonstrate that you have sufficient management control over the land, and you are confident that you can meet your obligations under an ELS agreement in full, you can apply for an agreement on land that has been let to a tenant under the Agricultural Holdings Act 1986 or the Agricultural Tenancies Act 1995 (a Farm Business Tenancy) or equivalent.

You must be able to provide evidence, if requested, that you have given the tenant a copy of your ELS agreement conditions and that you have required them to meet these. It is advisable to include these requirements in the tenancy agreement. It will be your responsibility to ensure that your tenant does not breach the terms of your ELS agreement. If your tenant is claiming the SPS on the same land, you must have written evidence signed by both parties. Please refer to Section 5.4.15 of this handbook and the current *SPS Handbook* (and any supplements), details in Appendix 2.

You may have tenants who wish to apply for ELS on the land themselves. Please note that where your tenant does not have security of tenure for the five year period of the ELS agreement, Natural England require them to secure your countersignature before their application can be accepted see Section 5.3.2.

You should be aware that, if your tenant claims an Uplands Transitional Payment (UTP) and an Uplands ELS agreement commences on land that is available to them for grazing, they will no longer be eligible for UTP on that land and will be required to pay back the UTP they have received for the part of the calendar year in which the Uplands ELS agreement is in force.

5.3.5 What if you are a licensor?

It will be your responsibility to ensure that your licensee does not breach the terms of your ES agreement. You should ensure that the licensee is aware of the requirements of the ES agreement, as relevant to the license, and to include these in the license agreement.

You should be aware that, if your licensee claims an UTP and an Uplands ELS agreement commences on land that is available to them for grazing, they will no longer be eligible for UTP on that land and will be required to pay back the UTP they have received for the part of the calendar year in which the Uplands ELS agreement is in force.

5.3.6 What about using contractors to manage the land?

You may employ contractors to undertake agricultural work on your land, or to undertake work required under the ELS or Uplands ELS options you have chosen. You should notify the contractor about the agreement and your obligations under it. It will be your responsibility to ensure that they do not breach the terms of your agreement.

5.3.7 Are business partnerships and trusts eligible?

If you are a business partnership, trust, or similar, you can make an application, but we will not become involved in any disputes between individuals and you must comply with the following conditions:

- All members of the business partnership/trust must appoint an authorised signatory to make an application on their behalf and that person must agree to take full responsibility for the agreement.
- The signatory must sign any amendment and claim forms, where these are necessary.
- The signatory must take on the responsibility for delivery of the whole agreement.
- The signatory will receive all the payments and must be responsible for paying back any grant, if there is a breach of the agreement.

5.3.8 Are public bodies and their tenants eligible?

We cannot pay for any environmental management that is already required by statutory duty, through payment from Exchequer funds or grant aid from any other public body, or any other form of legally binding obligation.

Crown bodies and non-departmental public bodies (NDPBs) are therefore not eligible for ES agreements. This includes those that are Trading Funds or that otherwise do not receive funding direct from the Exchequer. Crown bodies include all government departments and their executive agencies. They include the Ministry of Defence, the Forestry Commission, the Crown Estate, Forest Enterprise and the Royal Parks. NDPBs are public bodies that have a role in the processes of national government but are not a government department, nor part of one. These include the Environment Agency, Natural England, English Heritage and the National Forest Company.

Parish councils and former college farms are not considered to be public bodies and therefore are eligible to apply for Environmental Stewardship.

A list of NDPBs and other public bodies can be found on the Civil Service website at www.civilservice.gov.uk.

Table 9 Summary of the eligibility of public bodies for Environmental Stewardship

Landowners	ELS	HLS	Comments
Government departments, executive agencies and NDPBs, (eg Ministry of Defence, Forestry Commission, Crown Estate)	Ineligible	Ineligible	
Other public bodies, (eg local authorities, national park authorities and public corporations)	Ineligible	Eligible	Eligible for HLS provided the work does not form part of their obligations as a public body.
Tenants of public bodies	Eligible	Eligible	Ineligible where the work is already a requirement of the tenancy agreement. Tenants must have security of tenure for the full term of the agreement, as the public body cannot countersign the agreement.

5.3.9 Is common land and shared grazing eligible?

Common land and shared grazing is eligible for ELS, but an appropriate individual must sign the application and be responsible for maintaining the agreement. Please read *Common Land and Shared Grazing: Supplement to the Environmental Stewardship Handbooks* (NE316). This Supplement clarifies the position with regard to applications and common land and, where it conflicts with this handbook, the supplement overrides the handbook.

When making the application, the signatory must comply with the following conditions:

The signatory must sign both the ELS application form and a common land and shared grazing supplementary application form (NE-CLA4), which contains additional declarations. This supplementary form must also be signed by the owner of the common/shared area, or their appointed representative,

unless the owner is making the application or there is no known owner. The supplementary form is available on request from Natural England (see Appendix 1 for contact details) and can also be downloaded from Natural England's website at www.naturalengland.org.uk (see Appendix 2 for the full web address).

The application will usually cover the whole common or shared area and must not include any other land (eg privately managed in-by-land). Part common agreements are only permitted under exceptional circumstances, as agreed with Natural England in advance. You should make a separate application covering your other land.

The signatory must go to reasonable lengths to contact all graziers or persons who are entitled to exercise rights of common, in particular those actively exercising rights on the land, and provide opportunity for them to comment. This will also include contact with commons associations or commons councils. Details of land to which rights are normally attached, or details of persons holding rights directly, are given in the local authority commons register. The application must provide an outline of the rights associated with the common and the steps taken to contact persons entitled to exercise rights of common.

The signatory must confirm that all graziers or persons exercising rights of common who are party to the application have agreed to abide by the requirements for the options that have been chosen, and the general rules and conditions of the scheme. The signatory must also confirm that those who are not party to the application are not in a position to jeopardise the objectives and requirements of the agreement.

The signatory must take on the responsibility for the delivery of the whole agreement.

All payments will be made to the signatory who must be responsible for paying back any grant if there is found to be a breach of the agreement.

5.3.10 What if others hold rights over your land?

You should discuss an intended application with any sporting tenants and anyone else with rights over your land, such as profit à prendre and easements. You should make sure that any activities and the exercise of other rights, will not conflict with the delivery of the required management of the scheme options.

5.4 Is your land eligible?

5.4.1 What land can you enter into the scheme?

Land to be entered into the scheme must be registered on the Rural Land Register (RLR) and it must be part of the farmed environment. By 'farmed environment' we mean:

- all your farmed land. ELS is a whole-farm scheme, so your application must include all the eligible farmland that you manage; and
- other non-farmed land. You may also enter other land that does not contribute to your farming system but is still considered part of the farmed environment. For example, large blocks of woodland, parcels of scrub, disused mineral sites and neglected areas.

Entering non-farmed land into ELS will increase the whole-farm area and therefore your points target that must be delivered, as well as the overall payment. Placing options on non-farmed land may, however, be difficult, inappropriate or impossible. Where this is the case, you will have to locate additional options elsewhere to meet your points target. Where such land covers a large proportion of your farm, you may find it difficult to deliver enough options to reach your points target. If this is the case, you may prefer to exclude some of these areas from your application (although you will not receive payment for the excluded area).

Your application may include land registered under more than one CPH number or Single Business Identifier (SBI).

Any land parcels entered into the scheme must be entirely within England. Parcels that are either partly or entirely within Scotland or Wales are not eligible for ELS.

To join Uplands ELS your eligible land must include at least one parcel within an SDA.

5.4.2 What land must be excluded from your application?

The following land must be excluded:

- developed land and hard standing (including permanent caravan sites and areas used for permanent storage). Although this land will not contribute to the points target, you can earn points on developed land where it contains a traditional farm building (TFB) that is recorded on your FER and managed under the appropriate option;
- significant areas (1 ha or more) of standing and running water, with the exception of intertidal habitats;
- land that is already subject to another scheme or obligation that is incompatible with Environmental Stewardship (see Section 5.4.3);
- common land or shared grazing with multiple rights holders or graziers (which can enter ELS but only as a stand-alone agreement separate from an agreement on your other land – see Section 5.3.9);
- land where you do not have management control for five years and a countersigned agreement is not possible.

5.4.3 Is land that is subject to another scheme or obligation eligible?

As a general rule, we cannot pay you for management that you, or your landlord, are required to do under an existing scheme or obligation.

If land that you intend entering into ELS is in receipt of funding from another grant scheme, you cannot also receive ELS funding for the same work. Work that is outside the scope of ELS may, however, be eligible for grants from other organisations, including local authorities.

You must make sure that there are no other duties or obligations on you or the land that would conflict with your ELS agreement.

The following paragraphs list the most frequently occurring alternative schemes and obligations. Please look through this section to check if any of them apply to your land.

5.4.4 Countryside Stewardship Scheme (CSS) and Environmentally Sensitive Areas (ESAs)

If you already have a CSS or ESA agreement covering some of your land, you cannot apply for ELS on the same land. You may, however, be able to apply for ELS on any land that is not receiving funding under the CSS or ESA agreement. **Uplands ELS and UTP cannot be claimed on the same holding at the same time.**

Follow the instructions below, to determine which land parcels should be included in your ELS application:

- If a CSS or ESA option covers a **whole parcel**, it may not be included in your ELS application or points target. This means that you can do one of the following:
 - ask us to delete the relevant parcel number before sending your pre-filled application form; or
 - if you already have your pre-filled application form, you can cross out the relevant parcel number on Annex 2 of your application form (your Field Data Sheet) and on your application maps (see Section 4 for detailed instructions on how to do this). If you need to delete several parcels, you may prefer to ask us for a new set of forms and application maps.
- If the CSS/ESA option covers only **part of a parcel** (for example, grass margins), you must include the whole parcel in your ELS application. However, to avoid being paid twice for the same thing, you must not locate any ELS options on top of any of your CSS/ESA options. In Uplands ELS, if you have a CSS or ESA option covering part of a field, you cannot include those fields in your Uplands ELS application.
- Land in CSS/ESA **rotational options** should be included in your ELS application, but you must ensure that each year there is no overlap of CSS/ESA and ELS options on the ground. Whilst the CSS/ESA rotational options may overlap with the Uplands ELS compulsory requirement UX2, there must be no overlap between the CSS/ESA rotational option and the actual management requirements of UX2. In particular, there must be no overlap between the rotational option and the 6 m protection zone alongside watercourses required under UX2.
- Land in receipt of CSS/ESA open, linear and educational **access payments** only, should also be included in your ELS application and points target. You must ensure, however, that any ELS options sited on the land do not obstruct or otherwise conflict with the objectives of the access.

- **CSS boundaries** – ELS boundary options can be located on boundaries that are included within CSS options (whether that is a CSS whole-parcel option or a capital grant). This is because the two schemes (CSS and ES) have different and complementary management prescriptions. However, the EB14 boundary restoration option cannot be located on boundaries included within CSS options.
- **ESA boundaries** – ELS boundary options must not be located within the area covered by the ESA agreement.

Early transfer from CSS or ESA agreements

There are specific European regulations relating to the early transfer of CSS and ESA agreements into ELS – there must be significant environmental benefits, the commitments of the existing agreement must be substantially reinforced in the new one, and the new agreement must offer value for money. For these reasons, while it is possible to carry out early transfer from CSS or ESA agreements, in practice, these opportunities are very limited. We do not accept early transfer applications from CSS or ESA into ELS alone, and will only consider combined ELS/HLS applications in exceptional circumstances.

The Uplands Transitional Payment (UTP) is available in upland areas where farmers used to claim Hill Farm Allowance and there is still a live CSS or ESA agreement on the holding. Uplands ELS and UTP cannot be claimed on the same holding at the same time. UTP is paid each spring for the whole calendar year. If **you** have received UTP and then enter your holding into Uplands ELS/HLS through an early transfer before the end of the calendar year, all of your holding becomes ineligible for UTP when the Uplands ELS agreement starts and you will need to repay the UTP grant you have received for the remainder of the calendar year. If **another person** is claiming UTP on the holding you have entered into Uplands ELS, they will have to repay the UTP grant received in respect of that holding for the rest of the calendar year. The RPA will advise on repayment details – you should read the booklet *Uplands Transitional Payment 2012 to 2014* (RPA contact details are in Appendix 2).

Further details about UTP can be found in Section 5.4.18.

If you are considering early transfer, you should discuss this in detail with your CSS/ESA adviser within Natural England before submitting an application. The adviser will take advice from colleagues and will then advise on the most appropriate course of action. If you do not know who your CSS/ESA adviser is, please contact Natural England (see Appendix 1 for contact details).

Part farm entry to Uplands ELS

If you have a CSS/ESA agreement on part of your holding, you may decide to enter another part of your holding, not currently under any agri-environment scheme, into Uplands ELS. Uplands ELS and UTP cannot be claimed on the same holding at the same time. If **you** have received UTP and then enter part of your holding into Uplands ELS/HLS before the end of the calendar year, all of your holding becomes ineligible for UTP when the Uplands ELS agreement starts and you will need to repay the UTP grant you have received in respect of the holding for the remainder of the calendar year. If **another person** is claiming UTP on the holding you have entered into Uplands ELS, they will have to repay the UTP grant received in respect of that holding for the rest of the calendar year. The RPA will advise on repayment details – you should read the booklet *Uplands Transitional Payment 2012 to 2014* (RPA contact details are in Appendix 2).

5.4.5 Energy Crops Scheme (ECS)

Land in the ECS can count towards the area used to calculate your ELS points target and associated payment, but you may not locate any ELS options on land planted under the ECS (including any ECS paid area of open ground). Where ECS planting (including paid areas of open ground) is on a part-parcel basis, ELS options may be located within the land parcel, provided there is no overlap of ELS options with ECS-payable areas on the ground. Boundaries surrounding ECS parcels may be entered into ELS boundary management options.

5.4.6 The Environmental Impact Assessment (Agriculture) (England) (No. 2) Regulations 2006

These regulations aim to protect environmentally significant areas, specifically uncultivated land and semi-natural areas, from being damaged by works which increase the agricultural productivity of the land.

Where this is the case, contact Natural England before carrying out any of the following activities on uncultivated or semi-natural land. The type of agricultural operations ('projects') covered include ploughing; chemical cultivation; digging; scraping; draining; liming; reseeding; spreading soil or manure or any soil improver; increased application of fertiliser; broadcast spraying of any wide spectrum; and/or

selective herbicide or any other work that increases the productivity of the land. The regulations also cover certain types of restructuring projects on rural land holdings.

It is unlikely that ELS or Uplands ELS options will alter the status of land in relation to these regulations, but you should consider this before you apply. If you have any queries about the regulations please contact the Environmental Impact Assessment Helpline on 0800 028 2140.

5.4.7 Felling Licences/Tree Preservation Orders

Where your ELS management involves removing trees or managing overgrown hedges, you must ensure that you have obtained any necessary Felling Licences or other required permissions before starting work.

When felling more than 5 m³ of timber in a calendar quarter, you may need a Forestry Commission (FC) Felling Licence. For further information, the FC has produced the guidance *Tree Felling – getting permission* (available at www.forestry.gov.uk).

You may also need permission for work on trees that are subject to a TPO. Ask your local authority Tree Officer for advice.

5.4.8 Habitat Scheme

Land in a Habitat Scheme agreement may be included in your ELS eligible area, and contribute to your points target and payment. However, you may not locate any ELS options on this land. If this makes it harder to achieve your points target, you can exclude this land from your application.

5.4.9 Inheritance Tax/Capital Gains Tax exemption

Land designated by HM Revenue and Customs as conditionally exempt from Inheritance Tax, or as the object of a maintenance fund, is normally eligible for ELS. However, you must not claim for work that is a formal requirement of the undertakings agreed with HM Revenue and Customs. Owners should ensure that tenants are aware of such designations and are properly informed of relevant undertakings. Tenants can find out if land is designated by checking the website www.hmrc.gov.uk/heritage. You will need to look carefully at the relevant ELS and Uplands ELS options that are available for this land, to ensure you do not include ineligible work in your application.

Keep a copy of a map on which you have clearly marked the boundary of any exempt or designated land, and be prepared on any subsequent compliance inspection to be able to demonstrate on a parcel-by-parcel basis how the selected options do not overlap with the undertakings. Please note that it is your responsibility to ensure your application meets these scheme rules.

A guidance note, *Environmental Stewardship for heritage properties designated under the Inheritance Tax Act 1984*, is available for heritage properties designated under the Inheritance Tax Act 1984 (NE161, 2012). It provides more detailed information for owners and tenants of Inheritance Tax exempt properties and their advisers. You can download it from the publications catalogue on our website at www.naturalengland.org.uk or you can request a paper copy from us, contact details in Appendix 1.

5.4.10 Nitrate Vulnerable Zones (NVZs)

If you are in an NVZ, you must make sure that you comply with the mandatory NVZ Action Programme rules. These rules apply to minimise the risk of nitrate pollution from agriculture to protect national water supplies and water habitats. If your land is within an NVZ (including the new areas designated in 2009), it is your responsibility to ensure you can meet the rules of both the NVZ Action Programme and ELS. Where the rules overlap, you must meet those that are the most demanding.

For example, the maximum manure application rate for *Permanent grassland with very low inputs (EK3)* is 12.5 tonnes/ha of farm yard manure only (approximately 75 kg nitrogen/ha). This restriction is more demanding than the standard NVZ field limit of 250 kg of nitrogen per ha; as a result, the ELS restriction must be followed. Also be sure to include this calculation when considering your NVZ fertiliser plan and manure management plan.

Further information on the NVZ Action Programme measures and detailed maps of NVZ locations are available on the Defra website at www.defra.gov.uk (see Appendix 2 for other related websites, eg Farming Advice Service).

5.4.11 Producer Organisation Aid Scheme

The Producer Organisation Aid Scheme operates under Pillar 1 of the Common Agricultural Policy. Management funded under the Producer Organisation Aid Scheme (for example, Operation Bumble Bee) cannot be funded under ELS.

5.4.12 Protected species

Some species are partly or fully protected by legislation. Examples of the most commonly encountered protected wildlife include:

- All wild birds and their eggs and nests that are in use or being built are protected under the Wildlife & Countryside Act 1981.
- Bats, otters, dormice and great crested newts, plus other species of more restricted distributions, are protected by Part 3 of the Conservation of Habitats and Species Regulations 2010. These European protected species are protected from disturbance and from damage to the places they use to rest and shelter (for example, bat roosts, otter holts).

It is very unlikely that ELS management will conflict with species protection obligations. For example, the hedge management options restrict maintenance works to outside the bird-nesting season. However, if protected species are present on your farm, you will need to consider their protection requirements before undertaking management activities. Choosing appropriate options can help to maintain suitable habitat.

Advice about protected species is available in the 'Wildlife Management and Licensing Service' section of our website at www.naturalengland.org.uk.

Details of current wildlife legislation can be viewed at www.legislation.gov.uk.

5.4.13 Scheduled Monuments

Scheduled Monuments, and other land covered by an English Heritage management agreement, can count towards the area used to calculate your ELS points target and associated payment, provided there is no overlap between the requirements of the English Heritage agreement and the general ELS requirements.

Similarly, you may only locate ELS options on land covered by an English Heritage management agreement if there is no overlap between the requirements of the English Heritage agreement and the option prescriptions.

You should be prepared, on any compliance inspection, to be able to demonstrate on a parcel-by-parcel basis how the selected options do not overlap with your existing undertakings. Please note that it is your responsibility to ensure your application meets these scheme rules.

Scheduled Monuments in respect of which you are not receiving payment from English Heritage are eligible for ELS. You must ensure there is no conflict between ELS management and the management requirements of the Scheduled Monuments.

5.4.14 Single Payment Scheme (SPS)

SPS and ELS are two separate schemes and land used to claim payments under SPS may also be entered into ELS.

Natural England will cross-check all agri-environment payments against SPS claims. Therefore, when completing your ELS and SPS forms, you must ensure that the ELS and Uplands ELS options and SPS land use codes you use are compatible. Natural England will investigate any case where the SPS land use codes declared for the SPS conflict, or appear to conflict, with ELS and Uplands ELS option codes. For example, Natural England will check that an ELS arable option is not located on land registered as Permanent Pasture on your SPS claim (SP5).

When completing your future SPS claim forms, please note in particular that:

- The majority of ES options are eligible to be claimed under SPS, however, some may be eligible for ES but ineligible for SPS.
- Woodlands, scrub, inter-tidal habitats and some hedges, that form Permanent Ineligible Features and Temporary Ineligible Features are deductible from SPS claims, but are still eligible for payments under

ES agreements. The RPA has produced guidance about these options and the circumstances in which they can be claimed for SPS. Please refer to the *SPS Handbook* and any supplements (see Appendix 2 for details).

- Most ELS grassland options must be coded as PP4 (Permanent pasture on EU agri-environment scheme land).
- Part-parcel ELS arable options, such as buffer strips, field corners, conservation headlands and beetle banks, should not have a separate SPS code from the rest of the land parcel. Use the appropriate SPS code for the crop that is growing in the parcel.
- You should only use SPS land use code AE1 if there is no other suitable land use code. For example, use OT1 for arable land and PP4 for permanent pasture, including moorland and rough grazing.
- Through required management under some ELS options, land may become ineligible for SPS by the end of your agreement, for example, management of woodland edges.

When completing your ELS application form, please note that:

- Some ELS grassland options can only be located on land already classed as permanent pasture on your SPS.
- Arable options can only be located on land currently under arable SPS codes.
- You can have more than one option adjacent to each other within a land parcel without affecting the RLR details, providing there is no permanent boundary between the options.

For further details of SPS codes, please refer to the *SPS Handbook* and any supplements or contact the RPA (see Appendix 2 for details). For details of how the cross compliance rules apply to ELS, see Section 5.5.1.

5.4.15 Can you use land to apply for ELS that someone else is using to apply for SPS?

In certain limited situations land may be included in an ELS agreement by one person and that same land used to claim SPS by someone else at the same time. This is known as 'dual use'.

The ELS agreement applicant has to be able to meet the ELS eligibility rules, including having management control of the land, whilst at the same time the SPS claimant must be able to demonstrate having the same land 'at their disposal' under the SPS rules. For example, a landlord may be able to have management control of the land for ELS purposes whilst the tenant has the same land at his disposal to claim SPS.

Where a tenant is eligible for, and holds an ELS agreement, a landlord would not be eligible for SPS. This is because they would not be able to demonstrate that they have land at their disposal for SPS purposes.

The fact that you may have an agreement with another party who will use the land to apply for payment does not mean that you have the land at your disposal. It is the rights and responsibilities you have in relation to the land, and how they operate in practice, which determine this.

If you are entering land into an ELS agreement on the same land that another farmer or land manager is using to claim SPS, you must have a written record which shows the rights and responsibilities you each have for the land. This written record should set out how you have management control for ELS and how the other party meets the SPS scheme rules, including having the land at their disposal. This must include evidence that you have given a copy of your ELS scheme agreement conditions to the other party and that they have been required to meet them (unless you can show that you are carrying out the required activities yourself). This written record could be a tenancy agreement, a letter or both, containing the required information, which must be signed and dated by both parties in advance of the SPS application deadline (usually 15th May). We may ask to see a copy of this as part of our checks. You may want to get independent professional advice relating to your circumstances, especially if you previously had a verbal agreement with the other party.

For further details, please refer to the current *Single Payment Scheme (SPS) Handbook* (including any supplements), details in Appendix 2.

5.4.16 Sites of Special Scientific Interest (SSSIs)

ELS management must not conflict with the management requirements of any SSSI land included in your agreement. As the relevant authority for the management of SSSIs, Natural England will consider whether to permit any management options proposed on an SSSI before issuing an ELS agreement.

When giving such permission, it may be necessary for Natural England to amend an ELS application to ensure it is consistent with the SSSI management requirements, to protect the site from deterioration or to avoid hindering its recovery. This will be achieved either by adding or removing options from the SSSI land area, or by adding conditions to the standard option prescriptions. Where this is necessary, Natural England will discuss it with you first.

Permission for management activities on SSSI land granted as part of an ELS agreement are limited to the duration of that agreement and do not transfer from one land manager to another. For additional detail please refer to the *Uplands ELS/SSSI conditions and requirements* leaflet, available from Natural England (see Appendix 1 for contact details).

Please note also the specific requirements about derogations on SSSI land at Section 5.6.6.

This procedure will also apply to any Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) included in an ELS application.

5.4.17 Tenancy conditions

ELS and Uplands ELS options cannot be used for management that a tenant or landlord is required to carry out as an obligation of a legal undertaking, including a tenancy agreement. ELS and Uplands ELS options can be placed on features (for example, buildings or walls) already covered by a tenancy agreement provided the work undertaken for the option is over and above that required by the existing obligation.

5.4.18 Uplands Transitional Payment (UTP)

UTP is claimed by whoever previously claimed Hill Farm Allowance on that holding. That can be the landlord, tenant, or grazier on a holding; this is not always the CSS or ESA agreement holder.

If anyone has received payment for UTP on this land, the payment covers the full calendar year in which it was made, or the period up to the end of the last qualifying ESA and/or CSS agreement, whichever is the sooner.

Uplands ELS and UTP cannot be claimed on the same land at the same time. If you enter land into Uplands ELS where UTP has been claimed, or already paid, it will reduce the amount of UTP payable on that land.

If **you** enter **any** parcel of land into Uplands ELS, the **rest of your land** (or the land you manage) becomes ineligible for **you** to claim UTP. No one else can claim UTP on a parcel where you are receiving Uplands ELS.

If you claim UTP and enter Uplands ELS before your UTP has been made, the RPA will calculate the proportion of UTP you are eligible for and pay the reduced amount.

If you have claimed UTP and enter Uplands ELS after UTP has been paid, the RPA will ask you to repay the difference between the amount you were paid and the amount to which you are now entitled.

If another person claims the UTP and you enter Uplands ELS before UTP has been paid, the RPA will recalculate their eligible payment and pay the reduced amount.

If another person claims the UTP and you enter Uplands ELS after UTP has been paid, the RPA will ask the UTP claimant to repay the difference between the amount they were paid and the amount to which they are now entitled.

UTP and ELS (without Uplands ELS)

Land on which you are claiming UTP is eligible to count towards your ELS points target and you may put ELS options on UTP land.

The *Uplands Transitional Payment 2012 to 2014* booklet contains more information concerning the periods covered by the UTP and is available from the RPA's Customer Service Centre by telephoning 0845 603 7777.

Please refer to Section 5.4.4 for further details about early transfer from CSS or ESA agreements and part farm entry into Uplands ELS.

5.4.19 Woodland schemes

Woodlands under Farm Woodland Premium Scheme, Farm Woodland Scheme, Woodland Grant Scheme and the English Woodland Grant Scheme agreements can count towards your eligible land area. However, ELS options may not be co-located with any land, including open space, funded under those schemes.

The exceptions are the Uplands ELS compulsory requirements (UX1-UX3). For more details about these options, please see Section 3. Where a hedge or ditch forms the boundary between land under a woodland scheme and land under ELS, then single-sided boundary options can be used.

5.5 What additional requirements will apply to your agreement?

5.5.1 Cross compliance

The term 'cross compliance' refers to the requirement for farmers to comply with a set of Statutory Management Requirements (SMRs) and to keep their land in Good Agricultural and Environmental Condition (GAEC) as a condition of claiming EU land-based grants and subsidies. SMRs are a baseline to Stewardship scheme options and failure to observe the rules could result in reduction or loss of scheme payments depending on the severity of the breach.

The cross compliance rules apply to Environmental Stewardship agreements, whether or not you are also claiming under the Single Payment Scheme (SPS). Therefore, when joining the scheme, you will be agreeing to:

- maintain your land in Good Agricultural and Environmental Condition (GAEC) by meeting a range of standards that relate to the protection of soils, habitats and landscape features and water; and
- meet a range of Statutory Management Requirements (SMRs) covering the environment, public and plant health, animal health and welfare, and livestock identification and tracing.

You must comply with cross compliance requirements across all of the agricultural land that you farm, including land on your SPS claim form (whether it is claimed or not) and common land over which you exercise or hold rights of common.

A proportion of agreement holders will be inspected each year to check that they meet the cross compliance standards and requirements. If any non-compliance is found, it will normally be necessary to reduce your payments, depending on the seriousness of the non-compliance. Cross compliance applies to a number of schemes (including Environmental Stewardship and the SPS); any reductions due as a result of non-compliance will therefore be applied to all area payments due under each of the schemes for which you have submitted a claim.

Full details about cross compliance can be found in the latest version of *The Guide to Cross Compliance in England* and the associated publication *Guidance for Cross Compliance in England: Management of Habitats and Landscape Features*. Copies of these are available on the RPA website, details in Appendix 2. Further information and advice about cross compliance can be obtained from Defra's Farming Advice Service, details in Appendix 2.

For details of how ELS boundary management options and buffer strip options fit with cross compliance boundary protection zones, please see the relevant option details in Section 3.

5.5.2 Avoidance of under-utilisation and overgrazing

As a condition of your ELS agreement, you will be required to avoid under-utilisation and overgrazing on the whole of your farmed area. You must distribute stock across your farm to ensure this is the case.

Under-utilisation means where annual growth is not being fully utilised, or where scrub or coarse vegetation is becoming evident, and this is detrimental to the environmental interests of the site.

Overgrazing means grazing land with so many livestock that the growth, quality or diversity of vegetation is adversely affected, and this is detrimental to the environmental interests of the site.

We will investigate cases of suspected under-utilisation and overgrazing. You will be in breach of your agreement if you fail to follow subsequent professional advice.

5.5.3 Public Rights of Way

As a condition of joining the scheme, you must maintain existing public rights of way on your land and abide by the relevant legislation. Further information on public rights of way, including the duties of landowners and occupiers of land, can be found at www.naturalengland.org.uk (see Appendix 2 for the full web address).

5.5.4 Protection of historic features

Your annotated Farm Environment Record (FER) includes information supplied by us on the Environmental Information Map (see Section 4.1.4 for more details). The FER will show the location of some of the historic features (including archaeological features and TFBs) on your land. For any of these features, and for any additional features of which you are subsequently advised in writing by us, you must not:

- cause ground disturbance, including poaching by livestock, on known archaeological features or areas of historic interest under grassland;
- sub-soil or de-stone on areas containing known archaeological features, unless these operations have been demonstrably undertaken as a routine in the past five years;
- deliberately plough more deeply or undertake additional groundworks or drainage on those areas already under cultivation that contain known archaeological feature;
- run free-range pigs on archaeological features;
- remove any useable building stone, walling stone or traditional roofing material off the land, excluding materials produced from established quarries; or
- damage, demolish or remove building material from substantially complete ruined TFBs or parcel boundaries.

5.5.5 Archaeological fieldwork and metal detecting on your land

With certain exceptions (see below) metal detecting is allowed on land within an ELS agreement, provided that it is undertaken in accordance with best practice laid down in the current Code of Practice for Responsible Metal Detecting in England and Wales and that you agree that all finds are reported to the Portable Antiquities Scheme. For details of this code, please see www.finds.org.uk.

Metal detecting is **not** allowed on Scheduled Monuments, SSSIs and known archaeological sites under grassland. By 'known archaeological sites', we mean archaeological sites identified in your FER and any additional sites of which you are subsequently advised in writing by us.

You must also ensure that the metal detecting does not conflict with the requirements of your ELS agreement, ie where the proposed detecting will affect your ability to meet any option prescriptions. In such a case, you will need a derogation. Section 5.6.6 explains how to apply for a derogation.

As part of your ELS agreement, we require you to protect and retain archaeological sites and other environmental features (ie the features identified in your FER) over the entire area under agreement. You must ensure that no damage is caused to these features, and any additional features of which you are subsequently advised in writing by us, wherever metal detecting takes place.

Damage to archaeological sites is taken to mean disturbance of previously undisturbed deposits in and on archaeological sites and monuments, and any removal, loss and/or disruption of standing masonry or other upstanding structural material. If you are in any doubt about whether any operations will damage environmental features, please contact us.

You must inform us of large-scale metal-detecting events, including metal-detecting rallies, on any ELS agreement land at least 12 weeks before the event. You should provide all available details including the date, location, a map showing the parcels to be searched (marked with any areas excluded), and the expected number of participants. We will provide you with advice to ensure that the event does not conflict with the requirements and objectives of the ELS agreement.

On Scheduled Monuments, you must obtain a licence from English Heritage before metal detecting can take place. Detecting without such a licence is a criminal offence.

On SSSIs, where actions resulting from metal detecting (eg digging or vegetation disturbance) are listed as 'operations likely to damage the special interest' of the SSSI, you must give written notice to us of these operations. Detecting can only proceed with written consent.

You need to apply for a derogation for any proposed fieldwork (such as test-pitting or excavation) that would cause, or is expected to cause, ground disturbance or damage (see above) to any known archaeological sites. Section 5.6.6 explains how to apply for a derogation.

In addition, any archaeological fieldwork (including the use of ground penetrating radar or remote sensing) on Scheduled Monuments requires written consent from English Heritage before fieldwork can commence. You must obtain written consent from us for any archaeological fieldwork (including the use of ground-penetrating radar or remote sensing) on SSSIs before fieldwork can commence.

5.5.6 Other activities on your land

Subject to any other existing restrictions, country pursuits such as shooting, hunting and fishing are allowed, provided they are compatible with your agreement. You should make sure that any activities, and the exercise of other rights, will not conflict with the delivery of the required management of the scheme options.

5.5.7 Inspecting and monitoring your agreement

Authorised Defra staff or their agents may visit you to inspect your land during the course of your agreement. The RPA will visit a percentage of agreements every year to assess compliance with the scheme requirements. EU regulations require that, in many cases, there will be no warning of an inspection. You must give inspecting officers access at any reasonable time and you may be asked to accompany them to help identify work and discuss the requirements of your agreement. Deliberate failure to be available to accompany the officer will be treated as unacceptable and potentially as a breach of agreement. In addition, if you refuse an inspection, payment on your agreement will not be made.

Natural England and Defra monitor agreements to assess the environmental and economic impacts of the scheme. By applying to join the scheme, you are agreeing to co-operate with any scheme monitoring.

5.5.8 Agricultural Waste Regulations

You must abide by the Agricultural Waste Regulations. These regulations affect whether you can burn, bury or store your waste, use your waste on the farm or send it elsewhere. These regulations also control the spreading of ditch dredgings from farm ditches on agricultural land. You must hold an exemption to carry out this practice on your farm.

5.5.9 Plaques

EU regulations require that for certain types of agreement you display a plaque acknowledging the support provided under the RDPE. Where this is the case, Natural England will supply you with a suitable plaque.

5.5.10 Keep necessary records

You must retain all scheme documentation. Defra staff or their agents may ask to see them during inspections.

If an option requires you to:

- graze a field at a particular stocking density, or
- not increase your stocking above the existing level, or
- graze or exclude stock at specific times of the year,

you must be able to demonstrate compliance with the scheme requirements by keeping adequate records which identify the livestock type and stocking level on each parcel where the option is located.

You must also keep records of the location and timing of 'rotational options' and any specific records referred to in the management options in Section 3.

5.5.11 State Aid payments

State Aid payments are typically made under specific State Aid cover granted by the European Commission.

Most ELS payments have State Aid cover under the RDPE. However, some funds available through ELS are offered under non-agricultural de minimis State Aid rules.

The European rules require that any beneficiary (whether an individual, business or organisation) does not receive more than €200,000 of non-agricultural de minimis State Aid over any three fiscal years. This figure applies to all non-agricultural de minimis aid received from all sources during the three-year period.

In ELS and Uplands ELS, this applies to building maintenance options (ie ED1 and UD12).

5.5.12 Other funding

You must not accept any other European Union (EU) funding or enter into another agreement that applies to the agreement land or capital works covered by your ELS agreement without our written consent. EU regulations do not permit more than one source of EU funding for the same activity.

5.5.13 Publicity

For any publicity, events, information or interpretative material on or about agreement land, you must acknowledge the support of the Environmental Stewardship, as part of the RDPE.

5.5.14 Photographs

If you are required to supply photographs in support of your application, (because an option you have selected requires you to do so), each photograph must clearly show the feature to be managed. Ideally, the whole of the feature should be on one photograph, but where necessary you should use more, for instance, to show all sides of a TFB.

Each photograph must display the date on which it was taken and must be clearly numbered. The photographs should be cross-referenced with a map showing the position the photographs were taken from, the number of the photograph and an arrow indicating the direction of the shot. You can submit the photographs in either digital format (on a CD) or as colour prints (at least 6"x4").

5.6 Making changes to your agreement

5.6.1 Can you make changes to your agreement?

You should be able to carry out the options and management under your agreement without difficulty. However, should an exceptional situation arise where you need to change the choice or location of your management options, subject to our approval, we can amend your agreement.

Continuity of management is important during your agreement if we are to achieve the environmental benefits sought. We will therefore only agree to changes that are absolutely necessary.

If you wish to improve the environmental performance of your existing ELS agreement by amending your option selection you can do so without impacting on your ability to make further changes to your agreement in the future. However, this type of change will only be permitted if the following criteria are met:

- **The change should reduce the presence of low-priority options in the agreement (see below).** The ELS points released by the removal of low-priority options should be replaced by the addition of an equivalent value of high-priority options. Requests that seek to maintain the existing (or increase) the presence of low-priority options will be rejected.
- **Your ELS agreement should have at least two years left before it expires.** This will allow time for the new options to establish and have a positive impact on the environment.
- **Additional options must be taken from the same version of the handbook that was used when the agreement was drawn up.** For example, agreements drawn up under this version of the handbook (version 4) cannot contain options taken from version 2 or 3 of the scheme handbook.
- **All other eligible criteria must continue to be met – including the 30 points/ha target.**

Input from a Natural England funded adviser is recommended, but not essential. To request a free on-farm visit, call 0300 060 1695.

Table 10 Low-priority options that must be reduced in the agreement as a result of the change

Option	Option description
EB1	Hedgerow management (on both sides of hedge)
EB2	Hedgerow management (on one side of hedge)
EB4	Stone-faced hedge bank management on both sides
EB5	Stone-faced hedge bank management on one side
EB8	Combined hedge and ditch management (incorporating EB1)
EB9	Combined hedge and ditch management (incorporating EB2)
EB12	Earth bank management (on both sides)
EB13	Earth bank management (on one side)
EC1	Protection of in-field trees (arable)
EE1	2m buffer strips on cultivated land
EE2	4m buffer strips on cultivated land
EE3	6m buffer strips on cultivated land
EE4	2m buffer strips on intensive grassland
EE5	4m buffer strips on intensive grassland
EK5	Mixed stocking
EL2	Permanent in-bye grassland with low inputs: SDA land

You must tell us about any proposed amendments and we must agree to them before you make any changes to your options. We will send you a Land Transfer and Amendment request form (ERDP/LTA₁), to complete and return. Your amendment will not be valid until you have received a letter from us agreeing to the amendment and advising you of the date from which it will take effect. If your request is successful, we will provide you with confirmation within three months of receipt of a valid request form. You may also need to contact the RPA to notify them of changes to your holding.

We do not expect to amend an agreement more than once during its five-year term unless it is to achieve environmental benefits, as detailed above.

5.6.2 What if you let, sell or transfer your land to another party?

Please notify us as early as possible in advance of any change in occupancy or ownership (including sale, transfer, inheritance or lease) of all or any part of your agreement land. If you do not notify us in advance (to include your confirmation in writing for a whole farm transfer or the return of your Land Transfer and Amendment form [LTA₁] for a part farm transfer) we may not be able to process your transfer to the dates specified in Section 5.6.4.

If advance notification is not possible, you must inform us (to include your confirmation in writing for a whole farm transfer or the return of your Land Transfer and Amendment form [LTA₁] for a part farm transfer) within three months of the land being transferred. If you do not, you will be in breach of your agreement and you will have to repay the grant you have received, unless force majeure or other exceptional circumstances apply (see Section 5.6.9).

You must tell the prospective owner or occupier about your agreement with us, before you transfer any existing agreement land. If the new owner or occupier does not continue with the agreement on the transferred land, and/or we do not receive their new application within four months of the actual date of transfer, you (not the new owner or occupier) will be in breach of your agreement and you will have to repay all or a part of the grant you have received.

If you transfer **all** of your agreement land, you must contact us in writing no later than three months after the commencement date of lease, the completion date of sale or the actual date of transfer to confirm the transfer,

identifying the new owner or occupier. In these circumstances, your whole agreement must be transferred to the new owner or occupier and either continue to its original expiry date or be restarted as a new agreement, otherwise we will be required to recover all payments made to you.

If you transfer **part** of your agreement land, you should contact us for a Land Transfer and Amendment request form (ERDP/LTA1). You then need to complete and return the form no later than three months after the commencement date of lease, the completion date of sale or the actual date of transfer, to amend your agreement.

We will expect you to continue with your existing options on the land that you have retained in your amended agreement. Where necessary, you may need to add further options to meet your revised points target. The amended agreement will run for the remaining term of the original agreement. Alternatively, you may choose to start a new agreement (including any other eligible land that you have), provided that you meet the scheme rules at that time.

If, following a partial transfer, your remaining land no longer meet the ELS entry criteria (for example, if you do not add sufficient options to meet your revised points target), the agreement may need to be closed early. In this case, unless force majeure or other exceptional circumstances apply (see Section 5.6.9), you will be in breach of your agreement, and you are likely to have to repay all or a part of the grant you have received.

5.6.3 What if you acquire land?

If you acquire additional land, it will be in your interests to notify Natural England of the acquisition, to avoid a delay or break in payment. If you acquire land from another ES customer, you need to submit your application within four months if you are remaining in ELS or upgrading to OELS, or six months if you are upgrading to HLS. Where the acquired land is already under an Environmental Stewardship agreement and does not remain at the same or higher level of management, the original agreement holder will be in breach of their agreement.

One of the following options will be available, depending on your proposed level of management for the acquired land. For example, on acquisition of new land, you may wish to upgrade your agreement from ELS to ELS/HLS. A Natural England adviser can discuss the individual circumstances with you and propose the best solution for your needs:

- Option 1 – You can set up a new agreement to include all your eligible land, including the new land and any existing agreements that you may have, subject to Natural England’s approval. You will have to meet the eligibility and entry conditions at the time the new agreement is set up.
- Option 2 – You can take over the agreement on the acquired land for its remaining term. This would be a separate agreement from any pre-existing ES agreement that you may have. Where you take on land forming a part, but not the whole, of an existing ES agreement, you may need to add new options to the land to meet the points target.
- Option 3 – You can apply for a separate agreement on the new land, and, if applicable, wait until your first existing agreement expires and consolidate all your eligible land into one new agreement at that time.
- Option 4 – If the acquired land will be managed in the same scheme as your existing agreement, you can either amend or continue your existing agreement to add the land as follows:
 - amend your existing agreement for its remaining term and keep the same agreement number. The option can only be used if your transfer date aligns with the partial or end of year payment date applicable to your agreement (and/or the payment date applicable to another agreement holder’s agreement where you have acquired only part of their land); **or**
 - continue with your existing agreement for its remaining term, but with a new agreement number.

This is subject to the following conditions:

- Land cannot be added to an agreement during the final two years of that agreement.
- The land to be added must be no more than 50 per cent of the size of the original agreement (for example, if you have an agreement of 100 ha, you may add up to 50 ha).
- For acquired land already under agreement, the land to be added must have the same, or earlier, agreement start date as your existing agreement (ie if your agreement starts on 1 February 2010, you can only add land that entered Environmental Stewardship on or before 1 February 2010). This is to ensure that the normal five years management is achieved. The entry criteria for both agreements must also be the same.

5.6.4 When will agreement transfers take effect?

Subject to receiving advance notification of the transfer of ownership, we will carry out transfers on the dates specified below. If we don't receive advance notification, these dates may not apply and the transfer may be delayed until the next available monthly date following the notification, or an alternative agreed with your adviser.

We can only carry out transfers on the first of a month. Transfers of land into an existing agreement will be applied on the first of the month following the actual date of sale, lease or transfer. Where the transferred land is coming from another agreement, it will be transferred out of that agreement on the last day of the previous month. For example, if the actual date of sale, lease or transfer is 15 March, we will start the new or amended agreement on 1 April, and, where applicable, transfer the land out of the original agreement on 31 March.

For transfer of land between parties, where the actual transfer date does not align with the date on which we effect the transfer of the agreement, it will be the responsibility of the parties involved to apportion any payments for this period. The transferor (that is, the party disposing of their interest in the land) will also remain responsible for the agreement and will be liable if there is a breach of agreement until such time as we have effected the agreement transfer. We recommend that the parties' respective obligations or liabilities to each other in these circumstances are built into the relevant contract of sale or the lease agreement.

These dates apply except:

- Where you are **amending** your agreement in order to add the land and the transfer in date is restricted to the agreement's payment dates (see Section 5.6.3). In these cases, we will start the amended agreement on the next payment date, and any land coming from another agreement will be transferred out on the last day of the month preceding the payment date.
- Where one or more of the following apply:
 - where notification of the transfer is received more than three months after the date of transfer (see Section 5.6.2);
 - where the new agreement holder's application is not received within the four-month deadline (see Section 5.6.2);
 - where the written confirmation and/or Land Transfer and Amendment form(s) (LTA1) are not returned to Natural England by one or all parties involved in the transfer until after the date of transfer (see Section 5.6.2) **and** the circumstances of the transfer require a new or restarted agreement to be set up or include an additional requirement, eg to upgrade an agreement to Uplands ELS or bring in non-agreement land at the same time as bringing in the transferred land;
 - where a transfer is being made between different schemes;
 - where transferred land is not continued at the same level of management by the new agreement holder.

In these cases, we will advise you of the dates depending on the circumstances of the transfer.

5.6.5 What if you want to upgrade your agreement?

If you wish to upgrade your agreement, for example, from ELS to ELS/HLS, from ELS to OELS or from ELS to Uplands ELS, you should contact us first to discuss your plans.

5.6.6 Derogations

You need to notify us when you want to make a minor and temporary change from the agreed management prescriptions. Examples include permission to control serious weed infestations using herbicides; a relaxation from a time-based prescription; permission to alter cutting or cultivation prescriptions due to practical problems; or to allow metal detecting on known archaeological features on permanent grassland.

The derogation notice form (NE-DN) is available on request from us, and can also be downloaded from our website at www.naturalengland.org.uk. You must complete this form and return it to us. You need to:

- tell us why the derogation is needed;
- state the exact proposed course of action (including precise location details, choice of pesticide and application rate, where relevant);
- provide confirmation that the situation was unforeseen and that other solutions that are within the allowed management prescriptions have been considered; and

- provide a countersignature by a third party to confirm that the request is reasonable, will not compromise the objectives of the agreement and is the most appropriate response in the situation concerned. The counter-signatory must be independent from the agreement holder and trained in environmental management. This could be a private agronomist or one employed by a conservation organisation.

You must inform us about your proposed derogation before you make any changes to your management.

You may go ahead with the proposed changes to management as soon as you have returned the derogation notice form to us. The exceptions to this are:

- where the proposed derogation would affect a Site of Special Scientific Interest (SSSI), in which case you will need to receive consent from us before carrying out the operation; and
- where a derogation is required for an activity that would affect an archaeological site, in which case we may request additional information, including the proposed methodology and research aims of any planned activity and we may consult with local authority archaeologists and, where relevant, English Heritage. The work may not go ahead until you have received written approval from us.

As a guide, we would not expect to see more than three derogations during the course of a five-year agreement.

We will keep the derogation notice form and all details, including those of the countersigning adviser, will be checked during any compliance inspection.

Derogations to use pesticides

When the derogation involves the use of pesticides on conventional land, it must be countersigned by a suitably qualified BASIS (British Agrochemical Standards Inspection Scheme) agronomist, who is independent and trained in environmental management.

5.6.7 Variation of your agreement by us

Very rarely, it may be necessary for us to vary your agreement in line with changes to European law and in other exceptional circumstances. In applying for the scheme, you are accepting that such changes may be made at any time. We make such changes available on our website in a **List of Changes** document. Where the changes are significant in affecting the land management required or affect financial aspects of the agreement, we will give you notice of this by writing to you.

During 2014 we will be moving into the next Rural Development Programme and we may have to adjust any ELS agreement (including Uplands ELS) that starts from 1st January 2012. If the changes we have to make to your agreement as a result of the new Rural Development Programme are unacceptable you can terminate your agreement without penalty.

5.6.8 Certainty of payment

The European Commission are reviewing the continuation of, and provision for, agreements that run beyond 2015 in the context of the current CAP reform negotiations. Natural England does not have legal authority to make payment commitments beyond 2015, but there is a clear precedent in the current programme (RDPE 2007–2013) for continuing to make payments on agreements carried over from the previous programming period.

5.6.9 Exceptional circumstances (force majeure)

Where you are unable to continue with any part or all of the agreement, due to circumstances beyond your control that could not have been avoided by reasonable action, we have discretion not to take action to recover or withhold payments.

The EU Commission Regulations, governing the administration of ELS, require that for force majeure to be taken into account, you must have notified us of the force majeure event in writing within 10 working days of you, or your representative, being in a position to do so. Where you are not in a position to notify us immediately after the force majeure event, you will need to state the date on which you were first in a position to notify us and explain the delay.

Please note that force majeure covers only the most exceptional circumstances, such as:

- death of the agreement holder;
- long-term professional incapacity of the agreement holder;
- expropriation by a government agency of a large part of the land, where this could not have been anticipated when the agreement was signed;
- severe natural disaster gravely affecting the land, including exceptional flooding;
- accidental destruction of livestock buildings on the land; and
- an epizootic disease (such as Foot and Mouth disease) affecting part or all of the agreement holder's livestock.

Circumstances that are **not** force majeure include:

- if a water company has already given notice that it will be putting a pipeline over your land during the proposed lifetime of the agreement;
- if you are selling the land as part of a long-term plan to retire from farming;
- where you cease to have management control as a result of the changing circumstances of your landlord (eg their death, incapacity, their decision to sell the land and/or terminate your tenancy); and
- flooding of low-lying farmland that is regularly flooded during predictable weather conditions.

5.7 What happens if you fail to keep to the terms of your agreement, have a dispute or wish to make a complaint?

5.7.1 What is a breach of agreement?

You will be in breach of your agreement if you:

- fail to comply with any agreement conditions; or
- are in breach of any requirement which you are subject to under Council Regulation 1698/2005, Commission Regulations 1974/2006 or 65/2011, the Rural Development (Enforcement) (England) Regulations 2007 or any other relevant European or United Kingdom legislation; or
- make any false or misleading statements in your application or in any other correspondence relating to your agreement.

This is the case whether it is you or somebody else who causes a breach. It is your responsibility to ensure that all agreement conditions are fulfilled, and that all information in your application and other correspondence is accurate.

5.7.2 What penalties could be applied?

If you breach your agreement, you may be liable to one or more of the following penalties, depending on the circumstances of the breach, in addition to reducing your payment to what you should actually be due based on the findings:

- we may withhold part or all of any future payments due under your agreement;
- we may recover (with interest charged) part or all of the payments already made to you under the agreement;
- we may terminate your agreement;
- we may apply any penalties set out in the relevant EU legislation; or
- we may prohibit you from entering into a new agreement under this scheme or any other EU agri-environment scheme for up to two years.

When penalties are imposed, we will give you a written explanation of the reasons for the proposed steps and an opportunity to make any written representations.

When we seek to recover payments already made to you, interest will continue to accrue from the date of our notification of the breach to you, to the time of reimbursement of the payments from you to us, including during any period when the penalty is being appealed or otherwise under review.

In all cases, any penalties applied will be proportionate to the severity, extent and permanence of the breach.

Penalties will not be applied where we have agreed with you in writing that exceptional circumstances have occurred in relation to any breach (see Section 5.6.9).

The legislation which governs enforcement of breaches of your agreement is the Rural Development (Enforcement) (England) Regulations 2007 and Commission Regulation (EU) No 65/2011.

Penalties will be applied to the following types of breaches, although we retain discretion to apply penalties in any circumstance specified in Section 5.7.1:

1. Where the total area of eligible land you have declared, or the points you are claiming for a particular option in a specific location, are found to be incorrect or the option is not in that location (for example, a length of hedgerow on the boundary of one field is too short or is not there at all).
2. Where the management requirements for an option are not being followed (for example, where a hedgerow has been entered into a hedgerow management option that only permits cutting every other year, but has subsequently been cut annually).
3. Where your FER features have been removed or damaged.
4. Where the rules of cross compliance are not being followed.
5. Other breaches of the additional requirements set out in Section 5.5.
6. Failure to notify us that you have let, sold or transferred some or all of your agreement land to another party or that you no longer have management control of the land (see Section 5.6.2).
7. Where cross-checks identify that the options you have selected are incompatible with or duplicative of options or management declared under other schemes (such as Single Payment Scheme, CSS, ESA or Forestry schemes).

With respect to any category of breach referred to in this handbook, where a breach is determined by us to be the result of serious negligence on your part you can, in addition to any other penalty, be excluded from all agri-environment measures for the calendar year in question. Where your breach is determined by us to be reckless or intentional, you can be excluded for the following year as well (ie two years in total) and you may also be required to pay an additional penalty of up to 10 per cent of the payment made or payable to you.

Points claimed cannot be found or management requirements are not being followed

Where checks reveal that:

- there is a discrepancy between what you are claiming for a particular option in a particular location and the actual length/area/number on the ground; or
- you have not followed the management requirements for a particular option, the points relating to that discrepancy will be deducted from your total points.

This shortfall can be offset against any surplus points from other additional options on land receiving the same area payment where they are identified by the inspector and where you already have that option on your land (ie £30/ha or £8/ha in ELS or £62/ha or £23/ha in Uplands ELS).

Where the deductions relating to a shortfall reduces your ELS total points below your threshold points, your annual payment **for all years where the discrepancy applies** will be reduced and penalties applied on a sliding scale, as follows.

Table 11 Penalties for difference between target points claimed and points found

Difference between target points and points found (as a percentage of points found)	Sanction	Example
Points found are less than your points target, but the difference is not more than 3%	We will reduce (or recover) payment, based on the points found. No additional penalty.	Agreement covers 30ha all paid at £30/ha. Points Target = 900 points Annual Payment = £900 Actual points found = 880 Payment = £880
The difference is more than 3%, but not more than 20%	We will reduce (or recover) payment, based on the points found. An additional penalty of twice the difference will be applied.	Actual points found = 800 Payment = 800 – 2x(900-800) = £600 (Reduction of £100, plus penalty of £200.)
Difference is more than 20%, but not more than 50%	We will reduce (or recover) payment, based on the points found. In addition the whole of the remainder of the payment will be deducted as a penalty. Effectively all payment for the whole agreement concerned is withheld (or recovered) for the year(s) concerned.	Actual points found = 700 Payment = £0 (Reduction of £200, plus penalty of £700.)
Difference is more than 50%	All payment for the whole agreement concerned is withheld (or recovered) for the year(s) concerned (as above), plus an amount equal to the difference will be deducted from the following year(s) payment(s)	Actual points found = 400 Payment = £0 Deduction from following year payment = 900-400 = £500 (Reduction of £500 and penalty of £400 for current and previous years. Additional penalty of £500 in following year.)

Damage or removal of FER features

If you damage or remove any of your FER features, we will reduce your annual payment. Any penalty will be proportionate to the severity, extent and permanence of the breach, and whether it is repeated. We will take into consideration the control you had over the damage or removal; for instance where this might have been wholly or partly due to the action of a third party.

Breaches of cross compliance

We will deal with breaches of cross compliance in proportion to the extent, severity and permanence of the breach, and whether it is the first time such a breach has occurred. Please contact the RPA (see rpa.defra.gov.uk/rpa/index.nsf/home) for more detail on cross compliance reductions.

5.7.3 What do you do if you receive an overpayment?

It is your responsibility to check that payments you receive are in accordance with the details set out in your agreement. If you are paid more than you are entitled to under your agreement, you will be liable to reimburse the amount overpaid. You may also be liable to pay interest on that amount covering the period between the date we notify you of the overpayment and reimbursement. We will write to you explaining how the sum has been calculated and how the overpayment must be repaid.

5.7.4 What if you disagree with any of our decisions or proposed actions regarding your application or agreement?

If you are unhappy with the decisions that we have taken in respect of your application or agreement, you should write to the Customer Service Team manager at your Natural England office, who will ensure that your case is properly investigated and advise you of the procedure to be followed.

Where the issue cannot be resolved within the team that originally handled your case, the Customer Service Team manager will ask a senior manager, who has not been involved in your agreement, to review your case. The adviser will consider any points you have raised and report to the Customer Service Team manager with their view on the steps proposed to resolve the dispute.

If you remain dissatisfied with the decision of the senior manager, you can have the matter referred to an independent person or body, nominated by us, for further consideration.

5.7.5 How do you make a complaint?

If you are unhappy about the way a member of staff has dealt with you, or with the level of service you have received, you are very welcome to use our complaints procedure, details of which are available below, or via our website: www.naturalengland.org.uk.

Our complaints procedure:

- **Step 1:** Contact the Customer Service Team using the online **Feedback** facility at: www.naturalengland.org.uk/feedback/default.aspx or email them at customer.feedback@naturalengland.org.uk. They will respond to you.
- **Step 2:** If you are not satisfied with our initial reply, please email the Customer Service Team again and they will escalate the complaint to the appropriate Team Manager.
- **Step 3:** If you are still not satisfied with the outcome, please email the team again and they will direct the complaint to the appropriate Director.

If you do not wish to use our online **Feedback** facility to register your complaint, you can:

- email the **Customer Service Team**;
- contact the person who provided the service to you, by whatever method is most convenient; or
- contact the Customer Service Team at:

Natural England
Mail Hub Block B, Whittington Road
Worcester WR5 2LQ

Our commitment to you

We will investigate your complaint thoroughly and fairly.

If we are at fault, we will try to put things right as quickly as possible. If not, we will give you a full explanation.

If we cannot resolve your problem on the spot, we will acknowledge receipt of the complaint within five working days. The acknowledgement will say who is dealing with the complaint and when you can expect a reply.

We will then write and tell you the outcome of our investigation within 20 working days. Difficult complaints sometimes take longer to sort out. If so, we will keep you informed of what is happening.

From time to time we will follow up with you to check if the way in which we handled your complaint was appropriate. We appreciate you may not always be happy with the outcome but it is important for us to monitor how our processes are working.

...and if you are still not satisfied

If you still feel that we have not resolved the issue satisfactorily, you can ask any Member of Parliament to refer complaints about administrative actions by us to the:

Parliamentary and Health Service Ombudsman
Address: Millbank Tower, Millbank, London SW1P 4QP
Helpline: 0345 015 4033
Fax: 020 7217 4000
Email: phso.enquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk



Buffer strip