

Section 4

How to apply for HLS

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, CPH number and Single Business Identifier (SBI). If you have previously claimed payments under the Single Payment Scheme (SPS), an England Rural Development Programme (ERDP) scheme or a 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).

4.1.2 Contact Natural England to determine HLS suitability and HLS Tier

If you have not already been approached by a Natural England adviser about submitting an application, you must contact Natural England before completing and submitting a Farm Environment Plan (FEP) and an HLS application. A Natural England adviser will give you a realistic assessment of whether your holding has potential for HLS before you go to the expense of commissioning a FEP. This is to avoid wasted time, money and effort by you and your FEP surveyor. Natural England will not charge you for this. If they consider your holding may have potential for HLS they will add the holding to the HLS Pipeline (see below).

For further details regarding FEPs, please refer to the FEP Manual.

How will holdings be assessed for suitability for HLS?

The HLS Pipeline is a list of holdings which may be suitable for HLS. Natural England holds HLS Pipeline Clinics to assess the suitability of holdings for HLS and to prioritise them according to their potential to deliver environmental outcomes. The clinics will usually be one to one meetings between Natural England advisers and agents. If you do not use an agent then you may contact Natural England yourself to discuss your holding's potential for HLS.

HLS Pipeline clinics will be an opportunity for you or your authorised agent to discuss potential applications with the HLS adviser. The individual meetings will be private and confidential and only cover those holdings for which the agent is authorised to act. You must complete an HLS Pipeline Agent Authorisation Form to authorise your agent to act on your behalf at the HLS Pipeline Clinic.

You will need to complete, sign and return the Agent Authorisation form (NE-auth) in advance of any Natural England HLS Pipeline Clinic. You can download one from our website at:

www.naturalengland.org.uk/Images/NE-AUTHPFPC_0112_tcm6-26798.pdf.

At the HLS Pipeline Clinic the following will occur:

- a decision will be taken on whether a holding is suitable for HLS;
- consideration will be given to the prioritisation of the holding within the HLS Pipeline (ie the proposed start date);
- a decision will be taken on which of the 3 HLS tiers the application should be processed under.

If the Natural England adviser considers that there is potential for an HLS agreement on your holding they will inform you accordingly, in writing, to confirm which tier the application will be processed under and confirm the proposed agreement start date.

The 3-Tier HLS Process

All HLS applications are assigned to one of 3 tiers depending on the complexity of the application, which will have been discussed at the HLS Pipeline Clinics or with your Natural England adviser. The tiers are:

- **Fast-track** – Farm Environment Plan (FEP) produced in-house by Natural England and suitable for holdings where only one Natural England adviser visit is required.
- **Standard** – FEP produced by external FEP surveyors and/or third party agents and suitable for all other holdings and where a maximum of two visits by a Natural England adviser is required.
- **Complex** – FEP produced by external FEP surveyors and/or third party agents and suitable for the most complex holdings. Complex cases may, due to their nature, require up to four Natural England adviser visits.

Note: For Standard and Complex Tier applications, you may choose to produce the FEP yourself if you feel you have the requisite skills. See Who is responsible for arranging and paying for the FEP? within Section 4.1.5.

The criteria for assigning an application to one of the tiers can be accessed from the HLS webpage on the Natural England website: www.naturalengland.org.uk/es.

4.1.3 Obtain an application form and maps

HLS applications must be submitted by post. To apply by post, you will have to obtain an application pack (whether the application is Fast track, Standard or Complex Tier).

Please refer to Section 4.1.3 of your Entry Level Stewardship (ELS) or Organic Entry Level Stewardship (OELS) handbook for details on how to obtain the correct scheme pack (ie HLS only, ELS/HLS, Uplands ELS/HLS, OELS/HLS or Uplands OELS/HLS). Your Natural England adviser will have confirmed in advance which tier you have been allocated to.

4.1.4 Check your application pack is complete

The application pack will include:

- A pre-filled application form with information about you and your land, including RLR field numbers and areas. You need to check that all fields are included on the application form. If they are not please contact your Natural England office (see Appendix 1 for details);
- Environmental Information Maps showing designations on your land, such as Sites of Special Scientific Interest (SSSIs), Scheduled Monuments, Less Favoured Areas (LFAs) and the Moorland Line. This will allow you to identify high-priority features on your land that would benefit from the introduction of some of the options;
- A combined Farm Environment Record (FER) and FEP Map. This blank map of your land should be used to prepare your combined FER and FEP Map, and should be returned with your application form. Guidance for entering features on to your FER Map is provided at Section 4.3 of your ELS or OELS handbook. If someone else is completing your FEP (including a Natural England adviser for Fast-track applications), you will need to provide them with your FER Map;
- An ELS or OELS Options Map. This map should be used to mark where you are putting your ELS or OELS options on your land. This map should be returned with your application form.
- An HLS Options Map. This map should be used to show where you are putting your HLS options on your land. These will usually include both the land management options and any capital works that you intend to carry out during the first 2 or 3 years of your agreement. This map should also be returned with your application form.
- Your Target Area or Theme Statement (please refer to Section 5.2.4).

4.1.5 Have a FEP survey carried out

The primary purpose of a FEP is to gather good quality information about the current environmental value and interest of your farm and its potential to deliver additional environmental benefits. The FEP is designed to capture this information in a way that both you and Natural England can use to help build an HLS agreement.

The FEP will:

- identify features that may benefit from HLS management, which will allow Natural England to assess applications in a consistent way. It will also provide Natural England with a basis for monitoring the success of the scheme; and
- provide a baseline for future assessment of the condition of features managed under HLS.

Who is responsible for arranging and paying for the FEP?

Responsibility for arranging, paying for and carrying out the FEP will depend on which HLS Tier the application has been allocated to:

FEPs for Fast-track Tier applications:

The FEP will be produced by a Natural England adviser. A Natural England adviser will arrange to visit your holding to produce the FEP and help you draw up your application. There is no charge for producing the FEP.

The Historic Environment Record (HER) consultation request form will be completed by a Natural England adviser and provided to you to sign and forward onto the local authority. You will have to meet the cost of the Historic Environment Record (HER) consultation – Natural England will not make any payment to you or the local authority towards the cost of this.

Please refer to the FEP Manual (Official List of Changes) available on the Natural England Website at www.naturalengland.org.uk for more information on the HER consultation costs.

FEPs for Standard and Complex Tier applications:

You will need to arrange for a FEP to be carried out. FEPs can be carried out by anyone who has experience of the practical issues involved in the five main objectives of the scheme and an ability to identify the relevant features described in the FEP Manual. If you have the necessary skills you could carry out the FEP yourself; alternatively, you may wish to hire an agent and pay them to carry out the FEP. Whoever carries out the FEP will need to have access to the Internet in order to obtain relevant information. Natural England has a register of active local FEP Surveyors and helps to match land owners with them where requested.

A FEP must meet our quality standards if we are to make a payment for it. In order to meet our quality standards, the FEP surveyor will have to carry out a thorough desk study and field survey. If a FEP and properly completed HLS application are submitted following clearance from Natural England to proceed with a FEP, then, provided the FEP meets the required standards, it will be eligible for a FEP payment.

A FEP consists of a completed form and annotated map(s). The form is available in either electronic or paper format. A personalised paper FEP form will not automatically be provided in the HLS application pack. You are encouraged to use the electronic version of the FEP (the e-FEP) instead, which is available on the Environmental Stewardship pages on the Natural England website. The link to the e-FEP webpage can be found in Appendix 2. If you require a paper copy of the FEP form, please contact Natural England to request a copy.

Carrying out the Historic Environment Record (HER) Consultation:

The 'HER Consultation Request' can be initiated by the FEP surveyor in two ways:

1. Electronically to participating HERs through new functionality provided by the Selected Heritage Inventory for Natural England (SHINE) website: the FEP Surveyor will need to register their details at www.myshinedata.org.uk where instructions for using this more efficient process will be provided.
2. Direct to the HER in writing, using the standard letter for the HER Consultation at Appendix 4.

More information on FEPs

Full details of how to produce a FEP can be found in the Farm Environment Plan (FEP) Manual, which is available from Natural England offices (see Appendix 1 for details). In addition, FEP surveyors can request a copy of the HLS FEP Manual and an example FEP Map.

For the purpose of the FEP, 'feature' means the environmental features that are listed and explained in the FEP Manual. The target area statement or theme statement relevant to your land will identify the types of feature of particular significance in your area, which we hope to have managed under HLS.

Although a FEP is a prerequisite for entry into HLS, it should also be of general interest to the way the farm is managed, as it will contain a detailed assessment of the historical, landscape and conservation value of the land and it will cover areas such as soil erosion risk. It will provide a useful tool for ensuring that the whole farm is managed in an environmentally friendly way.

A FEP should, therefore, be useful to other farm advisers and contractors. For instance, by identifying vulnerable habitats, it will help in complying with the Voluntary Initiative (on the safe use of pesticides) and should help in complying with environmental standards in farm assurance schemes.

If an application is received for land without a FEP, it will be rejected. FEPs will be valid for 5 years and do not need to be repeated once an HLS agreement is in place.

As a condition of ELS and OELS, you must identify, map and protect important environmental features and areas on the land. When applying for HLS, this information is recorded on the combined FER/FEP Map and you do not need to complete a separate FER.

4.2 Choosing your options

Step-by-step advice on completing the application form is given in Section 4.3.

4.2.1 How should you choose which options to put in your application?

The FEP should have identified all environmental features on your land. Your target area statement or theme statement will explain which features identified in your FEP are most likely to meet the objectives of the scheme and would therefore benefit most from inclusion in an HLS application.

Your agreement will be drawn up in discussion with your Natural England adviser using the information in your FEP. Each option will have a set of management prescriptions that you must follow, but there will be considerable flexibility in the means by which you achieve the agreed outcomes.

Environmental Stewardship focuses on achieving outcomes, not just following prescriptions. We need you to work with your adviser, using your knowledge and experience of your land, to adapt and fine tune the management of your holding to achieve the aims of the scheme. All options therefore have one or more 'indicators of success' (see Section 2.1.1).

Section 2 of this handbook summarises the aims and management involved for each land management option or group of options, and the payment rates for options. Where relevant, it also includes guidance on what type of land is eligible for particular options. Although the options have been described as primarily addressing a single objective, in practice they can be used to benefit a range of environmental objectives. For example, the creation of species-rich grassland on former arable land could also help protect archaeological remains and reduce diffuse pollution.

You need to check your current SPS codes align with potential choice of HLS options. Please refer to the *SPS Guidance* and any supplements (see Appendix 2 for details).

4.2.2 Can you use ELS/OELS options to complement your HLS options?

Under HLS there is the opportunity to apply for more ELS or OELS options, in addition to those required to meet your ELS or OELS points target. The relevant ELS or OELS options are listed in Section 2 of this handbook. These options must only be included in an HLS agreement where:

- their use will clearly benefit features identified in the HLS Target Area or Theme Statement;
- there is no appropriate HLS option available to achieve the desired outcome;
- the targeted feature is best managed using an ELS or OELS option; and
- their use provides best value for money.

Where an alternative HLS option is available, it must be used in preference to using an ELS or OELS option.

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

HLS is designed to build upon ELS or OELS options, and you might want to consider how certain ELS, OELS and HLS options could be combined on the same parcel of land. This may deliver additional environmental benefits that would not otherwise be achieved.

As a general rule, an ELS, OELS or HLS land management option cannot occupy the same area of land at the same time as another land management option, unless the second option is a supplement designed to 'sit on top' of the first option.

However, there are exceptions for certain combinations of options. The table at Section 2.2.4 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. A supplement must be located on at least one management option. The table also shows the management options upon which each supplement can be located.

When co-locating options you must follow the prescriptions of all options. In the event that prescriptions of co-located options contradict each other, you must follow the more restrictive of them. For instance, EK5 (Mixed stocking) states: 'Supplementary feeding is allowed, but move feeders as often as required to avoid poaching'. EL3 (Permanent grassland with very low inputs in the SDA) states: 'Do not supplementary feed'. Where these are co-located, no supplementary feeding is allowed.

Options may be placed in the same land parcel, or on the same boundary, as long as they do not overlap on the ground.

4.2.4 Can you apply for capital works?

HLS can contribute to the cost of a wide range of capital works. These works will be agreed with your Natural England adviser and set out in a Capital Works Plan. You cannot have a Capital Works Plan without having one or more HLS land management options. The potential for capital works may be identified as part of the FEP or become apparent later, during the life of the agreement. Works upon which management options will depend (such as fencing and access gates) must be completed in year one, but other works may be completed at a later stage.

You can only start work when the relevant Capital Works Plan has been agreed and signed.

An individual Capital Works Plan can run for 1, 2 or 3 years. Amendments to a plan during this period are only allowed under exceptional circumstances, such as force majeure or land transfers. In subsequent years you will be able to apply for a completely new Capital Works Plan to run for another 1-, 2- or 3-year period. Contact your Natural England adviser for the relevant application form and map.

You will usually be expected to manage only one Capital Works Plan at a time. However, in some specific situations, for example, where a management plan is required before further work can be undertaken, a second or third plan may be added before the first plan has expired. Your Natural England adviser will be able to provide more information on when this approach will be taken.

Some works will require consent from a statutory body, and it is your responsibility to ensure that you obtain permission before starting work. Health and safety requirements, codes of practice and any other relevant legislation must also be observed.

Specifications will be provided, if applicable, for the minimum standard of work for items in your Capital Works Plan. If you do not follow these specifications, we cannot pay you for the work. Where it has not been possible to identify a standard payment, a percentage grant based on the actual costs can be offered. In these cases you will need to provide written estimates at the time of your application and a receipted invoice at the time of your claim.

All capital works must be completed and maintained to the standard required to perform their intended function for the duration of your agreement. This includes replacement as necessary.

4.2.5 Do you need to submit an implementation plan or management plan?

Implementation plan

In some situations, plans may be commissioned to refine certain aspects, such as scrub and bracken management, heath/moor burning, resource protection works or large-scale field boundary network restoration. These implementation plans will normally be prepared at the start of your agreement and will then form part of your agreement. Your Natural England adviser will explain if one of these plans is needed and whether funding is available through a Capital Works Plan.

Management plan

A management plan will be needed where a thorough evaluation of the current condition and future potential of the feature, together with detailed recommendations for implementing proposed management is necessary.

As well as a thorough survey and an assessment of feasibility, the plan should suggest all the HLS options and capital items required to deliver optimum management. In certain cases, it may be necessary to undertake the recommended work through a special project. Typically, this is for situations such as:

- historic parkland restoration
- inter-tidal and major wetland creation and restoration
- heathland restoration in a complex archaeological landscape
- the management of poorly-known rare species or those of very restricted distribution.

If your application is likely to involve any of these situations, please discuss them with your Natural England adviser before drawing up your application.

Once the need for a plan and its details have been agreed with Natural England, you will be paid a contribution for the cost of employing professional help to prepare the management plan. Your Natural England adviser will confirm the required content of the plan (detailed guidance notes are usually available).

4.2.6 Do you need consent from anyone?

If your land includes a designated feature, you will require formal consent from the relevant body before carrying out any works that would affect the designated feature. Once your application has been received, your Natural England adviser will discuss your proposals with the relevant body before you are offered an agreement. If you have already started this process, any correspondence or an 'in principle' approval should be submitted with your application, as this will speed up the processing of your application.

In many situations, the relevant body will have to give consent before an HLS agreement can be offered. In all cases, it is your responsibility to ensure that you have the necessary consent before starting any work. Further information is set out below.

Scheduled Monuments

For Scheduled Monuments on your land, the local English Heritage Historic Environment field adviser can give you advice on any management or changes you will need to undertake to bring the monument into favourable condition and your Natural England adviser will consult English Heritage once you apply. You may need Scheduled Monument consent from English Heritage for some work. They can tell you if the proposed works are likely to be acceptable.

Archaeological fieldwork or metal detecting on your land

Please see Section 5.5.5 of your ELS or OELS handbook.

Work affecting water

You will need Environment Agency or Internal Drainage Board consent for management that will affect watercourses. This includes work both to, and within, 8 m of a watercourse or work within the flood or coastal plain. For example, the installation of sluices to raise water levels, or excavation works such as ponds or scrapes, may require land drainage consent or an abstraction licence.

Please note that farms with significant erosion problems, or those causing pollution, will be required to rectify this situation before being considered for an agreement, particularly in sensitive river catchments.

Work on trees and hedges

You may need permission for work on trees that are subject to a Tree Preservation Order (TPO), for instance during hedge restoration. Ask your Local Authority Tree Officer. If you are removing trees, or managing overgrown hedges, and you are felling more than 5 m³ of timber in a calendar quarter, you may need a Forestry Commission Felling Licence. Guidance (*Tree Felling – getting permission*) is available to download from the Forestry Commission website (details can be found in Appendix 2).

Listed buildings

If any works are proposed to listed buildings, you will need to discuss the proposals with your local authority Conservation Officer, who will advise if Listed Building consent is required.

Conservation Areas

Conservation Areas are 'areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance'. These can include rural landscape areas, as it may be the special qualities and interest of the area that leads to its designation. Conservation Area status may impose additional restrictions on carrying out work and remove some permitted development rights on agricultural holdings. The Local Planning Authority must be consulted if any part of the holding is located within a Conservation Area and particularly if any work is proposed to trees, buildings, boundaries or structures.

Planning permission

Most routine agricultural operations do not require planning permission either because they are not regarded as 'development' under planning legislation or because they are 'permitted development' that is 'reasonably necessary' for agriculture. For some activities, such as the creation of new ponds, the planning requirements may not be straightforward. Your Local Planning Authority can give you informal advice as to whether your proposals are either permitted development or require planning consent. You are therefore encouraged to contact them at an early stage if you are unsure whether the activity requires planning consent. *A Farmer's Guide to the Planning System* is available to download from the Defra website at: www.defra.gov.uk.

National Parks

If your land is in a National Park, you are advised to contact the National Park Authority, which can provide advice and information about making the best of the environmental interest on your land as part of your application. It is also the relevant authority for many of the above issues.

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

Please refer to Section 4.2.5 of your ELS handbook or Section 4.2.6 of your OELS handbook. When deciding on your agreement start date, you should consider any changes that you may have to make to your farming system and, in particular, your existing cropping commitments.

4.2.8 When should you send in your application?

Your Natural England adviser will determine a date by which you must submit your application in order for the agreement to commence during the agreed financial year.

4.3 Step-by-step summary of how to apply

Step		Action required	Handbook reference
1	Determine HLS suitability and HLS application tier	Contact Natural England to discuss the potential your land may have for HLS (HLS Pipeline Clinic), position on the HLS Pipeline and allocation to one of three HLS application tiers.	Section 4.1.2 of this handbook
2	Obtain an application form and maps	Contact Natural England to obtain your application form and maps. Check your maps and the pre-filled details on your application form are correct. Check that your RLR field numbers and areas on your Field Data Sheet at Annexes 1, 2 and 3 of your application are correct.	Sections 4.1.3 and 4.1.4 of this handbook
3	Arrange for a FEP survey to be carried out	For Standard Tier and Complex Tier applications you need to prepare a Farm Environment Plan. You may wish to carry out the FEP yourself or hire an agent to do this work for you. For Fast-track Tier applications Natural England will carry out the FEP.	Section 4.1.5 of this handbook
4	Complete Sections 1 and 2 of your application form	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 at Question 8. Your farming system and choice of options may influence the time of year when you would like your agreement to start. HLS 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 1.2.8 When will you be paid?). ■ if you are making a countersigned application, you have completed Question 9 and the relevant person has completed Question 9a–d and completed and signed the Land Ownership and Control Declaration and Undertakings section. ■ you have entered details of your farm enterprise(s) at Question 13 (ELS/HLS) or Question 14 (OELS/HLS). 	
5	ELS/HLS applications only: complete the ELS elements of your application	Complete your Farm Environment Record (FER). Identify and record on your FER Map any fields at risk from soil erosion or run-off. Work with your Natural England adviser to select the most appropriate ELS/Uplands ELS options from the handbooks. Check that you have exceeded your points target.	Steps 2-4 and 6 of Section 4.3.3 of the ELS handbook

Step		Action required	Handbook reference
6	OELS/HLS applications only: complete the OELS and ELS elements of your application	<p>Calculate the areas of land eligible to attract conversion aid payments.</p> <p>Complete your Farm Environment Record (FER).</p> <p>Identify and record on your FER Map any fields at risk from soil erosion or run-off.</p> <p>Complete your Field Parcel Reconciliation Form (NE-FPR).</p> <p>Work with your Natural England adviser to select the most appropriate OELS/Uplands OELS options (and ELS/Uplands ELS options if applicable) from the handbooks.</p> <p>Check that you have exceeded your points target.</p>	<p>OELS/HLS (OELS options only) applications: Steps 2-3, 5-7, 9 and 11 of Section 4.3.3 of the OELS handbook</p> <p>OELS/HLS (ELS/OELS options) applications: Steps 2-9 and 11-12 of Section 4.3.3 of the OELS handbook</p>
7	Select HLS Management Options and Capital Works	Using the recommendations from the FEP and the Target Area and Theme Statements for your area, choose the most appropriate HLS options and capital works (that you wish to do in the first 3 years) for your land as discussed and agreed with your Natural England adviser.	Section 2 (Management options) and Section 3 (Capital items) of this handbook
8	Complete Annexes 3 and 4: HLS options	<p>Work with your Natural England adviser to select your HLS rotational and non-rotational options.</p> <p>Complete Annexes 3 and 4.</p>	See Figures 1 and 2 for examples
9	Complete Annex 5: Capital Works	Complete Annex 5 and mark the capital items on the HLS Options Map.	See Figure 3 for example
10	Complete Annex 6: Grassland management	List all your permanent grassland fields and the total area of temporary grassland in Annex 6 and calculate the maximum stocking density.	See Figure 4 for example
11	Complete your HLS Options Maps	<p>Complete your Options Maps. An example HLS Options Map is included at the end of this Section.</p> <p>For each option you wish to include in your HLS agreement, you must:</p> <ul style="list-style-type: none"> ■ decide where the option is to be located on your land (you may decide you want to have the option in more than one location). ■ mark every instance of the option with a coloured pencil on your HLS Options Map(s) using the appropriate colour for that option specified in the map key. Do not mark rotational options or educational access base payments – these are recorded separately on Annex 4. ■ mark any capital works on the same map and write the appropriate item code, using a fine black pen, on or against the item in each place that you have marked it on your HLS Options Map(s). For boundaries annotate each boundary on which work is to be completed with a unique boundary reference number. ■ complete and include your options map for ELS/OELS. See Section 4.3.3, Step 4 in your ELS handbook or Section 4.3.3, Steps 7 and 8 of your OELS handbook. 	

Step	Action required	Handbook reference
12	<p>Complete the Checklist and sign the Declarations and Undertakings Section (Section 4 for ELS/HLS and Section 5 for OELS/HLS) of your application form</p>	
13	<p>Submit your application</p>	

Figure 1: How to complete Annexes 1, 2 and 3 (ELS/OELS and HLS non-rotational options)

To complete Annexes 1 and 2 and the ELS/OELS points target and choice of scheme options sections of your application form, follow the guidance given in Section 4.3.3 of your ELS or OELS handbook. For Annex 3, follow the instructions below.

Step A: Write the code of your chosen option at the top of the options column. Note, in this example, the first option is an ELS option attracting an HLS payment.

Step B: Calculate the amount of this option for each field parcel where you have decided to locate it. Record this amount in the corresponding row of the options column. For each entry, calculate the area in hectares (rounded to the nearest 0.01 ha (100 m²) or the number of occurrences or the number of metres (for certain boundary options).

Step C: Calculate the total amount of your option for all field parcels and record this figure in the row marked 'Total amount (ha/100 m)'.

Step D: Enter the cost per hectare or number available for the option in the row marked 'HLS £ per unit', eg for HE3 you would enter £340.

Step E: Calculate the total payment for that option.

Step F: Once you have recorded all your non-rotational options within the field, calculate your total HLS payment for the options recorded and enter this figure in the HLS £s row of the Total HLS £s column.

Where you have chosen an entry level option to contribute towards your HLS application, you must use the relevant HLS code, eg use HE3 instead of EE3 for a 6 m buffer strip. All codes are shown in Section 2 of this handbook.

Where you have an ELS option combined with an HLS option on the same parcel then the HLS payment may have to be reduced where there is an overlap in the management required. See Section 2.2.4 of this handbook.

Annex 3: Field Data Sheet for HLS non-rotational options within fields

Please enter all the non-rotational options and supplements within fields that you have chosen into this data sheet. Details of the options and supplements available are provided in the HLS handbook.

Application reference:

RLR field no./ boundary no.	RLR field size (ha)	LFA Status	HLS Options											Total HLS £s (this sheet)
			HE3	HK15	HB12	HQ1								
			Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	Amount (ha/no./m)	
XY4567 9024	33.27	No	1.38 ha											
XY5698 0456	19.83	No												
XY6845 6572	21.54	No												
XY6833 6570	22.51	No	1.14 ha											
XY6810 6529	10.04	No		10.04 ha										
XY6850 6571	19.45	No												
XY6790 6278	9.54	No												
XY6790 6570	10.87	No		10.87 ha										
XY6390 6570	20.41	No												
XY6390 6772	10.09	No												
XY6870 6576	12.05	No												
XY6990 6479	10.05	No												
XY6390 6573	2.49	No												
XY6850 6549	3.18	No												
Boundary 1					800 m									
Pond 1						1								
Total amount (ha/100m/no)	205.32		2.52	20.91	800	1								
HLS rate per unit			340	130	0.27	90								
HLS £s			856.80	2718.30	216.00	90.00								* 3881.10

To calculate the HLS £s, multiply the total amount (hectare/length) by the HLS £s per hectare or number. In this case, the option is Maintenance of hedgerows of very high environmental value, option code HB12, so the calculation is: 800 m x £27/100 m (£0.27/m) = £216

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

* Total value of HLS options for this sheet.

Figure 2: How to complete Annex 4 (HLS rotational, maintenance of traditional farm buildings and educational access base payment options)

Step A: Decide which rotational options (options listed below) and educational access base payment (HN8) you would like to apply for as part of your HLS agreement.

Step B: Record the code, description, payment rate and amount in the appropriate columns.

To record rotational options:

Assess the area of land to be managed under the rotational option and follow steps A and B above. Record the area measurement in hectares, rounding to the nearest 0.01 (100m²) of a hectare. You will not need to mark the location of rotational options on your option map(s), as these will move around the farm from year to year. However, you must ensure that the declared area and required management is delivered in every year of your agreement.

The following rotational options are available in HLS. These include ELS or OELS options that can attract an HLS payment, as well as HLS options.

- HF2 Wild bird seed mixture
- HF6 Overwintered stubble
- HF8 Skylark plots
- HF9 Unfertilised cereal headlands for birds
- HF10 Unharvested cereal headlands for birds and rare arable plants
- HF12 Enhanced wild bird seed mix plots
- HF13 Uncropped, cultivated areas for ground nesting birds on arable land
- HF14 Unharvested fertiliser-free conservation headlands
- HF15 Reduced herbicide cereal crop followed by overwintered stubble
- HF20 Cultivated fallow plots or margins for arable plants
- HG1 Undersown spring cereals
- HG4 Cereals for whole crop silage followed by overwintered stubble
- HG5 Brassica fodder crops followed by overwintered stubble
- HG6 Fodder crop management to retain or recreate an arable mosaic
- HG7 Low-input spring cereal to retain or recreate an arable mosaic
- HJ2 Management of maize crops to reduce soil erosion
- HJ10 Enhanced management of maize crops to reduce soil erosion and run off
- HJ13 Winter cover crops

Step C: Calculate the total payment for each option.

Step D: Calculate the total payment for all rotational and educational access base payment options.

Annex 4. HLS rotational, maintenance of traditional farm buildings and access base payment options				
Code	Description	Payment rate	Amount (ha) /no./ length	Total Payment
HN8	Educational Access base payment	£500 per agreement	1	500
HF14	Unharvested, fertiliser-free conservation headlands	£440/ha	5.00 ha	2200
HF12	Enhanced wild bird seed mix plots	£475/ha	2.00 ha	950
HF6	Overwintered stubble	£120/ha	10.50 ha	1260
HD1	Maintenance of weatherproof traditional farm buildings	£2 per m ²	100 m ²	200
Total payment for rotational, maintenance of traditional farm buildings and educational access base payment options				5110

Figure 4: How to complete Annex 6 (grassland area and stocking rate)

Step A: List all fields, by RLR field number, on your farm identified as permanent grassland and enter the total amount of permanent grassland. The definition of permanent grassland is as for the SPS, ie land that at the time of application is used to grow grasses or other herbaceous forage, whether naturally or through cultivation, and which has not been included in the crop rotation of the farm for 5 years or longer. If the land has been reseeded during the 5-year period, it may still be counted as permanent grassland.

Step B: Calculate the total area of temporary grassland on your farm. Temporary grassland is land that, at the time of application, has been used to grow grasses or other herbaceous forage, whether naturally or through cultivation, for less than 5 years.

Step C: Calculate the total area of all grassland (permanent and temporary).

Annex 6. Grassland management
If you are applying for any options involving grassland management please complete this annex.

Permanent grassland (RLR Field Numbers)	Area (ha)
XY 6790 6278	9.54
XY 6390 6573	2.49
XY 6850 6549	3.18
XY 6810 6529	10.04
XY 6790 6570	10.87
Total area of permanent grassland (ha)	36.12
Total area of temporary grassland (ha)	2
Total area of all grassland (permanent and temporary)	38.12

Please provide the current maximum stocking density over your farm.

If necessary, please discuss with your Natural England contact.

Livestock units per hectare

1.0

If necessary, please continue on additional sheets and indicate here how many you have attached

--

Note: In providing the above information, you undertake: not to reduce the area of

- permanent grassland on the farm during the lifetime of the agreement; and
- not to vary the area of temporary grassland by more than 20% during the lifetime of the agreement.

Step D: Calculate the maximum stocking density over your farm.

Animal numbers converted into Livestock Units (LUs)
Animal numbers are converted into Livestock Units as follows:

	LUs
Dairy cow	1.0
Beef cow	1.0
Cattle over 2 years old	0.7
Cattle 6 months to 2 years	0.6
Lowland ewe and lamb	0.12
Hill ewe and lamb	0.08
Ram or teg over 6 months	0.15
Ewe follower and/or store lamb	0.08
Horse	1.0
Pony	0.8

These values are for medium-sized breeds. Large breeds will have approximately 20 per cent higher LU values and small breeds will be approximately 20 per cent lower, for each category.

Other grazing ruminants, such as deer or camelids, should be allocated an LU value in proportion to their liveweight, ie 60 kg animal approximately = 0.1 LU.

Calculate your maximum stocking rate – worked example.

	LUs	LUs
20 beef cows	20 x 1.0	20
7 cattle (over 2 years)	7 x 0.7	4.9
8 cattle (6 months to 2 years)	8 x 0.6	4.8
5 cattle (under 6 months)	5 x 0	0
50 lowland ewes and lambs	50 x 0.12	6.0
3 horses	3 x 1.0	3
Total:		38.7

Total area of forage (no other rented land) in temporary grass or permanent grassland): 38.12 ha
 $38.7 \text{ LU} \div 38.12 \text{ ha} = \mathbf{1.01 \text{ LU/ha}}$

Your Natural England adviser will discuss and agree this stocking rate with you during the site visit, before an agreement is offered. If necessary, it can be amended at this stage.



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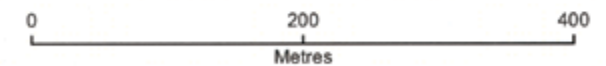
Higher Level Stewardship Options Map

Walkers on the South West Coast Path at Start Point, Devon.

Higher Level Stewardship Options Map

Options	Assigned colour	Applicants colour match
HB		
HC/OHC		
HC/OHC		
HC/UHC/UOHC		
HD/OHD/UHD/UOHD		
HD/OHD/UHD/UOHD		
HE/OHE		
HF/OHF		
HG/OHG		
HJ/OHJ		
HJ/OHJ/UHJ/UOHJ		
HK/OHK		
HL/OHL/UHL/UOHL		
HO		
HP		
HQ		
GF		
PC		
	1234	

You must write the specific option codes you have selected in black on the map, e.g. HD2, OHF4, HK12, HP3, UHD13, UOHL21
Options with a 'U' prefix have certain restrictions, refer to handbook



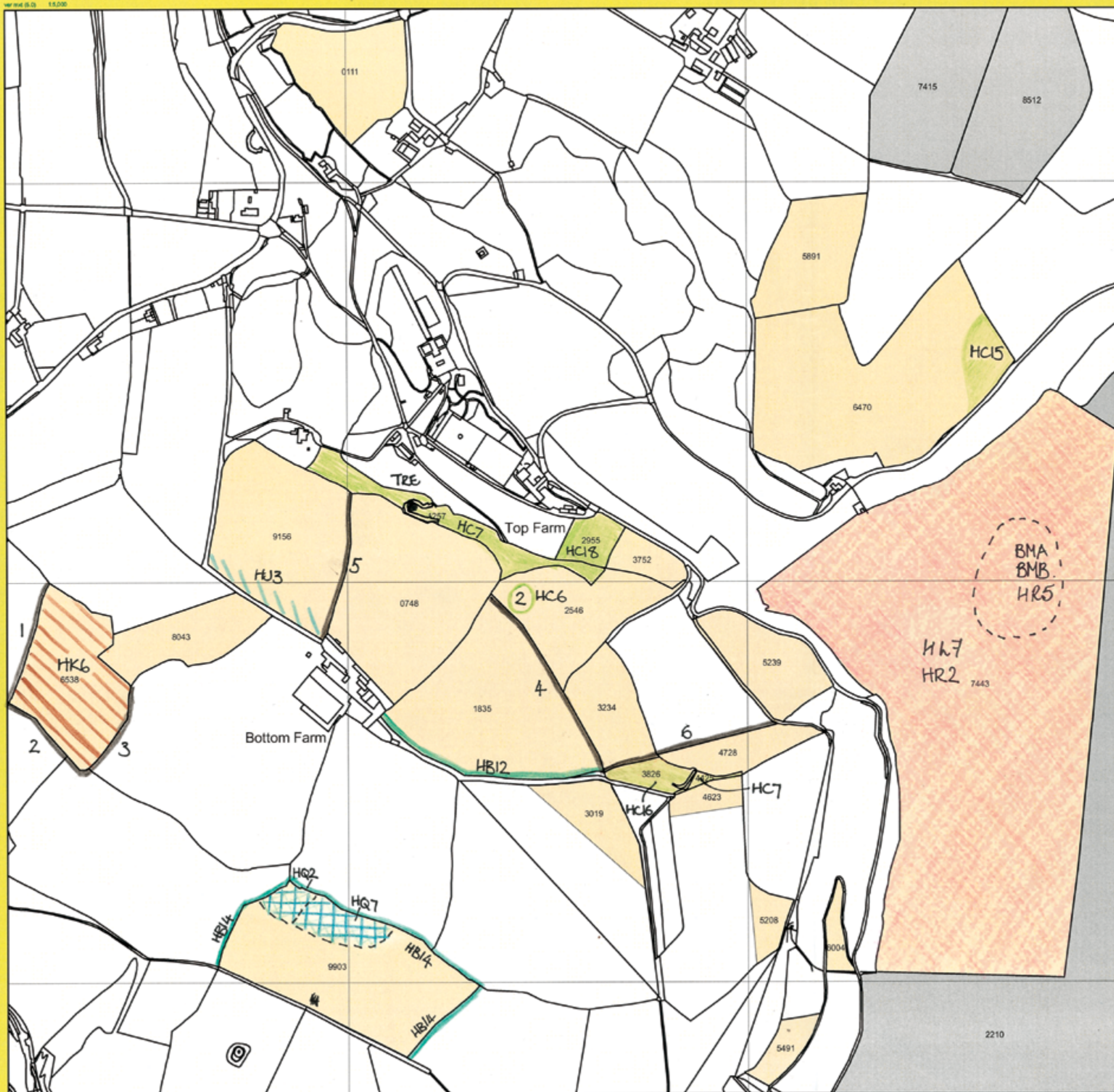
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NATURAL ENGLAND

Map produced 25/03/09



4.4 What happens next?

4.4.1 What happens once you have submitted your application?

Applications that demonstrate good environmental management for target area or theme features are the most likely to be successful. HLS continues to be a competitive scheme and each HLS application will be assessed on its merits against these targets. If your application does not address the relevant priority targets for your area, it will be rejected. There will be no advantage in including large amounts of extra management options in your application that do not address the scheme targets for your area.

If applications do not include satisfactory management of SSSIs or Scheduled Monuments (where present on the holding), they will be re-negotiated or rejected regardless of their assessment.

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

If your application is accepted, subject to any changes agreed with your Natural England adviser, you will be offered an agreement. You will need to sign and return this within 14 days of receipt. Please refer to Section 1.2.8 for further details of start dates and timing of payments. The agreement does not come into force until all parties have signed it.

Your agreement document will include the following sections:

- Part 1 will provide details of your annual ELS or OELS and HLS payments, including, where appropriate, 'conversion aid' payments on land in OELS;
- Part 2 will be a summary showing options within your ELS or OELS and HLS agreement;
- Part 3 will describe the management required for each HLS option you have chosen, the prescriptions you must follow and what the 'indicators of success' will be;
- Part 4 will include, if applicable, your Capital Works Plan. The works to be carried out will usually be scheduled over a 2- or 3-year period;
- Part 5 will provide specifications, if applicable, for the minimum standard of work for items in your Capital Works Plan;
- Part 6 will list all your fields under permanent grass and the total area of temporary grass, along with the permitted maximum stocking density for your land; and
- Part 7 will be maps showing the location of your ELS or OELS and HLS options.

In addition, you will receive:

- any relevant Environmental Stewardship guidance notes, which will provide additional guidance on various land management issues (if you need more information on any particular topic, please contact Natural England); and
- a copy of your FER/FEP Map, forming part of your agreement.

4.4.3 What if your application is unsuccessful?

If the HLS part of your application does not meet our assessment criteria, this part of your application will be rejected. We will tell you if your application has not been successful and explain why. If this happens, you will have three choices (as set out in the application form):

- withdraw your entire application and continue with your existing ELS or OELS agreement (if you already have one);
- proceed with just the ELS or OELS part of your application; or
- withdraw your entire application and re-submit one at a later date.

If you are unsuccessful, you may submit a written representation to Natural England. Your case will then be reviewed.



Adonis Blue male

Section 5

Terms and Conditions

5.1 Introduction

Environmental Stewardship (ES) is a 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).

ES has three elements:

- Entry Level Stewardship (ELS) (including Uplands ELS)
- Organic Entry Level Stewardship (OELS) (including Uplands OELS)
- Higher Level Stewardship (HLS)

HLS, which will usually be combined with (Uplands) ELS or (Uplands) OELS, aims to deliver significant environmental benefits in high-priority situations and areas. HLS concentrates on the higher level of management where land managers need advice and support and where agreements can be tailored to local circumstances.

(Uplands ELS or Uplands OELS offers a higher level of payment in return for environmental management of land within Severely Disadvantaged Areas [SDAs].)

This section provides the terms and conditions that apply to HLS agreements. **If you sign up to an HLS agreement, the terms and conditions provided in this section will apply to you.**

Please note that the terms and conditions of Natural England's ELS (or OELS) handbook, as specifically cross-referenced within this handbook, will apply to your HLS agreement even in those cases where your HLS agreement stands alone and is not combined with underlying ELS (or OELS) management options.

The primary objectives of ES are to:

- conserve wildlife (biodiversity);
- maintain and enhance landscape quality and character by helping to maintain important features such as traditional field boundaries;
- protect the historic environment, including archaeological features and traditional farm buildings;
- promote public access and understanding of the countryside; and
- protect natural resources by improving water quality and reducing soil erosion and surface run-off.

Within the primary objectives, ES also has secondary objectives of genetic conservation and flood management.

In meeting these objectives, ES will:

- support the adaptation of the natural environment to climate change; and
- enhance the contribution of agriculture and land management to climate change mitigation, for example, by reducing greenhouse gas emissions and providing and protecting carbon storage.

5.2 About your agreement

5.2.1 When will your agreement start and how long will it last?

Natural England prioritises holdings for inclusion in HLS based on known features and information about their potential for environmental delivery. The aim is to prioritise holdings which have the potential to provide the maximum environmental outcomes. The resulting prioritised list of holdings for each area is called the HLS Pipeline. Proposed start dates may be sometime in the future depending on the potential environmental outcomes.

All HLS applications will be assigned to one of three processing tiers depending on the complexity of the application. The 3 tiers for processing are:

- **Fast-track** – Farm Environment Plan (FEP) produced in-house by Natural England and suitable for holdings where only one Natural England adviser visit is required;
- **Standard** – FEP produced by external FEP surveyors or third-party agents and suitable for all other holdings where a maximum of two visits by a Natural England adviser is required; and
- **Complex** – FEP produced by external FEP surveyors or third-party agents and suitable for the most complex holdings. Complex cases may, due to their nature, require up to four Natural England adviser visits.

Note: For Standard and Complex Tier applications, you may choose to produce the FEP yourself if you feel you have the requisite skills. See Who is responsible for arranging and paying for the FEP? within Section 4.1.5.

There are monthly start dates and agreements will commence on the first day of a month. Certain start dates can be accommodated if requested by the customer. Please note that if unforeseen complications are encountered with the application your start date will be delayed until these are resolved. Your agreement start date cannot be backdated. You should note that your choice of start date will affect the timing of your payments (see Section 1.2.8).

The criteria for assigning an application to one of the tiers can be accessed from the HLS webpage on the Natural England website.

In cases where further information is needed the offer of an agreement may be deferred.

Your agreement with Natural England, which will include (Uplands) ELS or (Uplands) OELS options and HLS options, will be legally binding. It will usually run for 10 years and you will be required to fulfil your obligations for the full term of your agreement. A 20-year agreement may be offered on some inter-tidal and wetland inundation options.

Either party may withdraw from the agreement at the end of the fifth year without penalty. Notice to withdraw must be given in writing at least one month before the end of the fifth year. You will be in breach of your agreement and will incur a penalty if you withdraw at any other time.

5.2.2 Do you need to join ELS/OELS?

Normally, yes, because (Uplands) ELS, (Uplands) OELS and HLS have been designed to complement each other. If you already have an (Uplands) ELS or (Uplands) OELS agreement, you will need to reapply for these options when you make your HLS application. This will ensure that the elements of ES are combined in the most effective way.

Very occasionally there will be sites for which (Uplands) ELS or (Uplands) OELS options are not available, such as:

- coastal and inter-tidal habitats
- lowland heathland.

If your holding is made up largely of these types of habitat, and you believe you would not be eligible for (Uplands) ELS or (Uplands) OELS options, you should discuss this with Natural England. There may be other situations where Natural England considers an HLS-only agreement is appropriate – your adviser will discuss this with you.

5.2.3 What are you agreeing to do?

In applying for and undertaking an HLS agreement, you are required to:

- Identify, map and retain your Farm Environment Record (FER) features and deliver your (Uplands) ELS or (Uplands) OELS options in accordance with the requirements of the appropriate handbook;
- Deliver the HLS management options and complete any capital works, as set out in your agreement document; and

- Adhere to all the scheme terms and conditions contained in this handbook, and the (Uplands) ELS or (Uplands) OELS handbook. In particular, follow cross compliance rules throughout your land and comply with the other additional requirements contained in Section 5.5.

5.2.4 Are you guaranteed an agreement?

HLS is discretionary. Agreements are allocated where they are likely to achieve most environmental benefit and represent good value for money. Natural England is looking to secure new HLS agreements that will help manage, restore or create the features set out in the Target Area and Theme Statements.

Target areas

Over 100 individually named target areas have been identified across England. They represent the areas where Natural England wishes to focus delivery of HLS to maximise environmental outcomes. Within these target areas, we are seeking multi-objective agreements that can make the greatest total contribution to the identified environmental priorities. The priorities for each target area are set out in the Target Area Statement. More information is available on the Natural England website (the link to the target areas is in Appendix 2). The distribution of land in England covered by Target Areas, and land covered by Regional Theme Statements, is shown on the map in Appendix 5.

Themes

In addition to the target areas, we have identified regional themes that identify priorities for HLS outside the target areas. These themes are detailed in the Regional Theme Statements. The theme approach allows those farmers and land managers outside the target areas to develop HLS applications to meet agreed theme priorities.

More information is available on the Natural England website (the link to the Theme Statements is in Appendix 2).

5.2.5 What payments will you receive?

You will be paid according to the work you agree to when entering into the scheme.

Subject to any EU rule changes referred to at Section 5.6.7 of your ELS or OELS handbook, the payment rates that you receive for HLS options will remain the same for the first five years of your agreement, even if payment rates are reviewed during this period. At this five-year break point, any rates that have been changed by a review will normally be applied to your agreement.

For details of all the payment rates, please see Sections 2 and 3 of this handbook.

Details of the timing of payments are available on the Natural England website at www.naturalengland.org.uk/ourwork/farming/funding/developments.aspx.

Payment for capital works

You will need to complete a claim form and return it in order to receive payment for capital works.

Your Capital Works Plan (CWP) will set out the work you need to do over the whole period of the plan. It will also set out the value of the work you should complete by the end of each intermediate year.

All the work must be completed by the end of the plan period, but the exact order in which you do the work is up to you. The exception is those works that are critical to the success of other management options that are required under your agreement. These 'mandatory works' will be shown in a separate CWP for the year in which they must be completed and claimed for.

You will be sent a pre-filled claim form at the start of each plan year. This can be used to claim at any time during the year, as soon as the work is completed, provided the value of each individual claim is at least £500. Once the payment has been authorised, a further form will be sent to you showing any outstanding capital items.

A number of claims can be submitted during the year. If the cost of items claimed exceeds that scheduled for that year, any excess may not be paid until the start of the following year.

5.2.6 How will you be paid?

Your Environmental Stewardship payments are managed by the Rural Payments Agency (RPA). 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.

5.2.7 Will Natural England discuss your application with anyone else?

Yes, when it helps to assess your proposals, particularly if specialist advice is needed. If your land is in a National Park, we will work closely with the relevant National Park Authority in delivering your agreement. Highways Authorities are consulted on new access proposals, and advice on historic features is sought from local authority archaeological officers. Your Natural England adviser may also seek the views of local specialists, such as a county wildlife trust or local authority countryside staff, when assessing your application.

5.2.8 Will your details be made public?

Please refer to Section 5.2.6 of your ELS or OELS handbook.

In addition to the above, Natural England may, in certain circumstances, make information contained in Farm Environment Plans (FEPs) publicly available. We may also need to disclose details from FEPs to other organisations or individuals for administration, evaluation or monitoring purposes.

Details disclosed include, but are not limited to: your name; the surveyor's 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 land parcels; and details of the environmental features.

5.3 Who can apply?

5.3.1 Who can join the scheme?

HLS 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).

You must have control of all the activities needed to meet the compulsory scheme requirements and prescriptions of the HLS (and OELS, ELS and Uplands O/ELS) land management options 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 of your ELS or OELS handbook.

You must also have management control of the land for the entire term of your HLS agreement (normally 10 years). If you are not certain to have management control lasting for 10 years, please refer to Section 5.3.2.

If Natural England finds that you are ineligible to have an HLS 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?

Please refer to Section 5.3.2 of your ELS or OELS handbook, but note that all references to 5 years should be read as the term for your HLS agreement (normally 10 years, but 20 years if applicable).

5.3.3 What if you are a licensee?

Please refer to Section 5.3.3 of your ELS or OELS handbook.

5.3.4 What if you are a landlord?

Please refer to Section 5.3.4 of your ELS or OELS handbook.

5.3.5 What if you are a licensor?

Please refer to Section 5.3.5 of your ELS or OELS handbook.

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 (Uplands) ELS or (Uplands) OELS 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?

Please refer to Section 5.3.7 of your ELS or OELS handbook.

5.3.8 Are public bodies and their tenants eligible?

Please refer to Section 5.3.8 of your ELS or OELS handbook.

5.3.9 Is common land and shared grazing eligible?

Please refer to Section 5.3.9 of your ELS or OELS handbook.

5.3.10 What if others hold rights over your land?

Please refer to Section 5.3.10 of your ELS or OELS handbook.

5.4 Is your land eligible?

5.4.1 What land can you enter into the scheme?

Please refer to Section 5.4.1 of your ELS or OELS handbook.

In exceptional cases (for example, on some Sites of Special Scientific Interest [SSSIs]), vulnerable non-agricultural land that would benefit from protective management under HLS could be eligible for an agreement. You should discuss the eligibility of such land with your Natural England adviser before making your application.

5.4.2 What land must be excluded from your application?

Please refer to Section 5.4.2 of your ELS or OELS handbook.

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

As a general rule, Natural England 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 HLS is in receipt of funding from another grant scheme, you cannot also receive HLS funding for the same work. However, work that is outside the scope of HLS may 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 HLS agreement.

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

You should also read Section 5.4 of your ELS or OELS handbook in order to see if any of the guidance provided there also applies to you and your land.

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

It is not possible for HLS to be combined on the same land as the Countryside Stewardship Scheme (CSS) or an Environmentally Sensitive Area (ESA). If you have a CSS or ESA agreement, you will have to wait until your

existing agreement expires before applying for HLS in most situations. However, land may be added to CSS or ESA agreements where this meets the current scheme rules on amendments.

In some cases, where the existing agreement is on only part of your land and there are substantial environmental benefits from bringing new land or features into HLS, it may be possible to terminate the existing agreement and replace it with an HLS agreement. Agreement holders who feel they may fall into this category are strongly advised to discuss their case with their Natural England adviser before commissioning a Farm Environment Plan.

5.4.5 Energy Crops Scheme (ECS)

HLS options must not be located within land parcels covered by an ECS agreement. However, boundaries surrounding ECS parcels may be entered into HLS boundary management options.

5.4.6 Environmental Impact Assessment Regulations

Please refer to Section 5.4.6 of your ELS or OELS handbook.

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

Some HLS options are specifically designed to restore or create valuable habitats, such as arable reversion to species-rich grassland. In entering these options, you should assume that the change is permanent because at the end of your 10-year agreement, the land may well be subject to the Environmental Impact Assessment (Agriculture) (England) (no. 2) Regulations 2006. If the management has been successful and the land has reached a high level of environmental significance, these regulations may not allow you to return it to intensive agricultural use, although you may be able to re-enter it into a further agri-environment agreement.

These regulations seek to protect environmentally important land from agricultural intensification. Land likely to be subject to these regulations includes uncultivated and/or semi-natural grassland, heathland, moorland, scrub and wetlands. The type of agricultural operations ('projects') covered include: ploughing; cultivation; digging; scraping; draining; liming; re-seeding; spreading soil or manure or any soil improver; increased application of fertiliser; broadcast spraying of any wide spectrum and/or selective herbicide; and any other work that increases the productivity of the land.

Other options, for example, field margins, which are not seeking to re-create semi-natural habitats, are very unlikely to be affected by these regulations.

A link is provided to the Environmental Impact Assessment webpage in Appendix 2.

The Environmental Impact Assessment (Forestry) (England & Wales) Regulations 1999

These regulations seek to protect land from potential environmental damage as a result of forestry activity. There are four forestry activities that come under these regulations – afforestation, deforestation, forest roads and forest quarries. The first two activities are most relevant to HLS.

Under these regulations, proposals for afforestation (woodland creation) or deforestation (conversion of woodland to another land use) require consent from the Forestry Commission. Threshold areas exist below which consent is not normally required; the threshold varies depending on the type of forestry activity and the sensitivity of the site.

The HLS options most likely to fall under these regulations are woodland creation and restoration of heathlands, though other options involving tree planting/felling may also apply. If in doubt, contact your local Forestry Commission office for advice.

Further details of these regulations are available in the Forestry Commission booklet *Environmental Impact Assessment of Forestry Projects*, which can be downloaded from the Forestry Commission website. A link to this site is provided in Appendix 2.

5.4.7 Felling licences/Tree Preservation Orders

Please refer to Section 5.4.7 of your ELS or OELS handbook.

5.4.8 Habitat Scheme (HS)

It is not possible for HLS to be combined on the same land as the Habitat Scheme (HS). If you have an HS agreement, you will have to wait until your existing agreement expires before applying for HLS in most situations. However, land may be added to HS agreements where this meets the current scheme rules on amendments.

In some cases, where the existing agreement is on only part of the farm, and there are substantial environmental benefits from bringing new land or features into HLS, it may be possible to terminate the existing agreement and replace it with an HLS agreement. Agreement holders who feel they may fall into this category are strongly advised to discuss their case with their Natural England adviser before commissioning a FEP.

5.4.9 Heather and Grass Burning

The Heather and Grass etc. Burning (England) Regulations 2007 state what you can and cannot do when carrying out controlled burning of specified vegetation on your farm. Natural England is responsible for enforcing the Regulations. The Heather and Grass Burning Code 2007, which was developed by Natural England and the Department for Environment, Food and Rural Affairs (Defra) in consultation with industry partners, outlines good practice for burning heather and grass on your farm. The Code aims to describe a standard of good practice and raise awareness of the new laws, helping burners to burn safely and in ways that can benefit wildlife.

The cross compliance requirements of an ES agreement include complying with these regulations.

If heather or grass burning is part of your HLS agreement, your adviser will discuss and agree a burning plan with you and whether you need a licence. Where your burning plan is agreed with Natural England as part of an Environmental Stewardship agreement, this plan will take precedence over the Heather and Grass Burning Code if the two disagree. A link to further information on this subject is provided in Appendix 2.

5.4.10 Heritage Lottery Funding

Heritage Lottery Fund (HLF) payments are designed to fund management not covered by HLS or other schemes, or for measures over and above the requirements of other schemes. HLF applications can count HLS as a source of matched or partnership funding towards securing grants for further works, but only where the HLS payments are for separate works that are not subject to prior conditions. Where HLS agreements within an area-wide project have been signed less than 12 months prior to the HLF application, the payments will be viewed as matched funding. The projected payments for future HLS agreements will also be included in the calculations.

5.4.11 Inheritance Tax/Capital Gains Tax exemption

Please refer to Section 5.4.9 of your ELS or OELS handbook.

5.4.12 Nitrate Vulnerable Zones (NVZ)

Please refer to Section 5.4.10 of your ELS or OELS handbook.

5.4.13 Producer Organisation Aid Scheme

Please refer to Section 5.4.11 of your ELS or OELS handbook.

5.4.14 Protected areas: Sites of Special Scientific Interest (SSSIs) and Natura 2000 Network

SSSI

Land designated as an SSSI may be receiving payments under Natural England's Wildlife Enhancement Scheme (WES). SSSI land covered by WES may also be eligible for HLS provided that the two schemes do not fund the same activity.

Natural England will ensure that any HLS agreement helps to achieve favourable conditions on the SSSI. We will not award an ES agreement for any management considered likely to damage the SSSI. Awarding an HLS agreement gives permission, under Section 28E of the Wildlife and Countryside Act 1981 (as amended), for you to carry out the required management for the duration of that agreement. Permissions for

management activities on SSSI land granted as part of an HLS agreement are limited to the duration of that agreement and do not transfer from one land manager to another.

The Wildlife and Countryside Act 1981 (as amended) places new responsibilities on publicly-funded bodies ('Section 28G authorities') for the management of SSSIs. If you are applying on behalf of such a body, you should contact your Natural England adviser before applying.

Natura 2000 Network

Land designated as a Special Area of Conservation (SAC) or Special Protection Area (SPA), because it holds habitats, plants, animals or birds that are of European importance, is collectively known as the Natura 2000 Network. This land is put in place by the Conservation (Natural Habitats, etc.) Regulations 2010.

Land of this type will also be a notified SSSI. These designations place an additional duty on Natural England to assess any possible significant impact resulting from an HLS agreement, and this will be taken into account when drawing up your agreement. Action necessary for the conservation of the special features of the Natura 2000 sites will usually be allowed. However, there may be some options, such as capital works, to preserve historic features that need to be assessed in more detail by Natural England.

5.4.15 Protected species

Please refer to Section 5.4.12 of your ELS or OELS handbook.

5.4.16 Scheduled Monuments

Land designated as a Scheduled Monument may be receiving payment from English Heritage to help manage the site appropriately under what is known as a Section 17 Management Agreement. Such land may also be eligible for HLS provided that HLS and an English Heritage Section 17 Management Agreement are not funding the same activity.

5.4.17 Single Payment Scheme (SPS)

Please refer to Section 5.4.14 of your ELS or OELS handbook. As a general rule, land receiving payments from the SPS may be entered into HLS. Your HLS payment will be additional to any payment you receive from the SPS. It is your responsibility to check your eligibility for SPS.

You should be aware that Natural England has a regulatory responsibility to cross-check all land use options against those declared for the SPS. We will investigate any case where the land use declared for the SPS conflicts, or appears to conflict, with the requirements of the HLS option. For example, an energy crop on land that should be permanent pasture.

5.4.18 Can you use land to apply for HLS that someone else is using to apply for SPS?

Please refer to Section 5.4.15 of your ELS or OELS handbook.

5.4.19 Tenancy conditions

HLS 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. HLS options can be placed on features, such as 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.

5.4.20 Uplands Transitional Payment (UTP)

Land that is currently in a CSS or ESA agreement may be eligible for an Uplands Transitional Payment from the RPA until the end of the agreement. Land receiving UTP will be eligible for HLS.

If you are in receipt of UTP, you are **not** eligible for Uplands ELS/OELS on any of your land. As several people may have interests in an upland holding at the same time (eg owner, tenant, grazier) it is essential that when you consider applying for Uplands ELS, you discuss this intention with other interested parties. However, you can apply for ELS, and may put ELS options (but not Uplands ELS options) on land covered by the UTP.

If you have claimed UTP, your claim covers the calendar year following your claim submission and it is paid only in respect of the life of your (or your landlord's) ESA/CSS agreement, which could be for all or part of the calendar year. The *Uplands Transitional Payment 2012 to 2014* booklet contains more information concerning the periods covered by UTP and is available from the RPA Customer Service Centre (0845 603 7777).

Before you are paid your UTP, RPA will adjust the value of your UTP if you (or your landlord) decide to either end the ESA/CSS agreement on your land early or enter Uplands ELS on any land that you farm not covered by the 'classic' agreement.

After you are paid your UTP: if you have already been paid your UTP, RPA will ask you to repay the difference between the amount paid and the amount to which you are now entitled following the early termination of the ESA/CSS agreement, or the land not covered by the classic agreement was entered into Uplands ELS.

Please refer to Section 5.4.18 of your ELS or OELS handbook.

5.4.21 Woodland schemes

These are the Farm Woodland Premium Scheme (FWPS), the Farm Woodland Scheme (FWS), the Woodland Grant Scheme (WGS) and the English Woodland Grant Scheme (EWGS). Woodland managed under the Forestry Commission's grant schemes such as EWGS or the now closed WGS, FWPS and FWS is not eligible for HLS management options. However, where capital-only schemes exist, it may be possible to include woodland options in HLS. Contact your Natural England adviser or the Forestry Commission for further information.

5.5 What additional requirements will apply to your agreement?

You must comply with the additional requirements set out below and in Section 5.5 of your ELS or OELS handbook.

5.5.1 Cross compliance management and HLS options

The term 'cross compliance' refers to the requirement for farmers to comply with a set of Statutory Management Requirements (SMRs) and 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 ES and the SPS); any reductions due as a result of non-compliance will therefore be applied to 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.

HLS options have been designed to go beyond the requirements of cross compliance management. You must follow the procedures explained in Section 3 of the ELS or OELS handbook when you are applying for and managing your hedgerow (for example, HB12) and grass margin (for example, HE10) options. There are some arable options where, for reasons of timing or location, the HLS management may fall outside the cross compliance conditions. If you comply with the conditions of the HLS agreement, you will not have to meet the cross compliance conditions that conflict with the agreement.

The land management required for some options will, however, usually contravene the requirements of cross compliance because the land is unlikely to be capable of being 'returned to agricultural production by the next growing season'. Such land is also likely to become ineligible for the SPS, either because it is 'forest' or because it is 'used for non-agricultural activities'. Therefore, if you have land accepted into one of the options that affect the SPS, which you have included as 'eligible hectares' in your SPS application, you will be required to surrender to the national reserve a number of entitlements equal to the number of 'eligible hectares' upon which these HLS options will be paid.

5.5.2 Avoidance of under-utilisation and overgrazing

As a condition of your HLS 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 is defined as occurring 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 Common land

If, in addition to the land you are entering into HLS, you also hold grazing rights on common land, you must not increase the level of stocking on the common land.

5.5.4 Capital works

You should follow the timetable in Part 4 of your agreement and complete the works to the specification set out in Part 5 of your agreement.

If your agreement replaces an existing or expired CSS or ESA agreement, you must take all reasonable care to protect, for the duration of this new agreement, any capital works that you have completed and for which you have been paid under that agreement.

5.5.5 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 of your ELS or OELS handbook for more details). The FER will show the location of some of the historic features (including archaeological features and traditional farm buildings) on your land. For any of these features, and for any additional features of which you are subsequently advised in writing by us, you should 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 features;
- 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 traditional farm buildings (TFBs) or parcel boundaries.

5.5.6 Archaeological fieldwork and metal detecting on your land

You are required to ensure that metal detecting or archaeological fieldwork does not conflict with the requirements of your HLS agreement. You should refer to your obligations detailed in Section 5.5.5 of your ELS or OELS handbook. In addition, do not carry out or permit metal detecting or archaeological fieldwork on any of the archaeological sites on your holding identified in your FEP unless agreed with your Natural England adviser in writing.

With certain exceptions (see below), metal detecting is allowed on land within an (Upland) ELS or (Upland) OELS 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 (Uplands) ELS or (Uplands) OELS 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 (Uplands) ELS or (Uplands) OELS 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.

5.5.7 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.

Before allowing any non-farming activities to be carried out on your organic land (for example caravan parks), you must contact your Organic Inspection Body (OIB) to ensure that the status of your organic land will not be compromised.

5.5.8 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.

5.5.9 Keep necessary records

You must retain all scheme documentation. Defra staff or their agents may ask to see it 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 2.

You are required to keep comprehensive records as evidence of your organic farming practices. This means that you will be expected to renew the registration of your organic land each year to ensure that you are registered with an Organic Inspection Body for the full duration of your OELS agreement. Copies of these certificates and schedules must also be retained for the full duration of your agreement. You will be in breach of your agreement if you fail to comply with this requirement.

5.5.10 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 HLS agreement without our written consent. EU regulations do not permit more than one source of EU funding for the same activity.

5.5.11 Publicity

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

5.5.12 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 traditional farm building (TFB) in Uplands ELS.

Each photograph should 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").

5.5.13 Organic standards

The production of organic food is strictly regulated by EU law (Council Regulation 834/2007). The standards prescribed by these regulations set out the inputs and practices that can only be used in organic farming and growing and the processing of organic food and feed, as well as the inspection system to be used to ensure that the standards are met. In the UK, private Organic Inspection Bodies (OIBs) are licensed by Defra to ensure that these standards are met. All food and feed sold as organic must therefore originate from growers, processors and importers who are registered with an approved OIB and are subject to regular inspection.

You must comply with the organic standards on all your organic land for the entire duration of your agreement. Should the EU standards be revised, you will also need to meet any additional requirements that are introduced for the duration of your OELS agreement.

You should also be aware that organic seeds must be used on OELS land. Where this is not possible, you must contact your OIB for a derogation. This does not apply to any agreed derogation allowing the use of grass seed mixtures that have a minimum organic content.

Inspectors from your OIB will visit your farm at least once a year in order to check that you are meeting the necessary organic farming standards. We may need to obtain a copy of these inspection reports for administrative purposes, and in applying to enter OELS, you authorise the release of these reports to us.

5.6 Making changes to your agreement

5.6.1 Can you make changes to your agreement?

Please refer to Section 5.6.1 of your ELS or OELS handbook, but note that references to 5 years should be read as the term for your HLS agreement (normally 10 years, but 20 years if applicable).

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

Please notify Natural England 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 [LTA 1] for a part farm transfer) we may not be able to transfer to the dates specified in Section 5.6.4 of your ELS or OELS handbook.

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 [LTA 1] 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 are likely to have to repay the grant you have received, unless force majeure or other exceptional circumstances apply (see Section 5.6.9 of your ELS or OELS handbook).

You must tell the prospective owner or occupier about your agreement 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 Natural England does not receive their new application within four months (for land transferring into ELS/OELS agreements) or six months (for land transferring into HLS agreements) of the actual date of transfer, you, not the new owner or occupier, 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.

If you transfer **all** of your agreement land, you must contact Natural England 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 to you.

If you transfer **part** of your agreement land, you should contact Natural England to ask us to send you a Land Transfer and Amendment request form (ERDP/LTA1). You will then have 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.

You will be expected 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 will no longer meet the HLS entry criteria, the agreement may need to be closed early. In this case, unless force majeure or other exceptional circumstances apply (see Section 5.6.9 of your ELS or OELS handbook), 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 interest to notify Natural England of the acquisition as soon as possible, to avoid a delay or break in payment. 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 whether or not it is an organic agreement, and 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/HLS to OELS/HLS or Uplands 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 ELS or OELS 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; or
- 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. This 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:

- 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). If your agreement is within its first 5 years, you may be able to add larger areas with the agreement of your Natural England adviser.
- For acquired land already under agreement, the land to be added must have the same, or earlier, agreement start date than your existing agreement (ie if your agreement starts on 1 January 2010, you can only add land that entered ELS on or before January 2010). This is to ensure that the normal five years management is achieved. The entry criteria for both agreements must be the same.

5.6.4 When will agreement transfers take effect?

Please refer to Section 5.6.4 of your ELS or OELS handbook.

5.6.5 What if you want to upgrade your agreement?

If, on acquisition of land or at any other time you wish to upgrade your agreement from ELS/HLS to OELS/HLS or from ELS/HLS to Uplands ELS/HLS, you should contact Natural England first to discuss your plans. You will need to submit a new application, and if this is successful, a new agreement will be set up and your existing agreement will be closed.

For upgrades from ELS/HLS to Uplands ELS/HLS or from OELS/HLS to Uplands OELS/HLS, it may be possible to amend your agreement. Contact your Natural England adviser to discuss your plans.

5.6.6 Derogations

A derogation is required where a minor and temporary change from the agreed management prescriptions is needed on a single occasion. This may involve permission to control serious weed infestations using herbicides; a relaxation from time-based prescriptions; or permission to alter cutting or cultivating prescriptions due to practical problems.

You must obtain written approval before you make any changes to your management if you require a derogation for any of the following:

- HLS options
- ELS or OELS options that attract an HLS payment
- ELS or OELS options on the same parcel as an HLS option.

A derogation request form (NE-DR) may be downloaded from the Natural England website or obtained from Natural England. The link to the forms page of the Natural England website can be found in Appendix 2.

Where the derogation concerns organically managed land, you must obtain your Organic Inspection Body's prior approval to the derogation before the proposed change can be made. Your OIB will be required to confirm, by countersigning your derogation request form, that your request is compatible with organic standards.

On receipt of your request, a Natural England adviser may visit you to discuss the issue. You will be informed in writing whether your application for a derogation is approved or not.

The procedure for completing a derogation notice form for your ELS or OELS options is explained at Section 5.6.6 of your ELS or OELS handbook.

5.6.7 Variation of your agreement by us

Please refer to Section 5.6.7 of your ELS or OELS handbook.

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)

Please refer to Section 5.6.9 of your ELS or OELS handbook.

5.6.10 Can you change your Organic Inspection Body?

Please refer to Section 5.6.10 of your OELS handbook.

5.6.11 Are phased conversions possible under OELS?

Please refer to Section 5.6.11 of your OELS handbook.

5.7 Disputes: 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 anybody 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, you will be given 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. Please refer to Section 5.6.9 of your ELS or OELS handbook.

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 Natural England retains 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 ELS points/HLS payments 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 Farm Environment Record (FER) or Farm Environment Plan (FEP) 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 at 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.

ELS or OELS: points claimed cannot be found or management requirements are not being followed

Please see refer to Section 5.7.2 of your ELS or OELS handbook.

HLS: length/area discrepancies or management requirements are not being followed

Your payment will be reduced proportionally 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 prescriptions for a particular option.

Depending on the scale of the discrepancy between lengths/areas claimed and lengths/areas found, further penalties may be applied as shown below:

Table 2 Payment reduction and additional penalties for differences between lengths/areas claimed and lengths/areas found

Difference	Penalty
Length/area found is more than the area declared	No penalty, but payment will be based on the length/area declared
Length/area found is less than the area declared: the difference between the area declared and the area found is less than 3%	Payment will be reduced (or recovered) based on the length/ area found
Length/area found is less than the area declared: the difference between the area declared and the area found is more than 3% but not more than 20%	Difference between declared and found length/area multiplied by two and payment reduced (or recovered) by this amount
Length/area found is less than the area declared: the difference is more than 20% but not more than 50%	All payment for the whole crop group concerned is withheld (or recovered) for the year concerned
Length/area found is less than the area declared: difference is more than 50%	All payment for the whole crop group concerned is withheld (or recovered) for the year(s) concerned, plus an amount equal to the difference will be deducted from the following years/s payment(s)

Damage or removal of FER or FEP features

If you damage or remove any of your FER or FEP features, your annual payment will be reduced. 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

Breaches of cross compliance will be dealt with 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 for more detail on cross compliance penalties (see Appendix 2 for contact details).

5.7.3 What do you do if you receive an overpayment?

Please refer to Section 5.7.3 of your ELS or OELS handbook.

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

Please refer to Section 5.7.4 of your ELS or OELS handbook.

5.7.5 What do you do if you have a dispute with an Organic Inspection Body (OIB) over certification issues?

Please refer to Section 5.7.5 of your OELS handbook.

5.7.6 How do you make a complaint?

Please refer to Section 5.7.5 of your ELS handbook or Section 5.7.6 of your OELS handbook.