

Common Agricultural Policy

Common land payments – policy change

16 March 2015

We have reviewed the basis on which farmers may claim direct payments under the Common Agricultural Policy in respect of rights to graze on common land in England and certain areas of shared grazing.

In the past each commoner has been able to claim on a proportion of the total eligible area of a common, calculated according to the ratio of the rights which that farmer holds to the total number of rights recorded in the register for each common.

We have concluded that the basis adopted in 2005 for allocating the eligible agricultural area of the common amongst Single Payment Scheme (SPS) claimants does not comply with European regulations. That decision has been taken in light of a legal challenge by those with rights over Minchinhampton and Rodborough commons.

For the Basic Payment Scheme (BPS), which starts this year, farmers will now be able to claim on a proportion of the total eligible area which is calculated according to the ratio of the rights held to the total number of rights held by farmers who make a BPS claim in that year.

This means that the full eligible agricultural area of each common will be available to claiming farmers.

Additional information

Because our view is now that the methodology adopted in 2005 was not in accordance with the regulations, some farmers may be entitled to claim additional amounts under the SPS for some previous years. These are farmers who:

- claimed SPS in 2005 on commons where the full area was not allocated to claimants; and
- have claimed in each subsequent year to date.

Others who had a consistent claim history from 2005 until they ceased claiming in a subsequent year may also be entitled to claim additional amounts.

Those who have claimed SPS in every year from 2005 to date may be entitled to receive additional entitlements and additional SPS payments, subject to a six year limitation period. These additional entitlements will be 'rolled forward' to become entitlements under the BPS scheme. These farmers will need to lodge a formal claim in order to establish a

legal basis for additional entitlements to be issued, but the Rural Payments Agency (RPA) will write to them with a simple form which enables them to do this. A streamlined process will be in place to handle these claims, where possible using information the RPA already holds.

There are also cases in which farmers have received Hill Farm Allowance (or Upland Transitional Payment) in respect of common land, calculated on the basis of the area eligible for SPS. They may be entitled to extra payment for the later years of these schemes, again subject to limitation periods. RPA will write to those farmers affected inviting them to make a claim if they wish.

The RPA has recently completed the process of mapping common land for CAP direct payment purposes. Farmers who use common land, or the commoners' association or other management body, have recently received draft maps from RPA. In many cases the eligible area of a common has changed from that used in the past. There are more cases in which the area has decreased in size, than has increased, because for the first time all areas which are ineligible for CAP direct payments (such as areas of dense scrub) have been properly identified and excluded. The RPA will use the final version of the new maps for the BPS scheme from 2015 onwards.

Where a farmer lodges a claim to seek additional entitlements or SPS payments for earlier years, the RPA will use the total eligible area of the common as shown in the new maps to calculate whether anything is due. RPA will not normally seek to recover any overpayments that become apparent from the new mapping where claimants could not reasonably have detected that they have been overpaid.

Next steps

Defra and RPA will meet key organisations to agree guidance to be published on GOV.UK.

The RPA will write to all farmers who currently claim on common land providing guidance on the policy change.