

Defra's policy discussion document on ELMS

March 2020



Introduction

In February 2020, Defra published the [Environmental Land Management Policy Discussion Document](#) which offers the clearest picture yet of what the new Environmental Land Management System (ELMS) might look like. It is the system which will be the cornerstone of agricultural policy for English farmers once Basic Payments are fully phased out in 2028.

This is a summary of the main points from the 38-page discussion document. We have also updated our paper on the [planned rollout of the Environmental Land Management System \(ELMS\)](#), which we will update further when there is any significant news.

It is worth noting that the discussion paper sets out Defra's current thinking and so is still subject to change.

Please do call us or any of our team if you would like to discuss ELMS, any existing agri-environment scheme or how changes to Basic Payments will affect your business.



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Scheme design principles

'Focus on achieving environmental outcomes.'

'Land managers will have greater flexibility over how they deliver environmental outcomes.'

'Minimal complexity and administrative burden.'

'Continuously improve all elements of the scheme.'

Quotes from Defra's Policy Discussion Document

For ELMS to lead to a better environment, it will need high levels of uptake by land managers. Defra acknowledges that if schemes are undersubscribed, as has happened with Countryside Stewardship, there is an uneven distribution of uptake and environmental outcomes.

It says that schemes have been most effective when they have had clear targets or objectives that are easily understood and supported. The example it cites of this is the success of previous schemes in reversing the decline of the cirl bunting.

We think the principle of setting clear targets is absolutely key to the success of ELMS – if land managers can clearly picture what success looks like, they are much more likely to join and deliver. Defra acknowledges that part of this is ensuring that land managers are closely involved in identifying how their local area can help deliver environmental priorities, both national and local.

Very positively, the document also says that Defra will try to avoid being overly prescriptive about over how land managers should carry out the environmental management.

We also like Defra's suggestions for giving advice and guidance to land managers. It says that for advice to be effective it must be trusted, consistent, credible and cost effective. It also, rightly, says that how that advice is given should also be flexible, depending on the complexity of what is being done. Simple actions may need online, written standardised advice. Complex actions to manage bespoke wildlife habitat may need one-to-one advice¹.

Defra also says that it wants to ensure that ELM's compliance and reporting requirements are proportionate and not unnecessarily burdensome. We like this and also that the principles in the Stacey's review will be considered seriously².

We think that inspection should be based on risk and take into account a land manager's past record of delivery of environmental outcomes.

We think Defra should explore whether it is possible to combine the inspections needed for assurance schemes such as Red Tractor with ELMS inspections, certainly for the simplest ELMS agreements (i.e., Tier 1, see below).

'It is clear that in the past IT systems, ill-conceived processes and unintended consequences of policy design have got in the way of delivery.'

1 Evidence on the role of advice, from workshops held in the South Downs, was that it should be optional for access to the scheme, that local knowledge was critical and that advice should be ongoing throughout agreements.

2 The Review, chaired by Dame Glenys Stacey and which reported in January 2019, recommended:

- A new regulator, that is independent of government, that would be supportive of farmers' individual circumstances, offering practical advice, guidance and helping to incentivise good practice on issues such as biosecurity, soil quality and animal welfare.
- Regulation should integrate incentives, including grant and loan guarantee schemes.
- The regulator should work alongside farmers – to “do with” rather than to “do to” them.



Scheme design

The document says that Defra is considering a three tier structure for ELMS. We like that - it feels like the right mix – a basic tier for actions that all land managers can do, with more complex or specialist or local work in tiers 2 and 3.

It is not clear what the agreement length will be but Defra positively says that it may need to be flexible, reflecting the desired environmental outcomes.

Tier 1

'...actions to create environmental benefits that ... the majority of farmers could take.'

This is the entry level tier and Defra says that all farmers will be eligible to enter it. We think this is the right approach. It will make payments for environmentally-sustainable farming and forestry actions that the majority of farmers can do, and the following are listed in the document:

- Nutrient management
- Pest management
- Livestock management (improving feed efficiency of livestock)
- Soil management
- Field margins (buffer strips)
- Field cover (cover crops)
- Water storage/efficient water use

Defra says that payments may be based on income foregone and costs incurred, with payments adjusted over time in response to supply and demand to achieve the desired level of uptake.

Defra is currently considering whether tier 1 should consist of a set of standards that farmers have to meet in order to receive a payment, or whether the tier could offer a menu of options from which farmers can choose what to deliver. A hybrid approach is also possible, with standards plus options for additional benefits.

An underlying question, which Defra has not answered yet, is whether to make compliance with relevant regulations a requirement to enter the scheme. This may encourage compliance and would drive the implementation of the polluter pays principles over time.

Tier 2

'The right things delivered in the right places'

Tier 2 is similar to the current Countryside Stewardship scheme with all land managers eligible but it is most likely to be taken up by those with more interest and experience. There is no indication of the number of tier 2 agreements that Defra envisages granting.

It will also, like Countryside Stewardship, include local environmental priorities. Defra lists the following actions:

- Tree, shrub and / or hedge planting and maintenance
- Habitat creation / restoration / management
- Natural flood management
- Species management
- Recreation
- Education
- Heritage asset management

Defra uses the phrase 'the right things delivered in the right places', which will be done through spatial targeting. This means that it (or local administrators) will identify the appropriate places for things to be done. Defra is also considering local planning of priorities³. We think this is very important. If land managers are involved in and accept the local priorities, the scheme has a much better chance of success.

³ Defra is exploring how Local Nature Recovery Strategies, a new participatory spatial tool to be introduced in the Environment Bill, could support ELM spatial prioritisation needs.



This tier will also include support for collaboration between land managers, as some of the environmental outcomes need to be delivered at scale.

Tier 2 payments could initially be based on actions – so income foregone and costs incurred – with top-up payments based on results. Defra says that in the long-term payments could be purely results-based for certain outputs, where the methodology is tested and proven to be feasible.

However, it is also considering whether to include land not previously targeted by agri-environment agreements, such as peri-urban land. This is likely to be positive to the general public but may be opposed by farming unions as it spreads the funding over a larger area and to non-farmers.

This tier may also require land managers to demonstrate how they will deliver the environmental outcomes and the value-for-money of their proposals. This is a step beyond what has been required under previous agri-environment schemes, but could lead to more coherent, evidence-based plans across whole farms – and avoid the type of 'cherry picking' that has meant past schemes have not delivered environmentally. We would support this approach, especially if there is a standard for producing natural capital plans for farms and estates.

Tier 3

'Landscape scale land-use change projects'

The final tier is for large-scale projects that will contribute to the government's new £640m Nature for Climate fund for afforestation and peatland restoration:

- Forest and woodland creation / restoration / improvement
- Peatland restoration
- Creation / restoration of coastal habitats such as wetlands and salt marsh

The discussion document implies that this tier would not be open to all land managers and may be by invitation only – to individuals or groups - where land has been identified that can contribute to one of the above national aims. The responsibility for identifying and selecting projects could be devolved locally, perhaps guided by a national prioritisation framework.

The tier may also include public engagement and access, where appropriate.

Positively, the document says that due to the complexity and bespoke nature of this type of project, payment rates could be negotiated on an individual basis.



Consultation and timeline

Defra intends to publish more details and consult on the scheme design at a later date. It is also going to hold eight regional workshops.

Tests and trials will continue until at least 2015 and possibly up to 2028. They will focus on the role of expert advice and how collaboration is incentivised, and how new or innovative delivery approaches could be used.

Defra still intends to run a national pilot, starting in 2021, which it says could consist of two large pilots for tiers 1 and 2, and several smaller pilots, with fewer participants, for tier 3. It wants thousands of farmers to take part in the national pilot; they are likely to be offered real agreements to deliver real environmental actions, so experiencing the new system before other land managers.

Defra has again said that no one with an existing agreement will be unfairly disadvantaged when ELMS starts. Anyone with a Countryside Stewardship agreement that starts in 2021 or after will be able to end their agreement early if they have secured an ELMS agreement.

Strutt & Parker comment

This is one of the best papers we can remember Defra publishing for decades.

It is not very often that we congratulate Defra but it deserves it on this document and on its current thinking on ELMS. It is open, honest and constructive, and most importantly encouraging for land managers.

It shows that Defra has been listening to suggestions from farming and environmental bodies, and it feels like ELMS could be environmentally effective and be clearer and more practical for land managers.

The paper acknowledges past mistakes, the need for engagement with the farming sector and Defra's willingness to change its plans. It says that Defra wants to 'move away from a subsidy-based approach to a more business-like partnership', and this paper feels like a good start to that change in the relationship between government and land managers.

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