

Staying on the right side of the rules will ensure you get your payments

THE application window is now open for agreements to start from January 1, 2021. These must be received by the Rural Payments Agency (RPA) by July 31, 2020. Countryside Stewardship (CS) payments are ultimately based on your land/holding management meeting a set of rules. That means the RPA needs to be able to check that those rules are being met.

One way to do this is to send inspectors onto the holdings of agreement holders. A percentage of holdings are inspected at random each year, but the RPA will also target a number of holdings which they believe are of interest.

How will I know if I am due an inspection?

Officially, you are not supposed to know that your holding is to be inspected until 48 hours before the inspection. However, CS inspections are actually planned many months in advance and there are a few indicators which can suggest one may be likely:

- If you receive notification of an amendment to your agreement which you did not request, and your CS land has not been remapped recently, this could be a sign. This is because CS inspections processing requires agreements to match Rural Land Registry data much more closely than when claims are processed. If you then call the RPA about the amendment and receive only a vague explanation such as a generic computer error, an inspection may be on the way;

- In general, larger agreements are inspected more often as larger amounts of public money are at stake. If your agreement has a total value of £100,000 or more, it would not be uncommon to see multiple inspections over the five year term;

- If a paperwork error is made, such as failing an evidence check or claiming more option area than the RPA believes you have, you are much more likely to be inspected. Using a professional to submit your claims can mitigate this risk;

What happens when I am inspected?

First, you will usually be contacted by the inspector no more than 48 hours before the inspection is due. They will tell you to which agreement the inspection relates, and how long the visit is likely to take them. Ideally you should arrange a time to meet them on site, but they have legal powers to access your holding unaccompanied if necessary.

On the day, they will inspect both your documentation and what is on the ground on your holding. They will measure the length or area of your options using a specialised GPS

In the final article of a three-part series about the Countryside Stewardship scheme, land agent and surveyor expert **Hugh Townsend** discusses inspections and penalties



measurement system and also compare the options with the prescriptions on your agreement to ensure you are managing things properly.

They will also look at the various evidence documents required by your agreement, such as NVZ records and other cross compliance documents, invoices for capital items, or stock movement records, etc. Therefore, it is crucial that as well as making sure everything is right on the ground, you also have all of the documents your agreement says you must keep easily available, because not doing so could cause you to be penalised.

What happens after the inspection?

The inspector will send their findings to the RPA for processing. This is a convoluted and time-consuming process, and you will not usually receive a response for some time. This is unfortunate because, during this time, your claim is placed on hold and will not be paid, so even if your agreement has been managed and administrated perfectly, your payment will still be delayed.

The process considers two different types of breaches: over-declarations and scheme breaches. An over-declaration is when you are claiming for more option area than is on the ground. A scheme breach is when the option has not been managed properly. This might mean not having the correct documentation on the day, or failing to meet your management requirements such as by cutting hedges at the wrong time or failing to establish the crop required. Note that a management requirement of some options is that they have a certain minimum area, e.g. AB9 winter bird food must be planted in blocks of at least 0.4ha. If a block of this option is too small, you can be penalised both for an over-declaration and for a scheme breach. Therefore we always advise our clients plant slightly larger areas of each option than their agreement requires, to reduce the risk of being penalised.

If you are found to be in breach, whether of scheme rules or by over-declaration, the penalty you receive depends on the severity. With over-declarations, 0.1 ha leeway is allowed before any penalty is applied, provided the over-declaration is not more than 20% of total

area declared. Note that this does not apply to length-based options such as BE3 hedgerow management, which will be penalised for any over-declaration whatsoever.

You should also note that CS rules state that non-rotational parcel based options (such as low-input grassland or buffer strips, etc) must be in place for the length of an agreement. That means if you over-declare one of these options, you will also lose any payments previously made on it and the option will be removed from your agreement moving forward.

Finally, if you over-declare an option in one part of your agreement, but have more land managed under the same option on a different part of your stewardship land, the RPA will offset the two against one another, reducing or potentially cancelling out the penalty. Note this only applies to land which is part of your agreement.

A table of over-declaration penalties is below:

OVER-DECLARATION PENALTIES	
Size of over-declaration	Size of penalty
Up to 2ha or 3%	Excess option is removed from claim.
More than 2ha or more than 3% but not more than 20%	As above, plus an additional penalty of twice the over-declaration. Eg If you declared 3ha too much AB2: Basic Overwinter Stubble, your claim would be reduced by £84 (the value of the option) times 3, so £252, plus an additional penalty of that amount times 2, £504, giving a total £756 penalty
More than 20% but no more than 50%	The entire claim
More than 50%	As above, and additionally the value of the over-claim will be deducted from future payments, which can be Stewardship or the BPS. If balance is still outstanding after three years of claims, the remainder is waived.

Scheme breaches are handled differently to over-declarations. With these, the RPA will consider the severity of the breach (i.e. ploughing up your overwinter stubble one day early would be significantly less severe than burning it, for example); the extent, i.e. how much of the agreement it affects; how long the damage will last; and whether this is a repeat offense.

The RPA does not publish how the value of these penalties are calculated, but in the past there has usually been at least a percentage reduction in the payment, and you would be more likely to be inspected the following year.

How will I be notified of the result of my inspection, and can I contest the result?

The RPA will first show you a spreadsheet simply showing the inspector's findings. These are generally quite technical and are written primarily for the benefit of RPA staff, so can be confusing to those unfamiliar with them. We highly recommend sending these to a professional representative, who will interpret them for you and help you decide what action to take.

The RPA will write to you once they have processed the inspection's findings to let you know if you have been penalised, including their calculations.

While it is possible to contest what an inspector has found, the RPA will only accept an amendment by their own inspectors, so the only way to overrule the first inspection is by arranging for another visit. As the wheels of bureaucracy turn slowly, this will take time and your holding may look very different by the time of the next inspection, with CS crops no longer in the ground, so in practice re-inspection often is of little use. During this period, your payment will continue to be withheld. You can also contest the RPA's figures, if you believe the penalty has been calculated incorrectly.

Overall, however, it is simpler to make sure every part of your agreement is unambiguously correct and remains that way. The penalties for not doing so are, as discussed, potentially very severe. While inspections can sometimes be predicted, this is not always the case, so if you think something on your agreement is not right, it may be worth considering addressing this before the inspector calls.

■ This is the last of three articles on Stewardship. More about the scheme in our article 'Stewardship agreements can bring a variety of benefits', published in WMN Farming on February 12, and about making claims and applications in our article entitled 'Claims need not be complicated', published on February 19.