

FARMING

The final death knell of headage payments in the New Forest

In this week's article, land agent and surveyor expert **Hugh Townsend** shifts his focus to the New Forest commons



YOU might recall that in October last year, some activists climbed up the side of a building to protest against subsidised meat production, back when current affairs still allowed our media the space to cover such things. Clearly these people had not actually been paying a great deal of attention to historic agricultural policy, because otherwise they would have known that there have been no direct subsidies for the production of meat, or indeed any other kind of agricultural product, in England since the introduction of the Single Payment Scheme in 2005.

Since then, payments in England have been almost exclusively based on the occupation and maintenance of land in good, legally compliant, agricultural condition. What one chooses to do with the land beyond this has been discretionary. The exception to this is if further public money is claimed through an agri-environment scheme, such as Stewardship or now the Sustainable Farming Incentive. Stewardship has provided grants for the use of livestock to manage land where ecologically appropriate, such as under the Cattle Grazing Supplement for uplands or the Rare Breeds Supplement under the Higher Tier scheme. This is specifically about management. It is for particular habitats benefitted by the grazing of appropriate animals. There is no requirement on how many animals are grazed, or whether meat is produced from them.

Payments per animal, in other words, have been extinct in most of England for some time. However, one part of the country has been an exception.

MEET THE NEW FOREST, SAME AS THE OLD FOREST?

Throughout the Single Payment Scheme, Single Farm Payment and now the BPS, the New Forest, in Hampshire, has done things quite differently.

The New Forest is a Common. On most other Commons, this means that various people who do not own the land within it have historic rights to graze animals on it. This also gives them a right to claim subsidies based on the proportion of the Common over which they have rights. For most Commons every property with Commons Rights has rights for a set, fixed number of animals associated with it. Effectively the amount of Common on which they can claim is the proportion their rights against the total number of rights all commoners have over the Common. They have no requirement to own any animals; it is just about animals they technically could graze, if they wanted to. Provided they carry out

some work on the Common, such as scrub clearance or looking after fences, they can then claim according to the rights they hold.

The New Forest works rather differently to this. Specific properties do not have a limited number of pasturage rights, and instead may theoretically turn out as many animals as they choose. It is the responsibility of an organisation called the Verderers of the New Forest to keep track of the number of animals actually grazing the Common, and a commoner must pay a "marking fee" for each animal in exchange for this service, although the marking fee is not a legal right to graze the Common, which is attached to the property regardless of whether such a fee is paid.

This has presented a problem for the RPA. They could not divide the Forest according to commoner's rights over it because any given commoner's rights are theoretically infinite. Their solution was to instead divide claims according to marking fees. The more marking fees paid, they reasoned, the more of the Forest was being used, so the greater the proportion of it could be claimed on. For a given year, New Forest claimants needed to present the RPA with their marking fees for the previous year, and these would set the value of their claim.

What this meant was that the more animals on which you paid marking fees, the more of the Forest was included in your claim. The increase in the claim value per animal has consistently been higher than the price of a marking fee. Therefore, claiming on the Forest directly incentivised the ownership and grazing of more animals. It has been argued in court to literally be a headage payment, which the subsidy system is legally obliged to avoid. This meant that many commoners grazed (or at least, paid for the marking of) ever greater numbers of animals, and as this spiralled more and more animals needed to be marked just to keep the claim static. The upshot of this marking fee "arms race" saw Lord Goldsmith, current Minister for Forests and Minister for International Environment and Climate Change, describe the Forest in 2021 as "massively overgrazed".

The system was also chaotic for the commoners themselves, who had no possible way of knowing how many entitlements they would need, or what their claim would be worth, for any given year. This led to both dramatic clawbacks and insufficient entitlements for many if not most Forest claimants as the entitlements system devolved from matching a figure to one's land into a paperwork equivalent of Mitchell & Webb's satirical gameshow Numberwhang.



► Domestic pigs roam the roadside during Pannage, or 'Common of Mast', where the animals are allowed to wander in the New Forest during a set time in the autumn to feast on fallen acorns

Andrew Matthews / PA

NEW FOREST CLAIMS AFTER 2021

From 2021, following a legal challenge the system has changed. Claims on the New Forest from the 2021 claim year are not based on how many animals were "marked" in the previous year. Following consultation, each claimant's claim is based on the year from 2015 to 2020 in which they had marked the most animals. Their claim will be based on this in proportion to the total of these claims. This same proportion will be also used to calculate their claims for the full remainder of the BPS. Therefore, increasing or reducing the grazing herd will no longer affect the value of an individual's claim.

Activists on the subject hope that this will reduce stocking numbers and so what they consider to be overgrazing of the Forest. For claim-

ants, the system is at least more stable. However, it remains inequitable in some ways: a commoner might put a great deal of work into maintaining the Common but have rarely grazed animals on it, and their claim will be limited by this for the rest of the BPS period. Moreover, any new commoners, i.e. who have bought or leased land with New Forest grazing rights after 15th May 2020, must still present marking fees but are only allowed up to the equivalent of 20 cattle for claiming the BPS. Given many previous claimants have claimed with hundreds of animals, this could be argued to be unfair.

All of this also leaves open how the New Forest, and other commons, will be handled under the BPS's successor schemes, ELMS. Historically, New Forest claimants have also been paid under an Environmental Stew-

ardship scheme on the Forest, in addition to the Basic Payment. Whether ELMS would work in a similar way is to be decided. If so, further questions remain about which of the ELMS schemes would apply, how each claimant's share would be calculated and whether any third-party organisation, such as the Verderers of the New Forest, would take a cut.

Subsidies on the Forest have arguably only just been brought into line with the system introduced in 2005. It may likewise take some time before ELMS on the Forest is fully and satisfactorily implemented.

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