

# Review of Decisions Procedure Area-based Schemes

2005-2014

Single Farm Payment Scheme  
Less Favoured Area Compensatory Allowance Scheme  
Forestry Grant Scheme  
Agri-environment Schemes

You can get a copy of this document in other formats, such as:

- Large print
- Braille
- Audio CD
- Computer disk
- Other languages

To get a copy of this document in another format contact:

Area-Based Schemes Transformation Management Branch  
Orchard House  
40 Foyle Street  
Derry/Londonderry  
BT48 6AT

Tel: 0300 200 7848

Email: [EUASD.transformation.team@dardni.gov.uk](mailto:EUASD.transformation.team@dardni.gov.uk)

If required you can print off a copy of the online booklet. If you are not able to do this, any DAERA Direct office will print off a copy for you.

This booklet is effective from February 2017.

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## 1. Introduction

This information booklet is designed as a guide to the Department of Agriculture, Environment and Rural Affairs (DAERA) Review of Decisions Procedure.

The procedure covers;

- Single Farm Payment Scheme (SFP)
- Forestry Grant Scheme
- Less Favoured Area Compensatory Allowance Scheme (LFACA)
- Agri-environment schemes

This booklet applies to schemes which were operational before CAP Reform 2015. For instance if you are seeking a review of a decision relating to 2015 Basic Payment you should refer to booklet *Review of Decisions Procedure - For decisions relating to the 2015 and 2016 Scheme Year*.

The procedure is intended to provide applicants with a fair, impartial and transparent assessment of our decision against the framework of EU and national regulations and scheme rules. The aim of the procedure is to ensure that the decision made is correct and in line with the EU and national regulations and scheme rules. The Department has no scope to make decisions that do not comply with the rules of the schemes.

Applicants who feel that we did not reach the correct decision in respect of their area based scheme application have access to a two stage procedure. This procedure is an opportunity for applicants to explain and demonstrate how they have met the requirements of the relevant scheme and why the Department's initial decision should be changed.

The Stage One review of the decision is conducted by officials in the scheme processing branch who were not involved in making the decision in question. You cannot proceed to Stage Two until the Stage One review is complete. Details of the Stage One procedure are set out at Section 5.

The Stage Two review is a review by an External Panel, which makes a recommendation. The final decision will be made by the Head of DAERA Paying Agency. Details of the Stage Two procedure are set out at Sections 6 to 9.

Details of the procedure are also available on the Department's website at:  
<https://www.daera-ni.gov.uk/publications/review-decisions-procedure>

## **2. Your right to have a decision reviewed**

If you consider that our decision regarding your area based scheme application is incorrect, you have the right to request a review.

We recommend that before requesting a formal review, you contact the scheme staff to discuss your case (see Section 12 for details). The scheme staff will be able to provide a fuller explanation either over the telephone, in person or in writing, which may allow the matter to be resolved without the need to request a formal review.

**Using this option does not affect your right to proceed with a formal review but the deadlines for return of the application for a review will not be extended.**

### **3. Decisions covered under the Review of Decisions procedure**

Examples of the types of decisions that may be reviewed include:

- Penalties applied that result in a reduction or non-payment.
- Ineligibility of land or other works found during an inspection.
- Cross Compliance breaches identified at inspection.
- Admissibility of your application.
- Recoveries, in whole or part, of any payments already made.

This list is not exhaustive. Your decision letter will confirm whether you have the right to have the decision reviewed.

### **4. Decisions not covered by the Review of Decisions procedure**

Decisions that cannot be reviewed using this procedure include:

- Decisions on the exchange rates used to calculate your payment.
- Rates of payment for works under the Agri-environment schemes.
- Policy decisions relating to schemes.
- The standard of service you receive from us.

## 5. Stage One Review

**Stage One** is an internal review. It will be carried out by the following teams depending on the scheme.

For Single Farm Payment and Less Favoured Area Compensatory Allowance, the Stage One review will be completed by the Stage One Review of Decisions Section in Orchard House.

For Agri-environment schemes the Stage One review will be completed by the Stage One Review of Decisions Section in Countryside Management Unit.

For Forestry Grant Schemes, Forest Service will carry out the Stage One review.

To request a Stage One review you must contact the Stage One Review of Decisions Section relevant to the scheme (see Section 12 for details) and ask for a Review of Decisions Stage One application form (AP1). You must tell the staff which decision(s) you wish to have reviewed.

Your completed application form must be received by the Department **no later than 42 calendar days** from the date on our decision letter. We will write the deadline date on the front of the application form.

For SFP and LFACA related reviews, please return your completed application to the Stage One Review of Decisions Section, Area-Based Schemes Payment Branch, Orchard House, 40 Foyle Street, Derry/Londonderry, BT48 6AT.

For Agri-environment Scheme reviews, please return your completed application to Stage One Review Section, Countryside Management Unit, DAERA, 2nd Floor, Molesworth Place, Molesworth Street, Cookstown BT80 8NX.

For Forestry Grant Scheme related reviews, please return your completed application to the Grants & Regulations Branch, Forest Service, Inishkeen House, Killyhevlin, Enniskillen, BT74 4EJ.

You can also deliver your application in person to your local DAERA Direct Office. A list of the DAERA Direct Offices is included in Section 13. Further details can be found on line at: [www.daera-ni.gov.uk/publications/daera-direct-regional-offices](http://www.daera-ni.gov.uk/publications/daera-direct-regional-offices). We will give you an acknowledgement letter at the time. You should retain this as proof that your application has been received on time.

**If your application is received after the deadline it will not be accepted. We are not responsible for forms being lost or delayed in the post. It is important that you ensure the correct postage has been paid. Proof of postage is not proof of receipt. Force majeure/exceptional circumstances will not be considered.**

You will receive an acknowledgement of your review application from the Stage One Review of Decisions Section. If you have not received an acknowledgement within 10 days of having posted it, you should contact the relevant review section immediately (see Section 12 for details).

When you complete your Stage One Review of Decisions application you must:

- I. Clearly state why, in your opinion, the decision is incorrect.
- II. Provide all documentation in support of your case. Please ensure that any photographs you supply are dated and clearly labelled.
- III. Refer to the relevant EU or national regulations or scheme rules, where applicable.

Please note that Freedom of Information and Environmental Information Regulation requests should be sent separately to the relevant business area.

**It is not enough for you to state that the Department's decision is incorrect. It is for you to demonstrate how the initial decision is incorrect. It is important that you provide as much information and evidence as possible with your application.**



Failure to provide clear information and documentation will delay the processing of your application.

The Stage One Case Officer will contact you when they start your case. If required they will advise you of the deadline for submitting any additional evidence on your case. Evidence will not be accepted after this deadline.

The Case Officer will consider all information you provide and review the decision against the framework of EU and national regulations, and scheme rules. When the review is complete, the decision, and a copy of the Case Officer's report will be sent to you by Royal Mail recorded delivery to the registered trading address recorded on the Department's database.

If requested it may also be copied to the person who completed the review application if they are an authorised agent/legal representative/political representative.

You will also be provided with a copy of the Stage Two Review of Decisions application form (AP2 (Legacy)) if the decision reviewed has not been changed. The decision letter will advise you of the deadline for submitting a Stage Two review application. The deadline date will be written on the front of the application form.

## 6. Stage Two Review

**Stage Two** is a review by an External Panel with the Head of DAERA Paying Agency making the final decision.

**You can only apply to Stage Two after the Stage One Review has been completed.**

At Stage Two, you have the choice of one of the following options:

- A written review.** If you choose this option you will not be able to attend the hearing and the review will be based on the documentation provided. This option costs £50.

**Or**

- An oral review.** If you choose this option, you can be present at the hearing to answer any questions the panel may have or to clarify the information you have already provided. The oral part of the hearing usually lasts 30 minutes. You may bring a representative with you or nominate a representative to act on your behalf. This option costs £100.

With your Stage One decision letter you will receive a Stage Two Review of Decisions application form (AP2 (Legacy)). If you wish to request a Stage Two Review you have **42 days from the date of the Stage One decision letter** to return your Stage Two application form (AP2 (Legacy)). The deadline will have been written on the front of the Stage Two application form.

You should return the completed application form to Stage Two Review of Decisions Section, Room 548, Dundonald House, Upper Newtownards Road, Belfast BT4 3SB. You must enclose a cheque for the appropriate amount. Cheques should be made payable to the Department of Agriculture Environment and Rural Affairs and crossed "A/C payee only".

You can also deliver your form in person to your local DAERA Direct Office (see Section 13 for details). We will give you an acknowledgement letter at the time, which you should retain as proof that your application has been received on time.

If your application is received after the deadline it will not be accepted. We are not responsible for forms being lost or delayed in the post. It is important that you ensure the correct postage has been paid. Proof of postage is not proof of receipt. Force majeure/exceptional circumstances will not be considered.

You will receive an acknowledgement of your review application from the Stage Two Review section. If you have not received an acknowledgement within 10 days of posting you should contact the Stage Two section immediately (see Section 12 for details).

When you complete your Stage Two Review of Decisions application you must:

- (i) State why, in your opinion, the decision is incorrect.
- (ii) Provide all documentation in support of your case. Please ensure that any photographs you supply are dated and clearly labelled (e.g. with relevant field identifier and location of ineligible area marked).
- (iii) Refer to the relevant EU Regulations where applicable.

Please note that Freedom of Information and Environmental Information Regulation requests should be sent separately to the relevant business area.

It is not enough for you to state that the Department's decision is incorrect. It is for you to demonstrate how the initial decision is incorrect. **It is important that you provide as much information and evidence as possible with your application.** Failure to provide clear information and evidence will delay the processing of your application.

A Stage Two Case Officer will contact you when they start your case. The Case Officer is available to discuss your case and may contact you for clarification and additional evidence if necessary.

He/she will review the decision and provide a written report to the panel. The written report sets out the Department's position on your case.

Six weeks before the hearing we will notify you of the date and time of your hearing and provide you with a copy of the case file that has been prepared for the panel. If you have opted for an Oral review, you may bring somebody with you to the hearing.

You will have two weeks from the notification of the panel hearing to provide any additional evidence or information you have. Your invitation letter will tell you the deadline for receipt of additional information and evidence.

**No additional information or evidence will be accepted after this deadline—except in exceptional circumstances.** If exceptional circumstances apply you must notify the Department by the deadline in the letter that you will be providing additional information at the panel hearing. Failure to notify may result in the non admission of additional information.

You must study the case file carefully. If you consider that the file is incomplete you must notify the Stage Two team immediately (see Section 12 for details) so that the matter can be rectified.

**We will not accept any additional information or evidence after the hearing.**

If you rely on information or evidence at the panel hearing which you have not previously provided to us, you will be asked to explain why you did not provide this at the earliest opportunity. The Department reserves the right not to admit information or evidence provided at the panel hearing.

Should additional information or evidence be provided and is accepted, the Department reserves the right to review this before making a final decision on your case. You should note there is a possibility the Department might identify other information in its possession that relates to the late evidence presented (by you) to the panel. If this is the case you will be provided with a copy of such evidence and will be given an opportunity to comment on this before the final decision is taken on your case.

## 7. How the External Panel operates

The External panel is made up of two members. Panel members are appointed by DAERA from a pool of people who have been formally selected to act as panel members. Before considering a case, panel members are required to declare any conflict of interest that may arise, for example if they have a personal interest in the case under consideration or if they are known to the applicant. In such situations a panel member will be excluded from that particular case.

The panel's role is to consider the representations made by you, but they are bound by the EU and national regulations. The panel has no discretion to operate outside the rules of the scheme. The panel cannot make recommendations on policy or regulatory interpretation. The panel do not have authority to make recommendations in respect of legal matters, for example ownership of land or rights/access to land or disputes between two people. Only a court can make such decisions.

On the day of the hearing the panel chairperson will make introductions and will open the hearing by asking you to clarify your grounds for review. The panel may have questions to ask you to clarify facts and will consider the evidence provided in the case.

A Departmental member of staff will be present to take a note of the hearing. This will not be a verbatim record and documents only the main points of the hearing. This member of staff has no capacity other than to record the proceedings. A copy of the hearing note will be provided to you on request.

The panel will consider your case and all information available at the hearing and make a recommendation based on their findings.

**The panel's recommendation is not binding on the Department and the final decision in relation to your case rests with the Head of DAERA Paying Agency.**

## **8. What happens after the Panel?**

When the Department receives the panel's recommendation, a Departmental official will consider the panel's findings and recommendation and provide a report to the Head of DAERA Paying Agency. This report will include the facts of your case, a copy of the panel's findings and recommendation and the Department's position in relation to your case

The Head of DAERA Paying Agency must act within the EU and national regulations and has no discretion to do otherwise. The Head of DAERA Paying Agency's role is to ensure that all options within the EU and national regulations have been considered by us and the panel. The Head of DAERA Paying Agency is not obliged to accept the panel's recommendation but will take into account their findings before making the final decision.

When the final decision has been made, a letter setting out the Head of DAERA Paying Agency's final decision, the panel's findings and recommendation and the Department's position will be sent to you by Royal Mail recorded delivery to the registered trading address recorded on the Department's database.

When the Head of DAERA Paying Agency makes their decision this decision is final and concludes the Department's review procedures. There are no other review procedures available within the Department.

## 9. Outcome of the Review of Decisions Procedures

The outcome of a Stage One or Stage Two review will either be;

- our decision is changed in full or in part (i.e. your case is upheld or upheld in part); or
- our decision is not changed (i.e. your case is not upheld).

If you proceed to a Stage Two review and the Department changes its decision in full or in part we will refund your fee. If the Department does not change its decision, your fee will not be refunded.

## 10. Standard of Service

If you do not receive the standard of service you expect, you have the right to complain. We will treat your complaint seriously and deal with it as quickly as possible. A standard of service complaint cannot be used to overturn a legally correct decision.

Your complaint will be dealt with in accordance with our Complaints Procedure.

You can obtain a copy of this procedure by contacting us at:

Department of Agriculture, Environment and Rural Affairs  
Headquarters  
Room 427  
Dundonald House  
Upper Newtownards Road  
Ballymiscaw  
Belfast BT4 3SB

Telephone No: 0300 200 7850

Help Line No: 0300 200 7852

Text Phone No: 0300 200 7851 (Can only be dialled from another text phone)

E-mail: [daera.helpline@daera-ni.gov.uk](mailto:daera.helpline@daera-ni.gov.uk)

Or visit our website: <https://www.daera-ni.gov.uk/publications/how-do-i-make-complaint-if-i-am-unhappy-quality-service-i-received>

## **11. Your options after the Stage Two Review**

Once you have completed both stages of the Review of Decisions process, there is no further scope for a Departmental review of your case.

### **Judicial Review**

If you wish to challenge the final decision on a point of law, you may seek a judicial review through the High Court. Applications for judicial review should normally be made to the High Court within 3 months of you receiving our final decision. If you consider this option is appropriate you should discuss the matter with your legal advisers.

### **Office of the Northern Ireland Public Services Ombudsman (NIPSO)**

If you consider that the procedures have not been followed correctly, you can take your complaint directly to the Office of the Northern Ireland Public Services Ombudsman (NIPSO). Complaints should normally be raised within 6 months of receiving our final decision. Where there is recourse to a review procedure the Ombudsman's role is to be satisfied that the individual has had access to the review procedure and they were treated fairly and consistently within that system.

You can contact the Office of the Northern Ireland Public Services Ombudsman as follows:

In Writing: Northern Ireland Public Services Ombudsman  
Progressive House  
33 Wellington Place  
Belfast  
BT1 6HN



Freepost: Freepost NIPSO

Telephone: 028 9023 3821 or

E-mail: [nipso@nipso.org.uk](mailto:nipso@nipso.org.uk)

Freephone: 0800 343424

Text Phone: 18002 0330 200 7851

Website: [www.nipso.org.uk](http://www.nipso.org.uk)

## **12. Contact Details**

If you wish to discuss your Single Farm Payment or Less Favoured Area Compensatory Allowance Scheme application you should contact:

**Department of Agriculture, Environment and Rural Affairs**

**Area-Based Schemes Payment Branch**

Orchard House

40 Foyle Street,

Derry/Londonderry,

BT48 6AT,

Tel: 0300 200 7848

E-mail address: [areabasedschemes@daera-ni.gov.uk](mailto:areabasedschemes@daera-ni.gov.uk)

DAERA Helpline: Tel: 0300 200 7848 or

E-mail: [daera.helpline@daera-ni.gov.uk](mailto:daera.helpline@daera-ni.gov.uk)

**Further information on the Review of Decisions process in relation to the above schemes can be obtained from:**

**Department of Agriculture, Environment and Rural  
Affairs**

**Stage One Review of Decisions Section**

Area-Based Schemes Payment Branch

Orchard House

40 Foyle Street,

Derry/Londonderry,

BT48 6AT,

Tel: 0300 200 7848

E-mail address: [stage1.reviewofdecisions@daera-ni.gov.uk](mailto:stage1.reviewofdecisions@daera-ni.gov.uk)

**Department of Agriculture, Environment and Rural Affairs**

**Stage Two Review of Decisions Section**

Room 548

Dundonald House

Upper Newtownards Road

Ballymiscaw

BELFAST

BT4 3SB

Tel: 0300 200 7848

E-mail address: [ReviewDecisions.Stage2@daera-ni.gov.uk](mailto:ReviewDecisions.Stage2@daera-ni.gov.uk)

**If you wish to discuss your Agri-environment scheme you should contact:**

**Department of Agriculture, Environment and Rural Affairs  
Countryside Management Unit**

2nd Floor Molesworth Place

Molesworth Street

COOKSTOWN

BT80 8NX

Tel: 0300 200 7848

DAERA Helpline: Tel: 0300 200 7852 or E-mail: [daera.helpline@daera-ni.gov.uk](mailto:daera.helpline@daera-ni.gov.uk)

**Further information on the Agri-environment Review of Decisions process can be obtained from:**

**Department of Agriculture, Environment and Rural Affairs**

**Stage One Review of Decisions Section**

**Countryside Management Unit**

2nd Floor Molesworth Place

Molesworth Street

COOKSTOWN

BT80 8NX

Tel: 0300 200 7848

E-mail address: [Reviewofdecisions1AE@daera-ni.gov.uk](mailto:Reviewofdecisions1AE@daera-ni.gov.uk)

**Department of Agriculture, Environment and Rural Affairs**

**Stage Two Review of Decisions Section**

Room 548

Dundonald House

Upper Newtownards Road

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BELFAST

BT4 3SB

Tel: 0300 200 7848

E-mail address: [ReviewDecisions.Stage2@daera-ni.gov.uk](mailto:ReviewDecisions.Stage2@daera-ni.gov.uk)

**Further information on the Forestry Grant Scheme Review of Decisions can be obtained from:**

**Department of Agriculture, Environment and Rural Affairs  
Forest Service**

**Grants and Regulations Branch**

Inishkeen House

Killyhevlin

Enniskillen

BT74 4EJ

Tel: 028 66 343019

E-mail: [grants.forests@daera-ni.gov.uk](mailto:grants.forests@daera-ni.gov.uk)

**Department of Agriculture, Environment and Rural Affairs**

**Stage Two Review of Decisions Section**

Room 548

Dundonald House

Upper Newtownards Road

Ballymiscaw

BELFAST

BT4 3SB

Tel: 0300 200 7848

E-mail address: [ReviewDecisions.Stage2@daera-ni.gov.uk](mailto:ReviewDecisions.Stage2@daera-ni.gov.uk)

### 13. Contact details of Local DARD Direct Offices

<p><u>Armagh</u> A:Tek Building Edenaveys Industrial Estate Newry Road Edenaveys ARMAGH BT60 1NF</p>	<p><u>Dungannon</u> Crown Buildings Thomas Street Drumcoo DUNGANNON BT70 1HR</p>	<p><u>Mallusk</u> Castleton House 15 Trench Road Grange of Mallusk Mallusk NEWTOWNABBEY BT36 4TY</p>
<p><u>Ballymena</u> Academy House 121a Broughshane Street Town Parks BALLYMENA BT43 6HY</p>	<p><u>Enniskillen</u> Inishkeen House Killyhevlin Industrial Estate Killyhevlin ENNISKILLEN BT74 4EJ</p>	<p><u>Newry</u> Glenree House Unit 2 Springhill Road Carnbane Industrial Estate Carnbane NEWRY BT35 6EF</p>
<p><u>Coleraine</u> Crown Buildings Artillery Road Millburn COLERAINE BT52 2AJ</p>	<p><u>Strabane</u> Government Offices 18 Urney Road STRABANE BT82 9BX</p>	<p><u>Newtownards</u> Sketrick House 16 Jubilee Road NEWTOWNARDS BT23 4YH</p>
<p><u>Downpatrick</u> Rathkeltair House Market Street Demesne of Down Acre DOWNPATRICK BT30 6LZ</p>	<p><u>Magherafelt</u> Units 36-38 Meadowlane Shopping Centre Moneymore Road Townparks of Magherafelt MAGHERAFELT BT45 6PR</p>	<p><u>Omagh</u> Sperrin House Sedan Avenue Lisnamallard OMAGH BT79 7AQ</p>

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