



**ASSESSMENT OF THE IMPACTS OF AN AREA-BASED PAYMENT  
IMPLEMENTED WITHIN THE SINGLE FARM PAYMENT SCHEME  
ON ACTIVE GRAZIERS OF COMMON LAND IN ENGLAND**

Report  
for the

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## Summary of Project

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## Executive Summary

The aim of this project is to assess the impact of an area based support scheme on those actively farming common land. Given that a land-based payment may become more wide spread across Europe following the 2013 CAP reforms, it is important for the messages arising from the English experience to be fed into the current debate. Area based payments have implications for all those managing communal and common land. Often such land is of high value for the public goods it provides - 88% of common land in England is designated for its environmental importance and nearly all of it provides public access. If common land is poorly managed that affects the provision of these public goods as well as other ecosystem services that this land provides, for example regulating the flow and purification of water and as a source of carbon storage.

In England, the Single Payment Scheme (SPS) replaced most crop and livestock subsidy payments from 1 January 2005. The SPS was introduced as a 'dynamic' hybrid model that over time moved from the historic support payments to an entirely area based payment in 2012. Entitlements form the basis of the value of SPS payments for both the historic and area-based element and were established at the start of the scheme in 2005, or by subsequent purchasing or leasing of entitlements from another farmer. An entitlement gives a farmer the right to a payment, provided it is supported by a hectare of eligible land.

The English model has three payment bands based on the geographical location of eligible land, with distinct payment rates for each band. Most commons, being in the uplands, have the lowest rate of payment; moorland within the upland Severely Disadvantaged Areas.

### The Results

#### *An area based payment system*

The management of common land is complex so whilst an area based system was welcomed by many the implications for those who were commoners were not fully understood prior to the schemes introduction. This review found that for those farms which exercise their common land rights, the common forms a significant part of the farm business. The SPS payment from common land is correspondingly significant for the farm business as a whole and any reduction is therefore significant.

Crucially for commons, the rate for moorland (36% of all land above the moorland line is common) is substantially lower than for land in the lowlands and for many upland commoners the SPS received is considerably lower (c40%) than that previously received from historic payments. In upland areas the SPS is implicated in the decline of stock numbers, although environmental stewardship schemes were in some areas more significant in influencing stock numbers.

#### *Specific issues - delivery*

- The Rural Payments Agency refers only to the 1965 Commons Register as the basis for establishing a legal right to graze and converting rights to graze into notional hectares. The Registers, a legal record of the situation regarding rights on each common in the 1970s, were not designed with the SPS in mind, and may not be accurate. The Registers can vary on how they deal with issues such as owners' surplus rights, split rights and stinted pastures.
- The Rural Land Registry (RLR) is essential to SPS but commons were not mapped unless previously entered into an agri-environment scheme therefore the areas of commons used for SPS are often inaccurate or not available to support applications.

- Non active commoners and owners (if there is a surplus) can establish and activate entitlements over commons even though they are not actively managing the land. This results in money going to non-producers whilst active commoners are having to manage the whole common but only being paid on part of it.
- There appears to be some inconsistency in the interpretation of the regulations including some unwillingness to sanction the validity of Commoners' Associations to collect SPS payments and distribute to its members.

### *Lessons learnt*

1. The findings suggest that the level of payment is crucial. For those farming LFA land where support is critical the level of support provided by an area based scheme should be appropriate.
2. There is evidence of greater volatility in the management of common land than on the other areas of the uplands.
3. Make payments to those actively managing the land (may include some non graziers party to a scheme that requires stock reductions).
4. Explain in advance how complicated issues such as split rights and owners surplus will be addressed.
5. Don't rely solely on a register that is known to have limitations e.g. the commons register in England, consider the use of live registers provided on an annual basis by commons associations / councils.
6. Ensure the regulations reflect local farming practice, e.g. dates for grazing, and are appropriate to that particular type of land.
7. Accept that commons are complicated and that there is diversity across England. Given the significant public benefit provided by commons schemes like SPS need to be tested to ensure that they are effective on such areas.

### **Conclusion**

Area based payments offer some advantages over headage payments but the implementation in England has revealed several policy and procedural difficulties that have severely compromised the implementation of SPS on commons. Different policy options being considered for introduction from 2013, such as allowing late entries in establishing entitlements, should be considered and tested prior to their introduction. Addressing both the challenges and possibilities will increase the likelihood that active managers of these High Nature Value lands are properly compensated and deliver the full complement of public goods and ecosystem services.

The lack of clarity regarding the impact of the SPS on land that is so heavily laden with designations is a cause for concern. The report shows that with the data available, there is a case for further investigation. Further analysis needs to establish how the introduction of SPS changed the landscape for claiming agricultural payments on common land. Analysing data at the individual common and/or parish level to highlight the diversity of commons using the questions within the IACS form would be a first step. The report recommends that the full extent of the strain on upland farms actively managing common land is determined and understood.

# 1. Outline and Structure of the Research

The aim of this project is to assess the impact of the incremental implementation (starting from a low-base in 2005) of an area based support scheme, the Single Payment Scheme (SPS), on those actively farming common land.

The hypothesis is that farms that the grazing of commons by rightsholders is being compromised by the changeover to an area-based SPS system that has operated in England since 2005. This appears to be a widely held perception but there is little, if any, evidence to support this, hence the justification for this report. There is evidence about the significance of the SPS on upland farming generally, including the impact of the change to an area-based scheme with variable payment levels. In addition, there is information regarding the concerns about the management of common land and the numerous public goods it contains. This research seeks to link the two areas and provide some next steps that highlight the implications for the future management of commons and the significant areas of high nature value (HNV) land they represent. Equally significant is the likelihood that an area-based payment may become more wide spread following the CAP reforms currently under discussion and due to be introduced in 2013. Therefore it is important for the messages concerning the impact of commons arising from the English experience to be fed into the current debate surrounding these policy changes across Europe, especially in areas where commons are widespread such as Spain and parts of Eastern Europe, including Romania, Bulgaria, Montenegro, Bosnia and Herzegovina.

The research project had a three phase approach.

**Stage 1** was a desk based review and consultation that used sources of Defra data and other research conducted by Exeter, CCRI and the Foundation for Common Land. The aim was to assess the actual and future impacts on active graziers on common land of the incremental shift to a 100% area-based SPS (with no historic element).

**Stage 2** centred around 3 workshops held in the South West, North West and Midlands with a total of 18 active graziers and upland farming representatives. Each workshop discussed:

- The impact of SPS on active & inactive graziers compared to upland farmers generally;
- Overall impact on the management of commons in terms of the traditional collective management system;
- Regional variations regarding the impact of SPS on commons;
- Likely future policy trends in line with the agreed Defra scenarios;
- The key lessons to be learnt regarding commons ahead of the 2013 policy review.

**Stage 3** is the distilling of the key points within a report and subsequent dissemination. This included circulating a copy of the draft report. The final report was drafted and delivered to the EFNCP and others for comment. The final report will be circulated with a view to influencing policy discussions within Defra, other rural departments in the UK and the EU.

## **Report structure**

This report is set out in five sections. Section 1 is an introduction and outlines the format of the SPS and what this project is trying to find out. The second section provides the analysis for each of the four research questions. Section 3 outlines three possible policy scenarios that Defra have endorsed as an appropriate snapshot at this point in time. Section 4 draws out the conclusions and key lessons to be learnt and how the relevant agencies might respond to these now and ahead of the 2013 policy review. The final section details the further research that is required to determine the full impact of the area-based scheme on commons and the approaches that might be developed to mitigate against this.

## 2. Introduction

### 2.1 What is the current state of play regarding the Single Payment Scheme?

The Single Payment Scheme (SPS) replaced most crop and livestock subsidy payments from 1 January 2005. As far as the management of commons is concerned, SPS replaced a number of livestock sector payment schemes, namely: Beef Special Premium Scheme, Extensification Payment Scheme, Livestock Quotas, Sheep Annual Premium Scheme, Slaughter Premium Scheme and the Suckler Cow Premium Scheme. In England, SPS was introduced as a ‘dynamic’ hybrid model that combined historic support payments with a flat rate payment. Northern Ireland implemented a similar approach although the area payment element was a fixed flat rate area payment from 2006 onwards. However, as in England there is a similar emphasis on entitlements established in 2005, with claimants needing to activate both entitlements and eligible hectares to secure payment (DARDNI 2010). The approach adopted by Scotland and Wales was based entirely on entitlements allocated to each farmer based on historic claims and eligible land for the whole of the SPS period.

#### *Entitlements*

Across England, entitlements form the basis of the value of SPS payments for both the historic and area-based element. Entitlements were established at the start of the scheme in 2005, or by subsequent purchasing or leasing of entitlements from another farmer. An entitlement gives a farmer the right to a payment, provided it is supported by a hectare of eligible land. Currently, SPS entitlements are valued on two elements:

- a flat rate – based on the location of land according to three regional sub-divisions
- historic – based on a reference amount linked to previous subsidies.

The chart below shows the transition over 8 years from historic to flat-rate entitlements.

*Figure 1 Eight year transition from historic to area-based entitlements under SPS*

	2005	2006	2007	2008	2009	2010	2011	2012
Historic	90%	85%	70%	55%	40%	25%	10%	0%
Area	10%	15%	30%	45%	60%	75%	90%	100%

Farmers ‘activate’ their entitlement by submitting a claim form each year. To qualify, SPS claimants must be a farmer and hold the required entitlements, together with an eligible hectare of land for each entitlement and this land must be available on 15 May of the scheme year. Crucially for commons, the rate varies across three regional sub-divisions across England. These are shown below with payment rates for 2009 shown in brackets:

- English moorland within the upland Severely Disadvantaged Areas (£27.37).
- Other land within the Severely Disadvantaged Areas. (£156.09)
- Land outside the Severely Disadvantaged Areas (i.e. lowland) (£190.47).

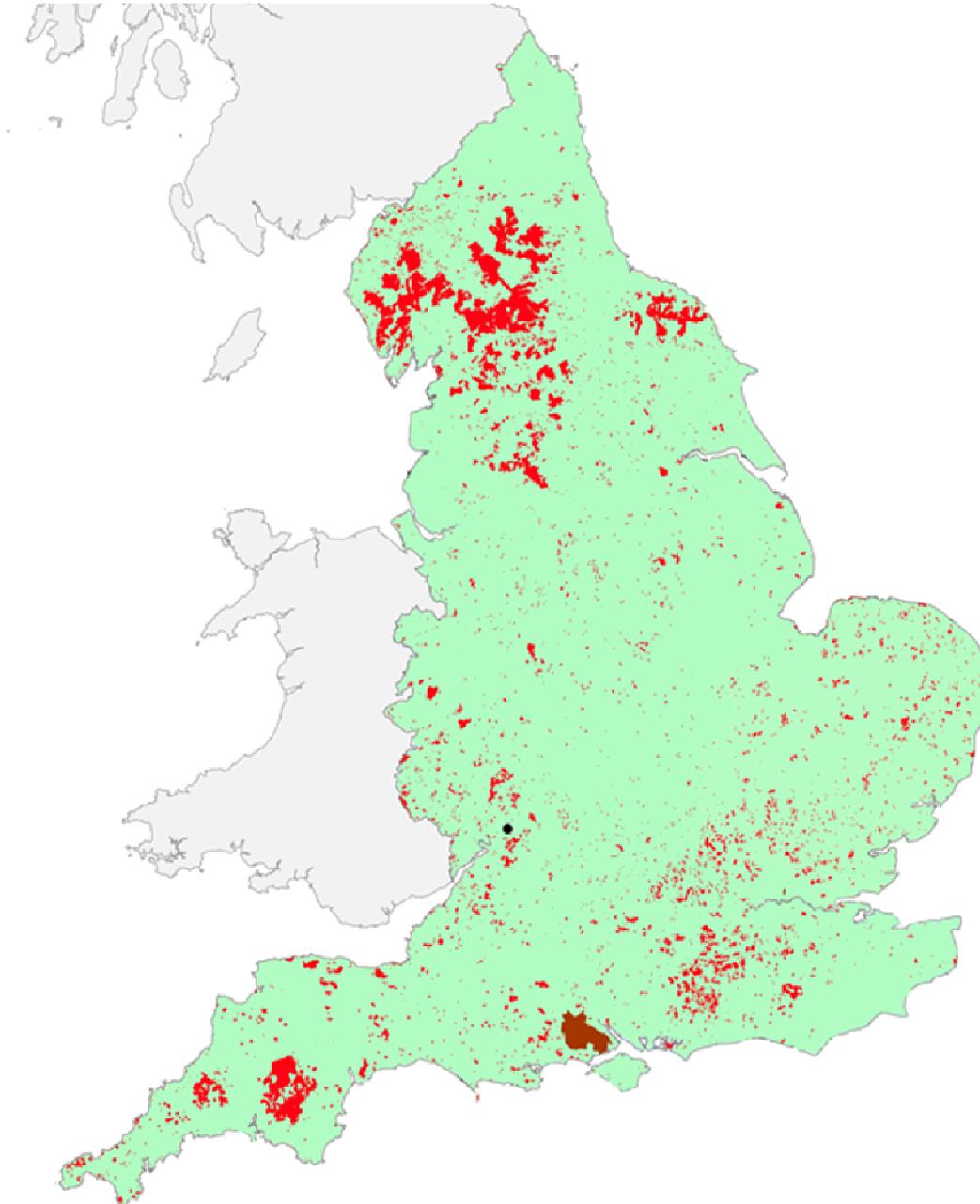
For a farmer who was claiming before 2005 the transition was quite straightforward with the historic payment dominant in 2005 but declining year-on-year. Thereafter with the area payment became larger from 2009 onwards until in 2012 the SPS payment is entirely area-based. The introduction of the area-based payment enabled new claimants, who had not been claiming historic payments under IACS, to join the SPS scheme. This led to around 50,000 new claimants being added to the system, as noted by the total number of claimants between 2004 (338,000) and 2005 (388,000) (Inside Track 2006). Defra analysis indicates that almost 10% of claimants did not claim after 2005, mostly those with small land areas (under 20 ha) (Defra 2010). Unlike Germany, England did not introduce a €100 threshold, although this approach is unlikely to have reduced the number of claimants by more than a few percent. However, it was estimated that if a 5ha threshold was introduced, some 17,000 claimants would become ineligible (Driver 2009). The budget for area payments is allocated

according to the total eligible area within the three categories, since 2005 the proportion of claims in each category has been over 97% (Defra 2010).

## 2.2 Why the concern linking common land and SPS?

The findings of the recent Upland Farm Practices Survey (Defra 2010) outline the significance of common land. In spatial terms about 50% of the uplands are moorland, and of this about 50% is registered common land (Defra 2010) giving a total area of 294,000 hectares. Figure 1 shows that the location of common land in England, with the concentrations being in the upland areas in the north and West.

*Figure 1 Location of Common Land in England*



The area of common land is also significant for its physical content, as it is disproportionately, when compared to the other upland areas, designated for biodiversity, landscape, heritage and amenity. As the table below indicates 88% of common land has at least one national or international designation (Natural England 2011).

**Table 2.1 Common Land and Designations in England**

<b>Designation</b>	<b>Designation Area</b>	<b>Area of registered common with designation<sup>1</sup></b>	<b>% of Registered Common Land</b>	<b>% of Designation</b>
National Park <sup>2</sup>	1,051,275	176,660	48%	17%
AONB	2,063,611	112,204	30%	5%
SSSI	1,076,980	211,003	57%	20%
SAC	967,923	179,528	49%	19%
SPA	727,890	122,107	33%	17%
Ramsar	374,932	8,265	2%	2%
Scheduled Ancient Monument	49,742	5,504	1%	11%
<b>Land with any above designations</b>	<b>4,082,621</b>	<b>323,739</b>	<b>88%</b>	<b>8%</b>
Access land under CRoW	935,685	369,394	100%	39.5%

(Source: Natural England 2011)

### **Research Questions**

Consequently, common land represents a significant proportion of the high nature value land that is managed by upland farmers. Upland farmers are known to be under financial pressure at the current time therefore the role played by the introduction of an area-based payment requires investigation. The following questions are of particular interest to this study.

- Do the development of regulations within SPS allow for the legal complexities and inherent diversity within common land?
- Is there a level of subsidiarity in the implementation of these elements of the SPS regulations?
- Is there consistent interpretation and application of these regulations in respect of common land?
- What is the impact of a decoupled area-based payment on active commoning?

Each of these four research questions is explored in the next section of the report.

<sup>1</sup> Area registered in accordance with Commons Registration Act 1965

<sup>2</sup> November 2007 figures, include New Forest - created 2005 with Authority established 2006

## 3. Assessing the Impact of SPS on Active Graziers of Common Land

### 3.1 The development of SPS regulations referring to Common Land

#### *Eligibility*

The regulations concerning SPS make it clear that in order to include common land in any claim, a claimant needs to be a farmer (as defined in the scheme rules), have common rights and have both eligible land and payment entitlements (Defra 2010). The definition of a farmer is a '*natural or legal person, with a holding within the EU, who exercises an agricultural activity or is responsible for the land being maintained in Good Agricultural and Environmental Condition (GAEC)*'. An entitlement is divided into two types. Normal or standard entitlements are those which were established in 2005 and claimed (or activated) against eligible land and special entitlements are those with special conditions which are claimed (or activated) against stock.

Eligible land is defined as '*any agricultural area of the holding taken up by land arable land, short rotation coppice and permanent pasture (except grazed woodlands or areas used for non-agricultural activity)*'. Eligible land can be established by the registration of fields after 2005 but these would not contain entitlements, and are referred to as 'naked acres'. The amount of 'naked acres' attributed to common land is not known. However, entitlements may be purchased and added to this eligible land. 'To activate' is the term used meaning '*to use an entitlements along with eligible land or livestock to claim payment under SPS*'. Each farmer receives an entitlement statement showing the number of entitlements that they hold, the eligible land at their disposal and the amount they are able to claim.

#### *Legal requirements*

The most frequent way for claimants to establish their legal right to use the common is to refer to the rights registered to their agricultural holding under the Commons Registration Act 1965. These registers are held by the local authority but may need some updating in order to reflect changes in land ownership. Further evidence is provided by deeds, conveyances or the specific entry or entries within the Common Land Register. The Rural Payments Agency (RPA) will not make a payment until they are satisfied that the claimant has a legal right to claim on that particular common.

Other rights, such as the rights of land owners to 'surplus rights' or where rights have been leased to a third party, may also be eligible. The surplus rights assigned to owners of common land are calculated by taking the total rights available on the common (both claimed and unclaimed) and an estimate of the overall capacity of the common. If the presence of surplus rights is established, these are converted to a notional land area in order for the land owner to claim entitlements. If there is no surplus, or the owner has chosen not to establish entitlements, the Defra guidance indicates that unclaimed area of the common would be allocated to those with rights to graze the common. Should an owners' rights appear on the register, they are treated as other registered rights and taken into account in the calculations for the allocation of notional areas of common land, whether or not the owner claims for SPS or not. The main area of common land that is not covered by the Common Act 1965 is the New Forest in the South of England. In this instance, claimants are required to provide evidence of the stock numbers for which they have paid fees to the New Forest Verderers for in the required period.

#### *Allocation calculations*

Since the 1965 registers sometimes detail the type of stock as well as the number of rights the SPS process allows for some conversion to take place. Claimants enter all those rights that they are entitled for the SPS to consider and convert them using the standard formula. This includes stinted and gaited pastures, where for example a stint may equate to the right

to graze 5 sheep, and this information is then used in calculating the value on that particular common.

The calculation of a claimant's common land allocation is based on the maximum number of Livestock Units that are available to graze the common. This will be used to allocate a notional part of the common land area. The allocation is calculated using the formula that divides the agricultural area of the common by the total number of Livestock Units on the common multiplied by the number of rights claimed by each claimant. It is interesting to compare this approach with that of 'naked acres', outlined above. It might be assumed that where eligible land has not been registered but spare entitlement exist the presence of these naked acres would become part of the SPS market. Moreover, the approach on common land means that the total eligible area of the common is divided amongst all of the rights on the register to calculate entitlements for those who wish to claim. This means that some of the eligible area has no entitlements attached to it, although the only claimants for these naked acres would be rightsholders on that particular common.

#### *Collective claimants*

The SPS guidance notes that in exceptional circumstances a Commoners' Association (or similar body) may activate entitlements on behalf of its constituents so long as it is able to meet various criteria. The SPS guidance suggests such requests are dealt with on an individual basis. The first of these requirements refers to the role of a farmer and:

- Lawfully exercises the rights of one or more commoners, or
- Lawfully exercises rights on behalf of the owner of the common, and
- Can meet the remaining schemes rules (e.g. GAEC).

Those wishing to claim on behalf of others commoners through a Commoner's Association must also show that the:

- Association's application is supported by some form of legal written agreement between all graziers/owners to claim the common on their behalf;
- Association is acting as the 'farmer' in terms of keeping the land in GAEC and has proof to support this;
- Association is representing all graziers on the 1965 Register, regardless of whether or not a SPS application has been submitted.

In reality only a handful of Commoners' Associations have applied for and been approved to claim all the SPS for a common and allocate it amongst the graziers. Whilst this approach is the most common route within agri-environment schemes, the process of developing the agreement is very different. However the use of Commoners' Associations in the formation of Upland Entry Level Stewardship agreements might encourage both the associations and RPA that this is a more viable route that involves a single rather than multiple payments on a single area of common land. According to the workshops on this project, the key issue for the Commoners' Association is the allocation of the money and the involvement, or not, of those who do not actively graze the common by exercising their rights. This has been an issue on AES agreement on common land for some time with roughly three solutions:

- Money is distributed among active graziers only;
- Small payment to non-graziers in return for not exercising their rights over the period of the AES agreement;
- Graziers and non-graziers are joint signatories of the agreement and thus take equal responsibility for management activities and receive appropriate payment.

Data received from Defra focuses on the number of claims made in 2009 that involve common land. The total area of common land for which entitlements were claimed is 368,068 hectares, quite close to the 369,394 ha listed in Table 1. However this refers to the

total area of registered common land and when other areas such as the New Forest are added the total is closer to 398,399 ha. Nevertheless it would appear that claims for entitlements under SPS were made on 92% of common land in England. The majority of this was for the SDA moorland rates with far smaller amounts under the other two categories. The data also suggested that 4,500 rightsholders were eligible to claim and of these 4,100 did so in 2009. However it is not clear how the figure of 4,500 rightsholders was arrived at. In order to understand the impact of the SPS on common land it is crucial to know the forage area involved and claimed for and the number of rightsholders who are seeking claims on common land.

Future analysis of commons might also be undertaken so that the forage area claimed on common land can be identified alongside the number of claimants on each common. This would identify the impact and complexities of the SPS as it relates to common land. It may also indicate the link between the historic claims and the capacity of the common and the affect of the SPS on this association. Analysing such data at the individual common and/or parish level would highlight the diversity of commons and their concentration within specific areas. It would also be relevant to determine the change in the proportion of commons and number of claimants before the introduction of SPS compared to the introduction of SPS. Finally, changes within the claims on commons during the SPS would reveal the impact of the SPS market on longstanding claimants. This would also reveal the impact on common land of the presence of naked acres and potentially highlight the importance of involving Commoners Associations or Commons Councils to stabilise the situation. In essence research in these areas would highlight how the introduction of SPS changed the landscape for claiming agricultural payments on common land.

### **3.2 The level of subsidiarity in the implementation of these elements of the SPS regulations**

#### *Legal rights intact*

The guidelines make it clear that the SPS does not alter the legal right to graze the common, thus if you do not claim SPS you have not jeopardised your right to graze. It also makes clear that the numbers agreed under SPS will not affect any environmental agreement as SPS is based on the numbers on the register and not the number that actually graze the common.

#### *Active and Inactive*

As a result of the above approach the RPA does not distinguish between active and inactive graziers because the payment is based on an entitlement rather than any actual management activity. Therefore a proportion of those who are claiming SPS on common land are not exercising, and may not done for some time, their rights to graze common land. The crucial implication of this is in the division of the payment that is calculated for any common as this is divided equally between the active and inactive graziers based on the number of rights registered for each claimant.

The calculation is further complicated as the actual amount paid out is a proportion of the total numbers of rights for any common, as indicated in the previous section. Therefore, assuming that on a particular common 75% of the rights are included within SPS claims, the amount divided among the SPS claimants would be 75% of the total potential amount for the common if every rightsholder on the Common Register applied for SPS. Assuming that of this 75%, 50% of the rights were allocated to active graziers and 25% to inactive graziers, the amount received by active graziers would be 50% of the total potential allocation, 25% would go to farmers who do not exercise their rights and 25% would be unclaimed as those rightsholders had not registered for SPS. In this hypothetical case the latter 25% would also be included as 'naked acres', as the notional area is eligible but has no entitlements attached to it.

In the example of Minchinhampton, Gloucestershire where the role of the Commons Management Association has not been accepted, individual graziers have submitted claims for SPS based on their own rights. The amount they receive is significantly reduced as there are a large number of rightsholders with a small number of rights who are no longer agricultural active. However these are still taken into account as the payment is based on all rightsholders meaning that the majority of the SPS remains unclaimed.

#### *Land at farmer's disposal*

A second aspect of subsidiarity concerns access to the common. In the first 3 years all farmers using land, including common land, were required to have the land at their disposal for 10 months of the year. In some cases commoners had restricted rights, i.e. for these than 10 months, meaning that they were not able to claim for these. From 2008 this was changed to mean that the farmer had the land at their disposal from a particular date, often 15 May, meaning that most farmers with restricted access to common land can now claim.

#### *Deactivated entitlements*

From 2010 the SPS Handbook informs claimants that they will risk losing entitlements unless they are 'activated' at least once every two years. The process of activating in reality means to claim each entitlement alongside a corresponding area of eligible land. However it appears that unclaimed for rights on common will not be viewed as deactivated and thus payments for common land will continue to be calculated as a proportion of all rights, so that all rights are treated equally.

#### *Regional variations*

The SPS regulations make it clear that the scheme is implemented across England, without variation. The workshops would seem to suggest that this is the case but in respect of common land there seems to be some unwillingness to sanction the validity of Commoners' Associations to collect SPS payments and the diversity contained in the Commons Registers on issues such as owners' surplus rights and stinted pastures. A national review on this would reveal if the perception of such regional variation is valid and if it holds certain advantages for area-based payments within given parameters.

### **3.3 The consistent interpretation and application of these regulations on areas of common land**

#### *Accuracy and timeliness of payments*

The most frequent issue that arose from the workshops and other research is the timeliness and accuracy of the payments received by individual farmers and Commoners' Associations. In terms of the accuracy of the payments this was usually related to mapping errors and subsequent area of common land. As the SPS handbook indicates, before 2005 common land had not been included on the Rural Land Register (RLR). Those commons that were part of an agri-environment scheme agreement may result in them being on the RLR but this did not appear to mean that the RPA felt this map was accurate enough for SPS payments. Consequently, there are examples of commons where there is an AES map but the payments for SPS are slightly different and this is followed by subsequent discussions between the RPA and the Commoners' Association, individual farmers or agents. Secondly, in cases where there is no RLR map, there is often a drawn out process of agreeing the map, the resulting area of common land and subsequent payments. According to the workshops, this can take several years with a corresponding delay in receipt of payments. There are occasions where agreement is not reached and payments continue to be inaccurate from the standpoint of the commoner.

Through the workshops it is possible to highlight some examples. In one instance in North Yorkshire a claimant has been trying to persuade the RPA that the rights to the common that are included in the deeds to his farm are valid even though they are not found of the Commons Register for that farm. Initially he was able to claim these rights under SPS but the RPA now say that he has no entitlement and have stop paying this part of his SPS.

In a similar way Minchinhampton Common Management Committee was allowed for two years to act as the claimant and collect the SPS for the whole common. This was then distributed equally to the active graziers once it was clear how many cattle had grazed the common. However, after two years or so the eligibility of the Management Committee was challenged and the payments stopped. This issue is unresolved and clarity on the exact nature of the legal issues by which the RPA stopped the payments is being sort by the Management Committee.

The timeliness of payments is partly linked to the issues outlined above. However, the workshops also highlighted that there were occasions where both maps and areas had been agreed but payments were still regularly late in arriving. In this sense it would seem that the complexity associated with common land meant that payments associated with commons were not given equal priority. Certainly the perception among farmers was that in order to achieve the target payment percentage, payments linked to common land were left until easier areas had been resolved. However, we accept that providing evidence to support such perceptions for this is notoriously difficult.

Both accuracy and timeliness of payments relate to a central issue concerning common land and that is the level of diversity across England. For example in the North East of the England there are a number of stinted pastures. A stint equates to the number of animals that a rightsholder allowed to put on a common in any one year and can vary for year to year, but the practice of interpreting this within the RPA would seem to vary. In most parts of the country stinted pastures are included in SPS with a livestock value agreed for each stint. However, on a common in the Yorkshire Dales, the RPA have apparently been unable to determine the eligibility of a stinted pasture with records that date back to before Waterloo, (1815). It is also notable that only some stinted pastures were registered under the Commons Registration Act 1965, further adding to the complexities (for further details on the diversity of commons across England see Annex 3). While it is important for any scheme such as SPS to be as simple as possible it is also vital that it is able to cope with the diversity that exists within common land so that the benefits which are derived from this type of land are not lost.

### *Split rights*

One area where the RPA have been consistent is on the issue of 'split rights' and have defended a recent challenge from commoners about the legality of their approach. This had been an area of concern for commoners for some time (see articles in Farmers Guardian and Cumberland & Westmorland Herald both 2007). The SPS handbook defines split rights as being where 'a Common Land Register allows a grazier the right to graze their animals across more than one common'. This is usually included in the register as 'over the whole of CLXX and CLYY. The standpoint from Defra and the RPA has been that this is not acceptable and rights are apportioned only to one common, unless there is legal evidence indicating why this should be different. Further detail supplied to the Foundation for Common Land indicates that this approach is a response to the concern that rights would be duplicated if split rights were accepted. It is widely recognised that the 1965 Act was flawed because entries could not be challenged or adjusted both in terms of common land units and individual rights. Therefore commons that appear as a contiguous entity on a map may have more than one CL number as a result of the Commons registration Act 1965. As a result a farmer with common rights may have entered the register by indicating that he has rights to graze the common and therefore entered the same number of rights on all appropriate CL numbers on that common. The RPA indicated that allocation was a pro rata as indicated in the example over the page.

### **Example of Split Rights Allocation**

CL001 – Common 1 is 100 ha

CL002 – Common 2 is 25 ha

The common land register gives Mr Smith the right to graze 10 cattle on CL001 and CL002.

Common 1

$100 \text{ ha} \div 125 \text{ ha} = 0.8$

$10 \text{ cattle} \times 0.8 = 8 \text{ cattle}$

Common 2

$25 \text{ ha} \div 125 \text{ ha} = 0.2$

$10 \text{ cattle} \times 0.2 = 2 \text{ cattle}$

RPA would allocate 8 of Mr Smith's cattle to Common 1 and the other 2 to Common 2.

The only instance where split rights have been allowed that is known to the research team is in Dartmoor where the central common, the Forest of Dartmoor, has rights assigned directly to it but those with right on surrounding commons have also historically (i.e. before the Commons Registration Act of 1965) held rights over this central common. However a recent unconfirmed decision in early 2011 seems to have upheld the RPA and Defra position that unless proven otherwise split rights are not permitted. This has implications for other parts of Europe and raises questions about the quality of the registers and consistent legal framework covering commons within each member state.

The next section looks at the current state of active commoning and the impact of the SPS, as a decoupled area-based payment, on active commoning in England.

### **3.4 The impact of a decoupled area-based payment on active commoning.**

#### *Financial viability of upland farm with commons*

Before looking at the impact of the SPS specifically, the current state of upland farming and commoning in England specifically is reviewed. The most specific study was undertaken in 2008 by Exeter University and states that moorland farms “*will be hit even harder than average by the changes in SPS payments; where mixed grazing livestock (SDA) farms are projected to lose 27% of their SPS payment between 2006 and 2012, the effects on these moorland farms are widely expected to be even greater, with cuts of 40% possible*” (Turner *et al* 2008). A South West Upland Federation (SWUF) briefing also notes that the SW study concludes that reductions of this magnitude are likely to have very significant impacts on the viability of SW hill farms: average Farm Business Income is projected to fall by 34% solely due to the effects of the SPS, rising to a cut of 64% for the larger ‘mixed grazing livestock’ farms. Under the worst case scenario the cut in income would be 43% on average and 76% for the mixed grazing livestock farm (the type of farm that is needed to provide grazing to moorland). An economic assessment of upland farming in 2006 came to a very similar conclusion, although this report was largely predictive (National Trust 2006). Therefore we are confident that these figures remain accurate as of 2010/11 and they were confirmed by the three workshops.

Figures for the same period extracted from the Farm Business Survey (FBS), which divides upland holdings across England into those with access to common rights and those without. The division is determined by the farmer submitting the data to the FBS and does not infer that the rights of commons are actively used. However the information provides further support to the University of Exeter findings. Table 3.1 shows the gross margin for agriculture, agri-environment payments and SPS and overall net income for 2007 and 2008 on SDA farms with commons to those without access to commons across England.

**Table 3.1 Gross Margin from agriculture, AES and SPS for SDA farms by access to common rights 2007 and 2008 (£).**

<b>SDA Farms in England</b>		<b>2007</b>	<b>2008</b>
<b>With commons</b>	Agriculture	9,565	17,055
	Agri-environment	14,999	11,202
	SPS	16,568	17,603
	<b>Net income</b>	<b>7,696</b>	<b>10,334</b>
<b>Without commons</b>	Agriculture	12,094	19,359
	Agri-environment	11,589	9,162
	SPS	16,727	18,851
	<b>Net income</b>	<b>6,533</b>	<b>11,272</b>

(Source: Scott 2010, extracted from Scott and Harvey 2010.)

The figures show that on both categories of SDA farms the presence of agri-environment and SPS monies is critical. Those with commons received slightly more agri-environment payments, reflecting the higher biodiversity value of these areas, while the SPS figures are very similar. Overall the net income depends on these payments in order to remain in the red. The conclusion from all of these studies is that that upland farms with access to commons are just as financially vulnerable as other upland farms.

The current state of the system of commoning has recently been investigated by the Foundation for Common Land through the *Pastoral Trends in Pastoral Commoning* (FCL 2010). This study revealed that the traditional system of managing commons is under threat and that the number of active graziers managing these areas is declining. The key points identified by this study were that:

- the overall tendency is towards fewer active graziers on each common and an increase in farm size;
- the agricultural use of common land has become increasingly time consuming;
- commons are increasingly managed through Commoners' Associations, and are subject to agri-environment schemes;
- stock numbers have declined in most cases, with a shift away from native breeds;
- the reasons why commoners continue to graze commons are complex and involve personal values, not solely geared to economics.

These core findings suggest that the system of collaborative management is under strain and that continued decline would jeopardise the management of these areas in the longer term. As with other parts of the uplands, support payments via agri-environment payments and particularly SPS underpin the viability of the system. The role of AES payments has been investigated, but thus far there has been no on assessment of the impact of the SPS in England. This is despite it being one of the first countries to introduce a flat area-based payment. Since the provision of a range of public goods derived from common land is dependent on continued grazing and collaborative management the role of SPS in this warrants further investigation.

#### *Reviewing the link between common land and upland farms*

The most extensive survey of upland farming was undertaken in the spring of 2009 by Defra. The Uplands Farm Practices Survey (UFPS) was a postal survey of over 1,000 farmers in the uplands and other Less Favoured Areas across England. The survey explored attitudes, farming practices and intentions for the future.

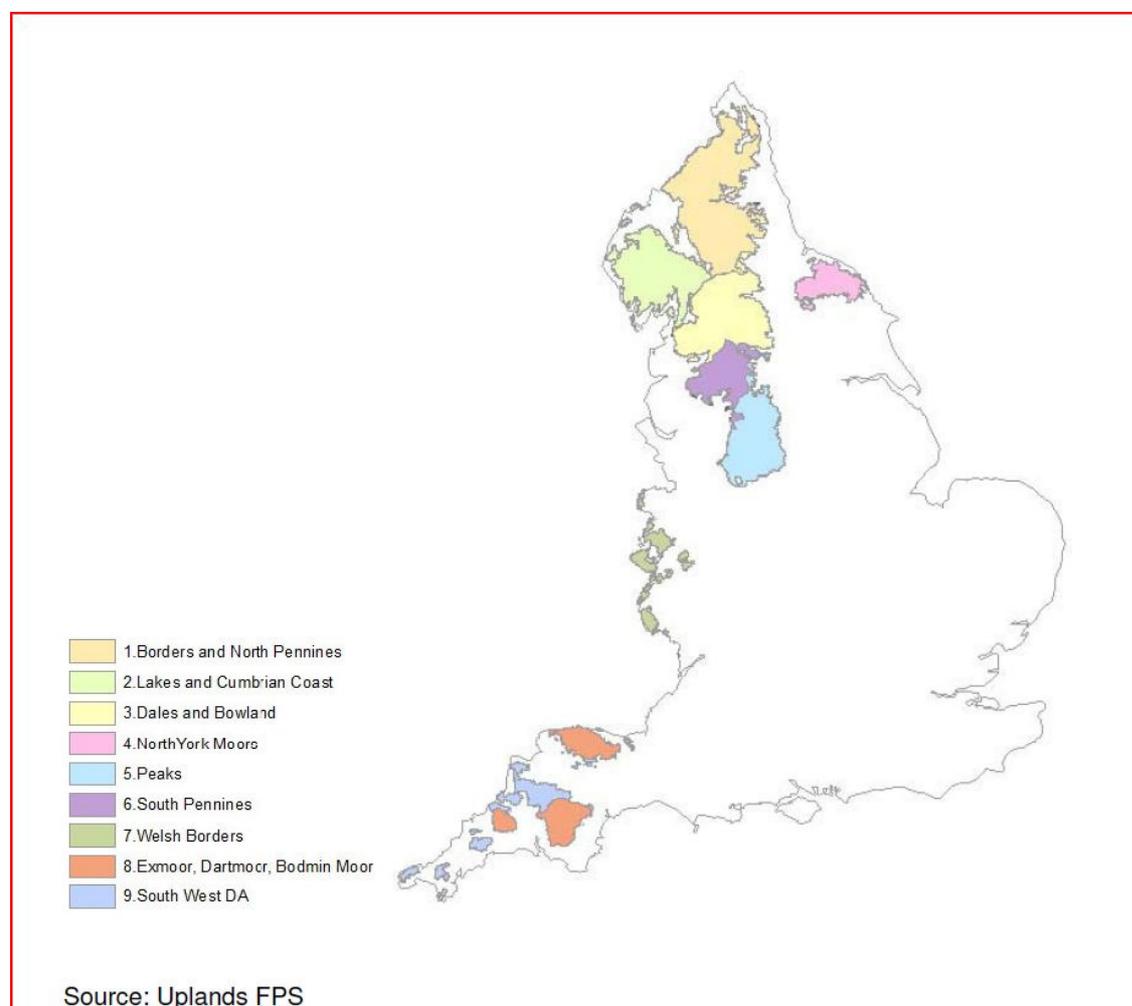
The survey collected information on the proportion of moorland (by area) that was sole occupancy; common land or other shared grazing (excl commons). According to the postal

survey response just over a quarter (27%) of upland farmers graze moorland. Table 3.2 below shows the distribution of common land across the nine upland regions in England.

**Table 3.2 Proportion of upland regions categorised as common land**

Upland Region	Total area of region (000s ha)	Common land area (000s ha) <sup>3</sup>	Common land as % of total area	% of moorland area on holdings that is common land
SW Moors	200	48	24%	70%
Lake District	321	82	26%	65%
North Yorkshire Moors	113	16	14%	54%
North Pennines & Borders	567	62	11%	41%
Yorkshire Dales & Bowland	358	63	18%	34%
South Pennines	168	15	9%	31%
Peak District	262	2	1%	0%
Welsh Borders	90	6	6%	no data

(Source: Defra 2010)



Other than showing the regional importance of common land in upland regions the table shows the importance of common land to those farmers with access to it. The right-hand column shows that the proportion of common land among farmers who have access to it highlights that for those farmers who do have access to moorland, the common land

<sup>3</sup> Source: Map of Common Land, Defra 2006

component is disproportionately large. This can have an impact on the farmer's ability to increase productivity.

Increased productivity via technology transfer has been a feature of the steady progress of hill and upland farming systems albeit with a somewhat cautious approach to manage risk for systems which are vulnerable to market adjustments. From the 1950s the role of experimental husbandry and demonstration farms has played a key role. Initially dealing with ewe nutrition in winter, lactation, ewe fertility and land management, cost effective improvements have been applied.

**Table 3.3 Increased Productivity through Technology Transfer, 1960's -1980's.**

Development Farm	Type	Output of kg/ha of lamb 1960's	Output of kg/ha of lamb 1980's
Redesdale Experimental Husbandry Farm	Hill farm in sole occupation Northumberland	16	55
Sourhope HFRO	Hill farm sole occupation, Roxburghshire	28	66
Low Becksid , Lake District (Newton Rigg College)	Hill farm with significant Common Rights	26	37

(Source: Humphries 2001)

The figures give a general indication of progress on farms with different levels of constraint. The Newton Rigg farm, Low Becksid, in Cumbria is highly dependent on common rights and with around 6% of 'green improved ground' indicates the more limited potential of farms with a greater proportion of common land to apply technology to the production process (Humphries 2001).

Thus on the farms where access to common land is known and acknowledged the proportion of common land is higher than the overall spatial figures. From this it is possible to deduce that this land is very important to an increasingly small number of upland farm businesses. This needs further clarification and investigation, probably using the existing data on SPS entitlements and forage areas claimed by upland farmers. The next section looks at recent changes in behaviour, notable grazing practices.

*Change in grazing practice across the uplands.*

Again using the 2009 UFPS data there are some interesting, although not statistically significant, changes. When asked about management changes on the farm over the past 4 years, those with commons were more likely to indicate that there had been a change, 45% compared to 35% on farms without common land. At the most extreme, 10% of those with common land had stopped moorland grazing compared to only 3% with no commons. Since this refers to the previous 4 years (back to 2005), this change is on top off those who have already stopped, perhaps following the FMD outbreak in 2000/1. Just over a quarter of those farmers with common land and non-common land moorland grazing had reduced grazing with very small number increasing grazing levels. These figures support the FCL study findings of a gradual and continuing decline in active commoning (FCL 2010).

When asked to explain these changes in management practices those with common land were less likely to indicate agri-environment schemes (53% compared to 73% of non-common moorland farmers) but more likely to cross compliance (14% to 9%) and the introduction of SPS (13% to 10%). It is not clear what is meant by these respondents when they say 'introduction of SPS' but given the feedback from the workshops it is likely that the increased hassle and reduce payments on common land forage areas due to the dividing of

payments across all rightsholder, active and inactive, will play a part. These figures may be small and they do not suggest a clear disadvantage to those with common land, however, they outline a picture that is more complex than on non-common moorland.

The picture becomes a little clearer when respondents were asked about their future plans, as shown in Table 3.4. There was a much higher level of change expected among moorland farmers with common land with 14% looking to reduce or stop grazing and 8% thinking that they may increase in the next 2 years. Close to a fifth of those with common rights were looking to change their grazing levels compared to 10% of those without commons. The higher levels of expected change are on top of the changes noted above and further confirm a picture of gradual decline in both overall number and activity within the commoning system. The confirmation of a consistently more pessimistic picture for those farmers with common land, albeit not statistically significant, highlights the changes that have already occurred and that are likely to continue at a higher rate in the coming years. The next section will look at the current group of upland farms in terms of those where the rights are exercised, and where the rights are acknowledged but not exercised.

**Table 3.4 Future plans for moorland grazing in the next 2 years**

<b>Future moorland grazing</b>	<b>Common</b>	<b>No common</b>
Reduce	8% ±5%	4% ±3%
Increase	8% ±5%	4% ±3%
Keep the same	78% ±7%	90% ±5%
Stop grazing	6% ±4%	1% ±1%

(Source: Defra, UFPS 2009. Question asked March 2009)

This section has raised questions that cannot be answered in this study but clearly warrant further investigation. The volatility within upland farms containing common land is notably higher than in areas without common land but the reasons for this are not at all clear.

#### *The Main Issues on Common Land*

This next section looks at the main messages concerning common land that have arisen from the research by CCRI and Fera (Gaskell et al 2010) and the FCL (Natural England 2010). The key issue concerning common land in both reports was the breakdown of traditional management practices, which was mentioned frequently in all of the upland regions but particularly those areas where commons are most important, namely the Lake District and the South West. It was also noted that in many areas effective management was often dependent on participation in agri-environment schemes (AES). Both these points have already been stressed by the FCL work and the FBS financial data but the two quotes from the CCRI/Fera study below illustrate the issue well.

*Mr. B. says changes in the use of the Common are a big issue. "No one much else is grazing the common, so ours are spreading out a bit now." He said that now that there are less sheep on the common, his are doing better but that he has to go further to find them. Which means more work, meaning you have to question whether it is worth it. He makes full use of his entitlement. Until five or six years ago the common rights were fully utilised. A combination of farmers getting older and retiring, farms being sold to incomers... there simply aren't the farmers there used to be. "The last five years, the numbers have been drastically cut back." The time taken to get sheep [on and] off the common is what has put many farmers off using them.*  
(Sheep and beef, Lake District)

*Mr. R. says that after FMD there was a danger that people would stop using the Commons as many were dropping their Swales and running Mules. He said that ten years ago at the top of the dale you wouldn't have seen a Mule but now they are everywhere. He felt part of the reason that the hill flocks survive is that they have been able to put the Commons into [AES agreements]. He knows that many of the farmers*

*complain about the rules but there wouldn't be many sheep up there without [AES agreement]. He felt there would be a lot of trouble if the AES scheme was to stop.*  
(Dairy farm, Yorkshire Dales and Bowland)

The CCRI/Fera study did highlight areas where commons were well managed and run through an active commons association and sound collaborative management supported by AES agreements. However, the issues outlined in the two quotes were more wide spread and recognised in all three of the workshops, as was the role of AES payments to support commoning activities.

This concern regarding the reduction in both stock and the number of active graziers was analysed in the RuDI report (Dwyer *et al* 2010) that was based on number of interviews in Exmoor and Bowland. As the number of farms putting stock on the moor decreases, the viability and structure of the commoning system, by groups of farming families, is threatened. As noted in the above quotes, as the number of farmers exercising their common rights decreases the individual flock grazing areas (called hefts or lears in different parts of the country) have become larger and, in the words of the remaining graziers, thereby 'break down', as there are not enough stock on the moor at any one time to create the pressure necessary to form these invisible boundaries. The consensus from farmers is that as the size of these areas increases it becomes harder to gather the stock in prior to lambing, for scanning or other health checks, and this is exacerbated by the reduced number of people available to undertake the task. As one farmer put it "*Having a few stock on the moor, now, it just isn't worth it – labour or stock-quality wise*".

Having established the importance of common land to those upland farms with common rights and the pressures that this system is under causing the numbers actively using it to decrease, the next section will establish the link between SPS and common land.

#### *Establishing the link between common land and SPS*

The analysis thus far has highlighted that three main points connecting SPS and commons.

- Although AES dominated issues surrounding the common, SPS remained as, if not more, important to the economic viability of farms with very few farm businesses likely to make a profit without it.
- There is some evidence of greater volatility in the management of common land than on the other areas of the uplands.
- Financially those upland farms with common land are just as vulnerably as other areas of the uplands but they are more significant in terms of public good designations.

Assessing the links between SPS and common land was a key function of the three regional workshops in terms of the specific impacts of SPS. The attendees of each workshop were either farmers who exercised grazing rights or land agents who dealt with issues concerning grazing on commons. Each workshop was asked to comment on the findings of the desk study and to respond to three key questions concerning SPS and common land. The questions were:

- Have you changed your farming since the introduction of the SPS?
- How has the SPS impacted on the management of the common?
- What changes would enable you to sustainably manage your common?

#### *Changing in farm practices since the introduction of SPS*

Both of the upland workshops confirmed that the introduction of SPS, with the significantly lower rate on moorland SDA land, has yielded a reduction of 40% or more compared to historic payments. The reason for this is the reduced rate paid to the SDA Moorland region, €27.37 per ha compared to €156.09 for 'Other land within the Severely Disadvantaged Areas' and €190.47 for 'Land outside the Severely Disadvantaged Areas' (i.e. lowland). The

reasons for the level of disparity between the moorland category and the other two are unclear, but the impact of this difference might also be an area worthy of investigation. The level at which to set such payments and the method of determining the boundaries between different payment levels are crucial to the impact of any decoupled area-based scheme.

The only counter to this has been the favourable exchange rate in the last couple of years, which has benefitted all farmers in the UK. Some participants also suggest that the presence of AES agreements have meant that graziers have stayed on the commons who might otherwise have ceased to exercise their rights because of the reduction in SPS payments. In lowland commons the impact of not receiving SPS is much reduced where AES agreements are in place, especially if this is HLS as the payments are better than either ESA or CSS agreements.

#### *How has SPS impacted on the management of the common?*

The two upland workshops highlight issues relating to the regulations surrounding SPS, where the commoners are responsible for the cross compliance regulations over the entire Common but are only claiming SPS over a small part of it.

It was noted in all three of the workshops that actually claiming SPS was problematic, as identified in the first section. Where there was a formal Association or similar group such as a Board of Conservators it was relatively straightforward. However, each workshop was able to highlight a number of examples where SPS had been withdrawn, incorrect payments made or was not available.

As outlined in the first section the ability of those who do not actively graze the common to claim the common as part of their entitlements is seen by active graziers as the 'leaking' of money away from the active management of the common. This is a direct result of the way in which SPS has been implemented. Crucially the presence of SPS does not encourage active management. Therefore some farmers are claiming SPS on the common but specialising their livestock with breeds that are not suitable for the grazing of the common. There was some discussion in the North West workshop around the ability of some landowners to claim the surplus rights, something that further undermined those grazing these areas. Respondents noted that in most cases these surplus rights could not be used as Natural England had used a stocking rate considerably lower than the 0.25 livestock units per hectare that the RPA use to calculate the notional forage areas on commons. Using rates closer to those that NE implement would mean that there would be no surplus rights on commons.

In Minchinhampton, a lowland common in Gloucestershire, the Commons Management Committee which has legal powers to control grazing claimed that grazing was in the gift of the committee, so they could claim the SPS payment on behalf of the graziers. The RPA agreed initially and made the payment but later changed their minds and have withheld it for 3 years. As a result some graziers individually applied for and receive SPS based on their common rights. However, their proportion of the total 1350 rights across the common leaves a very small payment per head. Two or three landowners with common rights also claim SPS for the common but do not graze.

#### *What changes would enable you to sustainably manage your common?*

The main change concerning SPS was a clear view from the workshops that payments such as SPS should be directed towards the active management of the common. This would require the preparation of a 'live register' of those farmers exercising their rights on the common. This may also assist in reducing the impact of owners claiming any surplus rights and increasing the focus on the active management of the common. Recognising regional variation and the need to reflect local conditions was also raised by all three workshops.

### 3.5 Policy changes from 2013 onwards

Each of the regional workshops also considered three scenarios prepared by Defra ahead of the announcements later in 2010. These are outlined briefly below and in more depth in Annex 2.

While each of the workshops challenged the changes in prices for both beef and sheep and the current exchange rate hides downward adjustments to the SPS payment. There was a clear preference towards recognising the active management of these areas as a focus for payments and that the SPS payment was critical to the survival of the commoning system in upland England and on areas of lowland common where there was no AES payment. There was also a resigned recognition that the migration of funding from Pillar 1 towards Pillar 2 is likely to continue and be part of any reforms within the 2013 package.

**Table 3.5 Overview of Policy Scenarios discussed in Workshops**

*Main scenario:*

- 20-40% reduction in SP by 2013.
- Change from HFA to Uplands ELS.
- Regulations - tightened but no major changes.
- Prices: Sheep –5%, beef –20% by 2013, inflation low.
- Implication: Reduction in direct payment income, payments based more on environmental outcomes.

*Variation A:*

- Basic income support but stronger regulation.
- Increased money for agri-environment schemes (AES) in real terms.
- Move from ELS to HLS and focus on landscape scale schemes, high value areas and features.
- Implication: Harder to access environmental payments and more management requirements for same level of payments.

*Variation B:*

- Pillar 1 (SPS) phased out between 2015 and 2020.
- Focus on AES objectives. Same funding level as the main scenario.
- Implication: Large fall in direct support and reliance on market prices.

#### *Summary of South West workshop*

All farmers in the SW workshop had reduced stock as a result of SPS and incomes from SPS had fallen significantly. The response of most is to cut costs and commons help mitigate against this by providing fodder.

It is clear from this workshop that claiming SPS on commons was considered difficult. The commoners, with or without an Association, are responsible for cross compliance regulations over the entire common but may only be claiming SPS over part of it. Some Commoners Associations are seeking all SPS on the common and then distributing to active graziers but this has problems with RPA (some are still waiting for correct maps after 2 years) and is an additional burden on the association. However, having the SPS administrated by an Association reduces the risk on home farms of SPS being withheld due to the actions of other graziers on the common. The introduction of the UELS through associations provides a useful example of how commoners might collectively seek SPS but this means that those commons without a Commoners' Association are at a disadvantage.

A number felt that the SPS has "evaporated" a farmer's assets. For example, a tenant farmer had his stock values cut by losing the premiums delivered by the historic schemes. All the premiums were now on land-based and so provide tax havens for landowners rather

than farmers who actively manage the land. The SPS should support active management and it is the commoners who have the "ownership" of grazing on the common. This workshop in particular noted that SPS inspections are a significant burden and often unnecessarily duplicate other inspections, e.g. HFA. An SPS inspection has to look at 7 different issues but the inspectors often not trained in all of these.

#### *Summary of Northern Workshop*

Changes in stock numbers are as much to do with F&M as loss of headage payments. The attending felt that increases in livestock prices are bringing some sheep back to the hills. AES determines the management of the common more than AES. The impact of SPS was difficult to determine alongside other factors such as livestock prices, F&M, bTB and AES payments. Lower numbers have made it difficult as the sheep spread too far away and have to go further to get them.

SPS money seems to be going away from the commons, away from the actual graziers. It would be good to go back to the live register for calculation of Single Payment and only pay the active managers – we would need to clearly define who is an active manager.

Owner surplus is not a big problem with only one or two cases. There is though inconsistency for the RPA use the figure of 0.25 livestock units per hectare while Natural England invariably want much lower levels than that so is there really a surplus available to the owner.

In North upland graziers have smaller holdings, non graziers have larger holdings. Small farms are more dependent on commons, but some don't use them as there is too much hassle to gather as it takes too much time. Farms close to the fell need the fell though those with larger intakes don't necessarily need the fell so much, those larger farmers have flexibility to do alternative farming enterprises but true hill farms don't have the flexibility so you need flexibility both with the fell also off-wintering and renting of other land to enable the farm to operate as a whole.

In most cases SPS income has not reduced compared to income under IACS for hill farmers, the only exception is where 40 – 50% of your livestock units were beef otherwise most people have seen their SPS payments stay much the same if not increase.

#### *Summary of Midlands workshop*

In areas outside of the uplands, payments received for AES has mitigated against the loss of SPS or the reduced payments and therefore farmer behaviour has not changed dramatically. Without AES payments it would be very difficult. The higher payments generally mean that the reduced payments associated with common because of the spreading across all rightsholders are also reduced.

The system of securing SPS is too complex and unevenly implemented in lowland situations. The experience of securing AES agreements is much more positive and could be more closely aligned to HLS or ELS. If secured, SPS would generate as much as HLS. The two payments together makes grazing more attractive to smaller farmers, it is too much hassle for large farmers. In places where there is neither SPS or AES, it is hard to see how grazing would be viable or practical.

The inconsistency of the RPA needs to be investigated. The picture seems to mirror that of AES agreements some years ago, where if there were a small number of rights holders forming an agreement, this was relatively straightforward. However, on larger commons where there are a larger number of rightsholders and possibly landowners, many aren't known and can't be traced. However the SPS regulations require all to sign. How the payments are received by and distributed amongst the graziers should reflect the wish of the management association as each common is different.

Active graziers:

- tend to have smaller farms and more likely to be part-time farmers.
- are disproportionately reliant on SPS, which is larger than business profit.

### *Overview of Workshops*

There is clear concern among the participants within the workshops that both agricultural regulations and payments, such as SPS, as well as agri-environmental policy have not yet determined what is meant by sustainable pastoral commoning. From an upland farmer's point of view, as well as those managing similar sites outside the uplands, sustainable pastoral commoning refers to a way of thinking and behaving that permeates farming and land management more generally because it is the result of collective wisdom and understanding. By moving agri-environment to the centre as part of a political agenda other aspects are being pushed to the side in the short term, along with the stakeholders and interests that they attracted. A starting point that recognises that each stakeholder has something to contribute, and much to learn, will assist in the establishment of an integrated whole which is better and more able to deliver the sustainable governance of an asset that is crucial both locally and nationally.

The development of an approach that includes an inclusive scheme design, especially on the more sensitive types of land with high value public goods, will afford respect to experience over many generations. This would need to be open to the offerings of relevant and tested science. Scheme design for example should embrace the implications of changing vegetation not only for 'ecological flora and fauna' but for the nutrition of the grazing stock, its impact on production and the subsequent alignment with the needs of the market, and the commoners' community. Do those developing schemes understand which plants are grazed in areas of HNV land, when and what the seasonal changes in digestibility are and have these been articulated and discussed in prescriptions seeking to enhance such areas? How are these elements and grazing behaviour developed as professional skills? How can support be properly directed to those who actively manage sustainably? How do graziers access and understand scientific findings in language and form that makes such information an asset rather than a threat. How often are commoners voices considered or sought in policy formation to ensure effective use of public funding?

Such questions point to reciprocity and respect as a pre condition to progress. Doing to or for is no substitute for doing with and as a result facilitation needs to be at the centre of the extension process. Science and practice need to be sufficiently understood by parties who should be regarded as often 'intelligent but uninformed' which is not surprising in relation to the complexity of the process. Agri-environmental management and the development of flat rate area-based payments are both still under development and some would say 'yet to be enlightened'. Emphasis on specific and individual aspects does little to serve the cause of the whole. Relationships within this context remain are the greatest challenge.

## 4. Recommendations and Conclusions

Overall findings linking SPS and common land:

- For those farms which exercise their common land rights, the common forms a significant part of the farm business.
- The SPS payment is correspondingly significant for the business as a whole.
- There is a strong link between SPS and the profitability of the farm businesses, with SPS often greater than any profit made by the farm business.

*Recommendation – the importance of commons to upland businesses requires further investigation, especially in respect of the SPS payment.*

Findings concerning the management of common land:

- There is a significant, and increasing, hassle factor associated with managing common land and this is acknowledged by those who have stopped as well as those who continue to graze these moorland areas.
- Combined with the hassle factor associated with few graziers this is a major disincentive to manage these areas as it means both few graziers and stock, so the grazing area for an upland flock is far larger. Basically the input in terms of time and effort has increased but the number of animals utilising the area has decreased.
- The number ceasing to graze common land areas of moorland is greater than on non-common land moorland over the past 4 years and farmer indicate this will continue into the future. The main reason is the hassle associated with management and changes in farming system towards less hardy breeds.
- Overall these findings show that the system underpinning the management of internationally important High Nature Value land is being put under strain.

*Recommendation – that the full extent of the strain on upland farms actively managing common land is determined and understood.*

Findings concerning the implementation SPS:

- The introduction of the SPS has meant further decline in the support going in to the uplands due to the lower payment rate for SDA land. It is likely that there has been a regional impact as suggested in the workshops, because stocking rates in the warmer moorlands of the South West would hold more stock but the SPS has a single rate across England. Within the South West the level of historic payment may have been high when compared to areas in the North of England with a shorter growing season. It should be possible to extract this information, and if proven the move to a flat rate area based payment would have had a greater impact on farms within the South West.

*Recommendation – the full impact of the SPS is reviewed with an emphasis on the regional impact of its introduction.*

- The SPS issue is significant in that there is an ever smaller pool of active graziers and inactive graziers with the potential to graze. The SPS payment is crucial to their businesses and if reduced further or taken away it would put them under as great if not greater threat than other upland farms. There is no sign of any one else taking responsibility for the management of the common land areas, should the current moorland grazing farmers stop farming. Thus while other farmers will move into the area their farming systems will not include grazing the common.
- What this report shows is that there is a real likelihood that the active management of upland commons, significant not just in area but also in the quality of the physical assets, is being disadvantaged through the way in which the flat-rate area based payment has been introduced rather than its existence per se.

*Recommendation – there is a rigorous examination of existing data aimed at determining and understanding the impact of the SPS on the governance and management of common land*

- The specific mechanisms within the SPS regulations relating to common land further reduce the incentive to actively manage these areas. Specific measures such as the creation of notional forage areas and subsequent creation of 'naked acres', combined with the division of payments among all rightsholders, regardless of whether they graze or are aware if the rights exist. The stocking rates used by the RPA are also at odds with those recommended by Natural England, in cases where the owner is able to claim 'surplus rights' this is important and further reduces the amount available to active graziers.

*Recommendation – each specific measure concerning common land is reviewed for its impact and its consistent and effective application.*

#### **4.1 Challenges for 2013 reforms**

- The workshops were unequivocal in their support that a more acceptable solution would be to focus the SPS on active management. This has implications for entitlements and the implementation of the regulations and how this corresponds with the characteristics of active managed. This is especially true of common land suggesting that the role of entitlements within SPS may need reviewing.
- The transfer away from historic payments has been largely accepted within England, although those with SDA moorland land feel that the payment rate is very low, especially given the high environmental and wider public good value of the land in this category. Therefore it is not the presence of a flat-rate payment that is the issue but reconciling the sub-division of payments across different types of land and land tenure.
- Consideration should be given to allowing for late entries in the establishment of entitlements. Allow enough entitlements for all land in the country - that not claimed initially can be held in a reserve, although this requires a system whereby entitlements could change from year to year.
- There is a need to ensure that those with a wide understanding of the diversity of common land are able to engage with a discussion at national and EU level to ensure that the next CAP reform and the associated regulations and eligibility rules are 'common proofed'.
- This may require a deep analysis of existing data within England on the impact of SPS on the management of common land as this report has raised as many questions as it has answered.

*Recommendation – whatever options and scenarios are being developed for 2013, these need to be tested rigorously for their impact on the active management of common land and the upland farms that undertake this management.*

## 5. Next steps & further research

### *Analysis of existing data*

The lack of clarity regarding the impact of the SPS on land that is so heavily laden with designations is a cause for concern. This final section brings together the previous four sections and outlines a series of next steps to be taken during 2011/12. This is quite urgent if it is to inform the wider introduction of an area-based scheme across Europe, particularly in countries that have larger expanse of common land than England, such as Spain and parts of Eastern Europe, including Romania, Bulgaria, Montenegro, Bosnia and Herzegovina.

As the first section concluded, further analysis needs to establish how the introduction of SPS changed the landscape for claiming agricultural payments on common land. This should include identifying in more detail the forage area claimed on common land alongside the number of claimants on each common. This would determine the impact and complexities of the SPS as it relates to common land. It may also indicate the link between the historic claims and the capacity of the common and the affect of the SPS on this association. Analysing such data at the individual common and/or parish level would highlight the diversity of commons and their concentration within specific areas. Given the presence of appropriate questions within the IACS form this is possible using existing data. It would also be relevant to determine the change in the proportion of commons and number of claimants before the introduction of SPS compared to the introduction of SPS. Finally, changes within the claims on commons during the SPS would reveal the impact of the SPS market on longstanding claimants. This would also reveal the impact on common land of the presence of 'naked acres' and potentially highlight the importance of involving Commoners Associations or Commons Councils to stabilise the situation.

### *Regional variations and diversity*

The English approach to SPS introduced three regional payments across the country. The SPS regulations make it clear that the scheme is implemented across England, without variation within these three areas. The workshops would seem to suggest that this is the case but in respect of common land there seems to be some unwillingness to sanction the validity of Commoners' Associations to collect SPS payments and the diversity contained in the Commons Registers on issues such as owners' surplus rights and stinted pastures. A national review on this would reveal if the perception of such regional variation is valid and if it holds certain advantages for area-based payments within given parameters.

The ability of the area-based SPS to cope with the diversity of common land within England requires specific attention. Clearly the complexities of common land and the issues that relate to them have had an impact on the accuracy and timeliness of the SPS payments relating to them. Whether this is unavoidable or it is a product of a system designed to work with more conventional land and property arrangements is unclear. This is worthy of examination in order to assist other countries looking at introducing this type of system. The different types of shared grazings included within common land, such as stinted and gated pastures, the New Forest commons and those of the Dartmoor Forest seem to have been included reasonable easily. However, there is likely to be greater diversity elsewhere in Europe in countries such as Spain and particularly Eastern Europe. The issue of split rights for example, may be worth investigating in more detail in terms of the impact on the active management of commons. Not all of the countries with common land will have a register of rightsholders and the number of rights. As a result it might be worth considering how England would have approached commons had this been the case. Given that the registers are over 40 years old this might provide a more sustainable way forward for the future, accepting that the register has establish and, with the Commons Act 2006, clarified what is and is not common land.

### *Focus on SPS impact*

The findings, repeated in this study, that the system of collaborative management is under strain, confirms that continued decline would jeopardise the management of these areas in the longer term. As with other parts of the uplands, support payments via agri-environment payments and particularly SPS underpin the viability of the system. While the significance of AES payments has been investigated, this is the only study on the impact of the SPS in England. This is despite it being one of the first countries to introduce a flat area-based payment. The change in the situation between 2003 and 2011/12 would reveal the impact of the move from historic headage payments to the flat area-based payment. The changes in upland farming and commons in particular have highlighted the importance of understanding how the introduction of SPS changed the landscape for claiming on common land.

By linking upland research and common land it was possible to deduce that those farms with active links to common land remain important but are decreasing in number as a proportion of all upland farm businesses. This needs further clarification and investigation, probably using the existing data on SPS entitlements and forage areas claimed by upland farmers. The reasons for the level of financial disparity between the moorland category and the other two are unclear, but the impact of this difference might also be an area worthy of investigation. The level at which to set such payments and the method of determining the boundaries between different payment levels are crucial to the impact of any decoupled area-based scheme. Any analysis should compare the comparative historic payment with the current area-based payment to calculate the full impact of the changes.

### *Linking AES and SPS*

The relationship between SPS and AES might also be an area worthy of investigation. The UFPS findings and those of the workshops appear to indicate that both AES and SPS have a role to play on the continued active management of commons with distinct responses compared to other areas of the uplands. Although AES dominated issues surrounding the common, SPS remained as, if not more, important to the economic viability of farms with very few farm businesses likely to make a profit without it. Financially those upland farms with common land are just as vulnerably as other areas of the uplands but they are more significant in terms of public good designations. Most important, this study has found evidence of greater volatility surrounding the management of common land than on the other areas of the uplands but the reason for this remain unclear.

The workshops highlighted the difference between the stocking rates that Natural England consider sustainable for AES agreements and the one used by RPA to calculate notional forage areas on commons. It might be worth investigating how stocking rates have varied between all the AES and IACS and SPS and the impact of such variations across England. This would need to be placed alongside a timeline of when the schemes were active.

### *Impact of philosophical adjustment in payments*

Finally, the SPS and the removal of headage payments has moved the emphasis of the payments away from livestock, which is owned by the farmer, to land, which is owned by the landowner who is not necessarily the farmer. There is the possibility that this transfer of arrangement, and decoupling generally, has resulted in a change in the market that has impacted on land prices by increasing them.

Undertaking all or some of these would be able to cast more light and a greater understanding on the impact of the SPS on common land as well as further helping us understand the importance of common land itself to upland farm businesses. Given the significant public good attributed to commons not just in England but across Europe this would appear to be an important area of investigation.

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## **ANNEX 1 – Notes from the Three Regional Workshops**

### **A. Note of South West workshop held on 10 November 2010**

The workshop was held near Okehampton, Devon and commoners from Bodmin Moor (2), Dartmoor (5) and Exmoor (2) attended. All nine commoners are active graziers and some have commoning rights on commons other than those commons they are actively grazing.

#### **The participants; a brief introduction:**

1. Farming beef cows and sheep. In partnership with 2 brothers and farming 1500 acres (606 ha.). Stock includes 3,000 breeding ewes and 300 suckler cows. Has rights on 8 to 10 commons covering 15,000 acres on Dartmoor.
2. A beef and sheep farmer. With his son he farms 200 acres and rents 200 acres (totals 162 ha.) and has rights on 4 commons. Keeps 600 breeding ewes and 80 cows. Dartmoor.
3. A beef and sheep farmer. Tenant on 600 acres and owns a further 700 acres (totals 526 ha.). Keeps 600 ewes and 100 cows. Has rights on one common on Dartmoor.
4. A beef and sheep farmer with some arable production (for horses). Farms 1000 acres (405 ha.) and has rights on 3 commons. Keeps 1000 ewes, 100 cows and Exmoor ponies on Exmoor.
5. A beef and sheep farmer owning 500 acres and renting a further 240 acres (totals 300 ha.) and has grazing rights on 3 commons. Keeps 220 cows, 250 ewes and arable (for livestock feed) covers 40 acres on the farm on Dartmoor.
6. A beef and sheep farmer farming two farms totalling 400 acres/ 162 ha, and rents 180 acres of grass keep. Keeps 1200/1300 ewes and 200 cows. Has rights on 4 commons on Dartmoor.
7. A beef and sheep farmer who rents 300 acres / 121 ha, of which 2/3 is in the SDA. Keeps 400 ewes and 100 cows and has rights on 2 commons on Bodmin Moor.
8. A beef and sheep farmer who owns 1000 acres and rents a further 2500 acres (totals 1416 ha.) and has rights on one common. Keeps 300 cattle, 2500 ewes and 70 ponies on Exmoor.
9. A beef and sheep farmer farming 650 acres / 263 ha, of which 1/3 is rented and the rest owned. 2/3 of the land is in the SDA. Keeps 140 cows and 800 ewes and has rights on two commons, totalling 6000 acres on Bodmin Moor.

The area, excluding common land, farmed by the above farmers totals 3960 ha. and the average holding is 440 ha. (range 121ha to 1416 ha.).

#### **Part 1 - impact of SPS on active and inactive graziers.**

##### **Question 1: Have you changed your farming since the introduction of the SPS?**

Response: Yes (All).

Further comments included:

- Income from SPS has declined significantly (*estimate 40%*) from the historic payments prior to January 2005. Over the last few years the favourable exchange rate has resulted in a less steep decline.
- On the SDA our current SPS payment is £30 per ha. less than the equivalent historic payments, and would fall by another 15% per year without the good exchange rate. (Historic payments equivalent to £270/ha. now £237/ha. and falling).

- Decline of SPS has caused you to reduce costs. Commons can help cut costs by providing feed when feed bills are rising however ESA restrictions can nullify such potential benefits .
- Claiming SPS on commons is difficult. The commoners, with or without an Association, are responsible for cross compliance regulations over the entire common but may only be claiming SPS over part. Some Associations are seeking all SPS on the common and then distributing to active graziers but this has problems with RPA (still waiting after 2 years for correct payment) and is a burden on the Association. However SPS administered by an Association reduces the risk on home farms of SPS being withheld due to the actions of other graziers on the common.
- Headage payments rewarded only those actively grazing (stock owners).
- Re reduction in stock, our common was reduced by 70% from before the ES agreements, under the ESA and now the HLS, NE wanted to reduce it even further but we resisted.
- HLS has reversed trend and now more native breeds are being kept to satisfy requirements in some areas as in my case where have moved to Aberdeen Angus instead of continental breeds.
- The SPS is claimed by common owners and commoners who are non graziers so less goes to those actively managing the common.
- The SPS has "evaporated" a farmer's assets. A tenant farmer had his stock values cut by losing the premiums delivered by the historic schemes. For a tenant farmer this is his life-times work and pension. All the premiums are now on the land and so provide tax havens for landowners rather than farmers and keep land prices artificially high.
- Keep different breeds of cattle and sheep. Often these are bigger and easier to finish rather than the hardy breeds suitable for moorland.

## **Question 2: How has the SPS impacted on the management of the common?**

Comments included:

- Income from agri-environment schemes has become more important to farm viability. Without ESA or CSS few commons would be grazed.
- There has been a reduction in stock suitable for common grazing; any cows or sheep can secure the SPS whereas under headage payments you were paid on quality.
- Loss of headage payment and increased problems with public access and road deaths resulted in giving up sheep on the common.
- SPS has encouraged more farmers to specialise (in one type of stock?) to the detriment of land management provided by mixed stocking and removed hardy stock capable of out wintering.
- Those commons without an Association are at a disadvantage.
- Encouraged to diversify. If successful this results in reduction to sheep flock or cows.
- Stock suitable for common (moorland) grazing are often unsuitable for fields and sheds - higher costs due to animal welfare.
- Reduction in stock numbers (blamed on agri-environment and SPS) has put up costs. Less stock means more effort. The low numbers and density destroy the lears (hefts) as does removal for 6 months.
- New comers can claim SPS without doing any work (*providing stock*).

### **Question 3: What changes would enable you to sustainably manage your common?**

Responses:

- A more flexible stocking rate that reflects local conditions.
- A flexible stocking calendar that reflects weather and availability of grazing. A hot dry summer will provide better grazing on the common and increase the carrying capacity = more stock. Out wintering of stock could reduce costs and do more good by controlling vegetation.
- More trust between Natural England, especially the advisers, and farmers.
- Commoners having "ownership" of grazing on the common.
- Paying active graziers only.
- Move away from management by prescription.
- Stocking rates set for the whole area of common land rather than each unit (CL unit).
- Less restrictions on swaling/burning so that larger areas, to natural boundaries, can be burnt and at a frequency that suits the local conditions. Swaling should be encouraged. At the moment many commoners are put off burning by the threat of penalties (including with-holding part of SPS) if anything goes wrong.

#### **Responses to specific issues:**

*Comparing graziers with other farmers.* Not sure if this meant other SDA/hill farmers or lowland farmers? Bullet point 1 - suspect regional variation and that holdings are generally larger than the 100ha for those actively commoning. Bullet point 2 - suspect that the majority of non-graziers do not have larger home farms. Strong disagreement on the third bullet point - graziers are from smaller than average holdings - the group thought this was not accurate in SW.

*Main Issues on Common Land.* General agreement with this slide but some of the issues relate to agri-environment and cross compliance regulation rather than purely SPS. However the SPS is the most important financial driver.

#### **Other important issues include:**

- increasing pressure from the public over stock.
- lots of changes, including SPS, that increase stress.
- increase in regulation and inspections , including SPS.
- Impact of bTB results in smaller herds to be able to cope if (when) you come under restriction. 3/4 of all cattle farmers had been under restriction within the last 3 years. This has a major impact on stock numbers.
- Tax and financial benefits from buying land , claiming SPS and possibly ESA, and then taking profits. Return higher than interest from a bank.
- SPS inspections are a significant burden and often unnecessarily duplicate other inspections, e.g. HFA. An SPS inspection has to look at 7 different issues but the inspectors often not trained in all. Previous regime of stock records much easier to manage.

#### **Preliminary Findings.**

- active graziers have smaller (than average) holdings with significant areas of common grazing. Responses - not true. Most active graziers have large farm businesses but may have several holding numbers (often split due to bTB ).
- farms with rights stopped - econ of scale. Unclear what this means. Many suspected ESA/ES caused rights to be reduced.
- ranching of uplands does not include commons. Agree but not particularly relevant to SW. Commons structure prevents this unless number of graziers is so low that just

one person is active but then he could only exercise his rights and , with consent, those of owner.

- SPS hinders active graziers. Yes but a Common's Association can overcome some of these issues and only pay SPS to active graziers.

### **Conclusion.**

- Link between SPS and profit especially for active graziers. Yes, all agreed.
- Hassle factors and stock reductions are challenging. Yes - more effort for less stock/reward.
- Management of HNV land under strain. Yes too few grazing animals is damaging the environment and other public benefits. The ESA have not secured a better natural environment - All agreed.
- SPS and other regs add further strain. Yes, all agreed.
- Commons disadvantaged from SPS. Yes all agreed. Ironic that those areas that provide the most public benefits are given the lowest reward by SPS.
- changes to affordable support for the uplands. Not understood.

but other important issues include:

- SPS goes to many not actively farming and owners.
- The support offered by SPS is less than that offered by the previous schemes. and so has led to a significant decline in farm businesses incomes.
- SPS reduces the incentive to have the right breed of stock for the area.

## **Scenarios**

### **1. Main Future Scenarios.**

General agreement but most felt there was little evidence that prices (for lambs and suckler calves) would fall. World demand suggests prices might rise but they would not rise sufficiently to replace public support (c45% of Farm Business Income for an average SW hill farm).

### **2. Targeted Agri-environment Schemes.**

This scenario is not attractive. Unlikely to provide sufficient reward on its own. NE un-popular due to complicated applications and high costs associated with preparing an application. One commoner quoted £10,000 just for a HLS application for a common of which only £2,000 available from NE. Recent postponement of payment further reduces confidence in NE. Variation in the abilities and experience of different Advisers fails to offer the same approach to all commons and moors.

### **3. Radical reform loss of pillar1.**

Not recognised. All felt this was unlikely and would have grave implications especially if LFA support his moved into pillar 1. LFA support is popular in Europe and so will continue in one form or another, even if its not available in England at the moment. Most thought this scenario was out of date.

Note: This short report was provided by John Waldon on behalf on the South West Uplands Federation, in November 2010.

## **B. Note of North West workshop held on Friday 26<sup>th</sup> November 2010**

The workshop was held near Penrith, Cumbria. Five commoners from the North Pennines, Howgills, North Lakes attended along with two land agents who had experience of SPS applications and stewardship schemes applied to common land.

### **Question 1: Have you changed your farming since the introduction of the SPS?**

Mixed response.

Comments included:

- There is less pressure to keep numbers, there has been no major impact but no longer have to play the numbers game.
- Not really changed his system. If prices had not risen over the past two years perhaps numbers would have changed, but current prices mean keeping your numbers.
- F&M and loss of headage did seem to affect numbers, but people seem to be coming back now.
- After foot and mouth (F&M) there was a drive to build up your numbers, but then headage went, so made people really evaluate what were the best numbers. You could drop a lot of stock and still do ok.
- If headage came back it could be good for producing calves, not ewes.
- People are not pushing their margins as hard, there is less pressure so less need to send sheep away for the winter.
- The age of the farmer is significant with regard to whether people stay on the Common or off the Common, older people aren't able to go to the fell in the same way, they cannot do the work so this affects whether people continue to have a full flock or not.
- Commoners feel dictated to by the Scheme so they don't have much choice and those people who have stayed once it goes into a scheme are generally there for the long haul. There haven't been people come off the fells since 2005, for those Commons that are in Schemes.
- Never made money out of fell sheep, just use them to breed replacements.
- Not able to have an even aged flock on the fell as numbers have been cut back so dramatically from 1,000 to 200.
- The numbers of sheep in Scotland has greatly reduced and this has affected sheep prices and led to a greater demand for sheep and with the impact of Agri-Environment Schemes are more significant than SPS on how the Common is managed.

### **Question 2: How has the SPS impacted on the management of the common?**

- You would assume that SPS led to a decrease in numbers so it would be less worthwhile putting out on the common.
- There has been a change but unclear as to whether it is really due to SPS, SPS has been a driver to change but difficult to isolate individual changes.
- Schemes have dictated commons management, if headage was still used some commons might not have gone into schemes.
- Under grazing is a big problem on our Common and it has made the land sour so sheep don't like to use it any more, Ousby Fell was very good for Foot and Mouth but then took quite a long time for numbers to build up again in the meantime the fell went sour.

- Unpalatable grass comes in when numbers get too low. On Blenkharn we used to have 1800 sheep and now there are only 200.
- On one hand fewer stock on the common can be good as there is more to eat, but on the other less stock means it is harder to gather them up.
- Re-hefting has been ok despite the under-grazing, not too many problems with drifting.
- Less numbers have meant higher quality animals, when there were more numbers the quality was lower.
- Lower numbers have made it difficult as the sheep spread too far away and have to go miles to get them though the fence has improved matters considerably.
- Lack of staff due to money has led many to put stock out at a shorter distance so gathering is not too hard.
- Lots of SPS money seems to be going away from the commons, away from the actual graziers.
- Bird numbers are affected by under grazing, the numbers of birds on my Common that I have seen over the last 50 years has declined a lot in the last 10 years as vegetation has grown longer.
- Off-wintering is difficult to find and the impact of the growth in selling grass and other crop products for digesters has been enormous I don't think that I will now be able to go back to my wintering spot next year.

**Question 3: What changes would enable you to sustainably manage your common?**

- Feeling that you could never get back to the numbers before F&M because bracken has taken over.
- The way to improve sustainability on the Common would be to fence each parish's Common and then that would lead to better results for Natural England and better agricultural use of the Common.
- SPS should be more targeted to active graziers.
- It would be good to go back to the live register for calculation of Single Payment and only pay the active managers – we would need to clearly define who is an active manager.
- Why not pay people off and buy out their rights so that those who aren't keen to graze no longer have rights.
- Owner surplus is not a big problem with only one or two cases. There is though inconsistency for the RPA use the figure of 0.25 livestock units per hectare while Natural England invariably want much lower levels than that so is there really a surplus available to the owner.
- I would like to run my business without support but that is not realistic and if there was to be no SPS how much would prices have to go up in order to compensate for the SPS, if you take away the SPS and divide it by the number of cattle and sheep that tells you it is not likely that sheep and cattle prices will go up enough to compensate.
- Less restrictions on numbers, need enough stock to keep vegetation useable.
- The impact on our Common Rights if tree planting occurs on Common Land as that takes away the land for ever.
- The Spanish case shows what we don't want to happen if sheep farming isn't encouraged then we could get to the position that they are in.

## **Responses to specific issues:**

### *Comparing graziers with other farmers*

Percentages given on slides seem correct, upland graziers have smaller holdings, non graziers have larger holdings. Small farms are more dependent on commons, but some don't use them as there is too much hassle to gather as it takes too much time. Farms close to the fell need the fell though those with larger intakes don't necessarily need the fell so much, those larger farmers have flexibility to do alternative farming enterprises but true hill farms don't have the flexibility so you need flexibility both with the fell also off-wintering and renting of other land to enable the farm to operate as a whole.

### *Main issues on common land*

Bullet points covered earlier in discussions (see above). There is a reduction in the people involved in commons, but of those left some would maybe like to up their numbers but cannot afford to.

## **Main Future Scenario:**

- Disagree with the slide, SPS has actually gone up very slightly, this maybe due to rights on commons.
- Uplands not generally affected.
- Most people's single payment scheme amount has stayed the same and we expect the Euro to stabilise at 0.80p to the Euro.
- We do not think beef prices will drop a huge amount though suckler cow prices from the hills may well drop as people are not paying so much due to the cost of growing to feed them.
- In most cases SPS income has not reduced compared to income under IACS for hill farmers, the only exception is where 40 – 50% of your livestock units were beef otherwise most people have seen their SPS payments stay much the same if not increase.
- Sheep prices are now at the top because of the Euro and are unlikely to increase more.
- They don't agree with the last bullet point on the main scenario that there will be 30% decline in Government support up to 2013.

## **More closely targeted agri-environment schemes**

- If UELS went it would undermine all uplands farmers, it was championed as the HFA replacement which was a very important support to farmers.
- A bidding scheme could mean you would do a lot of work but still possibly fail.
- More targeted schemes would mean some would be treated less fairly.
- To take away UELS would be devastating.
- Farmers should not be forced into certain schemes.

## **Radical Reform Scenario**

- If this were to happen you would need a lot more income from the marketplace.
- Huge amount of support needed if SPS was removed.
- People would abandon the commons.
- SPS is currently 50% of income for a farm.
- People are only willing to manage the commons if they get a fair return.

## General Points

- There is a global food issue, will Fells become a vital entity in providing food we need to progress farming onwards and upwards.
- For projecting food inflation it is difficult but it is likely to go up but will not go up quickly enough to provide enough money to compensate the loss of SPS.
- SPS income is more than my profit (agreed by all participants). So taking SPS off could lead to abandonment as it is no longer profitable to farm.
- Sheep are a big driver in what makes me farm though protecting the landscape for a future generations both my family and other people may take on the farm is important.
- Strong feeling of pride in their work.
- Danger of schemes is that they fossilise Commoners so no new people can come into an area and take on new farms and come on to the Fell.
- There are too few sheep on a lot of Commons to keep vegetation in a usable state and to keep enough people on the fell to do the job.

### **C. Draft Notes of Midland Workshop held on Friday 17<sup>th</sup> December 2010**

The workshop was held in Cheltenham. It was attended by two commons managers from Minchinhampton Common in Gloucestershire and Wolvercote Common in Oxfordshire. Written questions and evidence was received from a further two commons managers, Cleeve Common in Gloucestershire and Pound Green Commoners Association in Worcestershire and an overview of the situation in Hereford.

#### **The Participants**

##### *Minchinhampton Common:*

Minchinhampton Common covers about 240 hectares (approx 600 acres) is grazed by beef suckler herds and some horses. The grazing is managed by the Management Committee, which is made up of commoners and others with specific skills. The common is 'reasonably fully grazed' by 400-420 beasts. There are about 6 active graziers from 250 rights-holders. The commons register indicates that 1350 livestock units are allowed but the committee and Natural England believe that it can only support about 400. Natural England (NE) has not raised the matter of overall numbers as they are more concerned with the condition of the common. In recent years it has been under-grazed but is now a bit better. Rodborough Common adjoins Minchinhampton common and livestock are free to move between them. It is similar but smaller (about 110 hectares) with steeper slopes and not so well grazed. There are about 3 graziers from about 50 rights holders who put out around 150 livestock, mainly cattle.

##### *Wolvercote Commoners' Committee:*

There are two main commons around Wolvercote. Wolvercote Common is quite small (30 hectares) and runs into Portmeadow (132 hectares), so that stock can move from one to the other. They are managed in the same way but the rights are assigned differently. Rights to graze Portmeadow are 'rights in gross' (meaning the rights are separate from the land surrounding the common), whereas rights to graze Wolvercote Common are registered through neighbouring land. NE recommend grazing around 400 cattle on the two commons combined, with numbers fluctuating but are usually not more than 300 cattle plus horses (30 to 40 horses at present). Some horses overwinter but usually no cattle. Individual families used to graze horses but now there are two large herds belonging to dealers who change frequently and are difficult to identify. Ownership is unclaimed on both but the City Council sometimes acts as owner. Portmeadow is managed by the Freeman of Oxford and Wolvercote by the Wolvercote Commons committee. There has been danger of over-grazing especially in winter but they are now worried about under-grazing. There are about 5 cattle owners grazing and 2 horse owners and recently graziers on Portmeadow were paid to put out cattle.

Written submissions:

##### *Pound Green Common:*

Small common of 22 hectares grazed mainly with sheep.

##### *Cleeve Common:*

Large common in Gloucestershire (450 hectares) managed by a Board of Conservators, a core group of 5 farmers provide the grazing.

##### *Herefordshire Council:*

Commons mostly in the West of county, good practice on Bringsty Common.

### **Question 1: Have you noticed any differences in farmers' behaviour since the introduction of the Single Payment Scheme?**

Minchinhampton: When we had 'normal' grants based on headage, the common was very useful because there was more headage for extensive farming. The common was split up by agreement.

It became obvious that the single farm payment would cause problems. The committee claimed that grazing was in the gift of the committee, so that they could claim the payment. The RPA agreed initially but later changed their minds. In the meantime the common was signed up for HLS (was previously ESA), so whilst the graziers lost out to SPS they gained from HLS, otherwise it would probably not be grazed. The graziers do receive SPS on their own holdings and some, around 6 or so, have applied for SPS to include their common rights. However, their proportion of the total 1350 rights across the common leaves a very small payment per head. We believe that 2 or 3 landowners claim common rights but do not graze. Overall there has not been a change in farmers' behaviour but this largely because the HLS scheme has replaced the ESA and headage payments.

Wolvercote: Not able to attribute any changes to SPS, although they do have problems with the RPA. The committee has made clear that they are entitled to SPS claims. The City Council has claimed for both commons and suggested that the Wolvercote Commons committee should do the same. The system is complicated and not fully understood but cheques still arrive. The set-up seems much more suitable for larger organisations. In 2008, the RPA said the committee was not eligible, in spite of them maintaining the land and keeping it in good condition, because they were not the owners of the grazing rights and farmers were claiming. The committee had to use the Freedom of Information Act to get the information, but found that 4 people were claiming, only two of whom grazed (one address was well outside the relevant area). The Freemen allocated 30 additional rights on Portmeadow so the City Council allocated 30 to Wolvercote. These are distributed without charge to local families with horses.

Overall it was felt that the RPA takes common land outside grant aid, meaning that what should be an entitlement for those who are eligible becomes more difficult to obtain in some areas than others. It was mentioned that this is quite possibly contrary to European law.

### **Question 2: How has the SPS impacted on the management of the common?**

Minchinhampton: Agri-environment is certainly of benefit. The HLS agreement has been helpful to the committee as it has enabled them to work with graziers to do undertake tasks such as thistle cutting and some fencing for controlled grazing.

Wolvercote: the common is also in HLS. This scheme provides more income but also more is expected. Income still exceeds expenditure but excess is saved for future use rather than distributed to graziers (as on Minchinhampton).

Overall SPS is not a significant driver on these two commons due to the impact of AES agreements. If these were not in place the presence and absence of SPS would be much more significant. There was agreement that payments, including SPS, should be a reward for activity management.

In terms of the change in grazing numbers of livestock:

Minchinhampton: The division of the HLS money among the active graziers with a supplement of this taken to support the work of Hayward who checks the stock. There are satellite commons leading to some problems of cattle straying onto main roads but these are in the process of having cattle grids installed. Any small commons outside the cattle grids are not grazed.

Overall: On both commons the relationship with NE is good. It seemed that HLS is hard to get but easier to understand than SPS. The change of personnel within NE is a concern.

Both have good relationships with NE, but in Wolvercote they seemed to change personnel every few years.

**Question 3: What changes would enable you to sustainably manage your common?**

Both agreed that the system of securing SPS is too complex and unevenly implemented in lowland situations. The experience of securing AES agreements is much more positive and could be more closely aligned to HLS or ELS. If secured, SPS would generate as much as HLS. The two payments together makes grazing more attractive to smaller farmers, it is too much hassle for large farmers. In places where there is neither SPS or AES, it is hard to see how grazing would be viable or practical.

The inconsistency of the RPA needs to be investigated. The picture seems to mirror that of AES agreements some years ago, where if there were a small number of rights holders forming an agreement was relatively straightforward. However, on larger commons where there are a larger number of rightsholders and possibly landowners, many aren't known and can't be traced. However the SPS regulations require all to sign. Initially on Wolvercote the RPA required every owner to be consulted but backed down in the end.

How the payments are received by and distributed amongst the graziers should reflect the wish of the management association as each common is different. Both agreed that it is active management that should be encouraged rather than the number of rights. In Minchinhampton it is the management committee that receives the payment and distributes it, in other places other arrangements might be more appropriate. However, all could understand the RPA preference of a single point of contact that leaves the dividing up of the monies to those who know the common best.

**Responses to specific issues arising from PowerPoint slides:**

*Comparing Graziers with other surrounding farmers in the area:*

Active graziers tend to have smaller farms and more likely to be part-time farmers.

Minchinhampton: this general statement mirrored the situation here as larger farmers find the grazing on the common too much hassle. A few years ago there was a real concern that numbers of graziers would crash but the introduction of the HLS has stabilised the situation.

Wolvercote: Not aware of how graziers compare to surrounding farmers but with such a small number of graziers, if only one decides to stop grazing it would make a big difference.

*SPS and Business Profits*

The findings suggest that active graziers are disproportionately reliant on SPS, which is larger than business profit.

Minchinhampton: yes, this matches the situation on our common. Farmers with pedigree herds are reluctant to graze them on the common for a number of reasons. Because the landowner is the National Trust they take a direct interest and do exercise their right to surplus grazing on Rodborough common but we have stood firm against this on Minchinhampton.

*Severance:*

The issue of moving from over-grazing to under grazing has meant a discussion on both commons concerning severance. On Minchinhampton, those without rights are not allowed to graze, but when more grazing is needed graziers are sometimes allowed to exceed their rights. On Wolvercote, severance was opposed when the common was overgrazed but those not using their rights are now encouraged to lend them. The main issue with livestock coming from far away is one of bio-security.

## **Discussion concerning the three Policy Scenarios**

### **1. Main Future Scenario:**

On both commons the presence of AES agreements was dominant. Concern was expressed about what would happen after the HLS agreements end in 2017. Overall they agreed that the presence or absence of SPS will have no major impact as long as HLS continues.

### **2. More closely targeted agri-environment schemes**

Since both of the commons had AES agreements the expectations were already quite high and stretching the capacity of the management committees. It is worth noting that graziers on both commons moaned about entering HLS but now see it as a benefit.

### **3. Radical Reform Scenario**

Felt that this was the most unlikely of the scenarios as farmers not keen on working together and it would not suit other countries such as France.

## **ANNEX 2. Background changes expected to impact on the uplands in 2013?**

### **The main scenario**

#### *Summary:*

- 20-40% reduction in SPS by 2013.
- Uplands ELS to continue.
- Regulations - tightened but no major changes.
- Prices: Sheep 0 to -5%, beef -5 to -20% by 2013, inflation low.
- Implication: Reduction in direct payment income, payments based more on environmental outcomes.

#### *Caveats and explanations:*

This represents an indicative scenario of how policy may evolve over the next 10 years. Although somewhat speculative it is based on a current understanding of early thinking emerging from the European Commission. Obviously Commission thinking could yet evolve further (and change), and any future policy framework will be the result of negotiation between the Commission, 27 Member States, and the European Parliament. This scenario is definitely not a consultation on future policy options or a statement of policy intent.

#### *Policy scenario:*

CAP support evolves along the following lines: both income support and environmental payments will continue, but there is a shift in the balance of funding between income support (SPS) and agri-environment schemes. For example the SPS budget reduction could be 20% - 40% in real terms over ten years as the shift to area payment is completed. Although as a share of support agri-environment scheme will increase, the level will remain at most the same due to reductions in direct support. Reductions likely to be heavier in first 5 years.

*Example:* a farm business currently receiving £20,000 for SPS and £10,000 for AES would see this reduced to between £26-22,000 in real terms over 4 years. The SPS element may reduce to £12,000. The rate of reduction over the 10 years is not clear, assume early cuts due to budget constraints.

*Implication:* reduction in direct incomes, payments based more on environmental outcomes.

*Schemes:* Uplands ELS has been introduced as planned (with a transitional period for existing old scheme agreement holders), and HLS and ELS continue much as they are now. Budget remains about the same. Level of payments to farmers will not make up the shortfall in income from SPS.

*Wider regulatory framework:* Policy will continue to evolve along current lines i.e. cross compliance and wider Water Framework Directive measures will mean an increasing burden on farmers in respect of monitoring livestock and reducing waste / pollution.

*Implication:* there will be additional cost burden to the farmer as a result of the wider regulatory framework. This could mean more checks and restrictions on grazing stock near water courses on all land not just enclosed land during times of high water flow, therefore including commons. Movement measures linked to bio-security might also be increased with special requirements for areas of shared grazing, such as commons. Could include synchronised dipping and clearance – others aspects too?

*Accompanying price assumptions:* Prices remain fairly firm for fat lambs but prices for hill ewes fall a little, short term, and then stabilise after 3-4 years (5% reduction). Prices for more productive breeds rise. Prices are less buoyant for beef and increasingly differentiated according to quality, provenance and market outlet of products. Commodity beef prices fall 20% over the medium term (2013). The costs of bank borrowing remain low compared to the recent past, but new loans may be harder to access. Inflation remains low.

*Implications:* sheep to fair better than cattle in next few years but at best remain static over 10 years at around current prices.

## **Variation A: More closely targeted agri-environment scheme**

### *Summary:*

- Basic income support but stronger regulation.
- Increased money for agri-environment schemes (AES) in real terms.
- No UELS, focus on HLS and landscape scale schemes, high value areas and features.
- Implication: Harder to access environmental payments and more management requirements for same level of payments.

### **Detail:**

A basic income support payment remains, but with stronger environmental requirements (e.g. strengthened cross-compliance) attached to it. Suggesting a lower SPS payment with higher environmental levels of regulations, UELS might be absorbed into SPS.

Under pillar 2 (agri-environmental payments), there will be no UELS and a focus on HLS and this will increase as a proportion i.e. more money will be focussed on schemes operating at the landscape scale that offer added value.

Entry to the schemes will be more demanding but whole-farm agreements with annual and capital payments will be available for meeting certain management prescriptions. High value areas and features will be targeted especially places and features important for water, carbon storage and wildlife. This should benefit commons, but not all areas will benefit as focus may be on those with strong associations or commons councils.

*Implication:* harder to access environmental payments and more management requirements for same level of payments, capital payments will remain for the short-term.

Implications for commons are mixed, the focus on areas of high value is good but the 'harder to access' elements are likely to mean those commons not yet in or in classic schemes might run into the problems. Thus in the example the £10,000 for AES might rise but the SPS element falls below that in the main scenario.

## **Variation B: Radical reform scenario**

### *Summary:*

- Pillar 1 (SPS) phased out between 2015 and 2020.
- Focus on AES objectives. Same funding level as the main scenario.
- Implication: Large fall in direct support and reliance on market prices.

### **Detail:**

Through a carefully managed transition, direct income support (Pillar 1) would be phased out by between 2015-2020 and EU spend on agriculture would become increasingly targeted towards agri-environment (Pillar 2 type) objectives, particularly for maintaining and improving the natural environment. AES may evolve into a outcome based scheme with larger areas (sub-catchments) preparing collective bids for range of environmental options. This would involve multiple landowners working together selecting management options from a menu based on their own knowledge and expert advice. Single agreement with farmers being paid for management tasks and environmental outcomes meaning that partnership working with government agencies important part of this approach.

Government focus on provision of training and skills for current and future generations to help farmers adapt to changed circumstances. This could include traditional practices where seen as crucial to the sustainable management of those areas, e.g. the collective management of commons. Increasing roles for R&D etc in supporting agriculture as it meets the challenges of the future. Role of technology in grazing commons?

*Implication:* Although there will still be UELS and HLS, there will be a fall in direct support and more reliance on market prices. The phasing out of SPS would mean a reduction in our example from £20,000 in 2010 to 0 in 2020. If AES remained static at £10,000 over this period this is a significant reduction. If AES evolves to cover ecosystem services then it is possible that some of this shortfall may be met through the involvement of water companies and others to pay for environmental services (e.g. clean water).

### **Annex 3 - Diversity on England's Pastoral Commons**

Any study of pastoral commoning will confront the issue of diversity which paradoxically makes description, analysis and progress challenging. Figure 6 illustrates some of the key variables from which even more complex combinations may arise. However the use of representative case studies can be valid and useful with sensitive interpretation. Using a range of types with a regional distribution to reflect major groupings and with an awareness of the issue of bias can identify some of the issues of diversity and change; informing the next stage of research and as a more immediate issue, policy development. Clearly the complexities of pastoral commons need first to be identified and generally characterized as a precursor to more intensive and detailed study. Table 16 although dating from 1958 illustrates something of the diversity in use and geographical location of English Commons For England and Wales in total the estimates of usage were summarized as:-

*33% stinted grazing and 46% unstinted , with 1.9% woodland, 0.3% arable, 0.6% bog fen and marsh, 7.8% scrub and derelict and 10.4% amenity and recreation.*<sup>4</sup>

Clearly an updated overview would be valuable as part of monitoring the nature and rate of change.

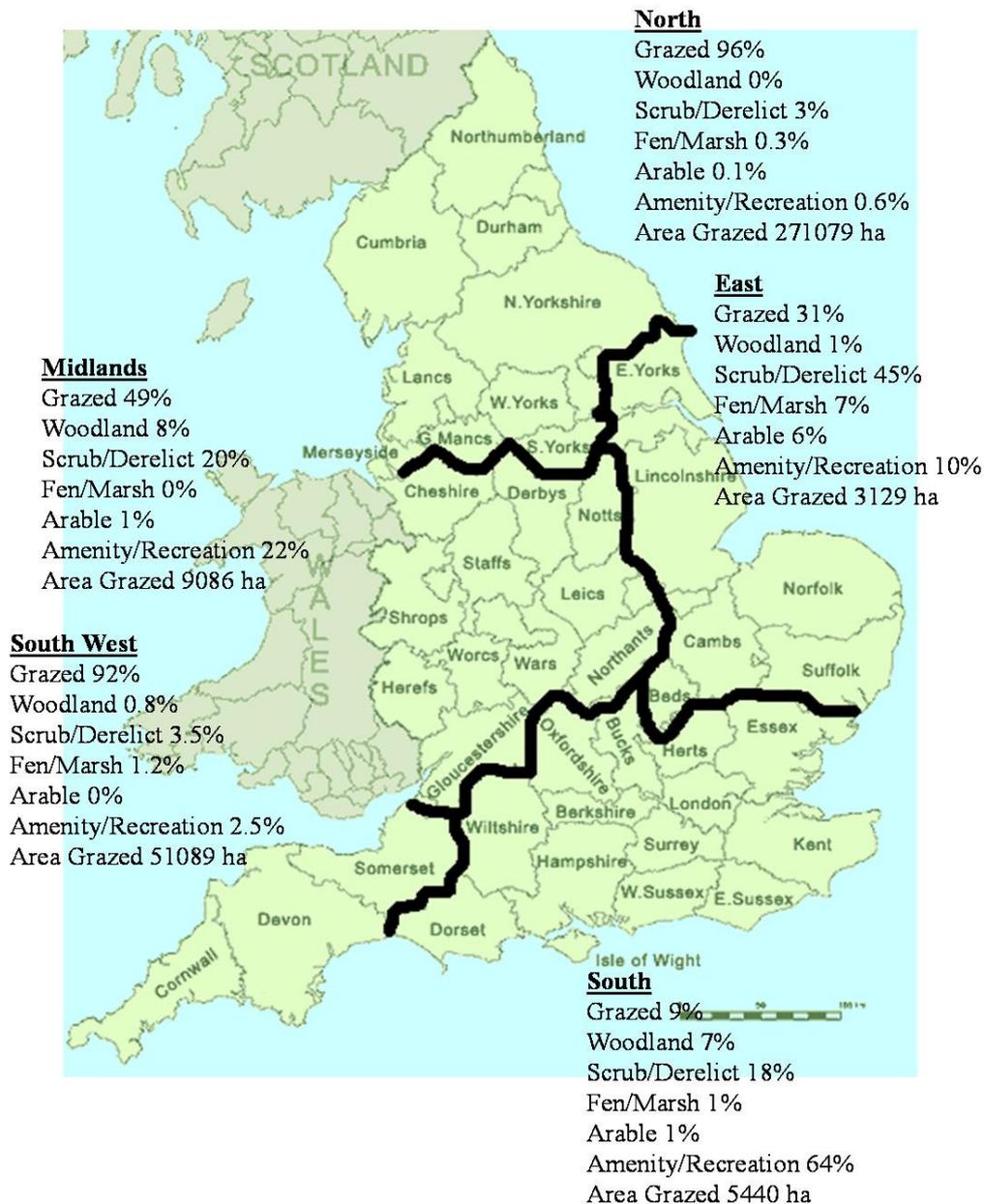
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<sup>4</sup> L Dudley Stamp, *The Land of Britain, Its Use and Misuse*, Third Edition , London 1962, p.484.

**Figure 8 Pastoral Common Land use 1958 (estimated)**

## Estimated Pastoral Use of Commons 1958

(source Cmnd462)



Source Royal Commission on Common Land Cmnd. 1958.

**Figure 9 Factors in Diversity on English Pastoral Commons**

## Commons Diversity

### Variables

Diversity = type x location x scale x pastoral livestock  
grazing practice

