

Single Payment Scheme Appeal Procedure User Guide

Introduction

This User Guide expands on the information provided in the “Single Payment Scheme in England” Guidance Booklet. It explains how the Appeal Procedure works and what will happen at each stage.

Pre-Appeal Stage

Q1. What you should do first if you want to question a decision concerning your Single Payment Scheme claim?

A1. RPA will do all that it can to help you understand the decisions that it makes that affect your Single Payment Scheme (SPS) claim. Please write to us if you require clarification of why we have adjusted your claim - contact details can be found at the end of this Guide. We will reply to you providing a full explanation.

Q2. What should you do if you think the decision is wrong?

A2. You should send your reasons in writing setting out the facts and quoting your SBI number. We will treat your letter as a representation against our decision and the person who dealt with your claim will investigate your case. This is the pre-appeal stage of the procedure. You should receive a response within 15 days. Where this is not possible, we will contact you to explain why and let you know when you can expect a reply.

Q3. Can the decision be changed?

A3. If our original decision can be changed we will write to explain the extent to which we have accepted your representations and when the corrective action will be taken.

Stage 1 Appeal

Q4. What will happen if the decision cannot be changed?

A4. If we decide to stand by our original decision we will write to you to explain the reasons why and how you can make a formal appeal. We will enclose with this letter our Appeal Procedure Guidance Booklet and a Stage 1 Appeal Form (SP6).

Q5. How long have you got to make a formal appeal?

A5. You should make your appeal on the SP6 form within 60 days of receiving the letter that explained that we stand by our original decision.

Q6. What decisions can you appeal?

A6. The SPS scheme guidance leaflets explain how we apply the scheme legislation. You can therefore appeal against decisions such as:

- Your SPS payment has been reduced or penalties have been applied;
- The area on which you have claimed has been reduced;

- The amount you have been paid has been adjusted following inspection;
- Late claim penalties have been applied.

Q7. On what grounds can you appeal?

A7. You may appeal where:

- You believe that RPA has made a mistake in processing your claim;
- You believe that the penalty has been wrongly imposed;
- You believe that RPA has misinterpreted the facts as they apply to your situation;
- You believe that you were prevented from meeting the scheme rules because of Force Majeure or exceptional circumstances. You will need to prove that the event occurred; that it was unforeseeable; that it was beyond your control; and that it could not have been avoided except at the cost of excessive sacrifice.

Q8. What decisions can you not appeal?

A8. The scheme guidance leaflets explain how RPA applies the scheme legislation. For example if a decision to reduce or penalise your subsidy payment was made correctly according to the legislation, the appeal procedure cannot overturn this decision. However, it can check that the legislation has been correctly applied in your particular circumstances.

Q9. What information should you include in your appeal?

A9. You should explain the grounds for your appeal on the SP6 form. You should include any documentary evidence that you think will support your appeal.

Q10. Who will consider your Stage 1 Appeal?

A10. Our Customer Relations Unit will consider your Stage 1 Appeal. The Customer Relations Unit will have played no part in the original decision. The Customer Relations Unit will review your case and the evidence you supply against any information that supports RPA's original decision. The Customer Relations Unit will challenge the operational area that made the decision and obtain legal advice to ensure that the decision is compliant with the relevant regulations. If you have any questions concerning the handling of your appeal case, the Customer Relations Unit will act as your contact point throughout - contact details can be found at end of this Guide.

Q11. When will you receive our decision on your Stage 1 Appeal?

A11. The Customer Relations Unit aims to write to you with their decision within 90 days of receiving your appeal.

Q12. What will happen if your Stage 1 Appeal is successful?

A12. If your appeal is successful the Customer Relations Unit will tell you how we will put things right.

Stage 2 Appeal

Q13. What will happen if your Stage 1 Appeal is unsuccessful?

A13. If your appeal is unsuccessful the Customer Relations Unit will send you a Case Summary which will set out the facts of your case and explain why your appeal has been rejected. The Case Summary will include references to the appropriate legislation and scheme literature.

Q14. How can you continue with your appeal?

A14. You will have the opportunity to take your appeal to Stage 2 within 60 days of the date on the Customer Relations Unit decision letter. This letter will include a Stage 2 Appeal Form (SP7) that you should complete and return to the Customer Relations Unit together with a cheque made payable to the Rural Payments Agency for £100. This amount will be refunded if your appeal is fully or partly successful.

Q15. What should you include in your Stage 2 Appeal?

A15. You should explain in your Stage 2 Appeal why you disagree with the Customer Relations Unit's Stage 1 decision referring to specific points in the Case Summary. You may also include any further supporting information you want to be considered. You are asked to present any new information at this stage rather than at the Appeal Hearing.

Q16. What will happen if you provide new information with your Stage 2 Appeal?

A16. The Customer Relations Unit will consider any new information you include with your Stage 2 Appeal. The Customer Relations Unit will let you know if this leads RPA to change the Stage 1 decision and uphold your appeal. If the Customer Relations Unit stand by their decision, they will send you a revised Case Summary that reflects the new information. You will have the chance to comment on the new Case Summary before it is passed to the Panel which will review the case.

Q17. Who will consider your Stage 2 Appeal?

A17. An Independent Appeal Panel of three members will consider your Stage 2 Appeal. The Panel will be drawn from a pool of Panel Members appointed by Ministers on behalf of the Secretary of State. The Customer Relations Unit will make sure that the Panel Members who deal with your case do not have a conflict of interest with either you or the circumstances behind your appeal. The Panel Members have experience of the agricultural industry and will typically include farmers, land agents and surveyors. You can find a full list of the current pool of Panel Members on RPA's website at www.rpa.gov.uk under Customer Focus>Appeal Procedures>Appeal Panel.

Q18. What is the role of the Panel?

A18. The Panel Members have no direct links with either RPA or Defra. RPA do pay individual Panel Members for the time that they spend considering appeals. The role of the Panel is to establish the facts that support your appeal and to consider whether RPA has correctly applied the legislation and its published scheme rules in

your particular circumstances. The Panel cannot consider challenges to the scheme rules or policy that underpins those rules.

Q19. Can you be present when the Panel considers your Appeal?

A19. When submitting your Stage 2 Appeal you will be asked whether you want to put your case in person at an “Oral Hearing”. We will try to arrange for the Panel to meet as close as possible to your home address and will contact you about two weeks before the hearing to confirm the arrangements.

Q20. Can you be accompanied?

A20. You may have someone else to present your case at an Oral Hearing. Please tell the Customer Relations Unit in good time before the hearing the name of anyone who is to accompany you so that they can make sure that there is not a conflict of interest with any member of the Panel.

Q21. What will happen if you ask for a written hearing?

A21. If you choose not to be present at the hearing, the Panel will consider your case based on the panel papers only.

Q22. What information do the Panel receive?

A22. You will receive an exact copy of the papers provided to the Panel. This will include all papers associated with your case, including:

- A copy of your Stage 1 Appeal Form and any supporting documents that you provided;
- A full Case Summary;
- The relevant legislation and scheme guidance notes;
- A copy of your Stage 2 Appeal Form and any new supporting documents that you provided.

Q23. What will happen at an Oral Hearing?

A23. When you attend your hearing you will be met by the Panel Secretary who is a member of the Customer Relations Unit who will explain how the hearing will proceed. The Panel Hearing is not a court of law. The hearing is conducted in an informal way and you will be given the opportunity to put your case. The Panel will ask you questions at any point in the hearing to help their understanding but you will not be cross examined.

Q24. How long will you have to present your case?

A24. The Chair of the Panel will give you as long as you need to present your case. Depending on the complexity we normally expect your presentation and questions to take up to an hour.

Q25. Who will be present at the hearing?

A25. In addition to you and anyone you choose to accompany you there will be the three independent Panel Members, the Panel Secretary and an RPA Scheme Expert.

Q26. How is the hearing conducted?

A26. The Chair of the Panel will invite all those present to introduce themselves. The RPA officials will not have discussed the case with the Panel in advance and any questions the Panel have for RPA will be asked with you present. The RPA Scheme Expert is there to answer any questions that the Panel may have on the operation of the scheme. The RPA officials will not present any evidence to the Panel and will not intervene at any point unless asked to do so by the Panel or yourself. You or your representative may ask the Chair of the Panel to address a question to the Scheme Expert on your behalf. However, it will be for the Chair to decide on the relevance of the question to your appeal.

Q27. Will you have the opportunity to call witnesses?

A27. If you are accompanied at the hearing, your companion may help present your case and provide evidence to support your case. However, no witnesses are called to join the hearing.

Q28. How do the Panel reach their conclusion?

A28. The Panel will ask you and the RPA officials to leave the room while they consider their conclusion. You and the officials may be invited back if they have more questions. Once the Panel have no further questions you and the officials will leave the room to allow the Panel to make their written recommendation. At this point you may leave the hearing and the Panel will not discuss their recommendation with the RPA officials.

Q29. What happens next?

A29. The Panel will make a recommendation to accept your appeal in full or in part, or to reject your appeal. The Customer Relations Unit will aim to send the Panel's recommendation to the Minister within 60 days of receiving your Stage 2 Appeal. Ministers will decide whether or not to accept the Panel's recommendation. The Customer Relations Unit will write to you to tell you of the Minister's decision and will send you a copy of the Panel's recommendation. If the Minister does not accept the Panel's recommendation the Customer Relations Unit's letter will explain the decision.

Q30. What will happen if your Stage 2 Appeal is successful?

A30. If your appeal is successful the letter from the Customer Relations Unit will tell you how we will put things right.

Further action after your Appeal

Q31. What will happen if your Stage 2 Appeal is unsuccessful?

A31. If you disagree with the Minister's decision you may challenge it through the courts. You should though first consider getting legal advice.

If you accept the Minister's decision but feel that your case has not been handled properly, that is to say there had been maladministration, you can ask your Member of Parliament to take up your case and pass your complaint to the Ombudsman.

