

Consultation on
Proposed Changes to the
Area-based Scheme
Review of Decisions Panel

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1. Introduction

This consultation document seeks your views on the proposal to amend the powers of the Area-based Scheme Review of Decisions Panel from 2022.

In line with national and retained European Union legislative requirements, the Department undertakes controls to ensure that applicants to an Area-based Scheme meet the eligibility criteria for a Scheme, for which they have made a claim. If conditions of a Scheme are not met or there is a breach of the Northern Ireland Cross-Compliance standards, applicants may incur penalties which could result in a reduction to their payment(s) or their application may be rejected. The Department will issue a notification letter to explain the penalty or reduction to advise the applicant of its decision.

The current Review of Decision Process

The Department introduced a statutory based review process in November 2001.

Where an applicant is dissatisfied with a decision taken by the Department in relation to an Area-based Scheme, they may submit a review application. Applications must be submitted within 60 days of the decision. The case is initially considered by an investigating Case Officer.

The Case Officer Stage provides for a robust consideration of the case, involving significant interaction with the applicant and providing them with a clear explanation of the review decision reached. The investigating Case Officer can access technical and policy advice as necessary and engages directly with the applicant to seek any further information required as the case progresses. A preliminary case report, issued to the applicant prior to the final case report, offers a further opportunity to identify and provide any other evidence which might influence the final decision.

Where the Case Officer Stage review has determined that the Department's original decision was correct and the applicant remains dissatisfied, they may apply for an independent panel assessment of their case upon payment of the £200 fee. The Independent Panel hears the case and makes a recommendation to the Minister, who makes the final decision.

The Current Panel

Cases are currently heard by two Panel members who are drawn from a pool. Members are not required to have a legal or agricultural background. Their current suitability is based on a number of factors including previous experience in public appointments, their suitability to a range of behaviours, academic and professional qualifications and any work/voluntary experience.

The tenure of the current pool of Panel members ends at the end of January 2022.

Sustainability for the Future – DAERA's Plan to 2050

Sustainability for Our Future - DAERA's Plan to 2050 frames the strategic priorities for the next 3 decades.

The four strategic priorities are:

- Economic Growth - To enhance our food, forestry, fishery and farming sectors using efficient and environmentally sustainable models which support economic growth;
- Natural Environment - To protect and enhance our natural environment now and for future generations whilst advocating its value to and wellbeing for all;
- Rural Communities – To champion thriving rural communities that contribute to prosperity and wellbeing; and
- Exemplar Organisation – to be an exemplar, people focused organisation, committed to making a difference for the people we serve.

A key part of meeting our strategic priorities is through continuing to support our farming communities in continuing their role as custodians of our land and enhance the vital role they play in maintaining the long term health of our countryside. Having the right level of funding, in the right place at the right time will be vital to ensuring that the Department achieves its purpose.

Within that context, the Review of Decision process has to be fit for purpose, making sure that applicants receive the payments they are entitled to, while protecting public money by ensuring that payments comply with the requirements that govern the schemes.

Minister Poots has instructed the Department to review the Review of Decision making procedure and to introduce legislation to give the Independent Panel the final decision making powers in cases that they hear.

2. Consultation

The Role of the Panel

The Review of Decisions consultation contained in this document aims to obtain views and fully understand impacts and the mitigating actions that may be appropriate when changing the powers of the Independent Panel. This will enable the panel to have final decision making powers on the cases that they hear. These decisions should be made impartially, fairly and on merit, guided by legislation, taking into account that they are affecting the payment of public monies through Area-based Schemes. The panel members will be, in effect, stewards of public resources.

To safeguard public money, the Panel would not be able to make decisions which conflict with the legislation governing the Schemes.

The Consultation Period

The consultation will run for 8 weeks, from 22 June 2021 until 17 August 2021, and the results of this consultation will be analysed and collated in the final document to be published by October 2021, prior to implementation of the new process in 2022. This process shall include the recruitment of a new panel who will begin their work in tandem with the new changes.

We recognise the importance of allowing ample time for responses to the consultation, and for this reason the consultation period will be eight weeks. We will publish the consultation document on the DAERA internet site as well as making it available in other formats on request.

3. Summary Table

Topic of this consultation	The proposed change to the Department's Area-based Schemes Review of Decisions process.
Scope of this consultation	For all stakeholders who represent Area-based Scheme applicants affected by the changes.
Geographical Scope	These proposals apply to Northern Ireland.
Open to	This is a public consultation and anyone with an interest in the proposals is welcome to respond.
Body responsible for the consultation	This consultation is being run by the Department of Agriculture, Environment and Rural Affairs (DAERA).
Duration	This Consultation will run for eight weeks. Consultation starts: 22 June 2021 Consultation ends: 17 August 2021
Enquiries	During the consultation, if you have any enquiries or wish to receive a copy of the document, please contact: Email: reviewofdecisionsconsultation@daera-ni.gov.uk
How to respond	Online using the link on the DAERA consultations website http://daera-ni.gov.uk/consultations or by returning the Response Form In writing to: (a) Email: reviewofdecisionsconsultation@daera-ni.gov.uk (b) Area-based Schemes Review of Decisions Panel, DAERA, Area-based Schemes Division, Ballykelly House, 111 Ballykelly Road, Ballykelly BT49 9HP
After the consultation	At the end of the consultation period we will summarise the responses and place the summary on the DAERA website. Responses received will be analysed and considered by the Department in its proposed change to the Review of Decisions process. The consultation responses will be published. If you do not wish your response to be published please make this clear in your reply.

4. Equality, Rural Needs and Regulatory Impacts

Section 75 of the Northern Ireland Act 1998 (the Act) requires the Department of Agriculture, Environment and Rural affairs (DAERA) to comply with two statutory duties¹.

In carrying out our functions relating to Northern Ireland, we are required to have due regard to the need to promote equality of opportunity between:

- Persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- Men and women generally;
- Persons with a disability and persons without; and
- Persons with dependants and persons without.

DAERA's arrangements for assessing our compliance with the Section 75 statutory duties are outlined in our Equality Scheme; for example arrangements for monitoring; assessment of impact of policies; consultation, training, publication, complaints, access to information and services and review. At this stage equality considerations have been undertaken to:

- Determine the extent of differential impact upon the relevant groups as listed above; and
- Consider whether that impact has a negative impact on groups or individuals in relation to one of more of the nine equality categories.

In line with the Equality Scheme, an equality screening exercise has been completed. It has demonstrated that there will not be a differential impact because of an individual's religious belief, national identity, racial group, age, marital status, sexual orientation, gender, disability or whether or not he/she has dependents, therefore, the options are screened out from a full EQIA.

A Rural Needs Assessment has been carried out and determined that no specific design features are required to address rural issues.

A Regulatory Impact Screening was carried out and showed that there would be minimal additional compliance or administrative burdens placed on farm business. Northern Ireland would not be placed at a disadvantage compared with other businesses elsewhere in the UK, nor would it have any special advantages which might breach anti-discrimination rules on free movement of goods and services. For these reasons, a full Regulatory Impact Assessment has been screened out.

All of the screening documents are available on the DAERA website as part of this wider consultation exercise. The Department welcomes views on these screening exercises as part of this consultation process.

¹ <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/daera-equality-scheme-currently%20under%20review%20.PDF>

5. Capturing stakeholder views – next steps

DAERA welcomes responses and comments from stakeholders on the questions outlined in this paper to help develop the proposed changes to the Area-based Scheme Review of Decisions Panel.

How to respond

This engagement exercise uses the following website <https://www.daera-ni.gov.uk/consultations/daera-consultation-proposed-changes-area-based-scheme-review-decisions-panel> as the primary means of response, in order to make it as accessible as possible. However, you may download a response template from the DAERA consultation website and reply by e-mail or hard copy respectively to:

reviewofdecisionsconsultation@daera-ni.gov.uk

or

Area-based Schemes Review of Decisions Panel
Department of Agriculture, Environment and Rural Affairs
Area-based Schemes Division
Ballykelly House,
111 Ballykelly Road,
Ballykelly
BT49 9HP

Deadline for responses

The closing date for responses is 17 August 2021. Please ensure your response is submitted by that date.

Publication of Responses

The Department will publish a summary of responses following the closing date for receipt of views. Your response, and all other responses to this publication, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses and they will give you guidance on the legal position about any information given by you in response to this publication.

Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement. Information provided by respondents to this stakeholder consultation exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in accordance with the provisions of the Data Protection Act 2018 and the General Data Protection Regulation.

For more information and to view the DAERA Privacy Statement please go to: <https://www.daera-ni.gov.uk/publications/daera-privacy-statement-document>.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a stakeholder consultation exercise. The Department cannot automatically consider as confidential information supplied to it in response to a stakeholder consultation exercise. However, it does have the responsibility to decide whether any information provided by you in response to this stakeholder consultation exercise, including information about your identity, should be made public or be treated as confidential. If you do not wish information about your identity to be made public, please include an explanation in your response, including any harm you believe such a disclosure might cause.

This means that information provided by you in response to the stakeholder consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office, or see web site at: [Home | ICO](#)

6. Consultation Questions

You may find the following questions useful in helping to structure your response.

1. Currently while farm businesses can provide additional evidence to the Case Officer as their case is reviewed, they can only submit additional evidence to the Panel in cases of Force Majeure or Exceptional Circumstances. What are your views on the submission of new evidence to the Panel?
2. Should the Department (DAERA) be represented on / have an advisory role on the Review of Decisions Panel?
3. What are your views on the make-up and legal or agricultural expertise of the panel, including size and remuneration, time spent reviewing the case/decisions and ability to review a case taking into account the legislation under which the Department can make decisions?
4. Do you have any other comments you wish to make on the Review of Decisions panel and role therein? If yes, provide your comments.