

Guidelines on Management Agreement Payments and Other Related Matters

Revised Guidance under sections 28M and s 50 of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000), and The Conservation (Natural Habitats &c.) Regulations 1994 (as amended).



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CHAPTER 1

Introduction

- 1.1 This document sets out the guidance provided by Ministers on payments made under management agreements with English Nature. They have emphasised the need to secure positive management of sites of special scientific interest (SSSIs) to ensure that the features for which these sites have been notified are in favourable condition, and to safeguard their nature conservation interest. Owners and occupiers of SSSIs have a crucial role in safeguarding these sites for the future. This guidance will help to ensure that the partnership with English Nature, to help secure this, is a fair and reasonable one.
- 1.2 Ministers expect that management agreements on SSSIs will be used to facilitate their positive management, in order to contribute to meeting the Government's public service agreement target that 95% of all SSSIs should be in favourable condition by 2010¹. **Ministers are not prepared for public money to be paid out simply to prevent new operations which could destroy or damage these national assets.**
- 1.3 This guidance is issued by reference to sections 28M and 50 of the Wildlife and Countryside Act 1981 (as amended by Schedule 9 to the Countryside and Rights of Way Act 2000) and Regulation 89 of The Conservation (Natural Habitats &c.) Regulations 1994. These provide that payments to be made under management agreements offered in specific circumstances shall be of such amounts as may be determined by the offeror in accordance with guidance given by Ministers. The guidance replaces DoE/MAFF Circular 4/83.
- 1.4 The guidance accompanies changes to legislation included in the Countryside and Rights of Way Act 2000 ("the 2000 Act") concerning the notification, protection and management of SSSIs, which amend the Wildlife and Countryside Act 1981 ("the 1981 Act"). These changes include new powers for the conservation agencies (English Nature in England, and the Countryside Council for Wales in Wales) to refuse consent for operations likely to damage the special features of an SSSI, and to serve management schemes and management notices to secure positive management; increased penalties for damage to the special features; and a duty on all public bodies to further the conservation and enhancement of SSSIs. Annex A explains some of the terms used in the legislation, and in the guidance below.
- 1.5 Some SSSI land will be the subject of either an Environmentally Sensitive Area or Countryside Stewardship scheme operated by the Ministry of Agriculture, Fisheries and Food (MAFF). In such cases, Ministers expect English Nature to work with MAFF to provide advice and ensure that there is no duplication of funding for positive management of the special interest.
- 1.6 English Nature is also expected to continue to work with the owners and occupiers to further the objectives of positive management on SSSIs, providing advice and guidance and discussing and agreeing statements about the management of sites. In some cases,

¹ Details of the target can be viewed on the DETR web site: www.detr.gov.uk/sr2000/psa/ Public Service Agreement 2001-2004

English Nature will consult on the preparation of detailed management schemes where these are helpful in ensuring the special features are, or continue to be, properly managed; and may provide financial support to enable the owner or occupier to achieve the management objectives.

- 1.7 **Public financial support is appropriate for the proper management of SSSIs, which represent our best wildlife and earth heritage sites, but it should deliver the best value for money in securing these objectives.** With this in mind, the principal objectives of the new guidance on management agreement payments are:
- to contribute towards the positive management of SSSIs to sustain their special interest;
 - to set out the basis on which payments will be calculated;
 - to deliver transparent value for taxpayers' money;
 - to achieve equality of treatment for all owners/occupiers of designated sites;
 - to provide information which is easy to understand;
 - to establish a flexible framework which leads to quicker establishment of management agreements and lower administrative costs; and
 - to comply with European legislation, and with the European Convention on Human Rights.
- 1.8 This guidance has been prepared in consultation with a wide range of interested parties. Ministers will monitor its application and review its content as necessary, but in any event after three years, in the light of experience gained through its practical application.
- 1.9 Ministers will issue a code of guidance to English Nature setting out how it should carry out all of its duties with regard to SSSIs.

CHAPTER 2

Application of Guidance

- 2.1 The continuing successful operation of the 1981 Act, as amended by the 2000 Act, and the delivery of the Government's international responsibilities under the EC Birds and Habitats Directives and the Ramsar Convention, depend upon the co-operation of owners, occupiers and land managers. Ministers regard the protection of SSSIs, Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites against damage, deterioration or neglect, as vitally important. Ministers' objectives include securing and enhancing the conservation value of these areas, promoting positive management measures, and supporting these where necessary through the use of standard management agreements. Ministers regard the use of management agreements as an important contribution to achieving Biodiversity Action Plan (BAP) targets for habitats and species where these are the notified features of interest on SSSIs.
- 2.2 Ministers have been required to notify management agreements to the European Commission as state aid schemes, in accordance with the Treaty establishing the European Community and the Community Guidelines for State Aid in the Agricultural Sector. The Guidelines provide that, in accordance with Article 51(4) of the European Council's Rural Development Regulation (Council Regulation 1257/99), state aid for farmers who give agri-environmental commitments that do not meet the requirements of the Regulation is, in general, prohibited. The Government is, therefore, required to ensure that English Nature's management agreements in respect of, or affecting, agricultural land are compliant with Articles 22-24 of that Regulation and with Articles 12 to 20 of the Commission's Implementing Regulation (1750/1999). For agreements on, or affecting, forestry land, these should be compliant with Articles 29-32 of the Rural Development Regulation and Articles 24 –27 of the Implementing Regulation.
- 2.3 By the nature of land use on SSSIs in England it is likely that this guidance will primarily address issues arising on land in agricultural use. The principles will, however, apply across the range of habitats including woodland and other non-agricultural SSSIs. Payments will be determined in accordance with part 3 of this guidance.
- 2.4 This guidance applies primarily where there are discussions on the positive management of an SSSI, and a **management agreement** with English Nature is proposed. Management agreements may be made under s15 of the Countryside Act 1968 and s16 of the National Parks and Access to the Countryside Act 1949 (see Annex A). English Nature *may make payments* by way of a Management Agreement in the following circumstances:
 - To secure the management of the land as a nature reserve (s16, 1949 Act); and
 - For the purpose of conserving the flora, fauna or geological or physiographical features of an SSSI (s15, 1968 Act). Payment may also be made under this section for land management activities outside the SSSI which may benefit the nature conservation interest of the SSSI.

Under the 1981 Act, as amended by the 2000 Act, English Nature is *required to make* a payment in the following circumstances:

- Where an owner or occupier of the land suffers loss (s28M(1)) because an existing established consent has been reviewed under s28E of the 1981 Act and is to be withdrawn or modified; and
- where a stop notice has been given (under paragraphs 9 or 17 of Schedule 11 to the 2000 Act).

English Nature is *required to have offered* an agreement on reasonable terms, prior to serving a management notice (under s28K) or before embarking upon compulsory purchase, in exercise of its powers in s17 of the National Parks and Access to the Countryside Act 1949, s28N of the 1981 Act or in s15A of the 1968 Act (as inserted by s75(4) of the Countryside and Rights of Way Act 2000).

Publicity

- 2.5 In accordance with the Government's policy on openness, summary information about new management agreements may be published by English Nature. Key information about standard agreements will also be available.

CHAPTER 3

Basis of Payment

3.1 Payments under management agreements must be consistent with the European Union rules on payments set out in the Community Guidelines for State Aid in the Agricultural Sector. These rules require agreements to comply with the European Council's Rural Development Regulation (RDR) and the European Commission's Implementing Regulation. Article 24 of the RDR states that the basis for calculating support shall be:

- Income foregone;
- Additional costs resulting from the commitment given; and
- The need to provide an incentive

These terms are explained below.

3.2 Payments made by English Nature – including both annual and capital payments – will normally be made according to standard payments based on the first of these elements. English Nature will produce a menu of standard payments for each of the principal habitats which are afforded SSSI protection. For specific projects (e.g. fencing, scrub clearance or provision of a water supply) payment may however reflect the actual costs (or a proportion of the actual costs) of carrying out the management works, excluding any VAT recoverable by the land manager. Annual payments may either be in arrears or at the mid-year point. In all cases, best value for taxpayers' money must be achieved.

3.3 In accordance with the Commission's Implementing Regulation an owner/occupier who enters into a management agreement on part of a farm will be required to observe at least the standard of Good Farming Practice over the whole of the farm. Where the management agreement includes an undertaking to adjust grazing levels on or around an SSSI, this must not result in other areas of the farm being overgrazed or under-utilised.

3.4 On non-agricultural land an owner/occupier is expected to observe good land management practices over the land within his/her ownership adjoining the SSSI agreement area.

Income foregone

3.5 This element of the payment is calculated on the basis of net income foregone by owners/occupiers in changing the current land management practice on the SSSI to that required to manage the SSSI for the benefit of nature conservation. Calculation of income foregone will take into account current land management practices of similar land uses in the area around the SSSI and revenue and cost estimates based on typical farm businesses. Agricultural subsidies and forestry grants received for the current land management practice on the SSSI will be taken into account.

- 3.6 In assessing the income foregone it is a requirement that the owner/occupier is complying with the standards of Good Farming Practice set out in Annex IV of the England Rural Development Programme ². This is regardless of the use to which the land is being put, because elements of Good Farming Practice will be appropriate to holdings not under agricultural management. The costs incurred by the owner/occupier in meeting these requirements will not be taken into account in assessing the management agreement payment.

Additional costs

- 3.7 Where additional costs of managing a SSSI may be incurred – for example where it is necessary to introduce livestock grazing to a site in order to achieve the appropriate level of management – a contribution towards the annual net costs of this (if any) may form part of the annual management payment. In calculating these additional costs, account will be taken of any incidental benefits to the land manager.
- 3.8 Agreements may include payments for capital works and other one-off measures to restore or enhance the land's nature conservation value, e.g. fencing or scrub control. If appropriate, payment may also be made for the preparation of a whole farm plan showing how the management of the SSSI can be integrated with that of the total farm area. In both cases, payments will take account of any incidental benefits to the land manager. In such cases, the length of the management agreement may reflect the reasonable expectation of the life of the investment in terms of its nature conservation benefit or the achievement of that benefit.

Incentive

- 3.9 Article 18 of the Commission's Implementing Regulation allows payment of an incentive, limited to a maximum of 20% of the income foregone and additional costs (calculated as set out above), to encourage positive management measures to be adopted. In exceptional circumstances, English Nature may consider whether circumstances justify the inclusion of an incentive. Where such payments are made they will reflect the special management needs of the specific SSSI above normal land management practice in the locality and any significant additional conservation outcomes that the agreement may deliver.

Financial impact

- 3.10 Ministers expect owners and occupiers to minimise any potential adverse financial impact arising, during their negotiations with English Nature. An owner/occupier should not make any contractual or other legal commitment to any operation envisaged in a management agreement before it is concluded, without this having been agreed in writing with English Nature.

² Available from MAFF Publications, Admail 6000, London SW1A 2XX, Tel 08459 556000 or on MAFF's website at <http://www.maff.gov.uk/erdp/docs/erdpdocsindex.htm>

Terms of the agreement

3.11 When making an offer of a management agreement, English Nature should ensure that the following apply:

- There should be a formal agreement setting out clearly the obligations of the parties, the payments that will be made, and the management that will be carried out on the land. An agreement should be in the form of a contract which will bind both parties when completed. English Nature may register an agreement as a land charge.
- EC rules require that an agreement will normally be for a minimum term of 5 years, and for no longer than 10 years, except in the case of specific management undertakings where it is shown that the conservation benefits cannot be delivered in a shorter period. An agreement may include provision for review of the standard payments. Prior to its expiry, English Nature should consider the need for renewal of an agreement if appropriate to the conservation of the site
- Where land is let and a tenant proposes to accept an offer of a management agreement, it may have implications for the tenancy agreement and for the landlord. In all cases, the tenant is required to notify the landlord of the proposed agreement, and English Nature will require confirmation that the landlord does not object to the terms of the agreement. As an alternative, a tripartite agreement may be completed between the landlord, the tenant and English Nature on the management obligations under the agreement. In addition, where there is a tenancy or licence with less than 5 years remaining, English Nature will normally require a tripartite agreement with the landlord, that he/she agrees to maintain the land in accordance with the management agreement for the remainder of its term. Similar assurances may be required in relation to mortgagees, or other legal interests in the property.
- Owners and occupiers are responsible for obtaining all necessary consents and permissions which are required in order to undertake the management in accordance with the terms of the agreement.
- Owners of land, which is subject to a management agreement, must notify future tenants, licensees and other third party interests of all the details, and the management requirements contained in the agreement; and they should ensure that the tenant/licensee complies with the terms of the agreement. The attention of landowners is also drawn to s28Q of the 1981 Act, which requires them to notify English Nature when the property changes hands, or where a new tenancy or licence is granted.
- English Nature will make a contribution to the professional fees reasonably and appropriately incurred in completing a management agreement. Annex C sets out the policy on reimbursement of fees incurred by owners or occupiers.

Alternative schemes

- 3.12 Payments made by English Nature for land management will not duplicate payments available under any other environmental land management schemes (ELMS). Examples of such schemes include the Countryside Stewardship and Environmentally Sensitive Areas Schemes operated by MAFF and the Woodland Grant Scheme operated by the Forestry Commission (see also Annex B). Land managers must give details of any other schemes of which they are beneficiaries, when entering into discussions with English Nature.
- English Nature may make payments in respect of land subject to other ELMS agreements where this is for additional management requirements, and provided that there is no conflict or duplication of payment.
 - A land manager may, with the agreement of English Nature, transfer to another ELMS agreement with comparable management where this would serve the nature conservation objectives of the land equally well or better.

CHAPTER 4

Payments for withdrawal or modification of consents

- 4.1 Where an existing consent is withdrawn or modified (under s28E(6) of the 1981 Act) or where a stop notice is served (paragraphs 9 and 17 of Schedule 11 to the 2000 Act), English Nature is required to make a payment where the owner or occupier of the land can show that he or she *has suffered loss*. As well as confirming the permanent withdrawal or modification of the consent or the operation curtailed by the stop notice, an agreement may also include measures to secure the positive management of the SSSI. Payments for such measures will be calculated in accordance with this guidance.
- 4.2 Payments relating to the loss suffered will normally be delivered by means of a formal agreement, which will confirm the permanent withdrawal or modification of the consent or the operation curtailed by the stop notice. An agreement will normally be for a minimum term of five years and may be registered as a local land charge, by English Nature. It will then be enforceable against any successors in title.
- 4.3 Any loss would be calculated as at (a) the date the stop notice takes effect or (b) expiry of the period for appealing against the notice withdrawing or modifying the consent (or, where an appeal is made, from its determination or withdrawal). The payment will be based on the difference in capital value of the land with and without the consent, together with payment for any expenditure reasonably incurred, which has been rendered abortive. Any claim should be made to English Nature within 12 months of the dates set out in (a) and (b) above. The payment may be by annual instalments over the period of the agreement or paid as a lump sum.

CHAPTER 5

Transitional Arrangements

- 5.1 The introduction of new guidance will result in a period of transition. Where the annual payment in an existing agreement is due to be reviewed, the basis of that review will be in accordance with the method of assessment set out in paragraph 3.1, except where the agreement contains specific provisions to the contrary.
- 5.2 There may also be circumstances where it would be beneficial for both parties to an existing agreement to terminate it, and for the owner/occupier either to enter the land into another Environmental Land Management Scheme, or take up the offer of a new standard agreement from English Nature which is in accordance with this guidance. It must be understood by both parties that this is an entirely voluntary option. However, in negotiating a new contractual arrangement with English Nature, the following points may help the parties achieve a satisfactory outcome:
- In order to achieve the surrender of the existing agreement, English Nature may pay a lump sum, but this will be conditional on the future management being guaranteed to achieve the conservation objectives for a minimum of ten years;
 - In calculating any lump sum that may be paid by English Nature, reference may be made to the Land Compensation Act 1961 (and any amendment to this Act): however, the overriding criteria are the need to secure the favourable condition of SSSIs and to deliver best value for money for the taxpayer.
 - Accordingly in calculating any lump sum that may be justified, English Nature will need to balance the existing nature conservation objectives, the level of payments and the remaining length of term under an existing agreement against the desired nature conservation objectives and the level of payments under a new agreement calculated in accordance with this guidance.

CHAPTER 6

Other Related Matters

Dispute Resolution

- 6.1 Amendments to the 1981 Act introduced new provisions for appeal where English Nature refuse consent for operations, or modify or withdraw an existing consent: and also where they serve a management notice (s28E/F and s28K/L). Such appeals are separate from issues related to disputes over the financial terms of a management agreement, even though an agreement may have been offered.
- 6.2 Where an offeree disputes the financial terms of a management agreement, the parties shall seek to resolve matters through private negotiation. However, if the dispute remains unresolved, in the first instance the parties should try to resolve the matter by mediation or, by agreement between the parties, through other means of dispute resolution. English Nature has arranged with the Centre for Dispute Resolution (CEDR) that it will provide an independent mediation service in such matters, and will ask CEDR to make the necessary arrangements. The costs of mediation are shared equally between the parties. Additional information on mediation can be obtained from:

CEDR:
Princes House
95 Gresham Street
London
EC2V 7NA

Tel: 020 7600 0500
Fax: 020 7600 0501

- 6.3 If the matter still remains unresolved 6 months from the date of disputing the offer, a final offer will be made and the dispute may then be referred to arbitration in accordance with the Arbitration Act 1996 (or any amendment to this Act). There is a right to arbitration under s28M(4) and s50(3) of the 1981 Act and a case should be referred to arbitration, where necessary, within one month of the final formal offer. Where there is no agreement on the choice of an arbitrator and at the request of either party, the President of the Royal Institution of Chartered Surveyors shall appoint an arbitrator. In default of agreement, the arbitrator will also award the costs of the arbitration. If the agreement delivers a payment as required by s28M(1) of the 1981 Act, or paragraphs 9 or 17 of Schedule 11 to the 2000 Act, then English Nature must respect the arbitrator's award. Exceptionally, however, if it is simply a management agreement to deliver positive management, English Nature may withdraw the offer of an agreement if it does not consider the award represents good value for taxpayers' money.

Breach of agreement

- 6.4 In all agreements, English Nature shall be able to withhold or reduce annual payments where the agreed management has not been carried out to a satisfactory standard. In some circumstances, English Nature may terminate the agreement before it has run its full term. Where any annual or capital payments have been made and the terms of the agreement have been breached, English Nature may reclaim part or the whole of any funding, plus an appropriate level of interest. Ministers would not, however, expect English Nature to take these steps without all efforts, including alternative dispute resolution, being made to resolve the issues.

Capital Taxation

- 6.5 Exemption from capital taxes may be available to owners of heritage land and property. The Capital Taxes Office can provide further information about the exemption. The address is:

Capital Taxes Office
Ferrers House
PO Box 38
Castle Meadow Road
Nottingham
NG21 1BB

- 6.6 If land which benefits, or will benefit, from exemption is already partly or wholly funded by payments made under a management agreement with English Nature, the agreement may be amended or terminated to avoid any effective duplicate funding. This is a matter that should be discussed with English Nature, not the Capital Taxes Office.

Land acquisition

- 6.7 It may be appropriate under certain circumstances for English Nature to acquire a freehold interest in the property, either voluntarily or by exercising its compulsory purchase powers (in s17 of the 1949 Act, s15A of the 1968 Act or s28N of the 1981 Act). Compensation will be paid according to the Compensation Code, which is based on the Land Compensation Acts 1961 and 1973 and the Compulsory Purchase Act 1965. In this event, English Nature may choose to manage the land directly, or through a leasehold arrangement with a recognised voluntary conservation organisation or other appropriate body. There may also be circumstances where English Nature may wish to support the acquisition of land by a voluntary conservation organisation or other appropriate body, and may offer a land purchase grant.

Cancellation/Amendments

- 6.8 DoE/MAFF Circular 4/83 is hereby cancelled.

ANNEX A

Glossary of Statutory references

The provisions relating to protection of SSSIs are set out in the Wildlife and Countryside Act 1981. This was amended by the Countryside and Rights of Way Act 2000 which inserted new s28-28Q into the 1981 Act. References in this document to the 1981 Act, are to that Act as amended.

Section 16 National Parks and Access to the Countryside Act 1949 allows English Nature to enter agreements with owners, lessees and occupiers of any land to secure its management as a nature reserve.

Section 15 of the Countryside Act 1968 allows English Nature to enter management agreements with owners, lessees and occupiers of any land for the purpose of conserving the flora, fauna or geological or physiographical features of an SSSI.

Section 28M of the 1981 Act sets out circumstances where payments may be made:

- Under section 28M(1) a payment **must** be made where English Nature withdraw or modify a consent and the owner or occupier of the land suffers loss.
- English Nature may also make a payment to any owner or occupier of land where a management scheme under s28J is in force.

Regulation 16 and 89 of the Conservation (Natural Habitats &c) Regulations 1994 (SI 1994/2716) give, respectively, a power to make agreements on European sites and power for Ministers to issue guidance about the amount of payments.

European sites are defined in the Regulations, and include Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs).

EC Guidelines also condition the making of payments, namely:

Community Guidelines for State Aid in the agricultural sector

Council Regulation EC 1257/99 (The Rural Development Regulation)

Commission Regulation EC 1750/99 (The Implementing Regulation)

In the Wildlife and Countryside Act 1981, the following terms are used:

Management Scheme – is a scheme, prepared by English Nature under s28J describing how best to conserve, and/or restore, the special features of an SSSI. This will be drawn up in discussion with the owners or occupiers. The aim is for all owners and occupiers of the land to be aware of the preferred methods of managing the land to conserve or restore the special features (flora, fauna, geology or physiography) for which the site was notified.

Management agreement – made under s15 of the Countryside Act 1968 or s16 of the National Parks and Access to the Countryside Act 1949. It is an agreement between the owner/occupier and English Nature as to the management of the land, including the carrying out of work.

Management Notice – section 28K gives English Nature power to issue a management notice, if it has been unable to conclude a management agreement on reasonable terms, and if the special features for which the land was notified are being inadequately conserved. The notice requires the owner or occupier to carry out specific works within a specified time or allows English Nature to enter the land and carry out work itself. The person who receives the notice has a right of appeal to the Secretary of State.

Stop notice – in Schedule 11 to the Countryside and Rights of Way Act 2000, English Nature are given power to serve stop notices in specific circumstances. There is a right of appeal against a stop notice, which has a similar effect to withdrawal of consent under s28E(6) of the 1981 Act.

ANNEX B

ELMS – Environmental Land Management Schemes

There are many ELMS schemes available, which include:

CSS – Countryside Stewardship Scheme

Countryside Stewardship is operated by the Ministry of Agriculture Fisheries and Food (MAFF) and is available throughout England outside ESAs. It aims to protect, enhance, restore and re-create targeted landscapes, their wildlife habitats and historical features, and to improve opportunities for public access.

ESA – Environmentally Sensitive Area Scheme (ESA)

ESAs are parts of the country of particularly high landscape, wildlife or historic value, the protection of which requires appropriate farming practices. The Schemes are run by MAFF and payments are offered to farmers to adopt agricultural practices which will safeguard and enhance the rural environment and create improvements in public access. There are now 22 ESAs in England covering some 10% of agricultural land.

WES – Wildlife Enhancement Scheme (WES)

WES schemes apply to SSSIs, offering money for the maintenance and enhancement of the site's wildlife interest. The Schemes are run by English Nature and payments are calculated in accordance with this guidance.

WGS – Woodland Grant Scheme

The Woodland Grant Scheme, run by the Forestry Commission, pays grants to help with the creation of new woodlands and to encourage the good management and regeneration of existing woodlands. Grants are paid as part of a contract under which beneficiaries agree to look after the woodlands and carry out approved work. Further details on the WGS are available at the Forestry Commission web site at www.forestry.gov.uk

HFA – Hill Farming Allowance Scheme

The Hill Farming Scheme provides area payments to farmers using eligible land for sheep breeding and suckler-cow beef production in English Less Favoured Areas. Its aims are to

- contribute to the maintenance of the social fabric in upland communities through support for continued agricultural land use, and
- help to preserve the farmed upland environment by ensuring that land in less favoured areas is managed sustainably.

ANNEX C

Fee Policy

Where a management agreement is completed the following principles shall apply:

- English Nature will make a contribution to the professional fees reasonably and appropriately incurred in completing a management agreement.
- For the majority of new agreements, which are based on a standard habitat payment, with a standard contractual agreement and a management plan, it is expected that an owner or occupier may only need to ask their professional adviser to make a check of the standard agreement. For such cases it is reasonable for English Nature to apply a ceiling to the amount of fees which it will reimburse. This amount will be agreed between the parties in advance.
- In more complex cases, where professional advice is needed in order to achieve the satisfactory completion of a management agreement; English Nature may reimburse the reasonable and appropriate professional fees incurred in completing the agreement. The level of fees will be agreed in advance, on a basis which reflects the amount and complexity of the professional work involved (quantum meruit). Fees above this ceiling will only be paid if the increase is agreed in advance.
- Reimbursement will be made to the owner or occupier, and will only be made upon completion of the agreement or, where appropriate, where an agreement is not completed due to reasons beyond the owner or occupier's control. VAT on such fees may be met only where the owner/occupier is not registered for VAT purposes.
- If English Nature offers to negotiate an agreement and subsequently withdraws, it should defray the owner or occupier's costs to that point, assessed on the basis of the financial limits originally agreed.
- The renewal of existing agreements should not attract payment of fees where there is no material difference between the old and the new agreements.
- If the owner or occupier withdraws from negotiations, English Nature will not reimburse fees except in exceptional circumstances.
- In the event of a change of professional adviser by the owner or occupier, English Nature will not be liable for time spent duplicating earlier work in briefing new advisers, except in exceptional circumstances.

There will be no liability for English Nature to reimburse fees that owners and occupiers may choose to incur in relation to the notification of an SSSI, or to any other matters arising as a consequence of that notification. Similarly, there shall be no liability for professional fees in response to the securing of a management scheme under S28J or an appeal against a management notice under S28K and L.

Where a management notice is served under s28K, English Nature will, in most cases, defray the costs of the works required in the Notice. Professional fees incurred relating solely to the execution of these works will be reimbursed on a fair and reasonable basis which reflects the amount and complexity of the professional work involved (quantum meruit), subject to the arrangements on ceilings described above.