

SFI Moorland Introductory Standard Internal Agreement:

Frequently Asked Questions

The Foundation for Common Land has, with funding from Defra, instructed a lawyer to prepare an Internal Agreement that can be adapted by Commons Associations for the SFI Moorland Introductory Standard. It is not suitable for longer term Stewardship Schemes.

This template (or precedent) can be used as a standalone agreement if your common is not currently in another scheme or can stand alongside a CS / HLS Internal Agreement.

The Foundation for Common Land and Minihan McAlister accept no liability for losses that may arise from the use of the template Internal Agreement.

Below are some FAQs. For completing the actual Internal Agreement, please read the “How to Guide”.

1. Why do I need an Internal Agreement?

An enforceable Internal agreement is a requirement for prior to a common to applying on the Rural Payments website for the SFI. This is set out in the guidance for entering SFI on the government's website. <https://www.gov.uk/guidance/eligibility-of-commons-and-shared-grazing-land-for-an-sfi-standards-agreement>.

2. What is an Internal Agreement?

An Internal Agreement is a legally enforceable document that is made between Common's Association and the members participating in the SFI. It sets out the rules of association, the participation requirements, how the requirements of the SFI will be met, breaches handled and the payment schedule for monies received from the RPA.

3. Who has to sign?

Each member of the association receiving a payment from the SFI will have to sign. The process is each member signs their own copy of the internal agreement which is also signed by two officers of the association. As SFI Moorland Introductory Scheme is only a three year scheme with no land management actions our legal advisor has said it can be signed as a contract rather than a deed. Therefore, no witness to the signatures is required and you do not require a lawyer to draft the agreement.

4. We already have an Internal Agreement for our HLS / CS, do we require another Internal Agreement for the SFI

Yes, unless the existing Internal Agreement explicitly covers the SFI Moorland Agreement including the completion of the requirements of the scheme and the distribution of the SFI payments.

5. What happens if rights change hands during the length of the SFI?

If common rights change hands, then the new owner of the rights will sign a new contract with the Commons Association.

6. How do we decide the payment schedule?

This must be agreed by the Common's Association. Before splitting up the money between those with legal interests the Association will have to pay any bills for delivering the requirements of the SFI agreement. These will include:

- i. Payments for developing the live Commons Register, consulting with the legal interests and preparing the Internal Agreement
- ii. Payments to the Surveyors: We suggest a payment of £30 per point
- iii. Payments for annual management of funds, producing maps and organising data
- iv. Keeping a contingency fund as required to meet costs for managing the common and entering a new scheme

Then there is the question how to divide up the surplus. This is up to the Commons Association. Possible Approaches for the distribution include:

- A. Divide equally between all the participants in the scheme.
- B. Divide according to the number of common rights each commoner has and a payment to the owner – if they are participating.
- C. A hybrid between A and B
- D. Do not distribute the surplus but keep for future requirements for the common e.g. for match funding other works on the common

7. What happens if the rules of the Internal Agreement are broken or there is an internal dispute?

If a Member of the Association is in breach of the terms of the SFI scheme, then the primary mechanism to penalise them is to withhold a payment. The level of the penalty can be decided by the Association depending on the severity of the breach though there are some specific penalties suggested e.g. for missing more than a certain percentage of the meetings. The Moorland Introductory Standard is for data collection so the chance of an individual disrupting the completion of the scheme requirements is minimal. If there is an internal dispute that cannot be resolved, then please refer to article 6 in the Internal Agreement template which states the procedure to follow.

8. What do I need to do if I am a tenant farmer?

You can be a member of the association and participate in the surveying, but you must ensure your tenancy of the common rights is for the duration of the scheme which is 3 years. If your tenancy is for less than three years either obtain permission from your landlord to enter the scheme or ask them to extend your tenancy agreement. With regard to the payments this is a private matter between you and your landlord and usually handled through the rent.