Appendix: Recommendations on determining a payment rate

Purpose

This appendix intends to assist local authorities with the process of negotiating with land managers when implementing natural flood management (NFM) measures. The aim is to help local authorities whenever possible to find an affordable solution that still allows the land to be utilised by the land manager. Whilst land purchase is an option which is open to local authorities, it generally removes the land from agricultural production. There are other options which allow a local authority to use the land for NFM and the land manager to continue to manage the land productively (albeit for a different use).

Introduction

A compensation mechanism may be viewed as an agreement or arrangement which enables the implementation of an NFM measure. This appendix provides information on eight different types of mechanism including:

- **Advice and technical support**. This could include provision of replacement goods e.g. animal feed where crops have been damaged in addition to assistance with land management;
- **Capital and annual payments** (including grants) with funding sourced from public bodies e.g. government, EU, lottery. Such payments include one-off capitalised payments as well as capital for implementing works on the ground;
- **Capital and annual payments** (including grants) with funding from non-government sources such as charities and trusts. An independent broker organisation needs to be involved to source and/or apply for the funding, with payments including one-off capitalised payments as well as capital for implementing works on the ground;
- **Economic instruments** (fiscal, permits, service payments, auctions). Payment frequency depends on the instrument used;
- **Land lease to public body**. The public body makes regular payments to lease the land;
- **Land purchase/sale**. The public body makes a one-off payment to purchase the freehold;
- **Land purchase/sale and leaseback**. The public body makes a one-off payment to purchase the freehold, but subsequently receives rental payments from the land manager; and
- **Servitude, wayleaves**. This mechanism may involve a one-off capitalised payment, or annual payments. (Note that whilst 'wayleave' is not a legal term in Scotland, it is recognised and used.)

For this guidance, a broker is defined as an independent external organisation (e.g. NGO) which can liaise with both the local authority and the land manager. Brokers may be able to source additional funding which is not open to local authorities as public bodies. Brokers may also be able to assist with multiple objective schemes, where outputs may include benefits for biodiversity and heritage in addition to NFM. In such cases, the money paid by local authorities for compensation for NFM under the Flood Risk Management (Scotland) Act 2009 (the FRM Act) could be combined with other funding, for example, for particular species or habitats, or cultural projects. Such schemes could include payments for ecosystem services (PES), where voluntary payments are made for the provision of services including water regulation, provision of freshwater and recreation.

This appendix also presents recommendations on the variables to take into account when determining a payment rate for the different mechanisms.

The structure of this appendix is as follows:

- **Part 1: Process for negotiating an agreement**. The appendix begins with an overview of the suggested process to use when choosing the required mechanism and negotiating with the land manager(s);

- **Part 2: Identifying the most appropriate mechanism**. Part 2 includes information to help identify when the different types of mechanism may be appropriate;

- **Part 3: Recommendations**. Part 3 provides recommendations on how to determine a payment rate for each of the mechanism types;

- **Part 4: Mechanism summary sheets**. The summary sheets present information on each of the eight broad mechanism types; and

- **Part 5: Case studies**. At the end of the appendix, there are case studies illustrating how the different mechanisms have been used in practice.

Part 1: Process for negotiating an agreement

The five steps involved in negotiating an agreement are:

- Step 1: identification of key skills (by public body);
- Step 2: background research (by public body OR public body and broker);
- Step 3: discussions (between land manager and public body OR land manager and broker);
- Step 4: identification of mechanisms which are likely to be most appropriate; and
- Step 5: agreement on mechanism and payment rate (all parties).

These steps are part of an iterative process, so may need to be repeated before an agreement can be reached between all the parties. Further details on each of the steps are given below.

Step 1: identification of key skills (by public body)

This step allows the public body to identify whether it can lead on a mechanism, or whether it requires the help of an independent broker organisation. Consideration should be given to:

- What processes is the public body familiar with?
  - This may affect the type of mechanism which can be used (see Table 1)

- Does the public body have the resources to manage a mechanism over time?
  - Some mechanisms require ongoing management, whilst others can be left alone once set up.

- How much agricultural knowledge does the public body have?
  - Questions to consider include: is there an understanding of agricultural land classes? Is there a valuer (or access to the district valuer)? This will be important if the public body decides to approach the land manager directly, without the involvement of a broker.

- Is there an awareness of the different NFM measures and their likely impacts on land?
  - Again, this affects whether the public body is able to approach the land manager directly.

- Is the public body aware of any broker organisations within its area?
  - Having good links with a broker organisation such as an NGO could help provide the link between the public body and the land manager, and also bring in additional funding, knowledge and resources.

Table 1: Categorisation of mechanisms according to the type of procedure required

Type of procedure required	**Potential mechanisms to consider**
Established procedure for mechanism *(public body is likely to have experience of these types of transactions or agreements)*	Land purchase/sale Land purchase/sale and leaseback Land lease to public body Advice and technical support (where providing like for like replacement goods)
Procedure needs to be developed but can be done in-house *(public body is likely to have the resources and capability to implement these mechanisms, but time may be needed to develop the specifics of the agreement)*	Servitude/wayleaves Capital and annual payments (including grants) – government based Capital and annual payments (including grants) – non-government based
Procedure needs to be developed with independent external support *(public body has some knowledge of the mechanism but needs external independent support to actually use it)*	Capital and annual payments (including grants) – non-government based (an independent third party may need to source the funding) Economic instruments Advice and technical support (for provision of advice on management and technical support)

Step 2: background research (by public body OR public body and broker)

Researching the catchment and current land use helps ensure that any mechanisms and measures which are suggested are appropriate. This avoids wasted negotiations, which would be costly to both public bodies and land managers.

Public bodies should consider:

1. The NFM measures which could be implemented to achieve the reduction in flood risk.
2. The extent of the impacts of these NFM measures on land use/management.
3. The scale at which the measures need to be implemented (catchment or local scale).
4. The likely number of measures required (single measure level, single farm level, multiple measures, multiple farms, etc.).
5. The maintenance responsibilities which may result dependent on the measures implemented. Liability for the measures also needs to be considered, for instance, if maintenance is not carried out, who is liable if the NFM measure does not function as anticipated?
6. Background research on the land managers with whom agreements may need to be made. This may include information on the area of land holding, the land use type, the type of recipients (landowner, tenant) and the number of recipients.

Different mechanisms will be more or less appropriate for different situations:

- Advice and technical support could potentially be implemented on any land use type (capability class or type of business income).
- For areas where ownership and tenancy arrangements are complex, it might be advisable to look at mechanisms where negotiations can be undertaken just with land managers, rather than with managers, owners and tenants (where all three exist). Such mechanisms could include advice and technical support.
- Mechanisms such as land purchase/sale, and land lease to a public body could have a significant impact on the area of the land holding, and are unlikely to be considered for prime

Step 2: background research (by public body OR public body and broker)
agricultural land (unless the price is right). • Bringing everyone together in a partnership may save time and resources. This could be possible with economic instruments or advice and technical support. For the other types of mechanism, individual agreements are generally needed, although several individual agreements could be negotiated with a number of land managers, owners and tenants to bring overall catchment benefits.

Step 3: discussions

In Step 3, initial negotiations with the land manager are held. They may be carried out by the public body, or the broker. They enable the public body/broker to present their initial ideas to the land manager, and the land manager to consider how these ideas could fit with their land management and business plans.

At this point, the land manager needs time to consider the:

- Administrative requirements when setting up the mechanism (they may require external independent support);
- Payment frequency (where relevant);
- Flexibility of the mechanism over time (can it adapt to their land management plans);
- Amount of time that needs to be spent in meetings/making arrangements; and
- Any implications in terms of maintenance e.g. would the land manager need to maintain the NFM measure?

They may also need to consult with others (e.g. land agents). This means that it is important that the background research undertaken in Step 2 has identified relevant suggestions.

Step 4: identification of mechanisms which are likely to be most appropriate

In Step 4, the potential mechanisms are short listed, taking into account the:

- Effectiveness of the mechanism in ensuring the measure is implemented as intended.
    - Mechanisms which provide the public body with some control over the land include land purchase/sale, land lease to public body, and potentially servitude/wayleaves.
- Effectiveness of the mechanism over time.
    - Mechanisms which are likely to be effective over time include land purchase/sale, servitude/wayleaves, and, where land use changes, capital and annual payments, and economic instruments.
- Flexibility of the mechanism.
    - Can it adapt to the changing requirements of the public body? The flexibility of the NFM measure should also be considered.
    - Very flexible mechanisms include servitude/wayleaves, economic instruments, advice and technical support.
- Lead-in time required to set up the mechanism.
    - Whilst there may be a desire to implement a NFM measure as soon as possible in case there is a flood, it may be worth spending a bit longer negotiating a more complex but more effective mechanism

Step 5: agreement on mechanism and payment rate (all parties)
Step 5 covers the final negotiations which occur between the parties to agree on the mechanism (drawing on the short list), the terms of any contract and also the payment rate (where applicable). Further information on ways to determine a payment rate is given below. If agreement cannot be reached, Steps 3 to 5 may need to be repeated.

Part 2: Identifying the most appropriate mechanism

Whilst each situation should be considered on its own merits, there are some mechanisms which are likely to be more appropriate in certain situations. Table 2 considers five different characteristics and identifies how the eight mechanism types perform. These characteristics are:

- **Public body responsibility for land management**: where a public body takes on land management responsibilities, this requires time, resources and equipment (or money to subcontract the land management).
- **Upfront financial commitment by public body**: if money is available for capital expenditure, mechanisms such as land purchase/sale may be more viable than those where ongoing payments are required.
- **Ongoing financial commitment by public body**: if there is an ongoing financial commitment (whether this is regular or incident based), how long is the funding likely to be available for?
- **Effectiveness over time**: some mechanisms provide the public body with more control than others to ensure that the NFM measure is implemented as desired.
- **Flexibility over time**: both the public body and the land manager may want flexibility in case their circumstances change.

Table 2 can be used to help identify which types of mechanism may be appropriate in particular situations.

Important caveat: Dependent on the individual situation and NFM measures desired, consideration also needs to be given to liability. It is important to determine who is responsible for the NFM measure should there be any problems with its maintenance or if it does not function as intended. Land managers are likely to be concerned about any contingent liability resulting from them taking on maintenance of NFM measures. Public bodies should allow adequate time for consideration and discussion of this issue. It may affect the types of mechanism that are likely to be suitable in a particular location.

Table 2: Performance of the mechanisms in five key areas (public body responsibility, upfront financial commitment, ongoing financial commitment, effectiveness over time and flexibility over time)

Area	Low level	Moderate level	High level
Public body responsibility for land management	**Low level of public responsibility for land management:** Servitude, wayleaves (if servitude, could be one-off capitalised payment) Capital and annual payments (including grants) - government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Capital and annual payments (including grants) - non-government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Economic instruments Advice and technical support **May be appropriate where:** Limited resources to undertake land management; many land managers are involved	**Moderate level of public responsibility for land management:** Land purchase/sale and leaseback **May be appropriate where:** Funding for initial purchase can be borrowed and paid back over time; public body does not want (or need) to have to manage land (White Cart Water, Glasgow provides an example of purchase/sale and leaseback); land manager is happy to continue managing the land despite the implementation of the NFM measure	**High level of public responsibility for land management:** Land purchase/sale Land lease to public body **May be appropriate where:** Public body has the resources to undertake ongoing land management; area of land acquired is limited and expected to result in considerable flood risk reduction benefits (e.g. Upper Garnock flood prevention scheme); loss of land does not detrimentally impact land manager's business
Upfront financial commitment by public body	**Low level of financial commitment by public body:** Capital and annual payments (including grants) - non-government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Advice and technical support **May be appropriate where:** Limited capital available for upfront funding; independent third party organisations are already active and engaged with land	**Moderate level of financial commitment by public body:** Land lease to public body Servitude, wayleaves (dependent on whether servitude or wayleave is used; if servitude, could be one-off capitalised payment) Capital and annual payments (including grants) - government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Economic instruments	**High level of financial commitment by public body:** Land purchase/sale Land purchase/sale and leaseback **May be appropriate where:** Capital sums are available for purchasing land and land managers can be readily identified (case studies have determined that this process can be time consuming)

Area	Low level	Moderate level	High level
	managers	**May be appropriate where:** Some funding is available to start NFM implementation, but there is uncertainty over how long the funding may last	
Ongoing financial commitment by public body	**Low level of ongoing financial commitment:** Land purchase/sale Land purchase/sale and leaseback Capital and annual payments (including grants) - non-government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Economic instruments Advice and technical support **May be appropriate where:** Limited funds are available to maintain mechanism	**Moderate level of ongoing financial commitment:** Servitude, wayleaves (dependent on whether servitude or wayleave is used; could be one-off capitalised payment) Capital and annual payments (including grants) - government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) **May be appropriate where:** Some funding is available to maintain mechanism, but this is not unlimited; land managers agree to maintaining land use in line with agreement (and implementation of NFM measure)	**High level of ongoing financial commitment:** Land lease to public body **May be appropriate where:** Funding can be secured for a set amount of time (to enable the lease to be paid for its term and thus provide security to the land manager)
Effective-ness over time	**Low level of effectiveness over time:** Advice and technical support **May be appropriate where:** Amount of buy-in and commitment from land managers, as well as the effectiveness of NFM measures are uncertain	**Moderate level of effectiveness over time:** Land lease to public body Servitude, wayleaves (if servitude, could be one-off capitalised payment) Capital and annual payments (including grants) - government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Capital and annual payments (including grants) - non-government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Economic instruments	**High level of effectiveness over time:** Land purchase/sale Land purchase/sale and leaseback **May be appropriate where:** There is a degree of certainty with regard to the likely effectiveness of the NFM measure being implemented on the land

Area	Low level	Moderate level	High level
		May be appropriate where: Land managers are interested in NFM and likely to be engaged	
Flexibility over time	**Low level of flexibility over time:** Land purchase/sale Land purchase/sale and leaseback **May be appropriate where:** There is a degree of certainty with regard to the likely effectiveness of the NFM measure being implemented on the land. The case studies have shown that land purchase negotiations may be complicated and time consuming, so the public body needs to be clear that these mechanisms are appropriate	**Moderate level of flexibility over time:** Land lease to public body Servitude, wayleaves (if servitude, could be one-off capitalised payment) Capital and annual payments (including grants) - non-government source (dependent on funding and conditions from third parties) (incorporating one-off capitalised payments as well as capital for implementation of NFM) Economic instruments **May be appropriate where:** The land manager and public body agree to implement a NFM measure, but they want to use a mechanism which has some flexibility so that changes to the agreement can be made over time if necessary	**High level of flexibility over time:** Capital and annual payments (including grants) - government source (incorporating one-off capitalised payments as well as capital for implementation of NFM) Advice and technical support **May be appropriate where:** Land managers do not want to commit to long term changes without seeing how the mechanism/measure combination affects their business; there is uncertainty with regard to the effectiveness of the NFM measure being implemented, thus there may be a need to adapt the mechanism used

Part 3: Recommendations

The District Valuer Services (DVS) have indicated a preference for a before and after approach to calculating any payment (with this generally accepted by the Lands Tribunal). This method generally results in a one-off capital payment to the land manager. This payment can be referenced to market value using direct comparisons. Mechanisms which could result in a one-off capitalised payment include:

- Capital and annual payments with funding sourced from public bodies;
- Capital and annual payments with funding from non-government sources;
- Land purchase/sale;
- Land purchase/sale and leaseback (initial payment by local authority to purchase land);
- Servitude, wayleaves (one-off capitalised payment could be made for servitude).

However, flexibility is required in all negotiations and each case needs to be treated on its own merits. There is no 'one size fits all', so determination of the payment rate should occur as part of the five step process described in Part 1 above.

The following text and tables therefore provide an indication of the way in which an initial payment rate could be calculated. For each of the mechanism types, the information presented includes:

- **An overview table**. This details the types of NFM measure with which the mechanism could be used, the resources likely to be required by the public body and any other important points to consider;
- **A diagram showing how to determine the payment rate**. The payment rate is the amount the public body should pay the land manager as compensation. It does not take into account other costs which the public body may incur (e.g. legal fees, valuation fees). Each diagram shows the different variables which may need to be taken into account when negotiating the payment rate. The variables have been identified by analysing the legal and financial implications of the different mechanisms. Where possible, to fit with the before and after approach favoured by the DVS, determination of the payment rate has been based on market value; and
- **A worked example** (some mechanisms have several examples). This shows an example payment rate calculation for the mechanism type. **These are only examples. The circumstances of each individual case must be taken into account when negotiating payment rates.**

Advice and technical support

Mechanism	Advice and technical support
Measures this mechanism could be used with	Low and no cost options for decreasing flood risk. These could include measures that: • Result in a temporary reduction in land available to use during wet periods; • Require changes in management practices but not land use; • Have minimal impacts on land use (they may focus on the watercourse or the area alongside watercourse); • Do not affect productive land
Resources required by the public body	Agricultural expertise where advice is being provided (this could come from an independent broker). Purchasing/accounts department where in-kind goods are provided (e.g. replacement feed, a storage area, part payment towards a barn)

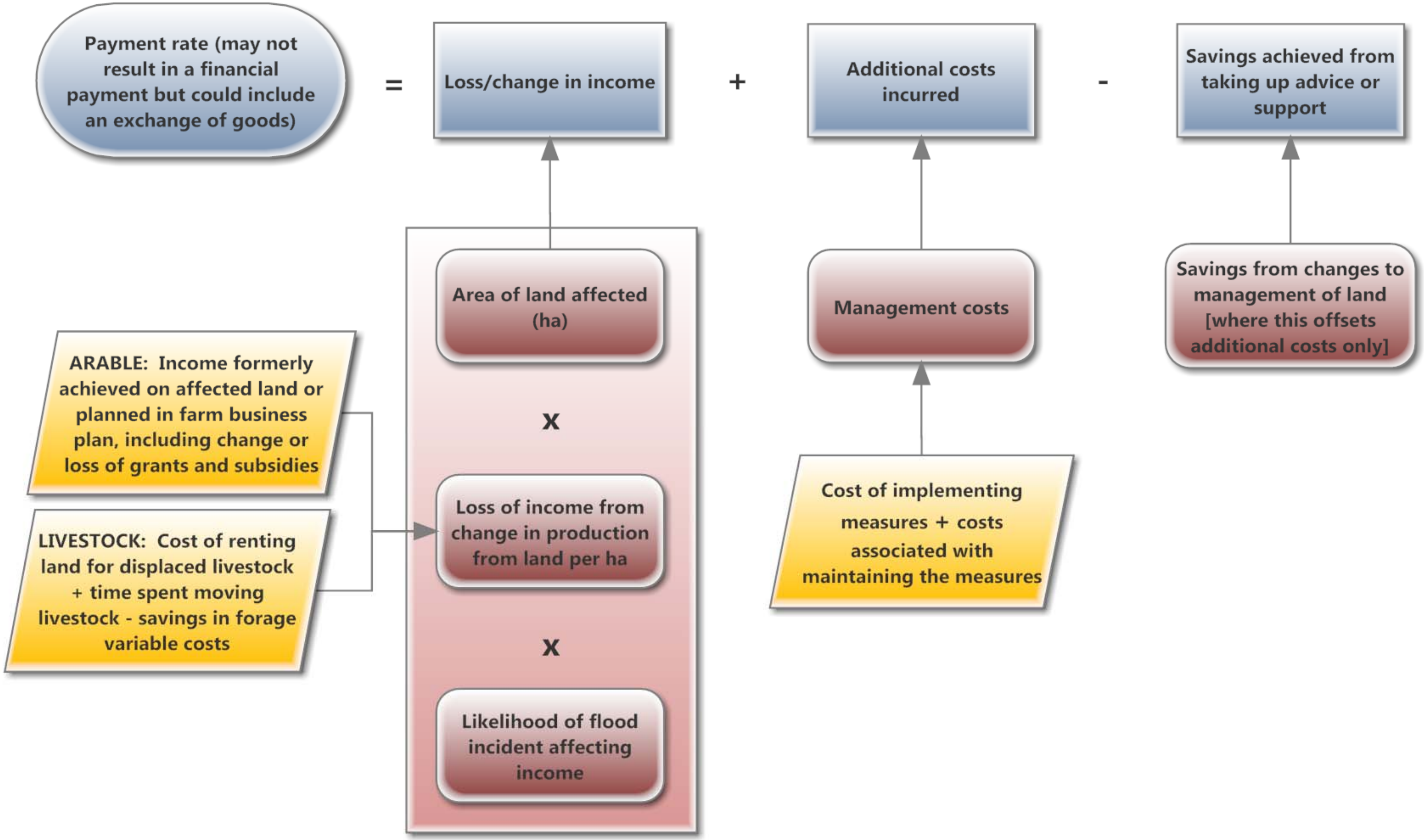
Mechanism	Advice and technical support
Points to consider	Discussions with the land manager could help identify the most appropriate type of advice/technical support to suit their business and bring about FRM benefits. Land managers may have their own suggestions

Figure 1 shows how the payment rate for advice and support could be determined. Note that not all of the variables mentioned will be relevant. For example, in some cases, there may not be any savings to the land manager as a result of following advice or receiving technical support.

Example	Holnicote, Exeter, England
Advice and technical support provided	Individual soil condition/management surveys were carried out for 14 tenant farms. The reports and free advice received a positive response with some farmers purchasing specialist equipment to help implement the recommendations
Payment rate	Surveys undertaken and reports sent to each farm

Example	Sussex Flow Initiative, Sussex, England
Advice and technical support provided	The project provides free trees and hedgerow plants alongside a planting service. Advice is also available on maintenance
Payment rate	No monetary payments are offered, although landowners have shown interest in the benefits of harvesting wood fuel and use of trees for animal fodder (tree hay)

Figure 1: Determining the payment rate for advice and technical support



Capital and annual payments (including grants) with funding sourced from public bodies

Mechanism	**Capital and annual payments (including grants) with funding sourced from public bodies**
Measures this mechanism could be used with	Relatively low or moderate cost options for decreasing flood risk. These could include measures that: • Require land use change (e.g. due to changing conditions as a result of the measure); • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use; • Reduce the area of land available due to managed realignment; • Require changes in management practices but not land use; • Have minimal impacts on land use (they may focus on the watercourse or the area alongside watercourse)
Resources required by the public body	A surveyor or valuer may be required where land is taken out of productive use, or land use is changed. A solicitor or legal team (where contract is required). Economic development departments (these may be familiar with grant applications and funding)
Points to consider	Installing a NFM measure/structure on someone else's land generally leads to the land manager taking on legal ownership of the structure. This has implications for the maintenance of the structure and the long term effectiveness of the measure. State aid implications need to be given careful consideration given that the grant funding for the capital or annual payment is from government sources. Where annual payments are being considered, there is a risk that a long term arrangement could result in a total payment which is greater than the value of the land. The market value of the land as a purchase should be checked when setting up an annual payment agreement. When determining the payment rate, the amount of grant funding available (if any) should be taken into account along with any associated conditions

Example	**Whole catchment management incorporating NFM on the Long Philip Burn, Selkirk**
Payment/advice structure	River restoration and engineered flood defences in the lower reach funded through capital grants with 80% provided by Scottish Government and 20% by the Scottish Borders Council
Payment rate	Ongoing cost of £5,000 per year for operation and management of the sediment basin is 100% funded from the Scottish Borders Council Operation Flooding Budget

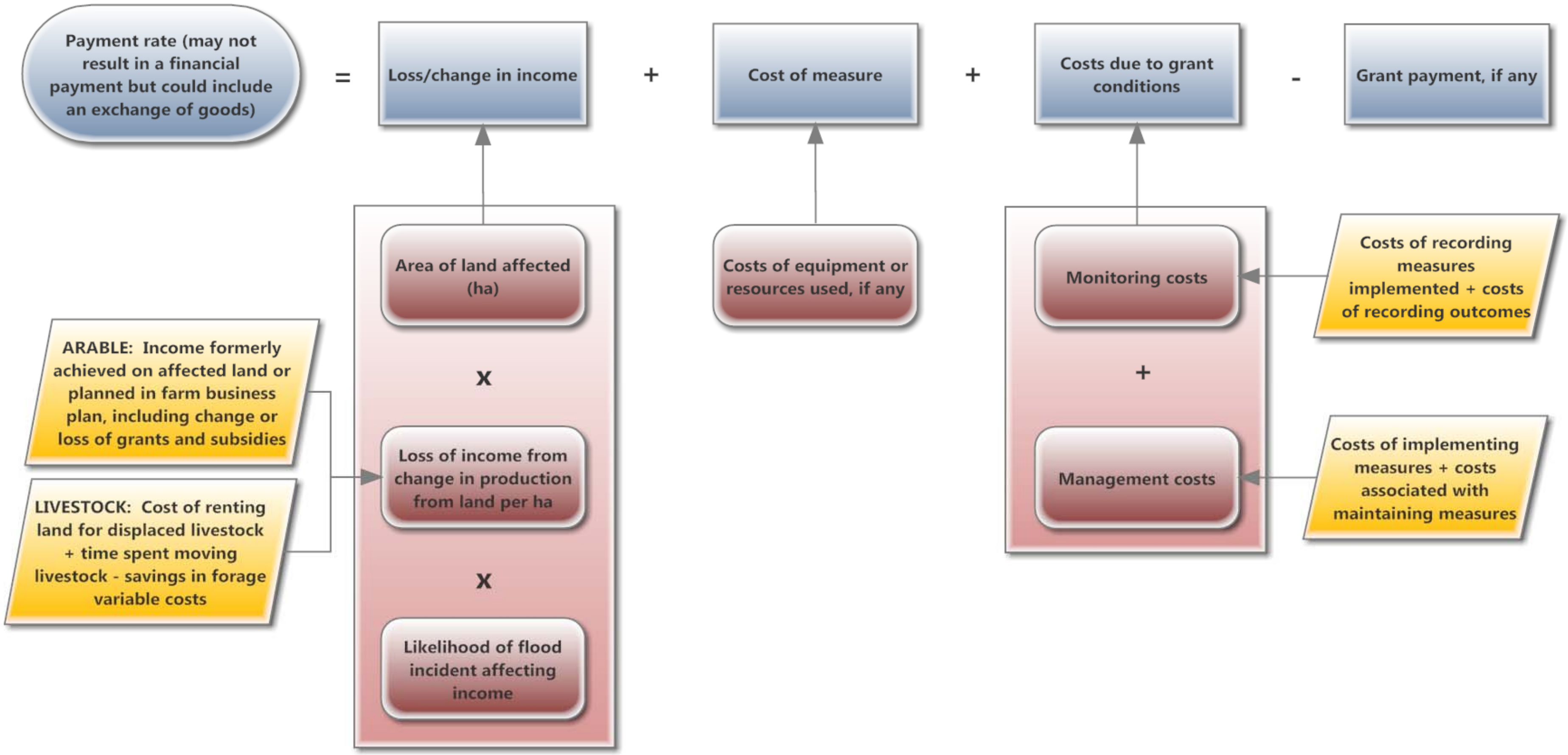
Example	Sustainable Land Management Incentive Scheme – Scottish Water
Payment/advice structure	Scheme finances measures for the protection of drinking water within the River Deveron and River Ugie catchments in the North East of Scotland. Most payments were offered as a one-off payment for materials, labour and management.
Payment rate	The maximum annual financing per business is £20,000. Capital grants are available for eligible items with payment rates of: • Stock fencing: £4 per m • Water trough: £195 per trough • Management of over-winter tramlines: £10 per ha • Cultivate and drill along slope contour: £15 per ha • Gate relocation: £140 per gate • Check dams: £110 per dam • In-ditch seepage barriers: £150 per barrier • Grip blocking: £120 per dam Finance levels vary, at 60% outside the Less Favoured Area and 75% insides the Less Favoured Area.

Example	Scottish Rural Development Programme (SRDP)
Payment/advice structure	There is a list of options available under the Agri-Environment and Climate scheme, and the Forestry Grant Scheme. These include management options and capital grants. The capital grants can be funded alongside annual management options.
Payment rate	Management options include (per ha) • Management of flood plains: £57.43 • Management of water margins: £495.62 (arable); £123.42 (grassland) • Creation of water margins in arable fields: £333.51 • Wetland management: £90.03 • Wetland management (creation and management of): £284.80 • Lowland bog management: £89.75 (with grazing); £37.41 • Converting arable at risk of erosion or flooding to low-input grassland: £333.51 There are also eligible items available for capital grants, including: • Restoring (protecting river banks (willow spilling)): £185 per metre • Restoring (protecting river banks (plant roll revetment): £210 per metre • Restoring (protecting river banks (hurdle and coir matting)): £65 per metre • Ditch blocking (peat dams): £13 • Ditch blocking (plastic piling dams): £62 small; £151 medium; £385.16 larger, per dam • Rural sustainable drainage systems (sediment traps and bunds): £10.50 per m^2 • Rural sustainable drainage systems (retention pond): £15 per m^2 • Rural sustainable drainage systems (sediment traps and bunds): £9 per m^2

Example	Belford Proactive flood solutions, Northumberland, England
Payment/advice structure	Compensation was paid to farmers as a one-off payment to cover disruption and the loss of land for farming. The Runoff Attenuation Features (RAFs) are simple features that do not require maintenance plans in most cases
Payment rate	£1,000 per Runoff Attenuation Feature (RAF)

Figure 2 shows how to determine the payment rate for capital and annual payments (including grants) with funding sourced from public bodies. The grant payment is assumed to go to the land manager. The payment rate is therefore based on the difference between the grant payment and the costs incurred by the land manager (including changes in income, costs of implementing measure and costs to meet grant conditions).

Figure 2: Determining the payment rate for capital and annual payments (including grants) with funding sourced from public bodies



Capital and annual payments (including grants) with funding from non-government sources (which a third party may be able to apply for)

Mechanism	Capital and annual payments (including grants) with funding from non-government sources
Measures this mechanism could be used with	Relatively low or moderate cost options for decreasing flood risk. These could include measures that: • Require land use change (e.g. due to changing conditions as a result of the measure); • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use; • Reduce the area of land available due to managed realignment; • Require changes in management practices but not land use; • Have minimal impacts on land use (they may focus on the watercourse or the area alongside watercourse)
Resources required by the public body	A surveyor or valuer may be required where land is taken out of productive use, or land use is changed. A solicitor or legal team (where contract is required). Economic development departments (these may be familiar with grant applications and funding). Note that a third party e.g. a facilitator or an independent broker organisation may have to be responsible for sourcing funds or applying for the money. Public bodies may be excluded from applying for some non-government grants
Points to consider	Installing a NFM measure/structure on someone else's land generally leads to the land manager taking on legal ownership of the structure. This has implications for the maintenance of the structure and the long term effectiveness of the measure. Where annual payments are being considered, there is a risk that a long term arrangement could result in a total payment which is greater than the value of the land. The market value of the land as a purchase should be checked when setting up an annual payment agreement. An independent broker organisation may be required to access or apply for funding. When determining the payment rate, the amount of grant funding available (if any) should be taken into account along with any associated conditions

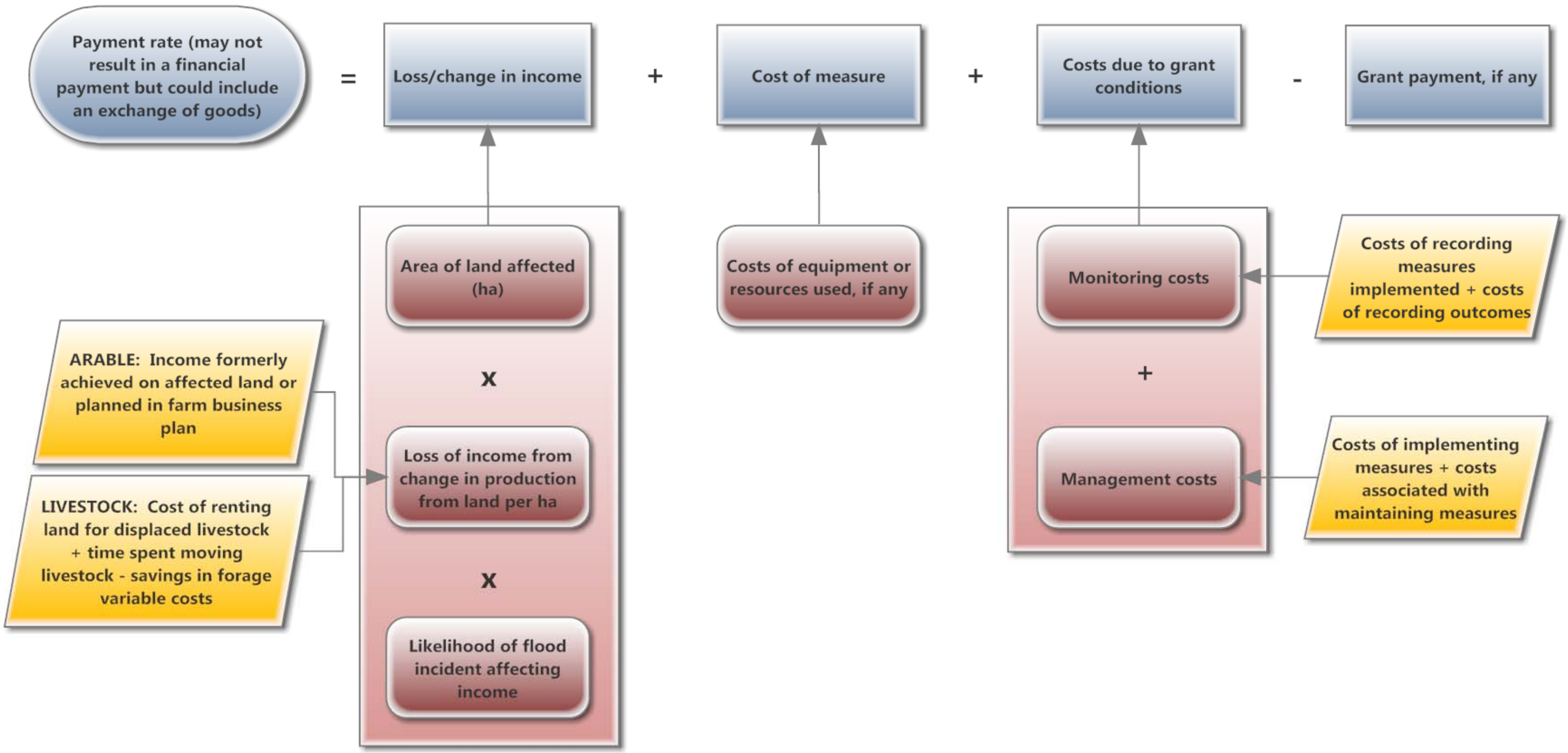
Figure 3 illustrates how to determine the payment rate for capital and annual payments (including grants) with funding from non-government sources. The grant payment is assumed to go to the land manager. The payment rate is therefore based on the difference between the grant payment and the costs incurred by the land manager (including changes in income, costs of implementing measure and costs to meet grant conditions).

Example	Holnicote, Exeter, England
Payment/advice structure	Agreed that a larger barn was needed to keep cattle indoors during winter and avoid soil poaching in winter
Payment rate	Discussions held to agree how much each party could contribute to a new barn and agreed that the farmer, National Trust and Holnicote project would each contribute one-third. The farmer is responsible for future maintenance

Example	Upstream Thinking, South West, England
Payment/advice structure	Landowner/manager can apply for assistance through a capital grants scheme run under the project
Payment rate	The project offers up to 50% of the capital works costs. Where grants offered are more than £5,000 the landowner is required to agree to a contract and 10 or 25 year covenant. In the Wild Penwith project, grants were offered up to 70% of the total capital works costs, with a maximum grant available of £2,100

Example	Woodland Trust, UK
Payment/advice structure	MOREwoods scheme is aimed at woodland creation (1.25 acres or more) on private land
Payment rate	The scheme provides up to 60% of the project costs if a landowner plants the trees themselves, or up to 50% if the landowners wishes to use a contractor. In partnership projects, this can rise to 100% In Tebay, payments of around £100 per ha were available for tree/shrub planting plus £100 per ha for livestock exclusion

Figure 3: Determining the payment rate for capital and annual payments (including grants) with funding sourced from non-government sources



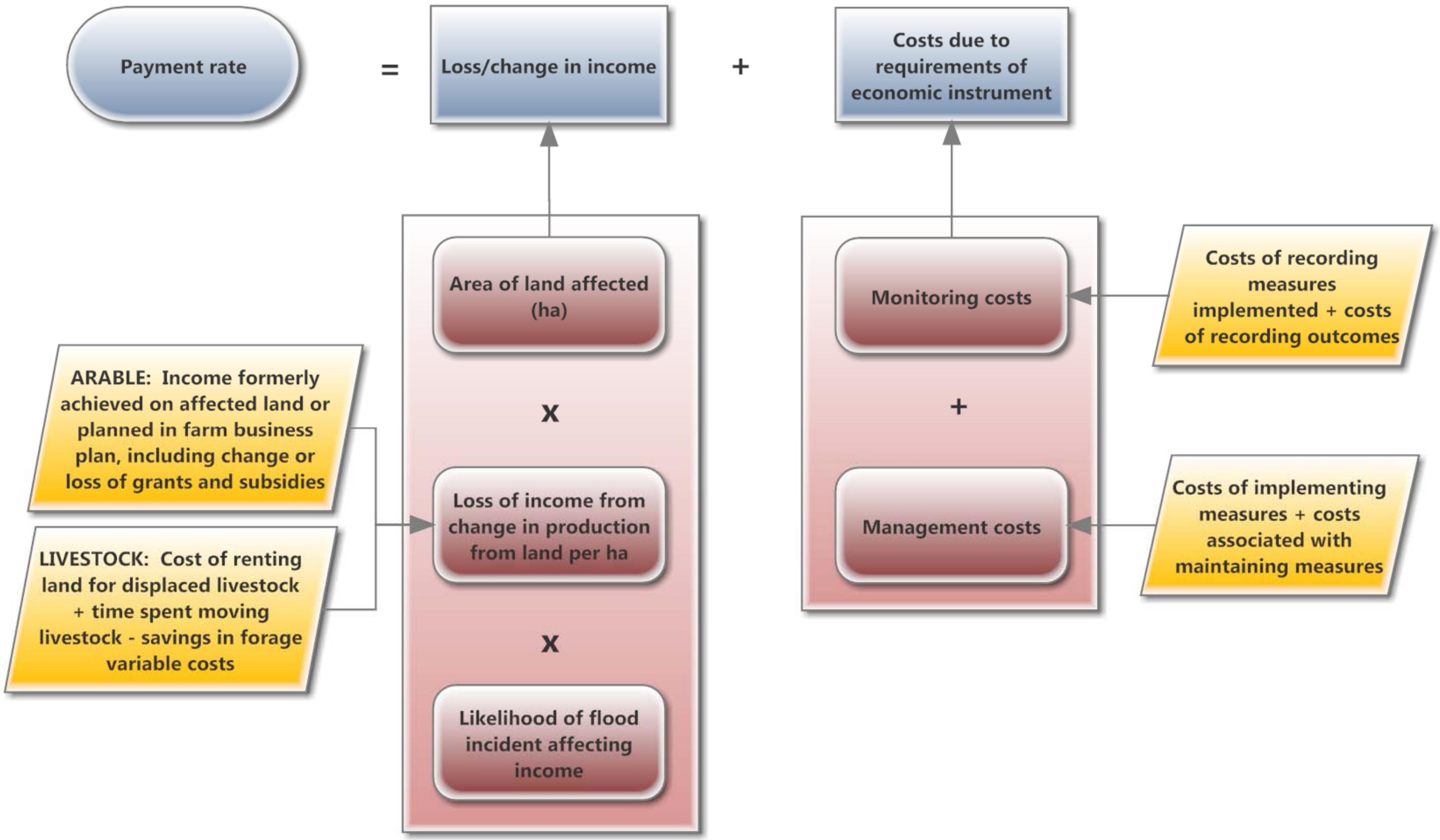
Economic instruments

Mechanism	Economic instruments
Measures this mechanism could be used with	A range of different measures. Suitability will depend on the type of instrument used (e.g. service payments, reverse auction), but economic instruments could be suitable for measures that: • Require land use change (e.g. due to changing conditions as a result of the measure); • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use; • Reduce the area of land available due to managed realignment; • Require changes in management practices but not land use; • Have minimal impacts on land use (they may focus on the watercourse or the area alongside watercourse); • Do not affect productive land
Resources required by the public body	A solicitor or legal team A surveyor or valuer Agricultural advice and expertise (dependent on the measure being introduced) Economic development department (may bring familiarity with the use of incentive measures)
Points to consider	Installing an NFM measure/structure on someone else's land generally leads to the land manager taking on legal ownership of the structure. This has implications for the maintenance of the structure and the long term effectiveness of the measure

Figure 4 shows how to determine the payment rate for economic instruments. Where a reverse auction is used, the land manager will indicate his or her desired payment rate. For other types of instrument, the public body may specify the rate based on the variables given here.

Example	Pumlumon Project, Wales
Payment/advice structure	Landowners were presented with management options following a survey of the entire holding by an agricultural ecologist. Landowners then selected the options they were happy to implement on their land. The Montgomeryshire Wildlife Trust then calculated an annual payment figure (usually per ha) using an economist and several variables/data sources. A management plan is drawn up outlining the payment amount, what needs to be done to achieve the payment, and the length of the agreement (often dependent on the time over which funding is available).
Payment rate	On average, farmers can be paid £265 per ha per year to restore upland blanket bogs. All capital payments are agreed with the landowner and paid on completion

Figure 4: Determining the payment rate for economic instruments



Land lease to public body

Mechanism	Land lease to public body
Measures this mechanism could be used with	Mechanism could be suitable for measures that: • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use
Resources required by the public body	Land capability class information District valuer Solicitor or legal team Agricultural advice (to ensure that fixed equipment obligations are taken into account. These could be complex where the land is sub-let back to the original land manager to maintain)
Points to consider	Careful consideration will need to be given to the length of the lease during negotiations. Land managers will need to think about their business plans. Timescales may differ. Long term for the public body may not be the same as long term for the land manager. This mechanism has important tax implications for the land manager. Tax liabilities could change from Schedule D (income from trading) to Schedule A (income from property, i.e. lettings)

Figure 5 illustrates the determination of the payment rate for land lease to public body. The payment is dependent on the market value of the land, thus can easily be compared with other lease payments.

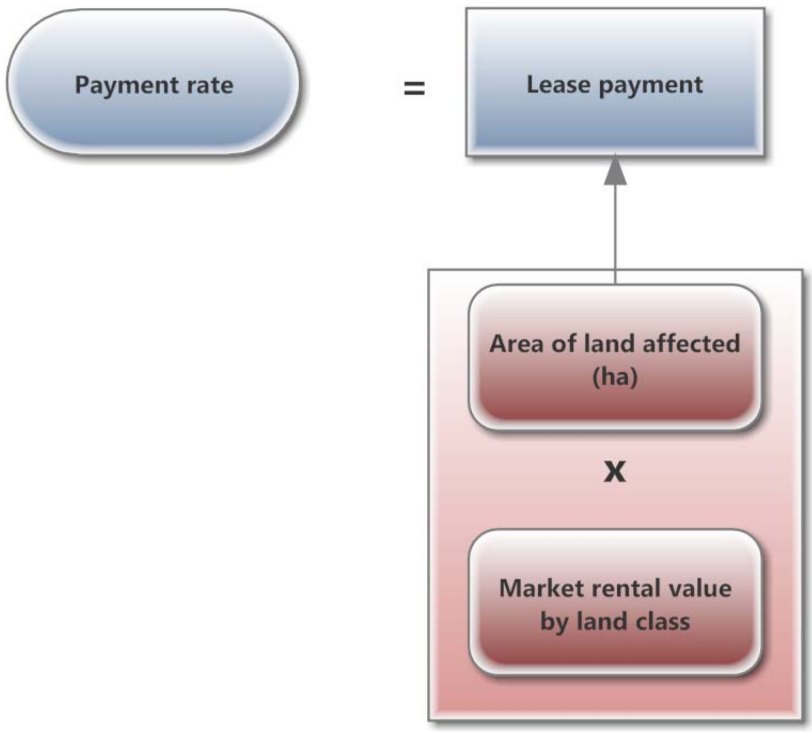
<table>
<tr><th>Example</th><th>Rents in Scottish tenancies, based on SmithsGore Market Intelligence Report (Agricultural Rent Survey Year to 30 April 2014) and Scottish Government (2014): Tenanted Agricultural Land in Scotland 2013</th></tr>
<tr><td>Payment/advice structure</td><td>Rent for Scottish tenancies by land use type and as an overall average (converted to per ha from per acre).</td></tr>
<tr><td>Payment rate</td><td>SmithsGore (Scottish tenancies):
Arable: £128 per ha
Livestock: £52 per ha
Mixed: £104 per ha
Scottish average: £74 per ha
Scottish Government (2014) includes breakdown by sub-region, with 10%ile, median and 90%ile shown below (£ per ha):
<table>
<tr><td>Argyll & Bute</td><td>2.9</td><td>17.0</td><td>117.1</td></tr>
<tr><td>Ayrshire</td><td>5.4</td><td>75.0</td><td>162.7</td></tr>
<tr><td>Clyde Valley</td><td>6.8</td><td>73.7</td><td>162.3</td></tr>
<tr><td>Dumfries & Galloway</td><td>12.7</td><td>86.4</td><td>178.3</td></tr>
<tr><td>East Central</td><td>5.1</td><td>70.2</td><td>136.8</td></tr>
<tr><td>Na h-Eileanan an Sair</td><td>0.6</td><td>9.7</td><td>36.2</td></tr>
</table></td></tr>
</table>

Fife	31.7	129.0	211.6
Highland	1.1	38.5	124.6
Lothian	29.5	138.4	246.4
NE Scotland	15.6	95.7	154.9
Orkney	17.8	76.6	152.2
Scottish Borders	11.9	102.9	173.7
Shetland	0.3	2.2	5.5
Tayside	6.7	100.0	190.6

Scottish Government (2014) also gives rental values by farm type (10%ile, median, 90%ile):

Cattle/Sheep (LFA)	4	43	128
Cattle/Sheep (Non-LFA)	20	112	205
Cereal	39	124	189
Dairy	50	120	186
General crop	7	135	194
Horticulture	11	150	821
Mixed	31	105	174
Other/Forage	11	116	199
Pigs & Poultry	69	141	1,296

Figure 5: Determining the payment rate for land lease to public body

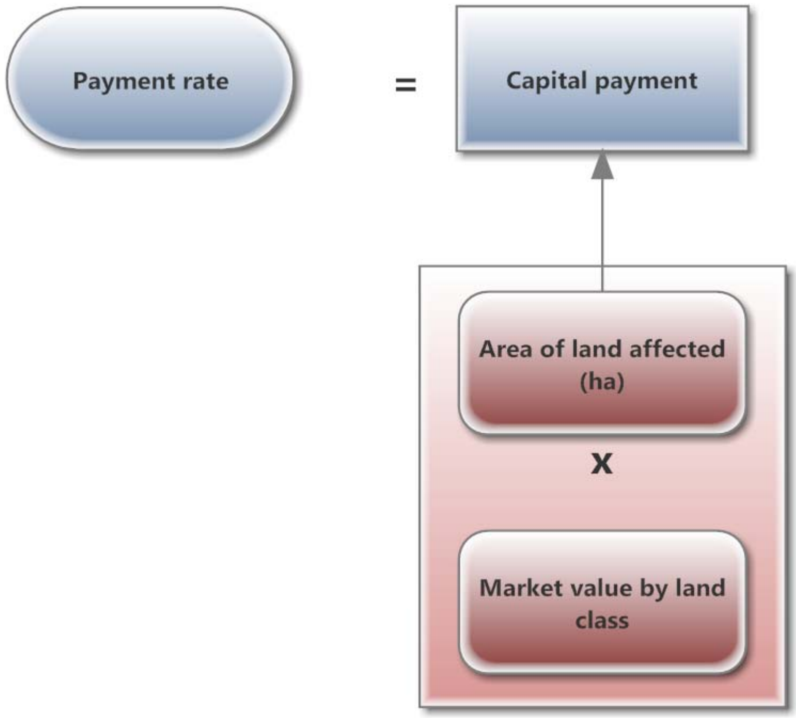


Land purchase/sale

Mechanism	**Land purchase/sale**
Measures this mechanism could be used with	Measures that are likely to be permanent, or at least long term, including those that: • Require land use change (e.g. due to changing conditions as a result of the measure); • Reduce the area of land available because they necessitate a particular type of land use; • Reduce the area of land available due to managed realignment
Resources required by the public body	Land capability class information A solicitor or legal team A surveyor or valuer (possibly District Valuer)
Points to consider	Additional costs will include legal and valuation fees

Figure 6 shows the determination of the payment rate for land purchase/sale. For this mechanism, the payment is simply the market value of the land, taking into account the land class.

Figure 6: Determining the payment rate for land purchase/sale



Example	Crook of Baldoon Nature Reserve Project, Dumfries and Galloway
Payment/advice structure	RSPB Scotland purchases 156 ha of land including 32 ha of intensively farmed grassland and 26 ha of short rotation coppice willow
Payment rate	£ per ha paid for land not stated

Example	Based on RICS-RAU Farmland Market Directory of Land Prices (H2-2014) and RICA-RAU Rural Market Survey H2 2014
Payment/advice structure	Value of sale prices for agricultural land (converted to per ha from per acre)
Payment rate	Angus: £9,970 per ha (estate) to £20,722 per ha (sale date June 2014), land use not specified. Higher end identified as being substantially above guide price (>20% above), lower end close to guide price (<10% difference) Dumfriesshire: £5,070 per ha to £9,066 per ha (both close to guide price); higher price linked to 'pasture' (not specified for lower end of range) Roxburghshire: £8,898 per ha (mixed) to £13,771 per ha (arable) Average for Scotland of £11,453 per ha but up to £29,652 per ha for prime arable land

Land purchase/sale and leaseback

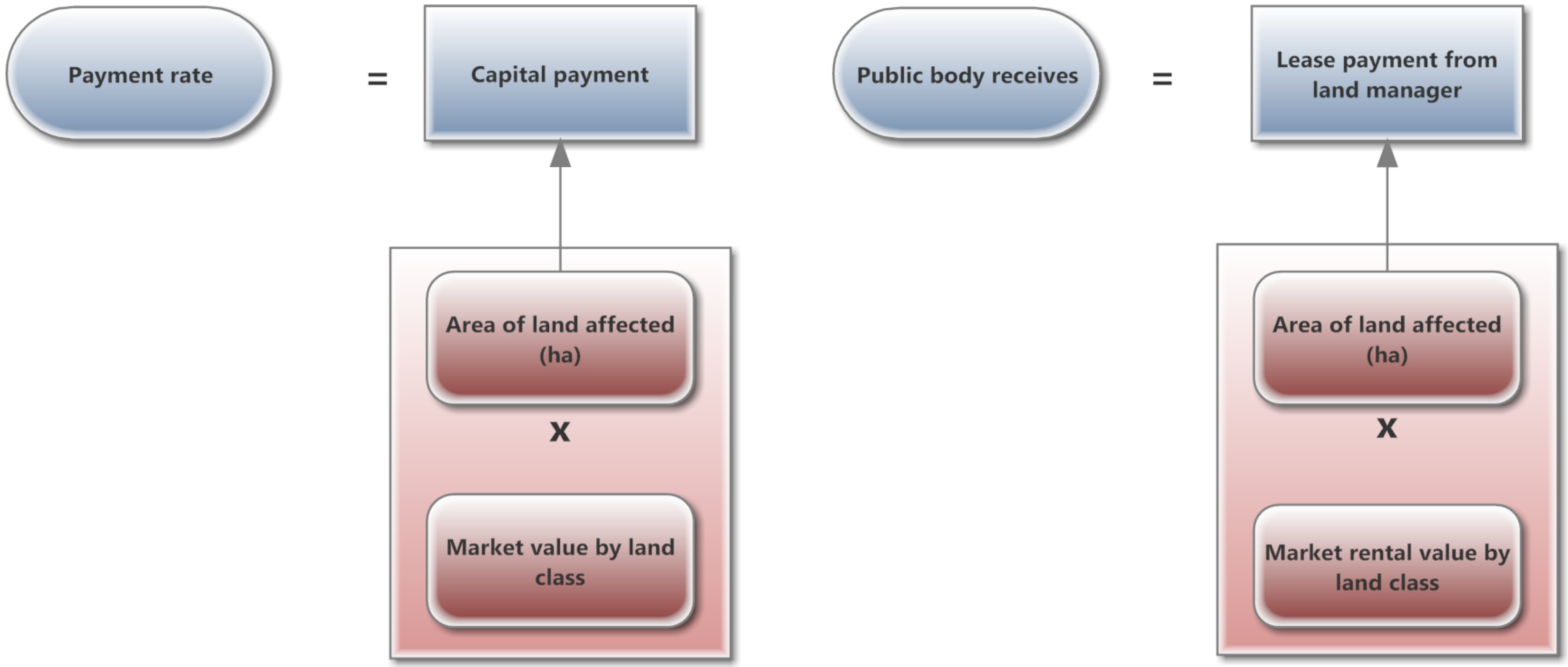
Mechanism	Land purchase/sale and leaseback
Measures this mechanism could be used with	Measures where the land manager is still able to use the land to a certain extent. These include measures that: • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use
Resources required by the public body	Surveyor/valuer (potentially District Valuer) Land capability class information Solicitor/legal team Agricultural advice (to ensure fixed equipment obligations are taken into account where relevant)
Points to consider	Additional costs will include legal and valuation fees. Consideration needs to be given to length of lease, and any fixed equipment obligations on behalf of the leaseholder (the public body). If the rental payment is discounted, this could be considered to be state aid. Capital gains tax may be payable by the land manager upon sale of the land

Example	Dearne Valley Green Heart, Yorkshire, England
Payment/advice structure	Lease transfer at Adwick Washland from the Environment Agency to the RSPB, including negotiations with tenant farmers to buy out and surrender their lease. The Environment Agency had the land independently valued and then factored in the existing lease terms (e.g. how long the lease had left to run). The lease was transferred to the RSPB, although the Environment Agency still retains the rights to use the area as a controlled washland
Payment rate	One-off payment to tenant farmers to buyout the tenancies, at about 90% of the freehold value. New tenant (RSPB) makes an annual payment to the land owner for the duration of the tenancy.

Figure 7 illustrates the determination of the payment rate for land purchase/sale and leaseback. The payment is in two parts:

- The payment rate represents the payment from the public body to the land manager; and
- The public body then receives a lease payment from the land manager (with the frequency dependent on the terms of the lease).

Figure 7: Determining the payment rate for land purchase/sale and leaseback



Servitude/wayleaves

Mechanism	**Servitude/wayleaves**
Measures this mechanism could be used with	A range of different measures, potentially including those that: • Require land use change (e.g. due to changing conditions as a result of the measure); • Result in a temporary reduction in land available to use during wet periods; • Reduce the area of land available because they necessitate a particular type of land use; • Have minimal impacts on land use (they may focus on the watercourse or the area alongside watercourse); • Do not affect productive land
Resources required by the public body	A solicitor or legal team A surveyor or valuer Agricultural advice (dependent on the desired measure)
Points to consider	Installing an NFM measure/structure on someone else's land generally leads to the land manager taking on legal ownership of the structure. This has implications for the maintenance of the structure and the long term effectiveness of the measure. Where annual payments are being considered, there is a risk that a long term arrangement could result in a total payment which is greater than the value of the land. The market value of the land as a purchase should be checked when setting up an annual payment agreement. Furthermore, the right to maintain a NFM measure does not require compensation; it is the associated depreciation/damage which necessitates compensation

Figure 8 shows how to determine the payment rate for servitudes, whilst Figure 9 shows the same process for wayleaves.

Figure 8: Determining the payment rate for servitudes

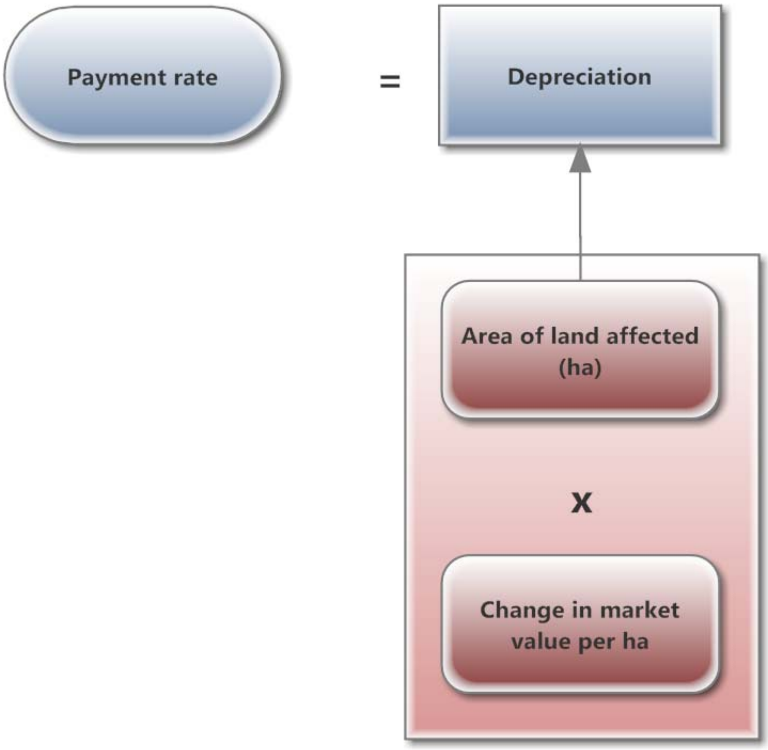
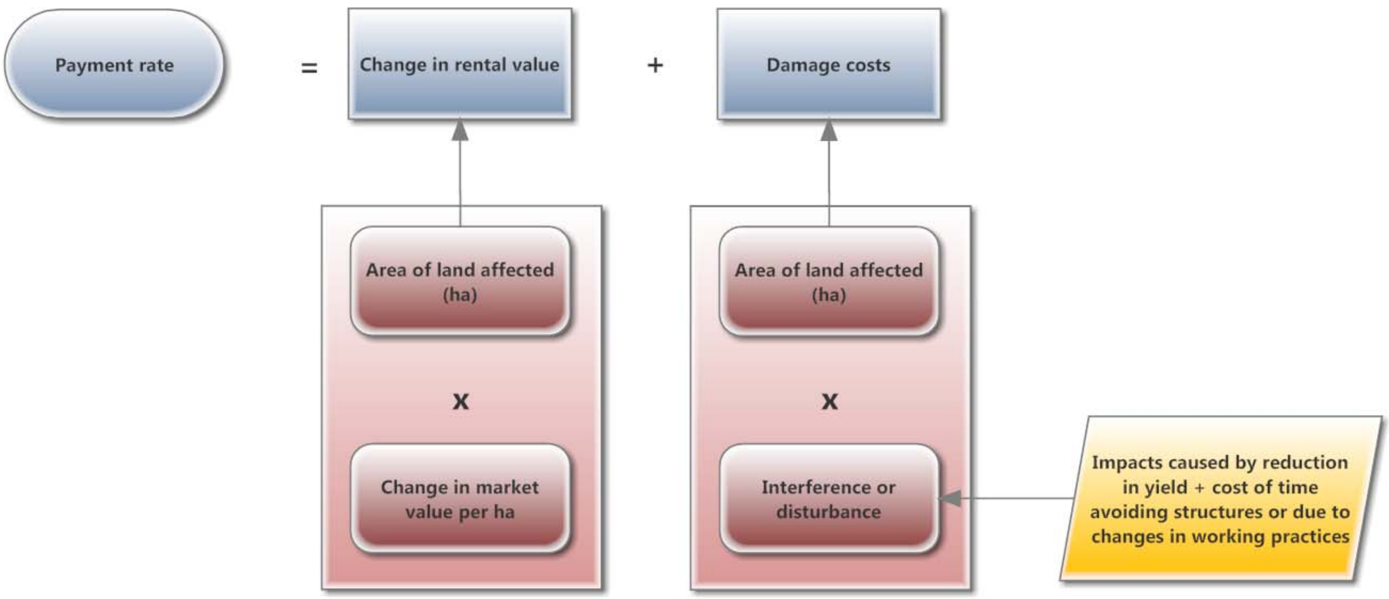


Figure 9: Determining the payment rate for wayleaves



Example	Whole catchment management incorporating NFM on the Long Philip Burn, Selkirk
Payment/advice structure	Middle reach works (NFM sediment management measures) were undertaken on the land of one landowner and a single compensation payment was agreed to cover all losses and future servitudes.
Payment rate	£20,000 payment agreed.

Example	Electricity wayleaves (based on Scottish Land & Estates (2012)): Electricity Wayleaves
Payment/advice structure	Wayleave payments are made to owners/occupiers of land where Scotland's power companies need agreements to allow them to install and maintain electricity supply equipment. Wayleave payments are made annually (unless the landowner has previously capitalised the payment and taken a one-off lump sum). Payments comprise two parts: a rental element and a compensation figure to reflect the interference caused to farming operations. The rental rate generally reflects trends in land values. Compensation for interference is based on area loss, material waste, diminution of yield, extra cost of weed control (e.g. around poles) and cost of time lost avoiding structures. Compensation figures are calculated annually using input and output data by the Scottish Agricultural College (now Scotland's Rural College (SRUC)). The calculations are also based on standard land use, such as arable or grassland. Individual negotiation is used where there are specialist crops or other exceptional circumstances.
Payment rate	Rent (examples only given for distribution lines): • For each single pole: £6.83 • For each double steel pole structure without stays: £8.36 • For each double steel pole structure with stays: £14.81 Compensation (distribution lines, converted to per ha from per acre): • Single pole: o Arable: £40.92 per ha o Enclosed permanent pasture: £5.16 o Grazing and hill: £0.62 • double steel pole structures without stays o Arable: £40.03 o Enclosed permanent pasture: £8.77 o Grazing and hill: £0.84 • double steel pole structures with stays o Arable: £63.85 o Enclosed permanent pasture: £18.09 o Grazing and hill: £1.24
Website for source: http://www.scottishlandandestates.co.uk/index.php?option=com_attachments&task=download&id=1057	

Part 4: Mechanism summary sheets

The key details for each mechanism type are presented on the summary sheets below. These consider the potential financial and legal implications of the mechanisms, as well as other issues to take into account.

Summary sheet for: advice and technical support

Brief description of mechanism
Advice: a land manager is provided with advice on how to minimise flood risk, e.g. changing the way they plough their fields, avoiding compaction. This advice could be part of a negotiated agreement on land management
Technical support: a land manager is provided with support to enable them to continue their business operations which may otherwise be affected by an NFM measure. Support may be provided as a one-off or on an incident basis. For example, if a land manager allows part of their field to be used as flood storage, they are provided with replacement feed or crop following an incident. Alternatively, if a particular field cannot be used during wet periods (it may be used for flood storage), a land manager could be provided with a barn to house animals

Table 3: Key points for advice and technical support

Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Minimal administration and monitoring required • Limited financial commitment likely to be needed • Very flexible mechanism • Quick and easy to set up	• Effectiveness of mechanism over time and also at ensuring measure is implemented may be limited • Public body may need independent external advice to be able to provide appropriate advice or technical support to land managers • May be considerable administration requirements • Short term contracts or agreements
Land manager	• Minimal impact on land use and management • Advice could be beneficial for the business	• May be considerable administration requirements • Uncertainty over duration of advice or support programme

Table 4: Legal and financial implications of advice and technical support

Type of implication	**Immediate**	**Ongoing**
Legal	• Potential legal agreement to prepare and check • No change in legal occupier of land	• Change in management practices • Public body or other organisation may have access to watercourse (dependent on agreement negotiated)
Financial	• Cost of providing the advice or service (this may include cost of grant)	• Possible ongoing cost of advice or providing a grant • Possible monitoring costs • Impacts on land manager’s annual income are unlikely

Summary sheet for: capital and annual payments (including grants) with funding sourced from public bodies

Brief description of mechanism
Capital payment: a public body provides funds for the purchase of equipment/materials for an NFM measure OR to make a one-off capitalised payment to the land manager for compensation (e.g. for loss of income due to change in land management). Funding could be sourced from a government grant or the public body's own budget.
Annual payment: a public body makes an annual payment to a land manager so that they use or manage their land in a particular way. The payment could make up for loss of income, or encourage a particular land use. Funding could be sourced from a government grant or the public body's budget

Key points for capital and annual payments (including grants) from public bodies		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Public body likely to be experienced at funding applications • Public body does not have to take on management of land or a lease	• Significant background research may be needed • Public body may need to lead bid/organise payment. Incident based payments may be seen as a contingent liability which cannot be calculated until a future time • Monitoring may be required to ensure conditions of funding are met • Measure may only be effective for as long as funding lasts (where payments are annual)
Land manager	• No change in title or land ownership • Likely to have minimal implications for land management and business plan	• Time period over which funding is provided may be relatively short term when considered against the farm business plan • Time and resource costs associated with monitoring and inspections

Legal and financial implications of capital and annual payments (including grants) from public bodies		
Type of implication	**Immediate**	**Ongoing**
Legal	• Legal and other professional costs • Land manager may have to implement measure before receiving grant/payment • No change in legal occupier of land	• Ensure compliance with the terms of the contract for its duration • Potential implications for Inheritance Tax Relief if land cannot be used for agricultural purposes
Financial	• Potential State Aid funding conflict (if land manager receives other funding or grants from public sources) • There can be an upfront capital cost if a one-off payment is used • Could result in land manager losing their entitlement to other subsidies	• May require annual payments (with ongoing administrative costs) • Payments could have State Aid implications • Potential for ongoing monitoring costs • Shortfalls in capital funding or funding cuts at the public body may result in central government having to pay • Incident based payments may be classed as a contingent liability by the public bodies since they cannot be calculated until a future date

Summary sheet for: capital and annual payments (including grants) with funding from non-government sources

Brief description of mechanism
Capital payment: an independent third party organisation (broker) provides funds for the purchase of equipment or materials for an NFM measure OR to make a one-off capitalised payment to the land manager for compensation (e.g. for loss of income due to change in land management). All funding needs to be sourced from a non-governmental body or grant fund. The involvement of a broker is necessary for this mechanism
Annual payment: an independent third party organisation (broker) makes an annual payment to a land manager so that they use or manage their land in a particular way. The payment could make up for loss of income, or encourage a particular land use. All funding needs to be sourced from a non-governmental body or grant fund. The involvement of a broker is necessary for this mechanism

Key points for capital and annual payments (including grants) with funding from non-government sources		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Public body does not have to take on management of land or a lease • Independent external organisation provides annual/capital payment (and may need to lead bid for funding)	• Significant background research may be needed • Monitoring may be required to ensure conditions of funding are met • Measure may only be effective for as long as funding lasts (where payments are annual)
Land manager	• Minimal implications for land management and business plan • No change in title or land ownership	• Funding from sources outside the public sector may be less stable, thus increasing uncertainty for land managers • Time and resource costs associated with monitoring and inspections

Legal and financial implications of capital and annual payments (including grants) with funding from non-government sources		
Type of implication	**Immediate**	**Ongoing**
Legal	• Legal and other professional costs • Land manager may have to implement specific measure before receiving grant/payment • No change in legal occupier of land	• Ensure compliance with the terms of the contract for its duration • Potential implications for Inheritance Tax Relief if land cannot be used for agricultural purposes
Financial	• There can be an upfront capital cost if a one-off payment is used • Could result in the loss of any original subsidies	• Potential for annual management payments to the land manager • May require annual payments (with ongoing administrative costs) • Potential for ongoing monitoring costs for public body

Summary sheet for mechanism: economic instruments

Brief description of mechanism
Fiscal: tax breaks/credits could be used to encourage a particular type of land management (this is likely to require action at a government rather than local authority level)
Permits: this could involve a system of tradable flood permits, where a public body buys permits from land managers to allow flooding of particular areas. Land managers are able to buy and sell their permits to each other
Service payments: a land manager could sell a particular service (e.g. flood storage) to the public body, or an insurance company
Auctions: with reverse auctions, land managers identify the payment they would accept to implement a particular land use (e.g. allowing flood storage). The public body selects the most cost effective options to achieve their NFM objectives

Key points for economic instruments		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Flexibility could be built into mechanism	• Some economic instruments may need government input • Set-up time may be considerable • Independent external support may be required for set-up, management and monitoring • Public body may need to learn about or implement new processes (time and resources associated with this)
Land manager	• No change in title or land ownership • Impact on land use and management may be limited (but could be extensive – land manager may be able to choose how much they want to commit to the mechanism)	• Independent external support may be required for set-up • Time and resource costs associated with hosting monitoring inspections • Mechanism may be susceptible to policy changes

Legal and financial implications of economic instruments		
Type of implication	**Immediate**	**Ongoing**
Legal	• Land manager to check their own eligibility for the mechanism • Land management changes • No change in legal occupier of land	• May require annual administration work (legal and/or accountancy input as required)
Financial	• Administration costs and associated professional fees • Potential State Aid funding conflict (if land manager receives other funding or grants from public sources) • Potential for tax implications for land manager	• Annual administration costs and associated professional fees • Potential ongoing State Aid funding conflict • Land manager's eligibility for grants/subsidies may be altered (e.g. if land is taken out of productive use) • Land manager needs to consider period of time for which economic instrument will be valid against farm business plans

Summary sheet for mechanism: land lease to public body

Brief description of mechanism
The land manager leases land to the public body to implement a NFM measure (the public body may be able to sublease the land)

Key points for land lease to public body		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Relatively flexible, since lease could be renegotiated	• Ongoing rental payments (could be long term commitment) • Public body would need to manage land as per conditions of lease
Land manager	• Regular rental income received • Freehold is retained	• Administrative cost of managing lease • Land can no longer be used • Requires solicitor, valuer, etc.

Legal and financial implications of land lease to public body		
Type of implication	**Immediate**	**Ongoing**
Legal	• Preparation and negotiation of new lease • Awareness of immediate land management responsibilities	• Public body needs to abide by terms of the lease • Original land manager retains land but becomes a landlord (potential impact on taxation status)
Financial	• Legal and other professional costs • Change in tax status of landowner - Schedule A instead of Schedule D • Land management choice could impact on Inheritance Tax Reliefs • Loss of subsidies or grants associated with land management	• Public body has to make ongoing rental payments (annual income for landowner) • Land management responsibilities for public body • Loss of subsidies or grants associated with land management • Land management choice could impact on Inheritance Tax Reliefs • Land manager needs to consider length of lease against farm business plan

Summary sheet for mechanism: land purchase/sale

Brief description of mechanism
The public body buys land from land manager and implements a NFM measure on that land

Key points for land purchase/sale		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Familiar process of buying and selling • Mechanism does not need ongoing management • No long term financial commitment • Public body can manage land as it wishes	• High upfront financial commitment • Public body takes on responsibility for managing land • No flexibility (whole process needs to be repeated if public body wishes to sell land in the future)
Land manager	• Process of buying and selling is likely to be familiar • Single one off payment for land could enable investment in other areas	• Mechanism likely to be incompatible with existing land management plans • Requires solicitor, valuer, etc.

Legal and financial implications of land purchase/sale		
Type of implication	**Immediate**	**Ongoing**
Legal	• Ownership responsibilities for public body	• Ongoing ownership responsibilities
Financial	• Capital cost of land purchase (plus obligation to pay the legal and any valuation/land agency costs) • Potential for significant capital gains tax payment by landowner • Decrease in size of land holding with potential impacts on viability of business/productivity of farm	• Land management and maintenance costs • Fixed equipment obligations if land is subject to an agricultural lease • Loss of land may have ongoing financial implications for land manager • If public body farms the land, there could be income from subsidies

Summary sheet for mechanism: land purchase/sale and leaseback

Brief description of mechanism
The public body buys land from land manager and implements a NFM measure on that land. Land is leased back to the original land manager

Key points for land purchase/sale and leaseback		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Familiar process of buying and selling • Public body does not have to manage land • No long term financial commitment • Some flexibility through ability to vary terms of lease	• Public body has to operate the lease • High upfront financial commitment (but regular rental income) • No flexibility (whole process needs to be repeated if public body wishes to sell land in the future)
Land manager	• Process of buying and selling is likely to be familiar, leasing may be too • Land can still be used • Single one-off payment for land could enable investment in other areas (but ongoing rental payments)	• Ongoing rental payments • Land manager becomes a tenant on land they previously owned • Land use may be restricted by lease • Requires solicitor, valuer, etc.

Legal and financial implications of land purchase/sale and leaseback		
Implication	**Immediate**	**Ongoing**
Legal implications	• Ownership responsibilities for public body • Preparation and negotiation of new agricultural lease	• Ownership responsibilities • Supervision of tenancy agreement • Fixed equipment obligations to the tenant
Financial implications	• Capital cost of land purchase (plus obligation to pay the legal and any valuation/land agency costs) • Potential for significant capital gains tax payment by landowner	• Ownership responsibilities (including those towards the tenant) • Fixed equipment obligations • Possible monitoring costs for the public body • Tenant has to make ongoing rental payments (if the lease is at a discounted rate, this could be classed as State Aid) • Lease may be restrictive (could have implications for tenant's annual income) • Length of lease needs to be considered against farm business plan

Summary sheet for mechanism: servitude, wayleaves

Brief description of mechanism
Servitude: servitude is attached to a land title to benefit another property and enable rights of access, or rights to construct and maintain a NFM structure. The public body pays a one-off capitalised payment for the servitude
Wayleave: a public body makes wayleave payments to a land manager. An annual wayleave payment could allow a public body to implement and maintain a NFM measure (e.g. a bund). Alternatively, the payment could be incident based so that it is paid when the land is used for flooding

Key points for servitude, wayleaves		
Party	**Main advantages/positives**	**Main disadvantages/negatives**
Public body	• Public body does not have to take on management of land or a lease • Could be relatively flexible (wayleave)	• May only be suitable for certain NFM measures • Upfront payment required for servitude, annual or incident based for wayleave (an incident based payment is viewed as a contingent liability that cannot be calculated until a future time) • Flexibility may be limited and dependent on negotiations
Land manager	• Less impact on property rights than sale or lease • Land management can probably continue as previously • Payment could be one-off upfront (capitalised), or regular annual amount	• Could be unexpected temporary disruption to use of land • Payment may be irregular if incident based • Requires solicitor, valuer, etc.

Legal and financial implications of servitude, wayleaves		
Implication	**Immediate**	**Ongoing**
Legal implications	• Terms of agreement to be negotiated • No change to legal occupier of land	• Servitude/wayleave associated with land title
Financial implications	• One-off compensation costs plus legal and land agent costs • Possible land value depreciation • Potential need for land manager to change way in which land is used (with immediate implications for income from land and eligibility for certain payments)	• Reduction in capital value of the land • Potential loss of income from or eligibility for annual grants and subsidies • Potential for annual compensation claim for disturbance, or alternatively an event based payment • Payment may be needed if land manager is to carry out maintenance • Possible monitoring costs for the public body • Incident based payments may be classed as a contingent liability by the public bodies since they cannot be calculated until a future date

Part 5: Case studies

Table 3 lists the case studies along with the mechanisms they illustrate. The detailed case studies themselves are provided in alphabetical order on the following pages.

Table 3: List of case studies

Case study name	**Mechanism(s) used**
Allan Water improvement project	Advice and technical support
Aquarius project	Advice and technical support
Belford Proactive Flood Solutions	Capital grant via Environment Agency's North East Local Levy
Crook of Baldoon	Land purchase
Dearne Valley Green Heart	Land purchase/sale and leaseback, land lease to public body; advice
Elgin Flood Alleviation	Land purchase
Holnicote	Advice and support; Indirect payments; Capital grants/compensation payments
Long Philip Burn	Capital grant/payments (Scottish Government & Local Authority); Scottish Rural Development Programme (SRDP) grants; Land manager contributions
Nigg Bay	Land purchase, Government grants and Heritage Lottery Funding.
Pumlumon Project	Capital payments (non-govt), Economic instruments (service payments) and advice and support
Scottish Rural Development Programme (SRDP)	Capital grants and annual payments – EU, Government, Lottery, Agencies
Scottish Water (Sustainable Land Management Incentive Scheme)	Capital grants and annual payments – EU, Government, Lottery, Agencies
State of Victoria, Australia	Sale and leaseback, land buy back scheme
Sussex Flow Initiative	Advice/technical support and capital support (provision of plants)
The Woodland Trust	Tailored advice and capital funding (provision of materials)
Tweed Forum (Eddleston Water and others)	Broker/agent providing facilitation and enabling NFM implementation
Upper Garnock, Scotland	Land purchase, compensation in kind
Westcountry Rivers Trust (Upstream Thinking Initiative)	Advice, capital payments and reverse auctioning
White Cart Water	Land purchase; land purchase and lease back; one off compensation and compensation in-kind
Wild Penwith (Upstream Thinking Initiative) Wildlife Trust Cornwall	Advice and capital grants