

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 08 January 2019 15:17  
**To:** Scottish Land Commission Information Mailbox  
**Subject:** FOI

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

FOI 10013

To whom it may concern,

Under the Freedom of Information Act 2000, please provide me with the following information:

The total number of complaints of sexual misconduct or harassment made to your organisation between 20/11/2013 and 20/11/2018.

Please also provide the following information:

1. The number of complaints made by staff.
2. The number of complaints made by members of the public.
3. How many complaints were made against each job level e.g "Senior management, four complaints"
4. How many of the cases resulted in a dismissal.
5. How many of the cases resulted in resignation.
6. How many of the cases resulted in retirement.

Some parts of the request may be easier to answer than others. Should this be the case, I request that you release information as soon as possible.

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material.

I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would prefer to receive the information electronically. If you require any clarification, I expect you to contact me under your section 16 duty to provide advice and assistance if you find any aspect of this FOI request problematic.

Please acknowledge receipt of this request, and I look forward to receiving the information in the near future.

Yours faithfully,

[REDACTED]

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Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Date 09/01/2019

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10013**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested. We have addressed each point of your request as per the number order.

There have been no complaints of sexual misconduct or harassment made to the Scottish Land Commission between 20/11/2013 and 20/11/2018 (please note, the Scottish Land Commission was established on 01/04/2017).

1. There have been no complaints made by staff.
2. There have been no complaints made by members of the public.
3. There have been no complaints made against any job levels.
4. As there have been no complaints made, there have been no cases resulting in dismissal.
5. As there have been no complaints made, there have been no cases resulting in resignation.
6. As there have been no complaints made, there have been no cases resulting in retirement.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[REDACTED]  
*On behalf of the Scottish Land Commission*  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 0300 244 4452

**From:** [REDACTED]  
**To:** [info](#)  
**Subject:** Freedom of Information request - FOI for Scottish Land Register  
**Date:** 29 January 2019 14:57:51

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Dear Scottish Land Commission,

I am writing to you to lodge a Freedom of Information Request for a copy of the Scottish Land Register. As it is free and public for England and Wales I was surprised to find difficulty in gathering the same information for Scotland, thank you in advance.

Yours faithfully,

[REDACTED]

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Please use this email address for all replies to this request:

[REDACTED]

Is ~~@~~ the wrong address for Freedom of Information requests to Scottish Land Commission? If so, please contact us using this form:

[https://www.whatdotheyknow.com/change\\_request/new?body=scottish\\_land\\_commission](https://www.whatdotheyknow.com/change_request/new?body=scottish_land_commission)

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://www.whatdotheyknow.com/help/officers>

For more detailed guidance on safely disclosing information, read the latest advice from the ICO:

<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

via email

Date: 30 January 2019

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10014**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The information you require is not held by the Scottish Land Commission. However, you may wish to contact the Registers of Scotland at [FOI.Requests@ros.gov.uk](mailto:FOI.Requests@ros.gov.uk) who may be able to help you further. I am sorry we are unable to assist with your request in this instance.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[REDACTED]  
*On behalf of the Scottish Land Commission*  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 0300 244 4452



**From:** [REDACTED]  
**To:** [REDACTED]  
**Bcc:** [info](#)  
**Subject:** RE: Scottish Land Commission - Call for Evidence - FOI10015  
**Date:** 03 May 2019 17:05:00  
**Attachments:** [image001.png](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.jpg](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)

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[REDACTED]

Thank you for providing clarification regarding this request. We will respond to your request within 20 working days.

If you need to contact the Scottish Land Commission regarding your request please continue to quote the reference FOI10015.

Regards

[REDACTED]

[REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



[REDACTED] |  
[www.landcommission.gov.scot](http://www.landcommission.gov.scot)



**\*\* Please note I have a new number If you need to contact me please use** [REDACTED]

**\*\*** [REDACTED]

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**From:** [REDACTED]  
**Sent:** 01 May 2019 20:25  
**To:** [REDACTED]  
**Subject:** Re: Scottish Land Commission - Call for Evidence - FOI10015

[REDACTED]

Many thanks for your reply.

I am trying to better understand how the evidence received led to the conclusions presented. It is normal for public agencies to publish the evidence received in consultations in the interests of transparency of how the published conclusions were

reached.

Therefore I request the responses received to the e-mailed questionnaire and any other written information provided to the Scottish Land Commission as part of the call for evidence, redacted as appropriate to preserve the privacy and identities of those responding.

I look forward to hearing from you.

[REDACTED]

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**From:** [REDACTED] >  
**Sent:** 10 April 2019 16:37  
**To:** [REDACTED]  
**Subject:** RE: Scottish Land Commission - Call for Evidence - FOI10015

[REDACTED]

Thank you for your request for information dated 5 April 2019 which has been passed to me by my colleague [REDACTED] and is being treated as a request under the Freedom of Information (Scotland) Act 2002 (FOISA) and as such has been allocated case reference number FOI10015. Please quote this reference number in any future correspondence with us.

In order to identify the information that you have asked for we need some further information from you. In particular, it would be helpful to know if there is a specific area relating to the evidence you are interested in receiving due to the large amount of data that was submitted as part of this exercise. As I am unable to continue without this clarification, I will put your request on hold until I hear back from you.

Once we have received this information from you we will be able to respond to your request, in accordance with FOISA, within 20 working days.

If you wish to discuss any of the above please contact me. You may also find it helpful to look at the Information Commissioner's "Tips for requesting information under FOI and the EIRs" on his website at <http://www.itspublicknowledge.info/YourRights/Tipsforrequesters.aspx>

Regards

[REDACTED]

[REDACTED] [REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



[REDACTED] | [www.landcommission.gov.scot](http://www.landcommission.gov.scot)



**\*\* Please note I have a new number If you need to contact me please use [REDACTED] [REDACTED]\*\***

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**From:** [REDACTED]  
**Sent:** 04 April 2019 18:33  
**To:** [REDACTED] >  
**Subject:** Re: Scottish Land Commission - Call for Evidence

Dear [REDACTED]

Thank you for your e-mail to the report. I could not see the evidence submitted however and wondered where this can be found (redacted as appropriate)?

[REDACTED]

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**From:** [REDACTED] >  
**Sent:** 20 March 2019 10:02  
**To:** [REDACTED]  
**Subject:** Scottish Land Commission - Call for Evidence

Good morning,

Thank you for participating in the Scottish Land Commission's Call for Evidence into the effects associated with large-scale and concentrated landownership in Scotland last year.

I am pleased to announce that the Commission's report 'Investigation into the issues associated with Large Scale and Concentrated Land Ownership in Scotland' alongside a set of Recommendations to Scottish Government Ministers have been published this morning and are available to download from our [website by clicking here](#).

Alternatively you can download any of the four documents that you may wish to view directly via these links:

[The Briefing Note](#) – which gives a brief overview of the research and the findings in two pages

[The Evidence Report](#) – this is the main research document and draws on the evidence submitted to the Commission

[The Research Review](#) – which provides the academic background to some of the issues and looks

at international comparisons

[Recommendations to Scottish Ministers](#) – these set out a range of options to address the issues highlighted in the research

Over the coming months the Commission will be consulting widely with stakeholders and the public on the findings of the evidence, its implications and their recommendations, through a series of events and public meetings. You are very welcome to participate in this process and details of how you can get involved will be announced in due course. In the meantime if you have any questions about the research please feel free to get in touch.

I hope you will find the research interesting and once again, thank you very much on behalf of the whole team for taking the time to contribute.

Kind regards,

[Redacted signature]

[Redacted name]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



[Redacted phone number] | [Redacted email address] |  
[www.landcommission.gov.scot](http://www.landcommission.gov.scot)



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*The Scottish Land Commission is the controller of the personal data provided by you in any email correspondence with us.*

*Please note that the personal data which you provide will be stored and/or processed by the Scottish Land Commission in order for us to perform services for you or correspond with you. Please go to [www.landcommission.gov.scot/data-privacy](http://www.landcommission.gov.scot/data-privacy) for more information about the management of your personal data.*

*Tha am post-d seo dìomhair agus airson an duine/nan daoine a tha air ainmeachadh anns an t-seòladh a-mhàin. Mur ann dhutsa a tha e, bu chòir dhut am post-d, lethbhreac sam bith dheth agus ceanglachan sam bith a tha na chois a sguabadh às agus fios a chur dhan neach a chuir e sa bhad. Thoir an aire gu bheil e gu tur toirmisgte an sgrìobhainn seo a chleachdadh ann an dòigh sam bith gun ùghdarras.*

*Mar bhuidhinn phoblaich, tha Coimisean Fearainn na h-Alba a' tighinn fo ullachaidhean Achd Saorsa an Fiosrachaidh (Alba) 2002 gum feum e fiosrachadh sam bith fhoillseachadh a th' aige air cuspair sònraichte sam bith (a' gabhail a-steach conaltradh ann an cruth dealanach) ma thèid seo iarraidh le neach no le buidheann. Ma tha seo na adhbhar dragh dhut, is urrainn do Choimisean Fearainn na h-Alba barrachd comhairle a thoirt dhut air a' chùis. Thoiribh an aire gur e Coimisean Fearainn na h-Alba a nì an co-dhùnadh deireannach a thaobh a bhith foillseachadh no gun a bhith foillseachadh dàta.*

*Is e Coimisean Fearainn na h-Alba stiùiriche an dàta phearsanta a bheir thu dhuinn ann an conaltradh puist-d.*

*Thoir an aire gun tèid an dàta pearsanta a bheir thu dhuinn a stòradh agus/no a phròiseasadh le Coimisean Fearainn na h-Alba gus an toir sinn seachad seirbheisean dhut agus gus an dèan sinn conaltradh riut. Gheibhear barrachd fiosrachaidh mu riaghladh an dàta phearsanta agad aig: [www.landcommission.gov.scot/data-privacy](http://www.landcommission.gov.scot/data-privacy)*



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Thoir an aire gun tèid an dàta pearsanta a bheir thu dhuinn a stòradh agus/no a phròiseasadh le Coimisean Fearainn na h-Alba gus an toir sinn seachad seirbheisean dhut agus gus an dèan sinn conaltradh riut. Gheibhear barrachd fiosrachaidh mu riaghladh an dàta phearsanta agad aig: [www.landcommission.gov.scot/data-privacy](http://www.landcommission.gov.scot/data-privacy)

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

By email

Date: 30/05/2019

Dear

**RE: Freedom of Information Request**  
**REF: FOI10015**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act") for information provided to the Scottish Land Commission as part of the call for evidence.

We have now completed our search please find attached a copy of the information you have requested.

The following information in relation to the Commission's Call for Evidence on the impacts of scale and concentration of land ownership in Scotland has been released:

- Survey responses where the responder consented to their submission being published
- Written submissions where the individual has stipulated they are happy with their submission being published
- Additional information in the form of public reports submitted as evidence

We do endeavour to provide information whenever possible. However, in this instance a number of exemptions under the Act applies to some of the information requested. This includes:

- Survey responses where the responder did not consent to their submission being published
- Confidential telephone interviews
- Written submissions made in confidence

Please refer to table underneath for more information.

Section Number	Exemption
s.36(2)	<b>Actionable breach of confidence</b>  The information was obtained by a Scottish public authority and disclosing it would constitute an actionable breach of confidence (section 36(2)). Section 36(2) basically incorporates the Scots law of confidence into FOISA.

Section Number	Exemption
s.38(1)(b)	<p><b>Personal data relating to third party.</b></p> <p>This information is exempted if (i) it is personal data and (ii) its release would breach one of the data protection principles. Information that falls under this category has also been redacted.</p>

Please note, that due to the format of the online survey, to process your request the information had to be converted from a large excel document into PDF format. We have tried to produce this information in the most readable and accessible format possible however the formatting around some of the redacted information has overlapped within the document so please contact me if you have any difficulty accessing any parts of the information.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

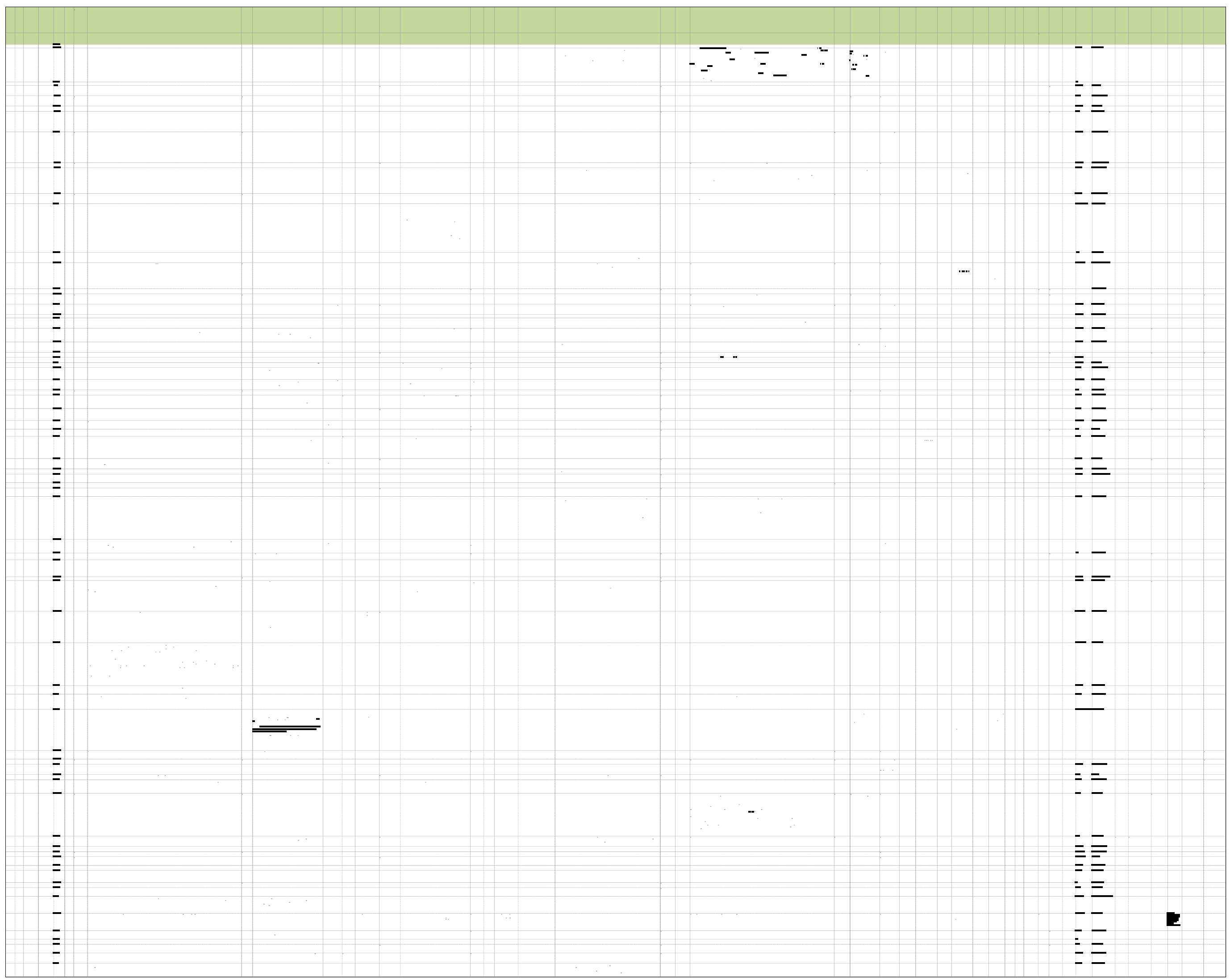
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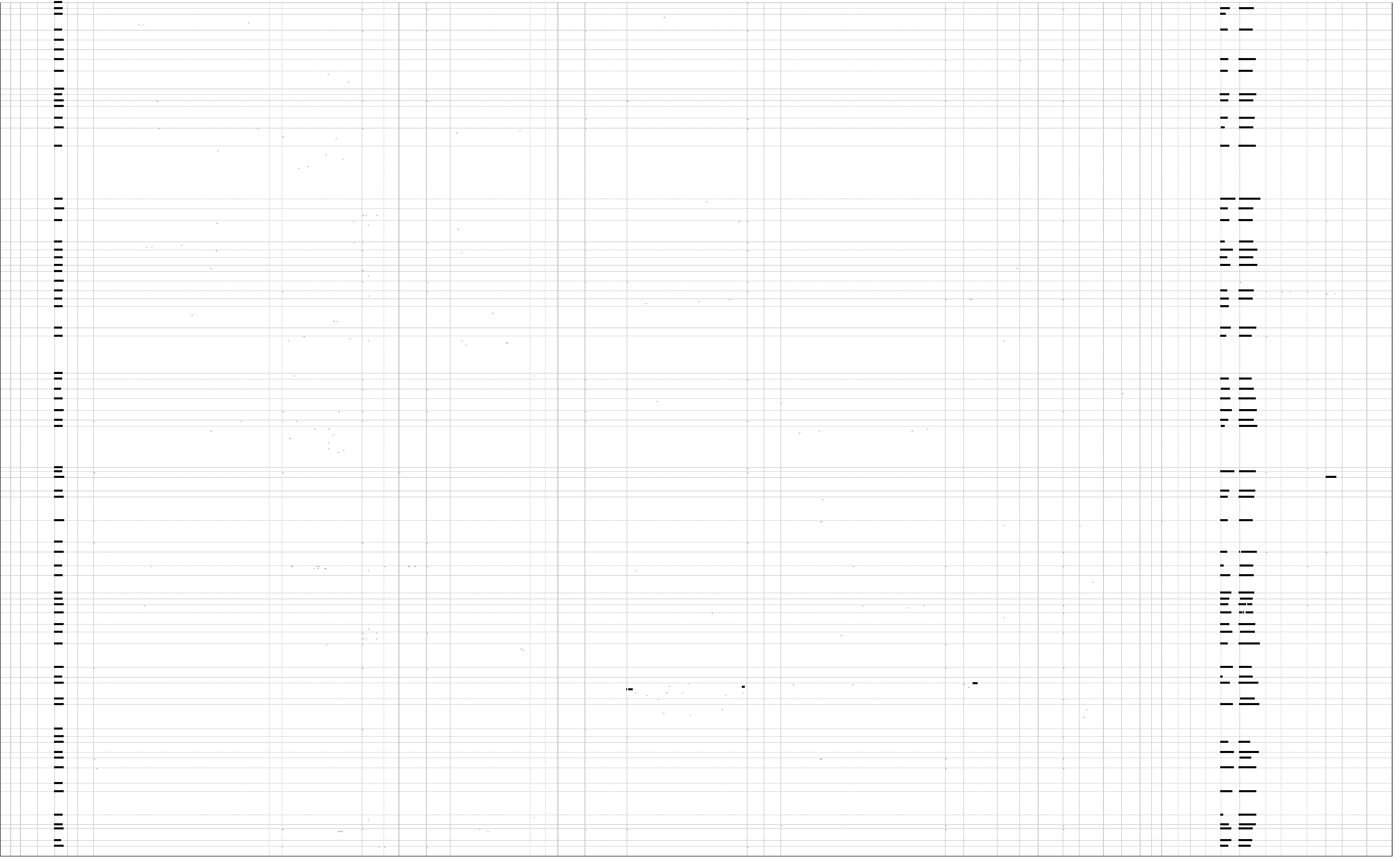
On behalf of the Scottish Land Commission  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 01463 423300

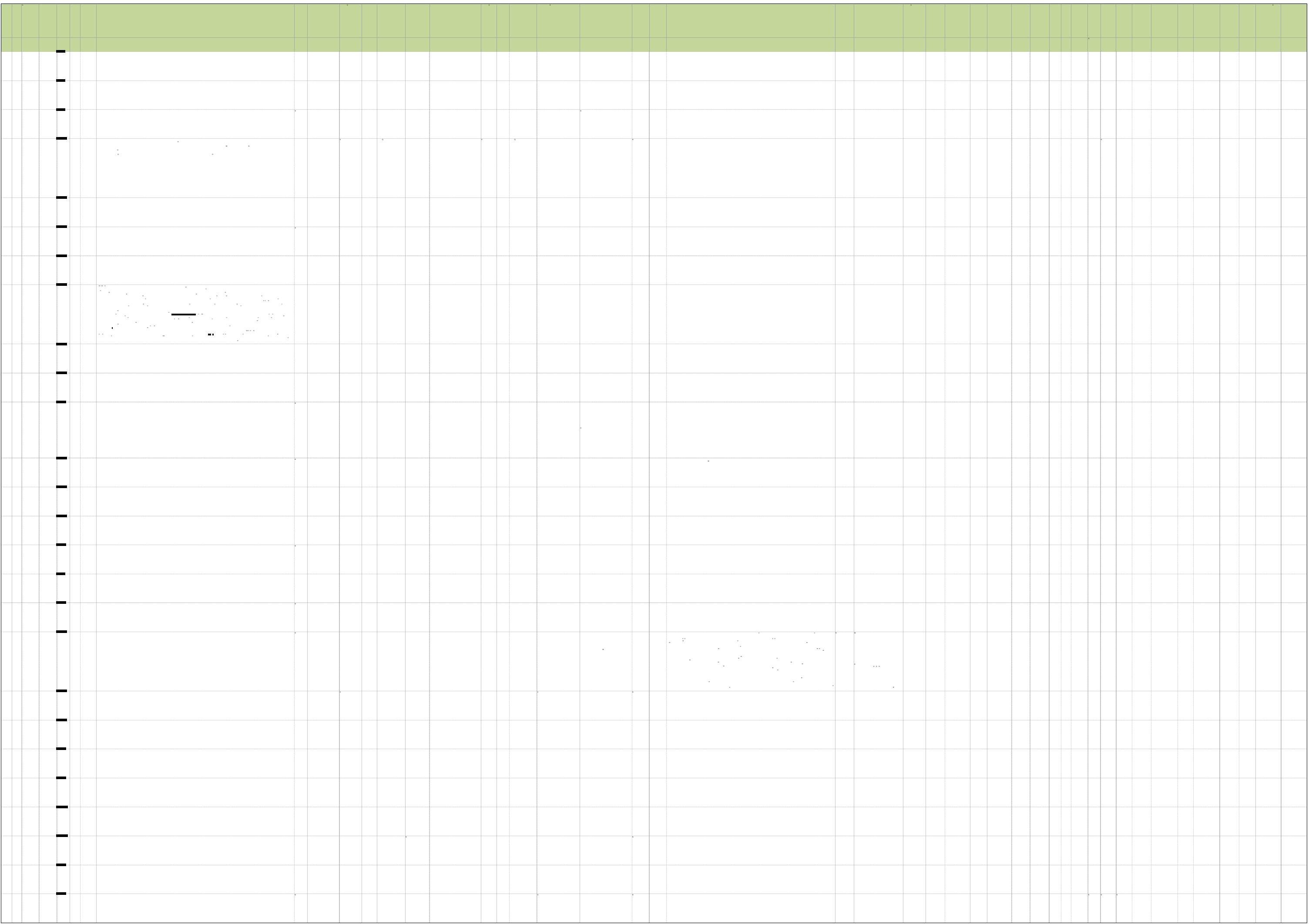


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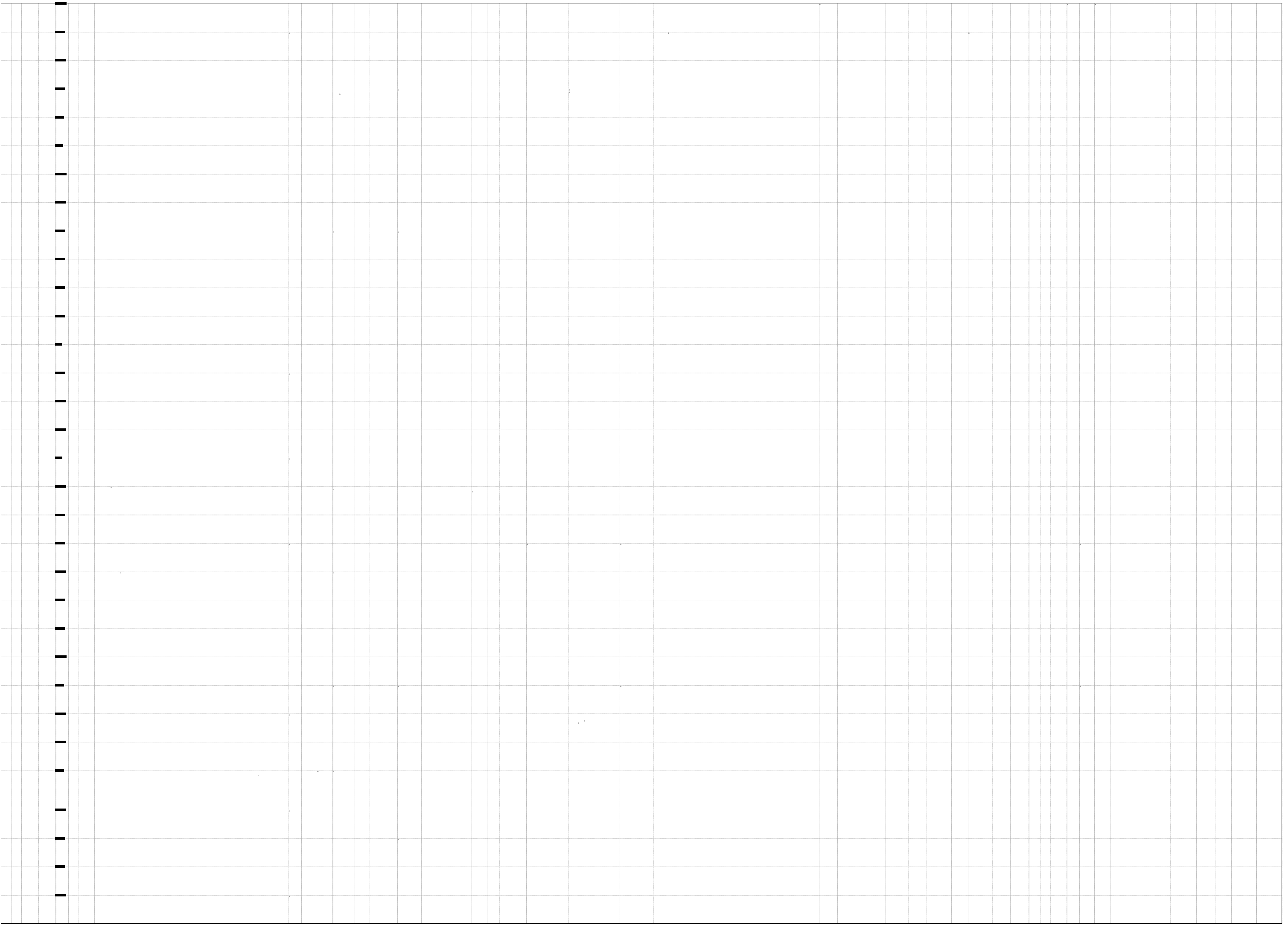
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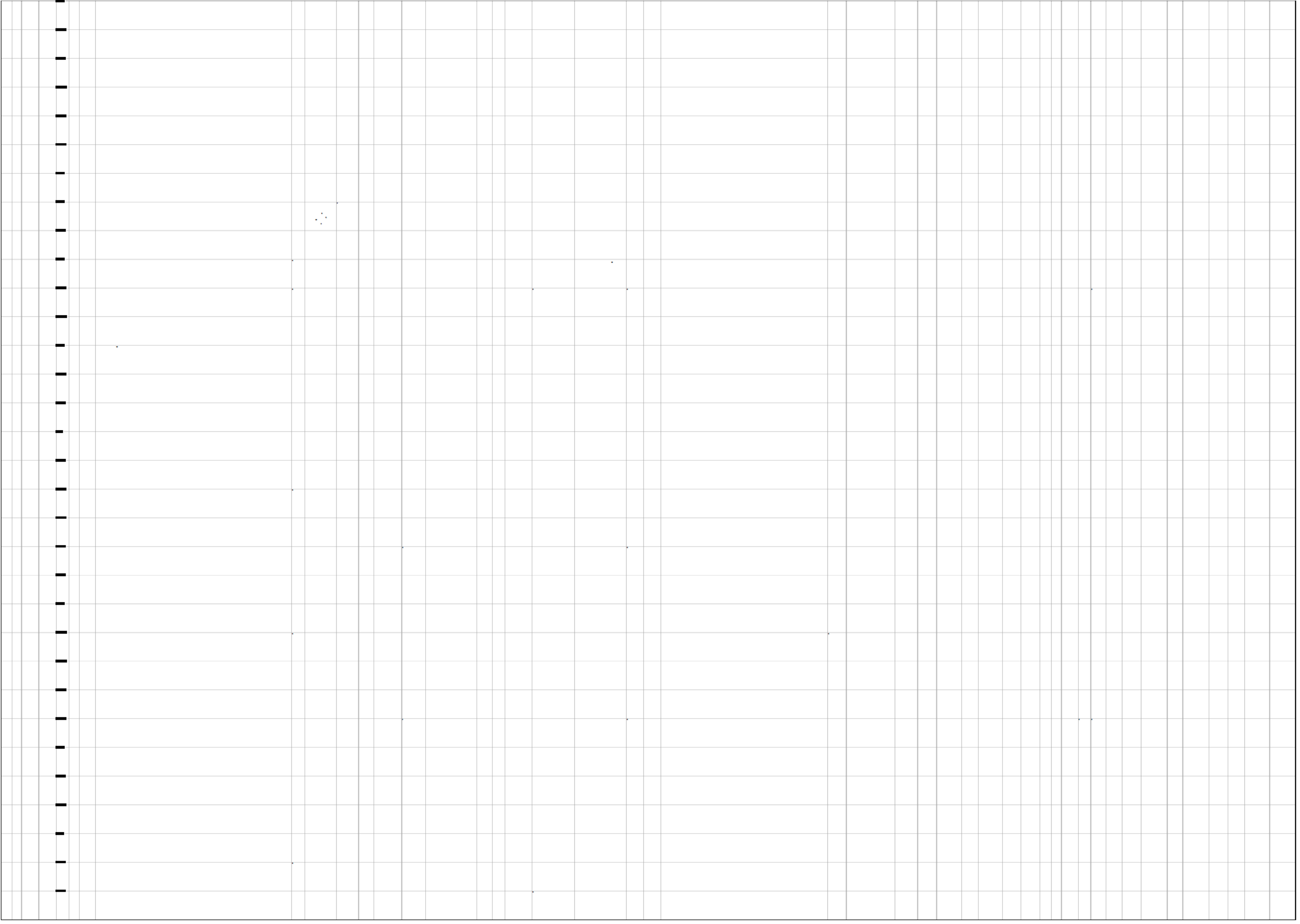




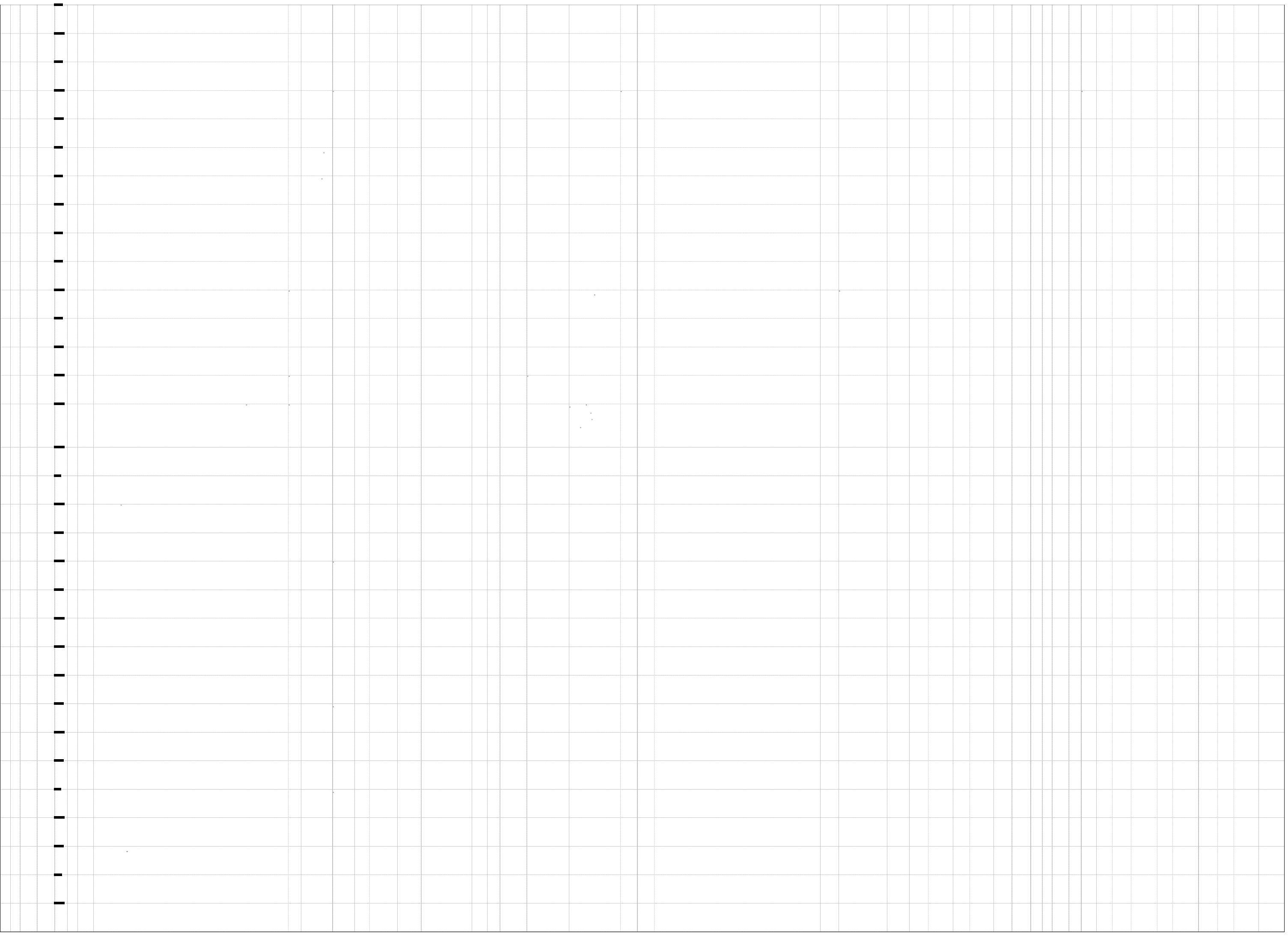


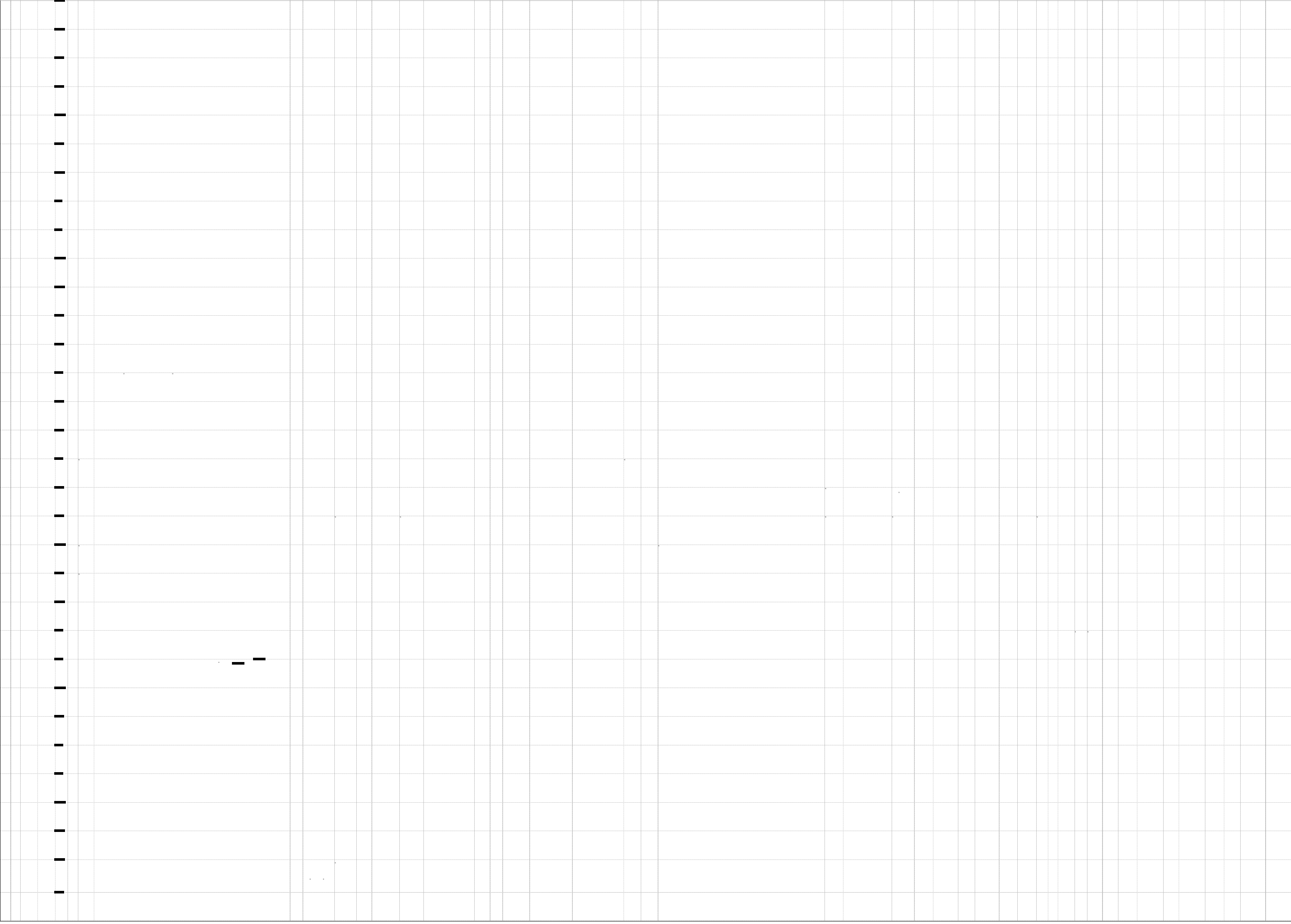


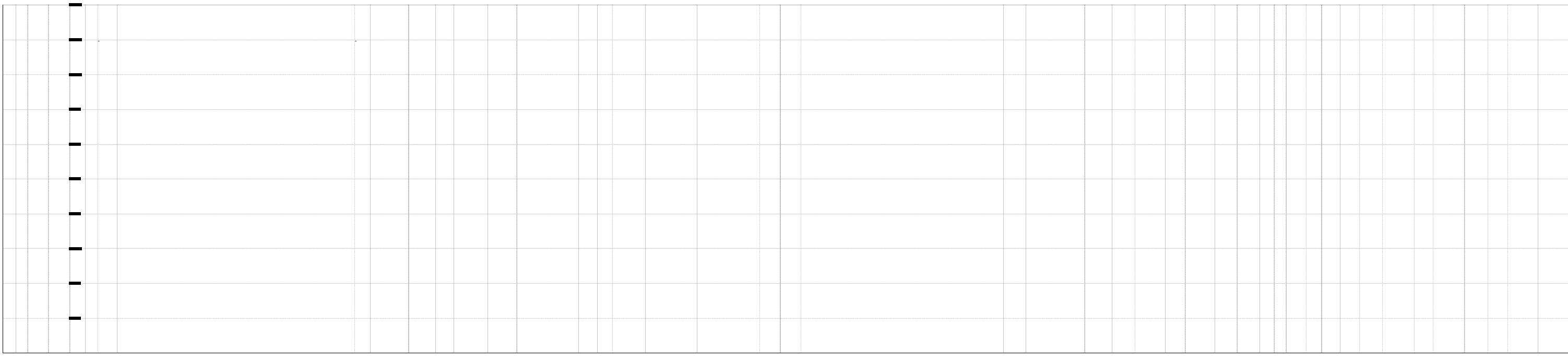












## **Experience of Concentrated Land Ownership**

### **Introduction**

Scotland has an unusually concentrated pattern of land ownership and there is concern about the effects that this has on communities and society as a whole. The Scottish Land Commission is reviewing the issues associated with this. To help us to do this we are inviting people to tell us about their experience of concentrated land ownership.

**What is concentrated land ownership?** - Concentrated land ownership exists in areas where:

1. the majority of land is owned by either a single individual or organisation or a very small number of individuals or organisations; and
2. these individuals and organisations have the power to make decisions about how this land is used that effect the whole community.

**Confidentiality** - At the end of the survey you will be asked whether you are happy for us to publish your response. If you say no then we will treat everything you have told us as confidential. If you would prefer to speak directly and in confidence to a member of staff then please contact us on 0300 244 4452 or email us at [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)

**Who should take part?** - We are particularly looking for responses from people with personal experience of concentrated land ownership.

**How long will it take?** - That depends on how much you want to tell us! It is possible to fully complete it in 10-15 minutes - but if you have lots to say it could take longer.

**How will we use the information provided?** - We will use the information provided to produce a report, which will be used to inform policy. The report will be published on our website but will not include any information that could be used to identify you.

**1. Are you happy to proceed?**

Yes

**2. In some parts of Scotland most of the land is owned and controlled by a very small number of people. Do you think this has any *benefits*? This could include benefits to the environment, the economy, the local community, land owners or society as a whole.**

Yes

**3. Please use the space below to describe any benefits you can think of.**

**These are all points from just one medium-sized estate on which I live.**

1. The Estate donated land for a playing field – football pitch and play park.
2. The Estate annually provided a free soup kitchen to support the community during winter around the turn of the 20<sup>th</sup> century up to and including WW1.
3. The Estate donated land for a village hall.
4. The Estate donated land for a sports club.
5. The Estate donated the use of the castle as a Red Cross Hospital during WW1. It was used again as hospital in WW2
6. The Estate provided the premises for a Social Club and Reading Room free of charge for over 50 years.
7. Land Use Designations: The following designations apply to part or all of the estate:
  1. The Estate has so cared for the Built Heritage that in the 1970s the village and 530 acres around it was designated an Outstanding Conservation Area.
  2. Special Area of Conservation – along watercourses
  3. SSSI – a small part of a larger SSSI along the River Dee
  4. Listed Buildings – 14 listed building
  5. Native Woodlands
  6. Grey squirrel control area
  7. Predator control area (for Black Grouse, Capercaillie)
  8. Aberdeenshire Special Landscape Area

8. 60% of the Estate's woodlands were harvested by the Government as part of the War Efforts in WW1 & WW2. Post-war the remaining trees were almost all blown down by a storm in 1953 and between 1958 and 1972 some 1,250,000 trees were planted to re-stock the forest area (50% of the estate). This entailed the setting up of a tree nursery for nearly 20 years in order to grow the trees to plant.
9. The Estate has donated land for military training use.
10. The Estate has, for many decades, been concerned about the quality of architecture being permitted in the village by the Local Authority Planners. In the days when it still had Feudal Powers it used them, sparingly, to raise standards.
  1. Example: Proposals for a new house on the main street were refused by the Estate using Feudal Powers. A letter of explanation was sent to the proposed builder/owner of that house. They revised their plans, built the house and, twenty years later wrote to the Estate to say how grateful they were that the estate acted in the way it did.
  2. Example: More recently the Local Authority proposed an extension to the village school. Without Feudal Powers this time the Estate made a very forceful and well-argued case for objection with the result that the plan was revised and a design far more sensitive to the Conservation Area ensued and was built. Despite the estate's efforts to get the Community Council to support its objection they didn't, saying weakly "you can't stand in the way of progress". The Estate was not attempting to stand in the way of progress, it was simply trying to protect and enhance the built heritage for which the village had been designated. There is no indication that good design cost more than poor design.
11. The Estate donated land for building council houses in the 1940s for the express purpose of "providing rented housing for working people". The spirit of this gift has subsequently been broken by the state selling many of them to sitting tenants at a huge discount for them to profit from subsequent sales.
12. The Estate donated land for a Curling Pond around the turn of the 20<sup>th</sup> century. In the 1980s, when it had completely overgrown with 40' high trees growing in the pond, the Estate donated machinery and labour towards a community effort to restore the pond to working condition.
13. The Estate again donated land for building council houses in the 1950s for the express purpose of "providing rented housing for working people". The spirit of this gift has subsequently been broken by the state selling many of them to sitting tenants at a huge discount for them to profit from subsequent sales.
14. Affordable Housing: The Estate, under its current family ownership, has for over 130 years provided affordable rented housing and continues so to do.
  1. In comparison the state, having been given land for housing, sold most of them off through council house sales in under half that time.

2. Despite the 1915 Rent Act, which froze rents and rendered most of the private rented sector unviable for decades, and which was only repealed during the 1980s by the Thatcher Government the Estate hung onto its housing and has, since 1979, carried out a formidable programme of refurbishment of properties to raise standards.
  3. In 1999 the Estate was approached by Scottish Homes to see if it would help in building housing it had designed as part of a Research Project. These 14 homes were built, at the expense of the Estate plus grant, and delivered 75% more housing on the ground than the same grant would have achieved if it had been used to fund a Housing Association; it also offers 75% of vacancies for nomination by the local authority against the norm of 50% for Housing Associations. The Estate also pays income tax on the revenue surplus from these houses while Housing Associations, being charities, don't – thus, in effect, the grant is repaid through extra tax paid over a period of 24 years – and the tax continues to be paid thereafter.
  4. The Estate has built/converted other housing for affordable rent – 1994 (3), 1996 (2)
  5. The Estate currently provides over 4 ½ times as many affordable rented homes as does the Local Authority in the same area.
15. Commercial Premises: The Estate has for many decades striven to provide commercial premises at affordable rents in order to try to stimulate and support local business activity. It has also frequently provided business start-up support with e.g. rent-holidays and other guidance.
  16. The Estate provides garden allotments at nominal rent.
  17. The Estate provides a meeting room at nominal rent for the local branch of the SRWI
  18. The Estate provides circular walking routes around the village and has helped create and maintain some of them.
  19. The Estate facilitated the negotiation and establishment of a long distance walking route through 4.5km of its land. Where this same route went through fragmented ownership the negotiation was far lengthier and costlier per mile of route achieved
  20. The Estate initiated a co-operative project with the Local Authority in 2016-7 to resolve a local flooding issue. The LA agreed to provide the materials and carry-out an A-road crossing, while the Estate using its own labour and machinery laid 280 metres of 300mm conduit. This project should protect 14 houses and a school from flooding – four of the houses belong to the Estate and the remainder are privately owned. The School belongs to the council.
  21. In the 19990s the Estate discovered that the Local Authority was planning a road realignment that would bring high-speed traffic straight into the village. The Estate hired a Town and Roads Planner at its own expense to examine the case, and produced a solution that saved over £300,000 (then) of public expenditure while saving extra expense of slowing the traffic down again.

1. This action was picked up by the Local Authority Conservation Officer who, encouraged by what the Estate had done, persuaded the Roads Department to spend at least some of those savings on a Village Enhancement Project for the village which is an Outstanding Conservation Area – this delivered better pavements, off-street parking, better street-lighting, removal of overhead cables, car park, among others.
22. In the 1990s the Estate with guidance from outside, won an application for Rural Challenge Funding for the village. This was not initially supported by the village Community Association who's then chairman, when advised they'd got a £50,000 budget said "we never asked for that and don't want it". (This was despite the fact that he had been informed and asked to participate.) It was met with support once the scheme got under way.
23. The Estate discovered in the early 80s a small Charitable Trust which was for the benefit of elderly and infirm in the village that was being administered by a bank. The bank's charges were rising inexorably so that within 5 years they would consume the entire revenue of the trust. The Estate persuaded the bank to hand over the administration of the Trust and has administered it ever since without charge. In addition the Estate has since caused the capital of the trust to increase 8-fold. It is still a small trust but nevertheless 4 beneficiaries in the village receive payment every year and the payment has increased 400% since the Estate took on the administration.
24. The Estate is a significant donor (20%) in a current scheme to maintain the services of a Christian Priest resident in the village. He, with his family, are providing an important role not only as church minister but filling an unofficial social work role to the entire community – church and unchurched.
25. The Estate has provided land for a Forest School.
26. The Estate has used the castle and gardens to raise considerable sums of money for Charities.
27. The Estate has provided access to land for over 25 years for a local Orienteering Club – and has held larger events including National and World Championships.
28. When regulations forced the local filling station to remove its pumps from the pavement of the main village street it was the Estate that sold land for a new filling station and house at a very low figure in order to keep that business going.
29. The Estate provides access to land for a local off-roading club.
30. The Estate was a founding member of the first Timber Marketing and Harvesting Co-operative in Scotland. This currently handles in the region of 30,000 tonnes of timber annually.
31. The Estate provides access to land for a local trial-riding club.
32. For a great many years the Estate has represented, at its own expense, the interests of the private rented sector on various housing committees chaired by the Local Authority.
33. The Estate has formed riparian buffer strips and observes Forestry and Water Management Guidelines along water courses.



34. The Estate's laird was a Technical Assessor for the Cairngorms Working Party during its deliberations – this was, in effect a donation of over 600 hours of his time to the project.
35. The Estate has diversified into hospitality and food production enterprises.
36. The Estate has a property maintenance division which can provide prompt and skilled attention to property issues. This is important when managing rented properties in rural areas. It is one of the reasons RSLs prefer to focus their attention on larger developments in more major communities. The Estate, like many others, delivers affordable rented housing where other providers have difficulty in so doing.
37. The Estate has re-housed people at the behest of the Local Authority – e.g. someone previously living in a council house who developed infirmity and the council did not have any barrier free homes locally for them. The Estate was able to meet that need.
38. The Estate supports the community in numerous ways:
  1. Provision of affordable housing and commercial premises as mentioned above
  2. Regular liaison with the Community Association
  3. Assisting the Community Association by providing weekly monitoring of planning applications that might affect the area.
  4. Liaison with the Village School.
  5. Providing assistance if the community asks for it – e.g. spending 2 1/2 days clearing 4ft of snow from a field to provide car parking for a large local funeral.
39. The Estate is a taxpayer contributing significant sums to the public purse annually. If fragmented into numerous holdings the same property would be less viable and therefore pay far less tax. If taken over by a community trust it would probably be a charity and pay none.
40. The Estate employs a total of 33 people in full-time, part-time and casual work in a community of only a few hundred.
41. "Well", apart from the 40 examples above, "what has the Estate ever done for us?" (apologies to Monty Python).

**I have personal experience of all the above.**

**4. Do you have personal experience of any of the benefits you have described?**

Yes, all of the above in the first section of my response to Q3.

**5. Please use the space below to describe your positive experience of concentrated land ownership.**

The Estate owners care greatly for the land and the community it serves. That is part of the enormous responsibility that goes hand in hand with the privilege of land ownership. The Estate is, of course, also part of that community. By having concentrated land ownership the estate is of a size that can genuinely achieve results on the ground by having a local workforce which can maintain roads, water supplies, sewage treatment plants, manage dangerous trees, repair fences and drains, clear snow and all the myriad of other tasks that a fragmented group of owners covering the same land would struggle to do.

**6. Where in Scotland does this experience relate to?**

**North East Scotland (Aberdeen, Aberdeenshire and Moray)**

**7. Does this experience relate to an area of land owned by...**

**a private individual or business**

**8. Do you have any other positive experiences you would like to tell us about?**

Yes

**9. Please use the space below to describe any other positive experience of concentrated land ownership you would like to tell us about.**

**The following are examples I know about on other estates:**

1. Estate operations being supported by funding from outside sources. These estates may often be owned by so called 'absentee landlords'. Residency on an estate is an irrelevance to how they're run. I simply do not understand the objection by some people to money, often very significant sums, sourced from elsewhere and being poured into rural Scotland to support jobs and land management. I know of one estate that, over 15 years ago, was supported in this way to the tune of £1million a year and which employed 60 people in a remote rural area. The owner doesn't live there permanently though the factor does. That

action seems to me like something that should be supported rather than discouraged/abolished. (See Peter Peacock's suggestion of Residential Requirement – why seek to cut off that source of outside funding for rural Scotland and the jobs that go with it?)

2. A 2015 study showed that 19 Estates in Deeside west of Banchory provided 647 houses of which 58 were leased as self-catering leaving 589 let as full-time dwellings of which 492 (85%) were let at affordable rent. This compares with 390 mainstream Council Homes and 155 homes provided by Housing Associations – the latter at huge cost to the public purse. This concentrated land ownership is delivering a very useful public service. This pattern, where the estates are the largest providers of affordable rented rural housing, is typical across much of rural Scotland.
3. See: Arneil Johnston: Dumfries and Galloway; Rural Private Rented Housing & Fuel Poverty - Final Report; February 2004 In rural Scotland, *"private renting\* is a major contributor to the local economy through (among other factors) providing affordable rented homes in areas where there is little other rented housing"*. \*Of the private landlords within this study's area the great majority were rural landowner landlords. Additionally the same study found that *"households in (rural) private rented accommodation tend to be very stable with almost 30% being resident for more than 15 years"*. In an urban setting it is generally assumed that the average length of a private tenancy is 18-24 months.
4. See Scottish Homes Report 83: Satsangi, M., Storey, C., Bramley, G., Dunmore, K., *Selling and Developing Land and Buildings for Renting and Low Cost Home Ownership - The Views of Landowners*; A Report to Scottish Homes and the Scottish Landowners' Federation; The School of Planning and Housing, Heriot Watt University and Three Dragons Consultancy; June 2000 - summary of points follows: It has to be said that this important report's findings were almost completely ignored by the Scottish Executive/Government – see comment about Scottish Government in response to Q 13. A copy of a summary of points from this report is attached. I can provide an electronic copy of the entire report if required.
  - Landowners:
    - *landowner landlords) very commonly, set lower rent levels to meet local needs than charged to the 'wider market'*
    - Landowners, as a group, are almost universally positive towards local people and the local area and are keen to be socially responsible toward the wider community - p65
    - Landowners are willing to participate in affordable housing schemes, but not where low cost homes can be sold on and thus removed from the affordable homes market - p65
  - Existing Dwellings owned by Landowners
    - Landowner members of SLF are estimated to own approximately 21,000 houses across rural Scotland - p23
    - The majority of these houses are either in, or within a mile of a village - p24

- The full-time renting out of housing to people with no connection to their land-owning business is an important activity - p24
- Housing For Rent
  - It is common practice for landowners to favour local needs when setting rents and allocating tenancies - p28, p68
  - Landowners see their housing role as a complement to public/social providers rather than as a substitute for them - p68
  - There is no evidence of a failure to meet the sort of equality of opportunity outcomes with regard to gender or race that are expected of social landlords - p68
- Converting Other Buildings
  - Half of respondents have holdings containing buildings suitable for conversion into housing, which could lead to the provision of at least 1,800 homes - p30
  - The majority of landowners would consider providing low-cost housing for local needs from surplus buildings if it could be made viable so to do - p30
  - The major constraint to the creation of affordable housing from these buildings is the lack of financial viability - p30
  - Planning restraint is perceived to be another constraint - p30
- Land for Development
  - Land sales from farms and estates have resulted in the development of 4,000 houses over the last 10 years
  - 60% of respondents indicated that they have surplus land on which housing could be built - p31
  - 5 acres is the norm for the amount of land available - p31; implying that 26,000 acres might be available across Scotland in due course
  - As regards the development of land for affordable housing planning restraint (46%) and lack of financial viability (23%) are seen as the main constraints - p32
- Awareness and Views of Private Landowners
  - There is a link between the awareness by private landowners of local housing availability problems and their willingness to consider building conversion or land development - p32
  - Commonly there is support for affordable housing development - p33
- Chapter 4 - The views of private tenants
  - 83% had lived in property for >1 year; 40% for > 10 years.
  - The majority felt their rent was good value
  - There were generally high levels of satisfaction with house condition
  - There was some dissatisfaction with either the time taken or the quality of the repair service
  - Most tenants felt secure in their tenancy arrangement with only a tiny minority (7%) actually expressing insecurity

5. In Scottish communities below 1,000 strong the PRS provided (in 2001) over ten times the volume of housing provided by Registered Social Landlords (Housing Associations) which are the Government's preferred supplier of affordable housing and which had been receiving vast sums of public money to provide housing at greater cost to the public purse than if the private sector landlords had been given a chance. It is quite evident that concentrated landownership is delivering an important and in some cases a vital affordable housing service.
6. Fragmentation of estates with controlling ownership resulted in loss of affordable rented housing. I raise these examples to illustrate the outcome of fragmentation of estates with a controlling interest.
  - Example: The neighbouring estate was sold and fragmented by an asset stripper. While all the properties were previously let at affordable rent, today none of them are. They've all been sold off, gentrified and filled with mostly very nice people. The smallest of these was re-sold in 2015 for £530,000 and is now a second home – it can hardly be said to be 'affordable'.
  - Example: Another local estate had to sell part in order to pay Inheritance Taxes. They sold 16 properties, all previously let at affordable rent; 4 farms or areas of land and 2 steadings. To maximise return on their sale they needed vacant possession so the Short Assured Tenancies (SAT) on those houses weren't renewed. You can imagine the headlines. All the owner was trying to do was pay the tax demanded of him. The houses were sold and are now valued at between £350,000 and £710,000 each. As a result of fragmentation to pay IHT none of the 16 previously affordable rented homes remains affordable today. A significant impact on a rural community.

#### **10. Where in Scotland does this experience relate to?**

All over Scotland –

#### **11. Does this experience relate to an area of land owned by...**

Private estates mainly but SH Report 83 also covered state and charitable landowners – see also answer to Q13.4

**12. In some parts of Scotland most of the land is owned and controlled by a very small number of people. Do you think this has any disadvantages? This could include disadvantages to the environment, the economy, the local community, land owners or society as a whole.**

Yes

**13. Please use the space below to describe any disadvantages you can think of.**

1. I've heard of a very few private estates where they have taken a less proactive role in supporting community and housing needs by resisting designation of land for development. These cases are few and far between and in my experience by far the majority of private estates have and do exhibit considerable responsibility towards their local community. As far as I am aware existing powers of compulsory purchase could and indeed should be used to get around these problems where there is a demonstrable community interest. CP has been used to acquire land for roads, e.g. Aberdeen Western Peripheral Bypass. Why hasn't it been used to acquire land for development where an estate with controlling interest isn't willing to bring land forward?
2. Forestry Commission: Planted over 180,000 acres of Lodgepole Pine before it dawned on them that a species with name *Pinus contorta* often lived up to its name and also acts as a host for disease of native species (DNB). The Private Sector, encouraged to do so by FC, planted a further 145,000 acres. It is highly unlikely that privately owned estates, even those with a controlling interest, would have made such a mistake on such a scale if they had not been encouraged to do so by FC – so in this case the controlling interest was the state, through the FC which caused an error of gargantuan proportions.
3. NCS and then SNH have owned Kinloch Castle on Rum for over 60 years. They have so neglected to maintain this A-listed building that today, from newspaper articles, it seems it needs £20m spent on it or it will be knocked down. <https://www.thetimes.co.uk/article/mansion-fit-for-a-king-will-face-bulldozers-unless-20m-can-be-raised-for-restoration-v0xgxlwt> One of the responsibilities of land ownership is maintenance of the built heritage. Here is an example of a well-funded public body which has completely failed to perform that simple duty. A private owner would have been forced to make repairs to a listed building.
4. Scottish Homes reported (SH Report 83, in 2000) that *Source: Satsangi, M., Storey, C., Bramley, G., Dunmore, K., Selling and Developing Land and Buildings for Renting and Low Cost Home Ownership - The Views of Landowners; A Report to Scottish Homes and the Scottish Landowners' Federation; The School of Planning and Housing, Heriot Watt University and Three Dragons Consultancy; June 2000*
  1. **The Views of Public and Charitable Landowners (FC, SNH, MoD, NTS, RSPB, Scottish Executive, Crown Estate & John Muir Trust)** None of these public and charitable landowners have a primarily social agenda and housing provision has generally not figured high in thinking through

social or commercial objectives - p33 This is in dramatic contrast to the views of private landowners – see same report and my extracts above in answer to Q9.

Example of concentrated power not associated with land ownership which has been detrimental to productivity and accountability in rural Scotland.

1. Despite having proved to the Scottish Government that the Private Rented Sector (PRS) can deliver 75% more affordable homes for the same amount of public money, that the PRS could take a higher proportion of nominations from the local authority housing list and would repay the public expenditure through extra taxation those homes within 25 years – the Government has continued to pour billions of pounds into providing affordable rented housing through its preferred route, housing associations, while ignoring the opportunity to work with estates to get better value for taxpayers' money. The effect is that far fewer rural affordable homes have been provided than could otherwise have been, higher house prices and no tax revenue from the homes as the RSLs are charities. In that common sense would indicate that the PRS should be supported where it can deliver better value for taxpayers' money than RSLs the fact that the PRS has largely been excluded indicates a bias against the sector from the 'paymasters' i.e. the government which can only be because of prejudice against the PRS.
2. Scottish Homes Report 83 clearly outlined many points and opportunities for the encouragement of the rural PRS to deliver additional affordable rented housing. The outcomes were largely ignored by the Scottish Government as they didn't conform to their prejudiced view of the PRS and Landowners.

**14. Do you have personal experience of any of the disadvantages you have described?**

Yes – in my dealings with the Scottish Government.

**15. Please use the space below to describe your negative experience of concentrated land ownership.**

- See my answers to Q13 above.

**16. Did you inform the land owner (or their representative) about this experience?**

Not applicable

I have tried for decades to persuade the Scottish Executive/Government that they should be working with estates to deliver affordable rural rented housing rather than pouring nearly all their money at RSLs who prefer to operate in larger settlements. Despite having proven the estates could deliver 75% more houses on the ground for the same public money the Scottish Government has resisted and continues to waste public money. Why? It can only be because they are so prejudiced against assisting the estates to deliver the much needed housing. Who loses? The people that need housing and can't get it because the government declines to get best value for taxpayers' money. It is a scandal.

If you answered "no" to question 16 please use the space above to tell us ***why not***. If you answered "yes", please use the space above to tell us what the ***outcome*** of this was.

**17. Where in Scotland does this experience relate to?**

All over Scotland

**18. Does this experience relate to an area of land owned by...**

Other (please specify)

I have explained in my answers to Q13. The Negative Experiences originate from a few Private Estates, from the Forestry Commission, SH Report 83's survey of the attitudes of FC, SNH, MoD, NTS, RSPB, Scottish Executive, Crown Estate & John Muir Trust, and of course the damage being wrought by the Scottish Government.

**19. Do you have any other negative experiences you would like to tell us about?**

No



**20. Please use the space below to describe any other negative experience of concentrated land ownership you would like to tell us about.**

**21. Did you inform the land owner (or their representative) about this experience?**

**22. Where in Scotland does this experience relate to?**

**23. Does this experience relate to an area of land owned by...**

**24. Please indicate how strongly you agree or disagree with each of the following statements:**

[illegible]

	Strongly agree	Tend to agree	Neither agree nor disagree	Tend to disagree	Strongly disagree
communities to work more closely together for the common good	communities to work more closely together for the common good Strongly agree	communities to work more closely together for the common good Tend to agree	communities to work more closely together for the common good Neither agree nor disagree	communities to work more closely together for the common good Tend to disagree	communities to work more closely together for the common good Strongly disagree
Government intervention is required to reduce concentrated land ownership	Government intervention is required to reduce concentrated land ownership	Government intervention is required to reduce concentrated land ownership	Government intervention is required to reduce concentrated land ownership	Government intervention is required to reduce concentrated land ownership	Government intervention is required to reduce concentrated land ownership

My indications are highlighted yellow.

To help us analyse the responses we receive and better understand the perspectives of different groups of people it would be helpful if you could provide us with some information about yourself. You do not have to provide this information but it would be helpful.

**25. What is your name**

[REDACTED]

**26. What is your email address**

[REDACTED]

**27. Are you responding as an individual or an organisation?**

Individual

**28. Which of the following best describes you**

I am all of the following:

- Resident of a community where land ownership is concentrated
- Land Manager or other professional working in areas where land ownership is concentrated
- Private land owner or representative of a private land owner
- Other interested member of the public

**29. Are you happy for the Scottish Land Commission to publish your response to these questions?**

Yes, I am happy for you to publish my response in full

**30. As part of this research or related projects we may wish to contact you in the future to discuss the issues you have raised. Would you be happy for us to do this?**

Yes, I think you should come and visit.

Points raised in SH Report No. 83  
*Selling and Developing Land and Buildings for Renting and Low Cost Home  
Ownership - 2001*

Following the publication of Report 83 by Scottish Homes and the SLF - *Selling and Developing Land and Buildings for Renting and Low Cost Home Ownership: The Views of Landowners* (the SH/SLF report) a number of points are quite clear.

1. There is a distinction between the rural Private Rented Sector (rPRS) and the PRS in general.
2. The rPRS plays a crucial role in current rural housing provision.
3. It is going to be impossible to have a successful plan for rural housing without involving the rPRS.
4. Better liaison between planners and the rPRS is required
5. While individual rPRS providers may demonstrate a professional approach work can be done to elevate the professionalism of the sector as a whole particularly in its representation to all levels of government.
6. The timing of the SH/SLF report, the existence of the National Steering Group of the Rural Partnership for Change, and the progress of the Housing (Scotland) Bill could hardly be more opportune.
7. There is an excellent opportunity to develop solutions for rural housing which involve the rPRS by learning from information gleaned from the SH/SLF report.

The Executive's Housing Paper - *Better Homes for Scotland's Communities* - demonstrated by omission that at present the rPRS is largely excluded from consideration as a provider of affordable housing. The rPRS has virtually no access to support mechanisms to assist it to deliver affordable housing.

## ANALYSIS

This paper does not attempt to summarise all the points contained within the SH/SLF report. To do so would be a waste of time. Instead the report itself should be regarded as an annex to this paper. Nevertheless I wish to emphasise the following points from the report.

### **Chapter 3: Landowners**

- Landowners, as a group, are almost universally positive towards local people and the local area and are keen to be socially responsible toward the wider community - p65
- Landowners need to diversify estate income away from primary industry such as agriculture - p65
- Landowners are willing to participate in affordable housing schemes, but not where low cost homes can be sold on and thus removed from the affordable homes market - p65

### **Existing Dwellings owned by Landowners**

- Landowner members of SLF are estimated to own approximately 21,000 houses across rural Scotland - p23
- The majority of these houses are either in, or within a mile of a village - p24

Points raised in SH Report No. 83  
*Selling and Developing Land and Buildings for Renting and Low Cost Home  
Ownership - 2001*

- The full-time renting out of housing to people with no connection to their land-owning business is an important activity - p24
- Holiday lets are rarely numerically important - p24 - and there is a reticence in relying on holiday lets as a source of income for house rental - p67

**Vacant Dwellings owned by Landowners**

- 75% of respondents have no empty habitable houses - p26
- the most common reasons for vacancy are poor condition or an absence of services - p26
- It is estimated that across the country there are 2,000 habitable vacant houses and 2,500 that are considered uninhabitable - p26

**Housing for Rent**

- It is common practice for landowners to favour local needs when setting rents and allocating tenancies - p28, p68
- Landowners see their housing role as a complement to public/social providers rather than as a substitute for them - p68
- There is no evidence of a failure to meet the sort of equality of opportunity outcomes with regard to gender or race that are expected of social landlords - p68
- Private rents tend to be higher than gross council rents but this reflects the different economic circumstances between the housing providers (detailed) - p28

**Converting other Buildings**

- Half of respondents have holdings containing buildings suitable for conversion into housing, which could lead to the provision of at least 1,800 homes - p30
- The majority of landowners would consider providing low-cost housing for local needs from surplus buildings if it could be made viable so to do - p30
- 90% would rather make housing available for rent rather than for home ownership - p30
- The major constraint to the creation of affordable housing from these buildings is the lack of financial viability - p30
- Planning restraint is perceived to be another constraint - p30

**Land for Development**

- Land sales from farms and estates have resulted in the development of 4,000 houses over the last 10 years
- 60% of respondents indicated that they have surplus land on which housing could be built - p31
- 5 acres is the norm for the amount of land available - p31; implying that 26,000 acres might be available across Scotland in due course
- As regards the development of land for affordable housing planning restraint (46%) and lack of financial viability (23%) are seen as the main constraints - p32

#### **Awareness and Views of Private Landowners**

- There is a link between the awareness by private landowners of local housing availability problems and their willingness to consider building conversion or land development - p32
- Commonly there is support for affordable housing development - p33

#### **The Views of Public and Charitable Landowners (FC, SNH, MoD, NTS, RSPB, Scottish Executive, Crown Estate & John Muir Trust)**

- None of the public and charitable landowners have a primarily social agenda and housing provision has generally not figured high in thinking through social or commercial objectives - p33

#### **Conclusions to Ch. 3**

- Rented housing provision by private owners is of major importance - both to landowners as a source of income and to communities given the scale of provision involved - p33
- Significant proportions of landowners would be willing to do more with regard to affordable housing provision if the circumstances were right.
- Without grant support, the lack of financial viability is the main constraint to the delivery of affordable housing

#### **Chapter 4 - The views of private tenants**

- 83% had lived in property for >1 year; 40% for > 10 years.
- The majority felt their rent was good value
- There were generally high levels of satisfaction with house condition
- There was some dissatisfaction with either the time taken or the quality of the repair service
- Most tenants felt secure in their tenancy arrangement with only a tiny minority actually expressing insecurity

## **DISCUSSION**

### **Opportunity**

It is clear that not only are rural private sector landlords already important suppliers of housing, much of it at affordable rents, but that **there are major opportunities to nurture the rPRS to enable it to deliver additional affordable housing.** This applies across the spectrum of supply:

- ✓ from raising the standard of existing housing (poor condition is still a problem in some areas which stems from 1915 Rent Act which froze rents rendering rented housing unviable)

Points raised in SH Report No. 83  
*Selling and Developing Land and Buildings for Renting and Low Cost Home  
Ownership - 2001*

- ✓ refurbishing sub-standard housing. (From the SH/SLF report members have around 2,500 sub-standard houses. Also the rPRS is identified within the latest NHCS as having a high proportion of sub-standard housing.)
- ✓ increasing the letting of some of the vacant habitable properties (SLF members have around 2,000 empty habitable properties)
- ✓ conversion of redundant buildings into housing (at least 1,800 houses could be created out of building conversions)
- ✓ development on new land (there is considerable willingness to develop land or see land developed) (26,000 acres of land was estimated to be available)

**Constraints and Incentives**

**Planning** is perceived to be a major constraint to both building conversion and new development. It is clear that benefits would accrue from improved liaison between landowners/managers and planning authorities. It is likely that both the Local Authorities and rPRS would benefit from the two-way exchange of information about housing need and service provision in the one direction and about development intention and the willingness to sell land in the other.

It is also clear that, for the delivery of affordable housing by the rPRS, financial viability is constrained due to the **lack of an appropriate financial support mechanism**. There is much evidence that the rPRS can deliver affordable housing very competitively. One of the key points within the Executive's Housing Paper *Better Homes for Scotland's Communities* is that solutions must deliver Value for Money.

The fact that the SH/SLF report demonstrates that the rPRS is delivering rural housing with a high degree of social responsibility reinforces the logic that the sector should be supported in its activities and be regarded as an important component of rural housing supply.

There is a clear reluctance by landowners to participate in schemes, which lead to the migration of properties away from the affordable rented sector, for example, through right-to-buy.

There is a clear preference for **grant aid** as the mechanism to encourage delivery of affordable housing. It must be made quite clear that no grant is expected without concomitant conditions concerning quality, rent levels, accountability etc.

Currently, under existing grant support regimes, there is very little opportunity for agencies to assist the rPRS in delivering affordable housing and they must therefore resort to, what are in some instances, alternatives which are more costly in terms of public funding. It is clear that this is wasteful both in terms of taxpayers' money but, perhaps more importantly, in terms of lost housing opportunities for many families in rural Scotland.

  
Rural Housing Committee  
Scottish Landowners' Federation



Shona Glen, Scottish Land Commission , Longman House, Inverness IV1 1SF

Dear Shona,

I am aware that the Scottish Land Commission is seeking experience and views on the question of large scale and monopoly ownership of land.

What is below comes from very personal experience, observation, and encounters with different land owners locally over the years (in Harris and across the wider Outer Hebrides) and also from my 5 years or so as chair of Community Land Scotland.

During my lifetime here in Harris I have witnessed decline of my own community. Between 1951 and 1991 the population halved (4000 to 2000). I have seen schools, shops and other basic services close, the average age of the population becomes higher with our young people leaving when they saw no economic future for themselves here. All this happened in Harris under the stewardship of benign landlords not only private but also public.

What I have seen happen here, I have also observed happen across many other parts of Scotland particularly in the Highlands and Islands with pretty tragic consequences.

#### LANDOWNERS, LAND OWNERSHIP PATTERN AND LAND USE

I believe that a large part of the reason for this decline has been to do with our land ownership patterns and it is only with recent change, borne in part by the will of communities not to see further decline as inevitable, and the purchase by these communities of their land that this trend of decline has begun to be visibly reversed.

The downward spiral that I have experienced in my lifetime on the Outer Hebrides has not been (for the most part) as a consequence of bad landowners but as a result of benign landowners and consequent neglect. Fundamentally, their interests and those of the community have not been the same.

These landowners, many of whom have owned tens of thousands of acres of land for a very long time, came to their estates for the shooting and the fishing, having their friends come and stay, enjoying the sense of isolation and peace such as we can offer, and viewing our culture.

Their main interests in owning the land did not serve the community well as they seldom focused on economic and/or social development and involving the people who lived and worked on their estates.

I don't believe they wished any ill-will on the community, they just were not concerned with the long term interests and survival of these communities.

Because they owned large areas of land, what they have done (or not done!) with that land has had a negative impact on many people and stymied potential development of these areas.

It is worthwhile noting that not all the owners have been absentees, some also have lived locally but if benign in nature, that made no difference in that the communities on their land, over the decades, lost not only numbers but even their confidence to change things.

Being a benign landowner, not openly antagonistic to the community in any way, is simply not enough to allow places across the Highlands and Islands, and also across the rest of Scotland to sustainably develop, provide opportunity and retain members of the community, particularly younger people.

What communities need is the opportunity to use more land more productively, for multiple reasons.

Sustainable development requires ideas and drive and staying power. We can now see this is what community landownership can give.

Community ownership may not be for everyone or it might not be the right time for that community but the option must be open to those communities who have that desire.

Where communities have taken on the opportunity and challenge of land ownership and development, the visible change is transformational.

## SCALE OF OWNERSHIP, CONTROL AND MONOPOLY

I have also come to realise that scale of ownership is of itself a fundamental problem where the interests of the long term sustainability of the place and those of the owner are not aligned.

In such circumstances, having a much larger number of smaller sized landownerships would provide for more opportunities for more communities to develop their own land. This is the opposite of the situation when one owner with a large amount of land can sterilize huge areas.

In a pattern of more ownerships of land, regardless of whether the landowners are benign or otherwise, there would be a much greater choice for a community to seek land uses that would provide for sustainable development that is plainly not available when there is a monopoly holding of land.

In chairing Community Land Scotland I have had many conversations with people across Scotland, both in person on visits and from the regular stream of

phone-calls I received from people in communities seeking advice because they saw the development of their community under threat in one way or another. I have been at times genuinely shocked, even angered and certainly disappointed to find many Scottish communities living under a cloud of fear when seeking a different future for their place, or even voicing an alternative vision for the land. I have visited communities where quite evidently the ownership of the land was one of monopoly power, and where the interests of that monopoly and maintaining and enhancing power locally have been quite shocking.

It is frustrating to see people locked in to circumstances that they seem unable to break out of for fear of the consequences of challenging the power of ownership at a local level and where there would be no real option than to leave an island or an area under monopoly control.

I have met communities desperate to build new social housing, to provide employment space, to improve local amenities, and so on, but where there is an iron grip on the land that might be available for such purposes and with a landowner with no intention of letting go of that grip or recognising what I would think are the legitimate aspirations of the local community.

I find it horrifying that still the power of a few through their landownership of thousand of acres can hold back a community and threaten its very survival.

With some owners comes a sense of entitlement to do as they please, with little concern for the implications for the community. Given the scale of some landownerships, this has significant consequences for entire communities over a large area.

Even the survival of a community can depend on the landowner.

## LAND FOR SALE

I hope one of the things the Commission will do is to take a close look at how large scale land is marketed by land agents. In my experience of looking at such marketing, the community seldom if ever feature in the advertising spin, but instead we read about exclusiveness, the secluded paradise, or the ability to hold an asset with rising value and get access to a wide range of public subsidies and some tax breaks. It is sold as “trophy land”

Seldom if ever in the sales brochure do prospective owners have pointed out to them that there are communities on the land or that we now have land policies in Scotland that are about greater social justice in the use of land, access rights, or that we have a Land Rights and Responsibilities Statement and there is formal guidance that owners of land should follow in engaging with communities. In short, land is marketed with the exclusive interests of the owner as the major selling point.

## BETTER PRACTICE

To be fair, I also have experienced rather more rewarding examples of private ownership which has come to recognise that communities do indeed have rights and interests. In the islands a number of ownerships by the community have come about because the owners have come to realise that their exclusive interests are not those of the community and its future so a number of sales have been voluntary and in one case the owner of a small but still well populated island gifted the island to the community.

The recent purchase of 3000 acres of land by the community at Garbh Allt from the Sutherland Estates is another excellent example of good practice.

More recently when Ulva came into community ownership the former owner thanked the community for their infinite courtesy, wished them well for the future and their plans, and recognised openly that times had changed and it was time to move on.

However these occurrences are very much in a minority and there are other examples of bad practice and misuse of monopolistic power even when only a few acres are desired by a community to allow development.

My conclusion on all this is that I do not think that Scotland can make important positive change in land ownership patterns, if it is to depend on more owners coming to the same realisation as some of those I mention above, particularly given the way land is marketed and continuing large ownerships encouraged.

It is in my view necessary for there to be powers available to the Land Commission or Government Ministers to intervene to protect communities against the negative effects of monopoly power and to protect the interests of those I know feel unable to speak up in their own community.

There just has to be a change from few large landowners to many more ownerships of smaller areas of land. This would provide more variety and choice for sustainable development to flourish especially for community landownership which offers long term sustainable options.

I hope these thoughts may be of some value as the Commission considers what to do and how to take forward the issues. My experience is that there are very real issues at stake in this whole debate and further action is needed if we are to put right something that, in my view, doesn't serve us well - the imbalance of power that exists between owners and communities arising from large scale and monopoly ownerships of land. I would be happy to discuss this with you if that would be of any help. I am happy if this letter is made public as the contents and opinions are personal and not necessarily of Community Land Scotland.

I leave it to you to judge what weight, if any, to give to them.

Yours sincerely,



**Scottish land Commission Inquiry 2018**  
**– on concentrated land ownership.**

*Submitted by* [REDACTED] *on 29<sup>th</sup> June 2018*

I write to offer a positive example of land ownership and urge more nuance in the widespread view that concentrated land ownership benefits the few not the many.

I campaigned to establish the Scottish Parliament and chaired the cross party *Yes* campaign in the 1997 referendum. For all the historical and social reasons, land reform was a significant aspiration of campaigners at the time. Since then the Scottish Parliament has acted in several areas from community buyouts, right to roam, the small islands scheme, forestry review, national parks and has now given the land issue a central focus in the Scottish Land Commission which I welcome.

I have also campaigned over land issues in my local community in Campsie Glen where the proximity of Glasgow brings issues like housing development, footpaths, forestry planting and urban pressure sufficient to give me a hint of the complexity now facing the Commission.

Instead I wish to cite my experience as a paying guest in a holiday cottage on an estate in Torridon that I have visited annually for 45 years. I grant it is a narrow perspective nevertheless the length of my observation may be of value.

Torridon in the 1960's, when I first went to the area, was like much of the Highlands at the time, a depressed area, lacking housing, jobs and confidence, and suffering net emigration especially young people. Since then it has recovered self-confidence stemmed some of the problems and enjoyed a huge rise in tourism and recreation and associated jobs. Though nobody could claim the more intractable problems are solved, there has undoubtedly been some revitalisation.

Coulin Estate lies on the south side of Glen Torridon between Kinlochewe and Torridon village next to the *National Nature Reserve* of Ben Eighe and the *National Trust* in Torridon. There could be no strategic management of this huge area of outstanding natural beauty without the active commitment of this estate which forms a substantial portion of the whole.

When I first stayed on the estate in 1973, the cottage had not long ceased being a croft and the estate was a faded Victorian enterprise with the still traditional focus on deer stalking. It was not completely exclusive or dismissive of environmental issues but it was slightly distant from the community, cautious about walkers and reluctant to invest unless supported by public funds.

The estate changed hands in 1994 to the current owners. The sale was arranged privately presumably to avoid the risk of political objections.

The change brought new attitudes. The leadership became far more positive to the extent that the stewardship of the land since has been outstanding and forward looking, not afraid to engage with issues or co-operate with the local community or public policy.

It has hosted a variety of initiatives from schools, the local communities and other organisations further afield. Estate staff participate in the Torridon Area management of deer, fish and woodland planting schemes and supportive of national wildlife policies and scientific community right across the UK.

As in most small communities, estate staff volunteer as private individuals for other jobs as part time firemen for example and where this occurs they are supported by the estate.

Despite the huge rise in the numbers of walkers and cyclists, the estate has continues to welcome recreational visitors with most of the economic benefit passing to the local community. It maintains the houses, bridges and roads to high standards and

facilitates other bodies in the maintenance of paths and bothies. It takes great care with the appearance of its buildings cladding them with local stone beyond the legal requirements of the planners.

I have watched as national policies and subsidies moved from blanket afforestation of the 1970s to the protection of the relict areas of Caledonian pine forest, removal of non-native species like Sitka and rhododendron to the re-introduction of diverse native species in more sensitive planting schemes.

The watercourses have been protected and aquaculture tried and fishing continued. The recent introduction of hydro power has been a major project.

Public funds therefore play an important part in the economics of the estate. Although I have no access to the financial accounts, I have been in business all my life and suspect that alongside public funds there is a degree of private subsidy involved in running the estate.

Private subsidy is an aspect that is rarely acknowledged in this debate and would have significant effect on the public purse if the state sought to replace it. It would be interesting to know how widespread private subsidy actually is and to what extent concentration delivers this benefit.

To sum up I see no adverse effects in this specific estate. I could go further and speculate that it is delivering public goods possibly better than the state could do and probably at lower cost.

I am aware that I offer precious little evidence and that this note is a little more than a plea that there is more nuance in a debate that arises such passion and to urge the Commission not to throw out the good with the bad in coming to its conclusions.

There is nothing I would regard as confidential in this memo and it may be published.  
I should also make it clear that though I share [REDACTED] with the current owner of Coulin estate, I have no other relationship with him than paying guest.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



# Exploring Barriers to Community Land-Based Activities



PEOPLE, COMMUNITIES AND PLACES

# **Exploring barriers to community land-based activities**

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**Report for the Scottish Government**

**Deborah Roberts and Annie McKee**

Social, Economic and Geographical Sciences Group

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**28 August 2015**

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# Executive Summary

This report presents the findings of a Scottish Government-funded project looking at the land ownership barriers to community land-based activities.

There are numerous different community activities which require access to land and each community will have its own particular priorities. Each type of activity will, in turn, require different property rights. While the land reform debate has to date been dominated by the advantages and disadvantages of (outright) community land ownership, this report considers barriers associated with the distribution of all types of property rights and responsibilities between land owners and communities.

## Aim of project

To develop a classification scheme of barriers to community land-based activities and to use this scheme to examine the nature and significance of each type of barrier for different:

- types of community activities (e.g. affordable housing schemes, cycle paths, renewable energy schemes, community gardens),
- types of land owners (public versus private; passive versus active), and
- geographical contexts (e.g. urban versus rural areas).

Where possible, the report also highlights the types of strategies that have been used to resolve conflicts between land owners and communities when they arise.

## Research approach

Research was conducted in two stages. The first stage was a desk-based literature review including a review of the range of community land based activities that are typically proposed by community groups. Based on this, a draft classification scheme of ownership barriers to community activities was developed.

Stage 2 tested the robustness of the classification scheme and, where appropriate, amended its categories based on interviews with key informants from a range of organisations associated with community land activities. The interviews provided a large number of case studies from which the nature and significance of different types of barriers in specific contexts could be assessed.

## The classification scheme

The classification scheme splits land ownership barriers to community activities into four sets relating to: the nature of the land market; the strategies and decisions of land owners; (external) constraints on communities; and finally (internal) community characteristics and decision making. Some are

thus barriers to the supply of land (from land owners) others are barriers on the demand for land (by communities). An alternative perspective is that some barriers are structural in nature, others behavioural. Table 2 in section 4 of the report provides a summary of the classification scheme.

The research confirmed the existence and importance of all four types of barriers. Often more than one barrier was found to constrain community activities from being developed. As a result, it often takes considerable time for a community to secure the required land rights. This in itself represents a barrier in so far as it increases the probability of the development failing at some point in the development process through either a loss of community momentum or the increased likelihood of an alternative use or user being found in the interim period.

### **Differences between community activities**

Some barriers were found to be particularly significant for certain community land based activities. For example, multiple ownership is a particular problem for footpaths or cycle paths in rural areas while gaining sufficient community funding was found to be a particular problem for community housing developments. A reoccurring issue in the case studies related to planning. In particular, while not a direct barrier, extant planning permission can significantly increase the value of a property to the landlord and can place it out of the reach of funding available to the community regardless of the intended activity.

### **Differences between rural and urban areas**

Within as well as across urban and rural areas, the significance of barriers varies as a result of patterns of land use and land tenure, culture and the attitudes of key stakeholders. Having said this, there were a number of specific barriers that were considered to be more of a problem in urban areas than rural areas regardless of type of proposed activity. These included barriers associated with land owner identification, divided ownership rights (securities and real burdens), multiple ownership, constraints associated with planning and higher community liabilities (associated with higher use and potential vandalism etc.). It was also suggested that reaching acceptable terms may be more problematic in an urban context as a result of higher land values, greater competition for land use and a narrower range of alternative sites on which communities can site their activities than in rural areas. Finally it was suggested that urban communities may be more likely to suffer from a lack of capacity although this was noted as a potential issue for some rural areas as well.

### **Differences between types of land owners**

Apart from differences between public and private landowners associated with the regulatory and funding framework, there was limited evidence that certain barriers were associated with certain land owner types.

There was some suggestion that, compared to public sector or charities, private landowners can be easier to deal with as they have a tendency for more direct decision making. However, the key informants also highlighted that negotiations with private landowners can be unpredictable and with a higher level of risk, due to potential disagreement, trust and partnership issues. The role of advisors to private landowners was also noted as significant.

Scale of landownership was also identified by some interviewees as a factor which influences the likelihood of landowners agreeing to sell or lease land to community groups however the pattern was unclear and no overall trend was identified. For example, some argued that individual private owners of small landholdings are more cautious in engaging with community land-based activities. A key issue is that whilst in many cases there may be a possibility of finding alternative land for the community activity, a lack of engagement by a single large scale land owner in a locality can lead to disproportionate impacts.

There were clearer messages in relation to differences in the barriers associated with public and private landowners. The former tended to be viewed as more risk averse yet supportive of community initiatives and also progressive in terms of developing lease agreements.

## **Resolution mechanisms**

The existence of barriers to community land-based activities is a potential justification for government intervention. Each category of barrier identified in the classification scheme arises from a different source and thus may require a different resolution mechanism.

Many of the structural barriers facing communities could in theory be overcome by changes in existing funding regulations and/or improvements in advisory services. Similarly, changes in planning regulations could potentially help to overcome any unintentional impacts of planning on land values or behaviour. Elements of the Community Empowerment (Scotland) Act 2015 were expected by interviewees to be helpful in addressing several of the issues identified in relation to community capacity-related barriers, especially in urban areas.

More generally, the case studies highlighted several different resolution strategies which had been used to overcome land ownership barriers to community activities. On some occasions this involved helping communities find alternative locations for their activities. In other cases external mediation and consultation processes had been effective in overcoming problems between particular landowners and communities, allowing activities to proceed. The classification scheme described in this report provides a basis for better understanding some of the barriers that can occur in developing community land-based activities and thus effective ways of resolving issues should they arise.

# 1 Introduction

This report presents the findings of a Scottish Government-funded project looking at the barriers to community land-based activities.

The Land Reform Review Group (2014) noted that in some instances the scale or pattern of land ownership, and the decisions of landowners, can inhibit community land-based activities. There are many different types of community activities that require rights to land. Such activities range from housing developments to community gardens, renewable energy installations to local paths. While there is anecdotal evidence of situations where communities have failed to secure property rights from existing landowners, the nature and extent of the problem remains unclear and difficult to measure. On the one hand, the evidence that is available may be biased towards negative cases (where there has been a problem) with positive cases (where community activities have gone ahead) under-reported. On the other, the presumption of landowner barriers may mean that communities do not propose (or even consider) certain land-based activities suggesting observable evidence may underestimate the scale of issue.

Against this background, the **aim of the project** was:

*To develop and test a classification scheme which distinguishes between different types of land ownership barriers to community land-based activities, and to better understand the nature and significance of these barriers through case study analysis.*

The report considers how the barriers to community land-based activities relate to different types of land owners and/or types of land-based activities. It also explores whether there are differences in the significance of barriers across rural and urban areas and, where possible highlights potential resolution strategies.

While the land reform debate has, to date, been dominated by the advantages and disadvantages of (outright) community land ownership, communities may require or be looking for lesser property interests to allow their land-based activities to proceed. Thus the report considers barriers associated with the distribution of all types of property rights and responsibilities between land owners and communities, and is not just confined to the case of outright community land ownership.

The project was conducted by staff based in the Social, Economic and Geographical Sciences group at the James Hutton Institute and builds on initial work done by one of the authors (Roberts) while she was on secondment to Scottish Government in February 2015.

## 2 Research Approach

Research was conducted in two stages. Stage 1 focussed on the development of a draft framework for categorising different types of land ownership barriers to community activities. It also reviewed existing classifications of types of landowners.

Stage 2 involved testing the robustness of the framework and where appropriate, amending and supplementing the categories of barriers through interviews with key informants. In particular, data collected from the key informants was used to identify the significance of different type of barriers by type of community activity, type of land owner, and geographical (rural–urban) area. The interviews provided a number of case studies which could be used to understand better the nature and relative significance of the problem in different contexts.

The research methods used in each stage were as follows:

### **Stage1:**

This stage was based on a review of previous literature. Much of the literature was related to either rural or urban areas, or particular types of developments (e.g. brownfield sites or renewable developments). Thus, to make sure that all relevant aspects for the project were covered, a review of typical land-based activities proposed by communities was also undertaken, focussing on their particular requirements for land rights and responsibilities. Section 3 summarises the main findings from this stage of the project.

Output from stage 1 took the form of a draft framework of ownership barriers to community land-based activities which drew heavily on the framework proposed by Adams et al. (2001). In particular it distinguished between barriers associated with the nature of the land market and those associated with land owner behaviour. However the framework was extended to also incorporate aspects specific to community -led developments and rural as well as urban contexts.

### **Stage 2:**

The second stage of the research was based on 20 semi-structured interviews with key informants involved in community land based activities. The key informants were selected on the following criteria:

- Type of organisation
  - providers of support to community groups;
  - project funders
  - community representative bodies
- Geographical coverage
  - urban;



- rural;
  - both urban and rural
- Expertise in particular types of community activities

The final list of informants is given in Appendix A.

In advance of the interview, a summary of the framework developed in stage 1 of the project was sent to interviewees. During the interview, the interviewees were asked to suggest specific case studies where community land based activities had been constrained by one or more barriers to the acquisition of land property rights and to reflect on the extent to which they recognised the different categories of barriers provided in the draft framework. The interviewees were asked their views on the frequency with which different land ownership barriers occur and inter-relationships between the underlying barriers. Additional questions focussed on the mechanisms and approaches adopted by different actors to overcome the barriers including, for example, actions such as mediation and consultation processes, partnership working, shared equity schemes/shareholding and community buy-out. The interviews were conducted over the phone and typically lasted for between 50 and 150 minutes. A number of interviewees sent the research team further thoughts and case study examples following the interview. As a result an extremely rich qualitative dataset, consisting of 75 case studies, was gathered within a short timescale.

It is recognised that the case studies identified by the informants disproportionately relate to areas where communities have been most active in proposing land based activities (it is possible that different types of barriers may exist in other areas of Scotland). They also exclude situations where the barriers are such that community activities are not proposed. However, while both these issues are acknowledged, this does not diminish the usefulness of the findings. Given the sensitivity of the topic area, details of individual case studies are not included in this report. Instead the results are presented in a form which preserves anonymity while highlighting the nature of the barriers identified.

A thematic analysis of the compiled data was conducted, focussing on the significance of different types of land ownership barriers, rural/urban variation, types of community activities affected, and the mechanisms in place/currently missing for barrier resolution. In large part, the classification scheme was found to be robust however some additional market-based and community-related barriers were identified and a number of changes were made to the terminology to make it more applicable to Scottish Law.

The results of this stage of the research are presented in section 4 in the form of a table summarising the various categories of land ownership barriers and a detailed description of each barrier. Section 4 also describes overarching findings from the interviews.

# 3 Insights from previous studies

## Differentiating between structural and behavioural barriers

Whether or not a community can use a particular piece of land for a particular purpose depends on decisions made by those who hold the rights to that land. These decisions, in turn, are made within the context of the land tenure system, that is, the set of rules and regulations which define how land is held, used, and transferred including associated responsibilities and restraints. Given this, several authors suggest that, when trying to understand the nature of barriers to community activities, it is useful to distinguish between those which relate to 1) the system of tenure (structural issues) and 2) the motivations of those who hold land (MacGregor, 1993; Adams et al., 2001).

In particular, Adams et al. (2001) in their analysis of the re-development of brownfield sites categorise land ownership constraints into those which relate to 1) deficiencies in the extent of ownership rights in the potential development land, and 2) the strategies, interests and actions of those who hold such rights. The former includes, for example, cases where the power of the owner to sell land with immediate vacant possession is restricted by one or more lesser rights on the same piece of land. The latter reflects the various factors which influence land owner behaviour which, as many previous authors have stressed, extend beyond the economic rational typically assumed to explain land use patterns at an aggregate (national) level.

## What property rights do communities need?

Table 1 illustrates the type of activities frequently included in Community Action Plans. Each community will have its own particular priorities as reflected in the types of activities proposed and each type of activity will require different areas and combinations of land and buildings and, critically, different levels of property interests. In some cases, for example a community music festival, the requirement may be to use land in agricultural use for a short period. Apart from negotiating liabilities and responsibilities with the landowner for the duration of the event, no further transfer of ownership rights is required or demanded. In other cases the community may wish to become the outright owners of the land and associated property either because this is a requirement of external project funding, because of broader community ambitions, or because of the permanent nature of the proposed development (for example community affordable housing developments).

Some land based activities such as footpaths or cycle paths in rural areas are likely to require assembling property rights from more than one land owner. This places additional demands on communities as it requires agreement from all owners. Adam et al.s' analysis of constraints to commercial brownfield

developments suggests this may also be a major problem for urban community proposals. However it is equally possible that in some rural areas, a single large-scale land owner may have influence across more than one type of proposed community activity in which case his/her behaviour is of critical importance. Related to this, a key issue in determining the significance of land ownership barriers is the extent to which a development is restricted to a particular site or whether the community has a degree of choice in terms of where it is located or on whose land it falls.

Table 1: Examples of community land-based activities

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<b>Infrastructure</b>
<ul style="list-style-type: none"> <li>• Village halls and community centres</li> <li>• Community shops</li> <li>• Affordable housing</li> <li>• Renewable energy installations</li> <li>• Business centres</li> <li>• Harbour improvements and developments</li> <li>• Car parks</li> <li>• Petrol stations</li> </ul>
<b>Access</b>
<ul style="list-style-type: none"> <li>• Local paths</li> <li>• Cycle paths</li> </ul>
<b>Enhancing the village environment</b>
<ul style="list-style-type: none"> <li>• Community parks and play areas</li> <li>• Community gardens and allotments</li> <li>• Community recycling</li> <li>• Sports pitches and facilities</li> <li>• Community woodland</li> </ul>
<b>Heritage</b>
<ul style="list-style-type: none"> <li>• Hosting music/ arts/drama festivals</li> <li>• Historical buildings</li> </ul>

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## Active versus passive landowners

Focussing specifically on landowner behaviour and its impact on land development, Adams (1994) argues that it is useful to distinguish between active and passive landowners. Active landowners are those who develop their own land, may enter into joint ventures or make land available to others to develop. In contrast, passive landowners refuse offers from potential developers and retain land without development even though they may plan to do so in the distant future.

Some authors have argued that, in the long run, passive ownership behaviour is less important and will be addressed by increases in land prices (Ball et al., 1998). However, not all passive land owners are susceptible to monetary compensation and there are clearly costs associated with short run

disequilibrium in markets illustrated, for example, by the presence of derelict land. Thus, in relation to community land-based activities, both types of land owner behaviour are relevant and should be included in the framework. The active versus passive distinction is applicable in relation to the transfer of lesser land rights required for a community-land based activity to proceed.

### **Alternative classifications of land owners**

There has been limited recent academic research attempting to categorise landowner behaviour. Massey and Catalano (1978) differentiated between three types of private landowners on the grounds that they may respond to similar market signals in different ways. The first category, “former landed property” owners consists of the church, the crown and landed gentry. Here land is retained not for investment or income purposes but largely for social reasons (either private or societal) such as to protect its amenity value, preserve a historical connection or to make it available to others to use. Depending on the context it may also be a means of minimising tax liabilities.

The second category, “industrial landowners” includes those who need land as a factor of production. In an urban context, it includes manufacturing firms or service providers that need space to produce their goods/services. In a rural area it includes those in the primary sectors such as farmers who need land for agricultural production. Whether or not industrial landowners are willing and able to surrender existing property rights will depend on their current and future production plans as well as regulations (e.g. farm tenancies). Thus production-related issues including sector prospects, the cost of relocation and the ability to substitute space with other factors will influence their land-ownership decisions.

The final category of private land owners are “financial landowners” who, as their name suggests, are motivated mainly by the investment potential of land and property. They include property companies, pension funds and insurable companies but also individual private speculators in the land market. Differentiating between types of landowner in this way, even if not directly incorporated into the final classification of barriers, is a useful extra complement to the broader passive and active behaviours identified by Adams et al. (2001) and may help to identify alternative resolution strategies in situations where barriers arise.

### **Separation of rural and urban contexts**

The review of previous studies highlighted that research on land ownership barriers has tended to focus on either a rural or urban context with a lack of cross fertilisation of ideas and findings across the two bodies of work. This is surprising as the issues facing developers and community groups in both types of area are common even if their relative importance and appropriate resolution mechanisms may vary. Reflecting the wider ethos of the current

Land Reform Bill, this report proposes a classification of barriers to community land-based activities which is applicable across the whole of Scotland.

## 4 A classification of land ownership barriers

This section presents a classification of landownership barriers to community land-based activities within which there are seven distinct categories. These relate to deficiencies in ownership rights (two categories), land owner behaviour (three categories), external factors affecting communities (one category), and finally internal factors affecting the behaviour of communities (one category).

The classification scheme draws heavily on the framework proposed by Adams et al. (2001) but is extended in three ways. First, as discussed above, community land based activities may not require outright ownership but lesser rights being transferred from landowner to community. This is reflected in the framework. Second, the classification scheme is intended to reflect ownership barriers in both rural and urban contexts as opposed to the urban regeneration context in which Adams et al.'s framework was developed. Finally, the scheme recognises that there may be barriers arising from a community's lack of desire and/or capacity to secure land or land rights even if they are available. An overview of the classification scheme is provided in Table 2. Each type of barrier is described in detail below. Again the description of the barriers relies heavily on Adams et al., (2001) but links the discussion to the wider land reform agenda.

Although each barrier is distinct in nature, it was clear from stage 2 of the study (based on interviews with key informants) that community developments could be constrained by more than one barrier, sometimes sequentially, but often simultaneously. Indeed in 40 of the 75 case studies, more than one barrier to community activities was identified. For example, a lack of information on ownership was often an initial barrier, but overcoming this barrier did not then mean that other barriers did not subsequently arise. Similarly, there were obvious links between certain categories of barriers with, for example, owner unwillingness to sell or lease land often conflated with issues of ownership rights being divided. Likewise, community concerns in relation to liabilities were often a direct result of characteristics of the land tenure system. Despite this complication, we consider the classification scheme as a useful means of highlighting distinct constraints to community land-based activities, each of which may require different means of resolution through negotiation, regulation or policy.

The conflation of different barriers means that it often takes considerable time for communities to secure land rights. This in itself can be a barrier to developments as it increases the risk of a reduction in community capacity for any particular development and also it increases the likelihood of a sale to an alternative buyer. However there is a counter argument that time helps to

ensure that the rights that are transferred are appropriate and the transfer takes place in a manner which meets the needs of all parties.

Table 2 Classification of alternative land ownership barriers to community activities (adapted from Adams et al., 2001)

Categories of barriers	Sub-categories	Underlying cause
Deficiencies in ownership rights	A. Ownership unknown or unclear	A.1 Information on title deeds are incomplete, missing or difficult to access
		A.2 Ownership in dispute
		A.3 Owner lacks legal capacity (including executors/administrators)
	B. Ownership rights divided	B.1 Land held in Trust [functionality of Trust]
		B.2 Land subject to leases or licences [or subordinate real rights]
		B.3 Land subject to mortgages or other securities
		B.4 Land subject to restrictive Title conditions/real burdens
		B.5 Land subject to servitudes or rights of way
		B.6 Land subject to options or conditional contracts
Landowner behaviour	C. Assembly of ownership required	C.1 Ransom strips
		C.2 Multiple ownership
	D. Unacceptable terms	D.1 Restrictive terms of conditions of sale/transfer of lesser rights
		D.2 Different valuations
	E. Owner unwilling to sell or lease land	E.1 Retention for continued current use (includes for occupation/investment/making available to others on non-profit basis)
		E.2 Retention for control or protection/conservation
		E.3 Retention for subsequent own development
External factors affecting communities	F. Structural barriers facing communities	E.4 Retention for subsequent sale (due to indecision, postponement, uncertainty or speculation)
		F.1 Inability to raise funding
		F.2 Regulations and limitations to advisory support
		F.3 Lack of legitimacy
Internal factors affecting communities	G. Community constraints and decisions	G.1 Potential liabilities of ownership disproportionate to community benefits
		G.2 Differing community aspirations
		G.3 Lack of community capacity
		G.4 Lack of willingness to engage with landowner



## **A Ownership unknown or unclear**

Information on land ownership in Scotland is available in the General Register of Sasines, but the information held is often highly complex and costly to access. The Land Register provides another source of information on ownership and property boundaries, but it is a relatively new initiative with properties only included if a transaction has taken place since 2003<sup>1</sup> or information has been provided voluntarily. To date, 58% of properties in Scotland are registered with these properties accounting for just 28% of Scotland land mass (Land Reform Consultation document, 2014). The Scottish Government, acting on the recommendations of the Land Reform Review Group (2014), has a commitment to complete the register within a 10 year time frame, starting with registration of all land in public ownership. However, some argue that the information will still fall short of that required and available in some other countries in the form of cadastral maps.<sup>2</sup>

While the lack of information on land ownership is problematic for all potential purchasers and/or land users, it creates particular difficulties for community groups who may not have an experience in the land market. In particular it can create uncertainty and a feeling of disempowerment. It is thus a clear barrier to community land-based activities and may inhibit actions being progressed past their very early stages of conception. However, whilst this was a frequently mentioned barrier by key informants and appeared in several case studies, it was often surmountable given appropriate time and support (e.g. legal advice, financial support, expert help with land registry search, etc.).

## **B Ownership rights divided**

Land ownership is in effect the ownership of a bundle of rights and entitlements in relation to the use of land. Each of these may be traded separately. As a result a community land-based activity may be inhibited by an inability to acquire a particular property right.

The division of land rights and associated barriers comes in various forms. Land may be held in trust (with all trustees having to agree to any proposed change in rights), or may be subject to leases or licences which inhibit any transfer of rights until the lease or licence is surrendered or expires. Case studies described by the interviewees included delays encountered whilst agreement was sought from all members of a landowning Trust, as well as the delay imposed on community land acquisition by leases. Interestingly, in the urban context, Adams et al. (2001) found that leases and licenses were the most prevalent form of disruption to the development of brownfield developments but that, in this context, their impact was limited due to their short term nature and/or the fact that tenants were often willing to surrender their rights in return for cash payments.

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<sup>1</sup> The registry was rolled out geographically over time, so some property transactions before this date may be included depending on location.

<sup>2</sup> There may be opportunities for additional information being supplied on a voluntary basis.

The case studies highlighted several other types of barriers within this category including: pre-existing options on a piece of land (from other potential developers) which can stop a transfer of rights taking place; land may be subject to servitudes (for example, rights of way or rights of light); mortgage agreements or legal charges that serve as loan collateral or, finally, land may be subject to title conditions or real burdens put in place by an original vendor which restricts the type of use that can take place. Such conditions can restrict, for example, commercial or industrial use of land in a scenic or residential area, effectively prioritising a particular type of land use over any other.

In the context of the land reform debate, real burdens have been highlighted as a potential barrier to several rural community land-based activities on land owned by charities. For example, in their response to the LRRG's call for evidence, the National Trust for Scotland pointed out that the Trust is responsible for overseeing Conservation Agreements, put in place by owners to safeguard aspects of natural or cultural heritage. These agreements transfer with the property. Similarly, the RSPB's submission to the same call noted that, as a charitable organisation, "it is a requirement of charity law that assets (including land) are managed for the furtherance of the charitable objectives. Environmental protection or improvement, as well as education, science and volunteering are all charitable purposes recognised by Scottish charity law."

### **C Assembly of different ownership or user rights required**

Depending on the nature of the proposed community-land based activity, land ownership or rights may be divided across more than one individual. This requires the community getting agreement from all concerned individuals which is costly and can be difficult, with the last owner able to exert monopoly powers.

In their work on brownfield developments, Adams et al., (2001) found problems of assembling rights across multiple owners was found to be the most difficult barrier to overcome, resulting in significant or very significant disruptions in 85% of the cases where this barrier was identified. The case studies described by the interviewees in this study also included examples of community development delays caused by multiple ownership.

As previously noted, larger scale developments or developments of a linear nature (e.g. paths/cycle ways) are more likely to require the assembly of user rights and there are several well publicised examples where community-led developments have apparently been blocked by the decisions of a single or few land owners.

A particular type of barrier associated with the need to assemble property rights across individuals is the presence of ransom strips, that is small areas of land incapable for development in isolation but essential to the overall proposed development or activity on adjacent land. The interviewees

highlighted case studies where this was an issue in terms of securing grid access for community renewables, as well as access to proposed sites for affordable housing, community parks, new community halls, and community woodlands (e.g. vehicular access to forestry track to remove timber). Key informants suggested that in some cases ransom strips may be strategically purchased by or retained by land speculators. From a community's perspective the demands of ransom strip owners can represent an insurmountable barrier to a planned activity. Provisions in the Community Empowerment (Scotland) Act 2015 are expected to have a role in addressing this type of barrier.

## **D Unacceptable terms**

This form of barrier occurs when the landowner is willing to either sell or lease land but not on terms acceptable to the community. This may be due to restrictive terms of the conditions of sale. For example, in the context of urban regeneration, Adams et al. (2001) note that Local Authorities are often reluctant to sell the land outright and instead restrict disposals to long leaseholds which may or may not meet community (or community funder) aspirations. However the most frequently occurring reason for disagreement identified by the interviewees was large differences in the valuation of land by the buyer (community group) and seller (landowner). Every property (land and associated buildings) is unique and the land market relies heavily on valuations provided by surveyors. Changes in the macroeconomy can affect the supply of and demand for properties and their market value, as well as the lending criteria of funders. As a result properties are often on the market for considerable periods of time and there can be a mismatch between the valuation given to landowners when the market was buoyant and the price offered by buyers at a different stage of the property cycle. In such circumstances, sellers are often reluctant to adjust their expectations downwards, and sale price expectations remain high, as described in the interviewee case studies. Even beyond these market related problems, the valuations provided by surveyors can vary as a result of differences in their assessment of the condition of the property, its potential for generating income, and choice of comparables (that is the price recently fetched for properties considered similar to that under consideration).

One particular issue raised by key informants which relates to this barrier is the consequence of a property being granted planning permission for a particular use at a particular point in time. This significantly increases the value of that property to the landlord and can place it out of the reach of funding available to the community.

This highlights a more general point on the interdependency between land ownership barriers and land use planning. The nature of the planning system is such that it can generate rent seeking behaviour whereby land owners hold land and either apply for planning permission (and extensions) or object to other proposals for planning in order to increase the value of the land (Adams

et al., 2001; Keogh, and Evans, 1992). The more flexible the planning regime, the greater the possibility that planning may indirectly act as a barrier to community land-based activities through the incentives it gives to landowners.

## **E Unwilling owner**

There are various reasons why a land owner may be unwilling to sell land or surrender lessor rights to a community:

- 1) Retention for continued current use
- 2) Retention for control or protection
- 3) Retention for subsequent (own) development
- 4) Retention for subsequent sale

The first three reasons are more likely to be associated with the behaviour of industrial and former landed property owners types identified in section 3 as opposed to owners whose main purpose is to hold land as an investment asset. In contrast the fourth reason (retention for subsequent sale) is equally applicable to all land owner types. Such behaviour may be due to speculation (based on the assumption that by postponing the transfer of rights, a better a higher value may be achieved) or simply land owner indecision and uncertainty.

The key informants identified several examples of case studies where it was difficult to explain a landowner's unwillingness for sale. In some cases, this was attributed to a lack of willingness of a landowner to engage with communities in negotiations. In urban contexts, the lack of any identifiable reason for unwillingness to surrender property rights has been labelled "corporate inertia" and is argued to disproportionately affect small plots of urban land owned by organisations who overall have extensive land holdings but whose main business or interest is not in land or property (Adams et al., 2001).

In rural areas, problems associated with owner unwillingness have often been linked to the issue of scale of ownership. Large areas in rural Scotland are owned by relatively few people. As a consequence, a lack of support for proposed community land-based activities by a single land owner can have disproportionate local impacts. As MacGregor notes (1993), in relation to rural land use:

"In many areas of Scotland, large land owners play a crucial role in local development: they are the rural planners."

## **F Structural barriers facing communities**

The case studies highlighted some barriers to community land based activities which could be considered structural in so far as they relate to the external environment within which communities operate. In this way they are distinct from the barriers categories described under section G below which relate to

internal community characteristics or decisions. In particular, the interviewees highlighted the following three categories of barriers to community land based activities:

- Inability to raise required funding
- Limitations to advisory support
- Lack of legitimacy

The current policy agenda favours asset transfer to communities with some community funders (e.g. The Big Lottery Fund) making asset ownership a condition of funding. This means that the level of funding sought by communities is often high and may be beyond that possible for the community to raise (e.g. above the limit for Scottish Land Fund grant funding). The issue is not only related to the level of funding: A number of funders (including, for example, the Coalfields Regeneration Trust) refuse to provide support for projects on land owned by the public sector on the basis that the development should be funded through the public sector owner and that the public sector would benefit from the support. While the logic of this is clear, this approach can inhibit community activities from stimulating change.

Another reason identified by the informants as a barrier to community activities is the level of advisory support available, particularly at critical stages of the development process (e.g. during Local Development Plan reviews or when managing opposition). In particular, advisory and funding support for the alternative of leases and management partnership arrangements is not well developed. A further related issue is that advisors may not be approached by the community in time to negotiate secure land access for community land-based activity.

Finally, community groups may suffer from a lack of legitimacy which discourages landowners from selling or leasing property rights to the group. This may be because landowners consider potential income flows from community projects as more risky than from other proposed purchaser/users or it may be due to perceived reputational problems should the community group subsequently fail in its ambitions. The key informants suggested that this was a particular issue for public sector landowners due their accountability to wider communities and tax-payers. In general, established community groups are recognised as having greater legitimacy due to the timescales required in building community capacity and reputation.

## **G Community constraints and decisions**

The final category of barrier to land-based activities relates to the ability and willingness of communities to take on the responsibility of land ownership.

The alternative reasons for this category of barrier are:

- The potential liabilities of ownership are disproportionate to community benefits

- Differing community aspirations
- A lack of community capacity
- Lack of willingness to engage with landowner

In relation to the first, when the liabilities associated with owning the land become clear, a community may withdraw from a development even if the landowner is happy to surrender ownership rights. Another, more straightforward example of disproportionate liabilities identified in the case studies was where the scale of land for sale/lease exceeds that required by the community group and the landowner is, for financial reasons, unwilling to break the sale into smaller lot sizes.

Several of the informants highlighted case studies where different opinions within a community either delayed or inhibited community activities. Different aspirations within a community may relate to the perceptions of community priorities (e.g. affordable housing versus allotments), and/or their level of reliance on communal activities (i.e. contributing to community capacity rather than individual interests). Alternatively, they may arise from differences in opinion about a community's capacity and skills base.

Turning to community capacity, a growing number of studies have shown that this varies considerably both across and within rural and urban areas (Skerratt, 2013; Middlemiss and Parish, 2010). The issue is attracting strong policy attention and there is considerable government support for mechanisms which can spread best practice and increase community capacity in areas where need is greater. It remains the case, however, that even if a landowner is willing to transfer property interests, the community may not be aware of opportunities, processes or funding streams, or may not be willing or able to take on the associated responsibilities. The key informants described communities who were willing, but unable to progress land-based activities due to lack of further volunteer time (i.e. beyond existing community activities).. Thus there are potentially demand-side ownership barriers which may inhibit community activities, as well as interdependencies between the two sides (demand and supply).

Finally a barrier may be associated with a lack of willingness of a community to negotiate with a land owner, at times due to personality clashes. Some key informants suggested that this was associated with the community's unwillingness to consider anything less than outright ownership of land.

## 5 Other issues arising from the analysis

### 5.1 Differences in barriers by community activities

Consistent with expectations, the key informants confirmed that certain types of land ownership barriers are of particular importance to certain types of community activities.

Community **housing projects** frequently struggle to access the level of funding required (Barrier F.1, Table 2). Planning also represents a structural barrier to housing developments in many places and interacts with the willingness or unwillingness of a particular landowner to release land for sale for community-led housing.

The informants confirmed that multiple ownership (Barrier C.2) is a particular problem for **footpaths** or **cycle paths** in rural areas but also many different types of urban community proposals.

**Renewable energy projects** are also likely to come up against barriers around the assembly of rights across multiple owners, as well as issues with ransom strips (e.g. to secure wayleaves). This is often because landowners have high expectations regarding the income from renewable energy projects and may seek to use the leverage of their landownership to secure income from the project. Community-led renewable energy projects (like owner-led schemes) struggle with the uncertainty of 'where the wire needs to go' and this complicates the process of securing land rights. On the positive side however, the key informants suggested that there is a perception that advice and funding support for community renewable energy projects is strong.

**Community growing projects** have specific needs for fencing and services (e.g. running water), provision and maintenance of which may be considered inconvenient to the landowner, therefore might lead to their unwillingness to sell or lease to community groups (Barrier E). Sites for community growing activities may also require testing for contamination, as well as subsequent decontamination and future monitoring, which again incurs costs (typically on the previous occupant accountable for the land contamination, if identifiable).

**Mountain bike trails** are considered of higher liability risk than say paths developed for walking and thus more likely to suffer from liabilities being considered disproportionately high relative to benefits (Barrier G.1). Finally some community activities for example **onshore windfarms** (as compared to, for example, community woodlands), are considered more divisive and thus liable to barrier G.2 due to their visual or infrastructural impact.

### 5.2 Rural urban differences

In general the interviewees felt that urban communities would have less experience in developing land-based community activities and, as a result, are

more likely to be unable or unwilling to buy or lease land (Barrier G). This they attributed to the stronger community ethos in many rural areas. Geographical communities are often clearer in rural areas and partly through need, they tend to be more proactive in delivering public good services. One interviewee noted that the general decrease in public sector funding and centralisation of services had resulted in rural communities almost being expected to be proactive in terms of coming up with new community -driven initiatives despite the fact that they comprise fewer people and often have a greater of older residents than their urban counterparts.

Some informants argued that, because they comprise fewer people, there is more likely to be consensus in rural communities on their priorities, however, it follows that any differences in opinions will be more transparent. Importantly, it was acknowledged that in many rural areas the landowner(s) are known and indeed part of the community. This can help to facilitate negotiations in terms of agreeing acceptable terms and conditions for the transfer of property rights.

There were a number of specific barriers that were considered to be more of a problem in urban areas compared to rural areas regardless of type of proposed activity. These included barriers associated with land owner identification, divided ownership rights (securities and real burdens), multiple ownership, constraints associated with planning and higher community liabilities (associated with higher use and potential vandalism etc.). It was suggested that reaching acceptable terms would be more problematic in an urban context as a result of higher land values and greater alternative competition for land use. Associated with this, as illustrated by several of the case studies, rural communities may have a wider range of alternative sites on which their activity can take place. Within this context, the increased policy attention and support being given to urban communities in the Community Empowerment (Scotland) Act 2015 is well directed.

There was less of a clear view on which types of community land-based activities were more or less likely to face barriers as a result of their geographic context. The only suggestion was that housing projects might be easier in urban areas as a result of existing service provision and housing association models of development. More clear was the suggestion that the urban versus rural distinction was too blunt a distinction and that within both types of areas there were likely to be major differences in the significance of barriers as a result of interests and culture (e.g. Western Isles versus Northern Isles), land tenure (e.g. crofting versus non crofting areas) and the attitudes of key stakeholders in Local Authorities.

### **5.3 The influence of land owner types**

Apart from a public versus private land owner distinction, few commonalities emerged regarding landowner types. When prompted, the informants recognised that communities dealing with investment owners (see Section 3 above) are particularly liable to be constrained by Barrier D.2: Different



valuations. However, this was also highlighted as an issue with other charitable and NGO-landowners. Other owners are unable to sell or lease land to communities due to restrictive covenants based on their acquisition of the land as a gift (e.g. education authorities and conservation owners such as the National Trust for Scotland) and/or tend to be highly risk averse when considering the transfer of land rights.

Instead, individual personality and attitudes to community engagement/support in general was suggested as critical, in particular with regard to private landowners but also in relation to key office holders in public land holding organisations including local authorities. Key informants stated that private landowners who are 'community minded', act as benefactors and demonstrate proactive land management. Several examples were given where private landowners have helped to drive forward community lease arrangements or have donated land and assets to the community, according to personal wishes.

There was a suggestion that compared to public sector or charities, private landowners can be easier to deal with as they have a tendency for more direct decision making. However, the key informants also highlighted that negotiations with private landowners can be unpredictable and with a higher level of risk, due to potential disagreement, trust and partnership issues. The role of advisors to private landowners was also noted as significant.

Scale of landownership was identified by some interviewees as a factor which influences the likelihood of landowners agreeing to sell or lease land to community groups however the pattern was unclear and no overall trend was identified. For example, some argued that individual private owners of small landholdings are more cautious in engaging with community land-based activities ('not knowing where it is going to end'). A key issue is that whilst in many cases there may be a possibility of finding alternative land for the community activity, a lack of engagement by a single large scale land owner in a locality can lead to disproportionate impacts.

Public landowners present certain barriers to community buyers, in particular regarding restrictive title conditions and 'claw back'. In some cases Forestry Commission Scotland (FCS) is criticised for imposing restrictive conditions on community buyers with regard to commercial activity, which then limits their potential to maintain a viable forestry enterprise (i.e. because profits are required to be returned to FCS rather than reinvested into the community enterprise). There are also concerns regarding State Aid, and the effort required by communities (and advisory support) to fulfil the bureaucracy required in land acquisition from public bodies. Some key informants considered it unreasonable that a community should be required to register their interest in community right to buy if the public body (e.g. the local authority) was already a confirmed willing seller. However, there was recognition that such public bodies were primarily concerned with accountability and transparency, especially where public finances are

restricted and affected by budget cuts. Similarly, public landowners, like many NGOs, are also perceived as being more risk averse, especially in terms of losing potential value, asset income, or being responsible for assets if a community enterprise fails.

However, there was broad recognition amongst the key informants that public landowners generally have an ethos of supporting communities and finding routes to community landownership. Public landowners will often give communities more time to develop business plans, and there are positive examples of lease arrangements with communities, facilitating a 'feasibility study in practice' for later ownership. In particular, public bodies are supportive of anchor community organisations, to which assets can 'bolt on' easily and clearly. Again, however, the attitudes of key office holders in public landowning bodies are critical in supporting community land-based activities. Finally, the key informants highlight the role of the Community Empowerment (Scotland) Act 2015 in facilitating the easier and efficient sale of land from public bodies to communities.

## **5.4 Resolution mechanisms**

The existence of barriers to community land-based activities is a potential justification for government intervention. Each category of barrier identified in the classification scheme arises from a different source and thus may require a different resolution mechanism.

Many of the structural barriers facing communities could in theory be overcome by changes in existing funding regulations and/or improvements in advisory services. Similarly, changes in planning regulations could potentially help to overcome any unintentional impacts of planning on land values or behaviour. Elements of the Community Empowerment (Scotland) Act 2015 were expected by interviewees to be helpful in addressing several of the issues identified in relation to community capacity-related barriers, especially in urban areas.

More generally, the case studies highlighted several different resolution strategies which had been used to overcome land ownership barriers to community activities. On some occasions this involved helping communities find alternative locations for their activities. In other cases external mediation and consultation processes had been effective in overcoming problems between particular landowners and communities, allowing activities to proceed.

The classification scheme described in this report provides a basis for better understanding some of the barriers that can occur in developing community land-based activities and thus effective ways of resolving issues should they arise.

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## Appendix A: Key informant interviewees

Kenny Auld	Scottish Outdoor Access Network
Amanda Bryan	Aigas Associates
David Cameron	Community Land Scotland
Jamie Dent	Dumfries and Galloway Small Communities Housing Trust
Linda Gillespie	Community Ownership Support Service Team, Development Trusts Association Scotland
John Glover	Community Land Advisory Service (CLAS)
Angus Hardie	Scottish Community Alliance
Richard Heggie	Urban Animation
Jon Hollingdale	Community Woodlands Association
Heather Holmes	Scottish Government Land Reform Unit
Sandra Holmes	Highlands and Islands Enterprise (Strengthening Communities)
Richard Kelly	Community Assets team, Glasgow City Council
Derek Logie	Rural Housing Scotland
Ronnie MacRae	Highlands Small Communities Housing Trust
Chris Morris	Local Energy Scotland
Helen Pank	Federation of City Farms & Community Gardens
Pete Ritchie	Nourish Scotland
Peter Ross	Dumfries and Galloway LEADER
Eric Samuel	Big Lottery Fund
David Wood	Planning Aid Scotland



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# Good practice in overcoming barriers to community land-based activities



AGRICULTURE, ENVIRONMENT AND MARINE



# Good practice in overcoming barriers to community land-based activities

**Report for the Scottish Government**

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2<sup>nd</sup> June 2016



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## Executive summary

### Background and approach

Roberts and McKee (2015) identified a number of different types of barriers to community land-based activities. This report focusses on ways in which such barriers can be overcome. The findings are based on an interview survey of representatives of private and third sector landowners. A number of types of 'resolution strategies' are described along with the factors for success in overcoming barriers, a review of the challenges facing landowners, and perceived principles of 'good practice' by both landowners and communities. The report concludes with views on the role for policy in helping to overcome barriers to community land-based activities. The project findings are relevant to Part 4 of the Land Reform (Scotland) Act 2016 – engaging communities in decisions relating to land, and provide recommendations for the guidance to be issued by Scottish Ministers.

The project was based on an interview survey of twenty individuals representing private landownership in Scotland, including representatives of those who act as intermediaries and facilitators during resolution processes. Interviewees therefore included representatives of Scottish Land & Estates (SLE) and the National Farmers Union Scotland, representatives of the forestry sector, representatives of conservation landowners, representatives of the Royal Institution of Chartered Surveyors and the Valuation Office Agency (VOA), as well as rural and urban land surveyors (e.g. employed within traditional land agency companies), and planning professionals.

### Findings

Through reflection on their personal and professional experience of working with landowners and communities, the interviewees identified a number of principles for 'good practice' by communities and landowners, as summarised in Box 1. Many of the principles are shared by both community bodies and landowners; nonetheless, key distinctions arise.

**Good practice principles for private landowners**

- (i) Ensuring clarity and transparency regarding engagement processes (e.g. regarding intentions, through an agreed discussion format and recording discussions).**
- (ii) Ensuring supportive behaviour and attitude (i.e. respect, honesty and responsiveness, plus commitment to community engagement).**
- (iii) Fostering positive relationships through direct communication, and building a 'track record' of community engagement.**
- (iv) Involving expertise and specialist knowledge, and ensuring that professional land management advisors adhere to good practice principles.**
- (v) Reflectivity in land ownership and management (i.e. promoting a transparent estate development strategy, including community engagement, recognising the public interest in decision-making, identifying surplus land/assets and make available for community land-based activities, etc.).**

**Good practice principles for communities**

- (i) Ensuring positive and early engagement with the relevant landowner(s) (e.g. presenting proposals, and seeking up-to-date information and views).**
- (ii) Undertaking strategic and critical thinking (i.e. regarding community dynamics, capacity, governance, and needs, in addition to the role of asset ownership and alternatives).**
- (iii) Establishing a 'sustainable development' plan, demonstrating community visioning, land use assessments and resource planning.**
- (iv) Achieving a unified community voice, through active participation in local democracy and dialogue.**
- (v) Building community capacity, positive engagement behaviours and knowledge (e.g. of valuation processes, negotiation practices, business planning, etc.).**
- (vi) To work with objective and highly skilled community advisors (including development officers and land agents), in order to support the progress of land-based activities (e.g. in seeking funding, devising business plans, commissioning feasibility studies, transacting land sales, etc.).**

### **(i) Case studies and resolution strategies**

The interviewees described their experience and knowledge of a number of case studies, which demonstrated how barriers to community land-based activities may be overcome. Strategies described include direct discussion and negotiation between landowner and community, information provision, provision of land/assets by the landowner to the community (including through tailored lease arrangements, or identifying alternative sites), agreeing contracts or conditions for land use, and partnership approaches between landowners/management and community bodies. Challenges and opportunities of overcoming barriers to community land-based activities were argued to vary between rural and urban settings. These differences derive from the scale of urban communities and associated challenge in reaching consensus, in addition to the greater number of communities of interest and stakeholders necessary to include in consultation processes in urban contexts. Furthermore, interviewees recognised a greater use of third party agencies in urban areas, and therefore less direct landowner- community engagement, and a potential difference in motivation on the part of urban landowners in community engagement processes.

### **(ii) Success factors**

A range of success factors were identified based on past experiences of overcoming barriers to community land-based activities. These include an awareness of the influence of individual personalities as either positive or negative in overcoming barriers, and the role of ‘champions’ in community engagement processes who build trust and transparency. A related success factor is establishing ‘rules of engagement’, i.e. the codes of conduct expected within landowner-community dialogue processes. Such codes of conduct should include the shared responsibility of all stakeholders to explain their aspirations, motivations and circumstances, in order to seek areas of ‘common cause’. It follows that successful partnerships are underpinned by “openness, sharing information, communications, and willingness of community to work with the estate [owner/management] and vice-versa.”

Pre-emptive engagement was identified as helpful in that it provides a point of departure for dialogue. Such proactive engagement may range, for example, from landowner involvement with children’s education, to so-called ‘constant consultation’ with a community on day-to-day and strategic land management planning decisions. Success factors therefore include ‘friendly’ negotiations focused on outcomes as opposed to discussions around land value. High quality engagement ensures that all viewpoints are incorporated (including those not active in community bodies), and it is important that monitoring and evaluation of the engagement process occurs. A handbook detailing ‘good practice’ in landowner-community engagement is recommended in order to ensure quality and flexibility in engagement practices.

The importance of communication practices and the role of language are also highlighted as critical success factors, and a ‘communication plan’ is suggested as a core component of estate management and community planning. Communication

relies on a clear understanding of who is the landowner and the 'community', in addition to a common technical language for land management/transactions. The role of professional brokers and external support was considered in detail by the interviewees and they were in agreement that direct communication is preferable between landowner and community, but that external support may be necessary in certain circumstances to overcome barriers to community land-based activities. In particular, the involvement of individuals and organisations with specialist knowledge can support an 'outcomes' approach. Therefore, the role of land agents, lawyers, community support agencies and others, their culture, attitude, and advisory services are key success factors. The opportunity for further training in community engagement and greater use of mediation and dispute resolution services for these intermediaries was advocated.

A common theme identified as important for achieving positive outcomes was community action planning integrated with a proactive local development plan. This would require evidence gathering processes, effective public consultation, and clarity of communication, community-led visioning and associated action plans. It was also considered important to include land use/capability assessments and that both the community and landowner commit time and effort to the planning process. Tools and approaches for successful community engagement described by the interviewees, included the interactive 'Charrette' process, the use of participatory mapping and technology-based approaches (in particular for gathering the views of urban communities). Stakeholder mapping is also highlighted and the role of facilitated 'round table' discussions to consider alternative options. Availability of funding to support such tools and approaches is important.

Finally, interviewees explained that a critical success factor in overcoming barriers to community land-based activities is an approach to governance and regulation that ensures landowners engage effectively and proactively, with associated penalties and incentives to ensure this is the case. Some interviewees asserted that changing the rhetoric around land reform is important. Others suggest that ensuring the accountability of private landowners is as important in overcoming barriers. At a more specific level, interviewees suggested that greater consideration could be given to identifying opportunities for assets to be sold where not central to the requirements of a land-based business. However, others stressed the need for 'protection' for both communities and landowners, and were concerned that the landowners' perspective is under-represented in such considerations.

### **(iii) Challenges facing private landowners**

The interviewees recognised a range of challenges facing private and third sector landowners in overcoming barriers to community land-based activities. These include landowner perceptions that the community lacks a cohesive vision (due to the small scale of the community body, internal divisions, or the heterogeneity of urban communities), and limitations within the community group, including their capacity, skill set (e.g. communication and business skills) and knowledge (e.g. of land management and farming practices). Challenges also arise when landowner and community engagement is conducted at too late a stage in the development

process, where there is an apparent lack of community interest in engagement processes, or where engagement is not well received by the community.

Disputes between landowner and community can arise due to a lack of trust, or polarised viewpoints. Landowner 'exclusion' from a community body was considered a challenge by interviewees in some cases; in contrast, farmers tend to be more likely to be perceived as community members. Conflicting motivations and objectives of the landowner (and landowning trustees, e.g. conservation objectives) with the community (whose wishes may be for greater employment and housing) can also contribute to challenges.

Further challenges detailed by the interviewees include multiple uncertainties arising from family responsibility and expectation, political rhetoric around land reform, lack of experience in community engagement, negative perceptions held by the community, and/or personality type, in addition to uncertainties that concern business interests (e.g. community land uses and potential security of tenure). Perceived and actual resource costs on the part of the private landowner can be an issue, in terms of time, effort and skills required, plus the expense of community engagement processes. Potential tax liabilities, the scale of impact on land-based businesses, and the costs associated with lease arrangements can also inhibit private landowners from seeking to overcome barriers to community land-based activities as can the landowner's personal capacity and skill set. In addition perceived power imbalances, with disempowerment both on the part of the community and that of the landowner, can inhibit the dialogue necessary to overcome barriers.

#### **(vi) The role for policy in supporting good practice**

The interviewees agreed that policy has a key role to play in supporting good practice in overcoming barriers to community land-based activities. However they also stressed the need to evaluate existing legislative measures and underlying policy before seeking to add further regulation or guidance.

The opportunity for policy to better support community capacity building was raised, including knowledge around land management and terminology, an awareness of available support and participation opportunities in the planning system, as well as further training for institutions in community engagement. A collaborative role for policy, working with landowners, and the professions (e.g. planners, surveyors, lawyers) was advocated. It is recommended that policy development builds on experience from related policy, e.g. the Scottish Outdoor Access Code. Measures of success should be incorporated into policy implementation and guidance as should recognition of good practice and standards of professional conduct.

'Soft' policy approaches were suggested by the interviewees, including best practice templates and guidance. The interviewees also called for clarity regarding the consequences for land owners/managers of failing to adhere to engagement guidance (Part 4 of Land Reform (Scotland) Act 2016), whether statutory or voluntary. There should also be recognition of the role of the forthcoming Land Commission to gather necessary evidence and make recommendations for

mediation, negotiation, and compensation processes. More generally, the interviewees called for policy 'work streams' to be brought closer together (e.g. the Land Use Strategy, LEADER and the National Planning Framework 3), and for planning policy to support community developments (e.g. through 'bolder' use of CPO powers).

# 1. Introduction

## 1.1 Policy context

The Land Reform (Scotland) Act 2003 was a significant step in the Scottish institutional framework, enabling community empowerment through asset-based rural development (Shucksmith, 2010; Skerratt, 2011). The Community Empowerment (Scotland) Act 2015 extends the potential for community land acquisition to urban areas and includes powers for communities to pursue absolute right-to-buy where land is considered abandoned or neglected. Community land acquisition is often supported by public bodies such as Highlands and Islands Enterprise, who ensure that engagement processes demonstrate community representation and seek to appraise the options available for community land-based activities to be pursued. In many cases, effective engagement and negotiation between community and landowner (both public and private) can ensure that community needs are met (Roberts and McKee, 2015) and partnership working between private estate owners and communities has been promoted as a route to sustainable rural development (McKee, 2015; Glass et al., 2012).

The need to promote partnership working between landowners and communities was recognised in the much anticipated Land Reform Bill (now Land Reform (Scotland) Act 2016)<sup>1</sup>. In particular, the Act includes the provision of guidance by Scottish Ministers for landowners and tenants on engaging with communities on land-based decisions (Part 4). The Policy Memorandum that accompanied the Land Reform Bill (as introduced to the Scottish Parliament on 22<sup>nd</sup> June 2015) also detailed some potential consequences for landowners if they fail to consider the guidance including, for example, reduced access to grant funding, as well as measures affecting private property rights, most significantly potential for compulsory sale orders where a community's 'sustainable development' is considered inhibited ('significantly harmed') by landowner actions (Part 5; Scottish Government, 2015).

This project aims to provide an overview of stakeholder views relevant to Part 4 of the Land Reform (Scotland) Act 2016 and to provide recommendations for the guidance to be issued by Scottish Ministers.

## 1.2 Project background and objectives

Roberts and McKee (2015) provide a classification scheme that distinguishes categories of land ownership barriers to community land-based activities. Each category of barrier identified in the classification scheme arises from a different source and thus may require a different resolution mechanism. The case studies identified in this earlier project highlighted several different resolution strategies which had been used to overcome land ownership barriers to community activities. For example, external mediation and consultation processes had been effective in overcoming problems between particular landowners and communities, allowing activities to proceed. The role of intermediaries such as community support actors

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<sup>1</sup> The Land Reform Bill was passed by the Scottish Parliament on 16th March 2016 and received Royal Assent on 22nd April 2016.



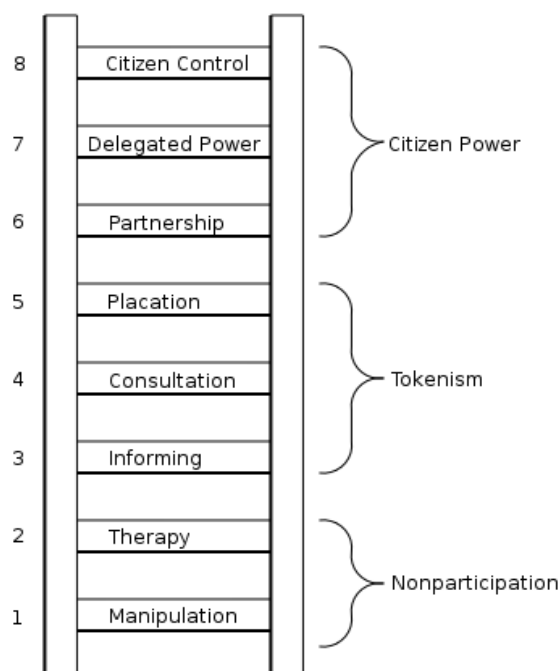
and land agents was highlighted as critical to a successful resolution, as well as the timescale for negotiation (Roberts and McKee, 2015).

This report builds on this by reporting insights from interviews with the representatives from the private landowning sector regarding the challenges and opportunities to the adoption of different strategies and achieving good practice in the resolution of barriers to community land-based activities. It complements previous research on landowner-community engagement and partnership working (cf. McKee, 2015; Glass et al., 2012) and provides detail on the practicalities, resource implications and the role of policy in supporting and resolving barriers when they occur.

## 2. Theoretical background to the project: resolving barriers through collaborative planning and engagement

An increasing emphasis is being placed on ‘community engagement’ by practitioners and academics, building on lessons of best practice and developing contemporary ‘participatory governance’ (see Reed, 2008; Sarkissian et al., 2009; SCDC, 2011). The term ‘engagement’ is taken to represent different types of participatory processes and information flows, in particular reflecting the higher ‘rungs’ of Arnstein’s ‘ladder of participation’ (1969; see Figure 1). It is defined within the ‘National Standards for Community Engagement’ as:

“Developing and sustaining a working relationship between one or more public body and one or more community group, to help them both to understand and act on the needs or issues that the community experiences” (Communities Scotland, 2005: 4).



**Figure 1 The eight-rung ‘ladder of citizen participation’ after Arnstein (1969)**

There is consensus within the academic literature that community engagement processes can lead to community empowerment in decision-making (Carr and Halvorsen, 2001; Mohan and Stokke, 2000; Habermas, 1973; Habermas, 1981; McKee, 2015). The literature on participatory governance highlights further benefits to community engagement processes, including:

- better decision-making due to the inclusion of a wider range of perspectives and expertise and local knowledge (Reed, 2008; Irvine et al., 2009);
- increasing the potential for innovation (Brandenburg et al., 1995 in Carr and Halvorsen, 2001);

- greater support for land management practices and land use change through increased public understanding and ‘social learning’ (Reed et al., 2010);
- providing support for the implementation of policy;
- reducing the potential for conflict (Warren, 2009; Dandy et al., 2014);
- building trusting and respectful relationships (Richards et al., 2004; Sarkissian et al., 2009; Walker et al., 2010); and
- offering financial and time-saving benefits (Pretty, 2003 in Dandy et al., 2014).

Key thinkers in spatial and urban planning have considered the potential for communicative or collaborative processes to improve public participation and achieve consensus between diverse communities. Healey and colleagues advocate the change in governance ‘culture’ necessary to improve the management of co-existence in ‘shared spaces’ through deliberative processes and ‘collaborative, inclusionary planning processes’ (Healey, 2006:297; see also Healey et al., 2003). Such planning processes may include the ‘*Charretteplus®*’ model designed and utilised by PAS, involving a series of intense, collaborative workshops, informed by local community aspirations and concerns, and integrating both spatial and community planning (PAS, 2014). Participatory mapping techniques have also been used by researchers to bring together community perspectives, for example, to resolve marine planning conflicts, or to resolve water quality issues within the implementation of the Water Framework Directive (Martin-Ortega et al., 2015). Healey explains that through social interaction and debate, collective action can be achieved, contributing to mutual understanding and in turn building relational resources. These relational bonds rely on trust and generate intellectual, political and social capital, as well as institutional capacity (Healey, 2006:297; see also Healey et al., 2003).

Similarly, Allmendinger (2009) supports the shift to communicative and collaborative planning approaches to allow disparate communities to reach agreement and formulate plans, in particular advocating the following principles: (i) to undertake constant reflection to ensure transparency; (ii) to expose and challenge existing power relations; and (iii) to adopt a more ‘active and creative’ role in the development of new processes and structures, leading to ‘planner reflexivity’ regarding current roles and existing power relations (Allmendinger, 2001 in Allmendinger, 2009: 10).

As MacGregor (1993) asserts, private landowners in Scotland play a central (if informal) role in rural planning. It follows that the principles derived from Allmendinger may be applicable in the context of rural land use planning, for example with regard to increasing landowner accountability and allowing for traditional power structures in rural areas. A knowledge gap exists with regard to urban landowners, although Adams (2013) highlights the necessity to promote a ‘discourse of property responsibility’ in urban areas. Nonetheless, greater community involvement in land management may be facilitated through the

encouragement and/or requirement for private landowners to adopt the principles advocated by Healey and Allmendinger, amongst others. Even after adopting these principles, several barriers may exist that inhibit resolution strategies. For example, private landowners may be limited by a lack of practical facilitation skills or may lack confidence to engage with communities. Incorporating a wide range of viewpoints into a decision-making or development process takes time and can result in costs. Identifying the 'community' and community representatives with which to engage is similarly reported as a common challenge for landowners (cf. McKee, 2015; Glass et al., 2012). Further challenges include issues around managing community expectations, and the constraints of 'non-negotiables,' or where community involvement in the decision-making process is not an option (Richards et al., 2004). A further critical challenge is capacity, on the part of the landowner (see Skerratt, 2010) and the level of community capacity, either collective or individual (Baker, 2006; Middlemiss and Parish, 2010; Fischer and McKee, under review).

The design of successful engagement processes in order to achieve mutual understanding can be derived from the Theory of Communicative Action, devised by the social theorist Jürgen Habermas (Habermas, 1973; 1981). Habermas argues that mutual understanding (and thus 'Communicative Action') is supported through the creation of a so-called 'ideal speech situation'. The ideal speech situation ensures that all participants have the opportunity to express their views and contribute to democratic decision-making (Harvey Brown and Goodman, 2001; Allmendinger, 2009). A summary of indicators of ideal speech are presented in Table 1.

**Table 1 Summary of indices of an 'ideal speech situation' according to Habermas (after Duckett *et al.*, Under Review).**

<b>Summary 'ideal speech' indices</b>	<b>Description</b>
(1) Domination-free	<ul style="list-style-type: none"> <li>• Voices are heard equally;</li> <li>• Absence of hierarchy;</li> <li>• Authority based on 'good argument';</li> <li>• Allows for criticism and reply.</li> </ul>
(2) Free from strategizing	<ul style="list-style-type: none"> <li>• Rationally motivated agreements end disputes;</li> <li>• Implicit knowledge is theoretically explicit ('all cards on the table');</li> <li>• Universality: principles transcend specific locations and situations.</li> </ul>
(3) Deception-free	<ul style="list-style-type: none"> <li>• Absence of deception through participation;</li> <li>• Trust implicit through assumption of consensus.</li> </ul>
(4) Egalitarian	<ul style="list-style-type: none"> <li>• Power relations between participants play no role in the situation.</li> </ul>
(5) Promotes intersubjective validity claims	<ul style="list-style-type: none"> <li>• Encourages exchange and acceptance of diverse viewpoints.</li> </ul>
(6) Recognises different kinds of evidence	<ul style="list-style-type: none"> <li>• An open, respectful environment allows a variety of knowledge claims, different grounds or ways of backing claims to be brought to the table including anecdotal evidence.</li> </ul>
(7) Constraint-free	<ul style="list-style-type: none"> <li>• No limits on participation (i.e. in terms of numbers, knowledge types, etc.);</li> <li>• No force (or exertion of power), except the force of better argument;</li> <li>• Better arguments to stand, nothing ruled-out or ruled-in.</li> </ul>
(8) Inclusive	<ul style="list-style-type: none"> <li>• Includes all those who are affected by its decisions.</li> </ul>

Research findings based on six ethnographic case studies by McKee (2015) sought to identify the opportunities and threats of partnership working between estates and communities, including the importance of positive engagement processes. Incorporating a Habermasian perspective highlights the importance of the principles of Communicative Action for landowner legitimacy and sustainable estate community development (McKee, 2015).

Based on this theoretical background and building on previous studies in the area, this report explores the range of resolution strategies adopted to overcome barriers to community land-based activities, the challenges and opportunities associated with their adoption, and the types of incentive and support required to ensure successful resolutions to barriers to community land-based activities on privately-owned land.

### 3. Research Approach

The findings reported are based on data collected through semi-structured interviews with a purposive sample of 20 key informants (henceforth project 'interviewees') who represent the private landowning sector in Scotland. The interviewees were selected to cover a range of private landowner types and included those who act as intermediaries and facilitators during such resolution processes. The project therefore gained from their professional experience (rather than the personal involvement of landowners directly). Interviewees were also recruited in order to cover a range of landholding size and land use types, invited from the professional networks of the project team, according to previous knowledge, and in conjunction with Scottish Government and stakeholder recommendations. Interviewees were further identified according to the regional and urban-rural differences noted by Roberts and McKee (2015). Final interviewee lists were agreed with the Scottish Government<sup>2</sup>.

Interviewees included representatives of Scottish Land & Estates (SLE) and the National Farmers Union Scotland (NFUS), representatives of the forestry sector, including those with community development responsibilities, representatives of conservation landowners, representatives of the Royal Institution of Chartered Surveyors (RICS), as well as rural and urban land surveyors (e.g. employed within traditional land agency companies), planners and representatives from the Valuation Office Agency (VOA).

In advance of the interview, a copy of the 'barriers framework' developed in Roberts and McKee, (2015) was sent to interviewees. During the interview, the interviewees were asked to describe their experience of overcoming barriers to community land-based activities, including the types of strategies adopted, and their associated benefits and challenges. This provided detail on the perceived 'success factors', resource implications and the role of policy in overcoming barriers to community land based activities from the perspective of the private landowning sector. The interviewees were also asked to provide their views on 'good practice' by communities and landowners in overcoming barriers to community land-based activities, in addition to their perceptions of whether type of landowner or geography (i.e. whether urban or rural) influences how barriers may be overcome. The majority of interviews were conducted over the phone (two were undertaken face-to-face) and typically lasted between 50 and 90 minutes.

Interviews were recorded by digital Dictaphone, with permission from the participants. A thematic analysis of the qualitative data gathered from the interviews was undertaken using Nvivo software.

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<sup>2</sup> Interviewees will remain anonymous until they have received a copy of this draft report, and confirm that they are happy to be listed as a consultee.

Sections 4 - 7 describe overarching findings from the interviews, presenting a schematic for supporting good practice in overcoming barriers to community land-based activities (Figure 2). Section 4 begins with details of the case studies described by the interviewees and highlights the types of resolution strategies adopted. Section 5 presents the range of 'success factors' identified by the interviewees and the challenges facing private landowners are outlined in Section 6. Principles for 'good practice' for both communities and landowners as suggested by the interviewees are detailed in Section 7, with the report's findings concluding with views on the role for policy in this area.

## 4. Findings

### 4.1 Summary of case studies and types of resolution strategies adopted

The interviewees described their experience and knowledge of a number of case studies which demonstrated the resolution of barriers to community land based activities, including the resolution strategies adopted, and associated benefits and challenges. The case studies involved community asset transfer processes around forestry and key infrastructure, such as harbours and community centres, as well as community-led affordable housing, renewable energy, crofting and non-crofting land acquisition. Examples of effective community engagement also emerged in conjunction to private water supplies, estate master-planning, as well as residential and commercial developments, in rural and urban areas, and lead by both landowners and developers. A summary table of illustrative, anonymous, case studies with positive resolutions is presented in Table 1, Appendix A.

The barriers evident in these case studies align with those presented in the classification by Roberts and McKee (2015; reproduced in Table 2, Appendix B). It is interesting to note that a common barrier highlighted by interviewees was a lack of confidence in the community body seeking to use/acquire the land asset, in particular where there is the sense that the community has not agreed a vision for the asset (and ensuring representation from the community as a whole), they do not have a viable business plan, and/or there is a lack of leadership, accountable governance structures, funding, or adequate (and apolitical) community advisory support. Interviewees also raised concerns that current land use was not considered in community land-based activity development, or the impact on existing land-based businesses. These perceived barriers from the landowning perspective provide further insights on the nature of sub-categories F and G: 'structural barriers facing communities' and 'community constraints and decisions' in the Roberts and McKee classification scheme, as well as sub-category E: 'owner unwilling to sell or lease land'.

Strategies adopted in order to overcome barriers to community land-based activities within the cases described by the interviewees can be categorised into five sets as follows:

- **Communication:** Information provision for the community (by face-to-face presentation or document, e.g. newsletter) by landowners/land management representatives.
- **Community engagement:** Public meetings (either development specific or pre-planned community council meetings); Charrette-type processes; negotiation; facilitation by external 'honest broker'/mediation.
- **Partnership approaches:** Between proactive landowner/management and community body; estate provision of expertise and/or financial



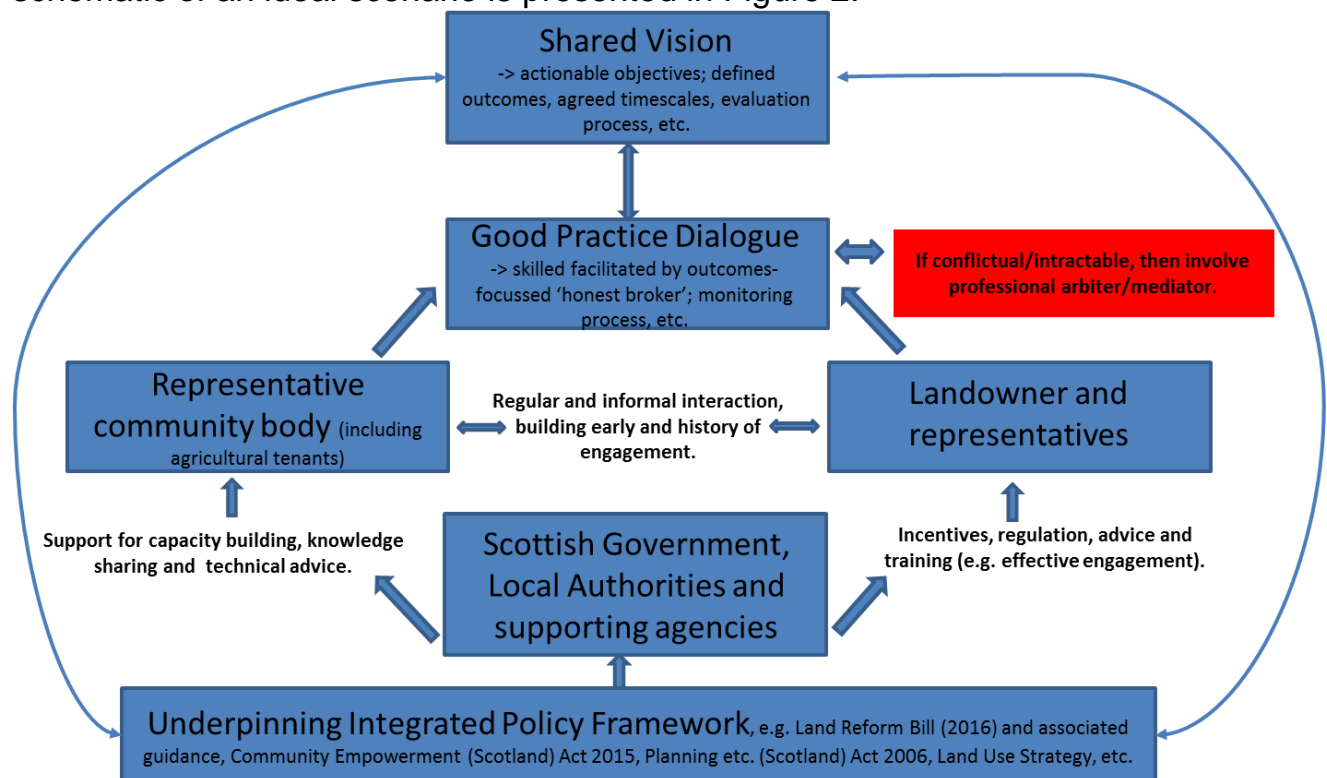
support for community land-based activity; advisors and lawyers adopt partnership principles.

- **Land access agreements:** Signing of concordat between landowner, local authority, community bodies, and other actors, e.g. developers and power companies; agreement of 'meanwhile use' or special purpose vehicle for community land-based activity (e.g. license).
- **Transfer of ownership/management rights:** Provision of land/asset by landowner to community (by donation, discounted sale or market price); consideration of alternative sites; lease arrangements; partial community purchase; asset ownership jointly between community and third sector organisation.

Further details of the challenges and opportunities of these resolution strategies are considered in the following sections.

## 5. 'Success factors' in overcoming barriers to community land-based activities

The interviewees highlighted the range of perceived 'success factors' that emerge from their experiences of these resolution strategies. A simple schematic of an ideal scenario is presented in Figure 2.



**Figure 2. Schematic summarising the components and participants of 'good practice' for supporting community land-based activity.**

### 5.1 The importance of behaviour and attitude: the role of individuals

The interviewees stressed the importance of awareness of the influence of individual personalities in overcoming barriers to community land-based activities, thus: "individual characters – they can play such an important part... You get the wrong person and it is a complete disaster." Personalities which were considered to be conducive to overcoming barriers are described as 'engaging', energetic, capable and with an understanding of community dynamics. Barriers are therefore overcome by 'champions' within organisations or individuals, who are willing to talk to stakeholders and drive a process of joined visioning. A key factor is therefore that the landowner works with these individuals or may be that person themselves.

Similarly, the interviewees described the importance of behaviour and attitude in overcoming barriers to community land-based activities. Again it is highlighted that attitude relies on personalities, and that success is built on developing trust. There is therefore a need for individuals involved to act in a professional manner, be respectful, honest and open about the process.

Building trust can take considerable time, and relies on an ability to understand the perspectives of others. Interviewees recommend that one success factor is establishing 'principles of exchange', i.e. the rules and framework for engagement between parties although applied with discretion and flexibility. For example, if a community seeks an asset transfer, identifying and agreeing the 'rules of engagement' surrounding this transfer, can allow a more constructive and responsive approach, and overcome perceived or actual immediately negative reactions from landowners on community requests for land. Furthermore, this approach could mitigate the influence of the 'individual', by providing a 'code' for different situations/community requests.

## **5.2 Sharing viewpoints and seeking areas of common cause: opportunity of community-landowner partnerships**

The interviewees highlighted a shared responsibility to engage in discussion as important where 'everyone sits around the table and thinks for the common good'. This discussion incorporates all stakeholders (beyond only the central 'players') in order to understand their different roles and drivers. There may be a need for greater explanation between landowner and community regarding their different circumstances and aspirations, for example, the challenges facing community volunteers, or landowners who wish to retain ownership for family heritage. There must be respect for each party and their role in the discussion. Overall, the interviewees called for a conciliatory commentary, seeking areas of 'common cause' and collaborative problem solving, and seeking to achieve the best outcome for all.

Case studies show that the existence of tangible links between communities and estates can contribute to the success of community land-based activities. Communities can benefit from access to capital investment (that can in-turn lead to opportunities for further public funding), expertise, and capacity through partnerships with landowners. Successful partnerships develop 'win-win' outcomes for landowner and community. For example, with regard to a joint renewable energy development, the landowner could gain income from a lease arrangement, whilst the community (the lease holders) would gain income from the renewable energy developed. However, the interviewees also described the importance of identifying aims and objectives, and the purpose of the partnership, in addition to the terms of reference (although these can be quite 'high level' and summarised to a short document). Underpinning successful partnerships are principles of: "openness, sharing information, communications, and willingness of community to work with the estate and vice-versa."

## **5.3 The importance of proactive and high quality engagement**

This 'willingness' to engage was explained in-depth by the interviewees, who agreed that proactive engagement between landowner and community is crucial. A key success factor in overcoming barriers to community land-based

activities is pre-emptive engagement that provides a baseline for future dialogue if a dispute arises (e.g. a hostile sale or registration of community interest in the land), thus, as described: “do it in peacetime and you might get some really good results, and when opportunities come up, you might be able to react to them.” Proactive engagement may also avoid so-called ‘have a punt’ planning applications by community groups, as reported by the interviewees, without the landowners’ knowledge. Interviewees explained that it can be more difficult to reach agreement where engagement has built around a conflict. Proactive engagement can include education, e.g. involving school-age children in countryside management, as opposed to reactive engagement, when complaints or barriers arise. Similarly, during processes of valuation, interviewees explained that opening a dialogue with reference to land price can lead to enflamed discussions; therefore success factors include ‘friendly’ negotiations from the outset, including a spirit and readiness to get to a conclusion (i.e. an effective valuation process), and establishing a dialogue process centred on the objectives for the sale, instead of the price.

Underpinning this success factor is the need for the development of positive relationships between all stakeholders. Interviewees described success factors as sustainable/sustained and meaningful engagement in a community, or ‘constant consultation’, which would contribute to community empowerment. As mentioned by some interviewees, there is a need to ensure engagement by those who are ‘seldom heard’, e.g. young people, and those not involved with their community council or interest groups. Indeed, there is a need for other agencies (beyond landowners) to be more proactive in wider engagement. Interviewees also raised the question of community ownership (or the disputed phrase ‘sense of ownership’) as underpinning engagement processes; this may be interpreted as the need for power relations to be equal in discussions between landowners and communities.

Ensuring the quality of engagement processes was raised as a key success factor by interviewees, and that this requirement is an ongoing challenge. High quality engagement includes monitoring and evaluation of the engagement process occurs. There is, however, no ‘one-size-fits-all’ approach, and whilst community engagement theory is well understood, its practice is considered highly variable by interviewees. Therefore a handbook detailing ‘good practice’ in landowner-community engagement is recommended by this group of interviewees (see also Section 7).

#### **5.4 The importance of communication and language**

A further key success factor in overcoming barriers to community land-based activities described by the interviewees relates to how individuals/organisations communicate. Communication from and between all parties is crucial, and having a ‘communication plan’ was suggested as essential. This plan should detail the range and type of stakeholders, plus “what are you going to tell them and how are you going to tell it.” Provocative

or 'marketing' language is not recommended; instead communication can involve a simple update of estate management/ community planning. For example, interviewees suggest that farmers 'knock on doors' and explain what they are going to do on farmland adjacent to communities. For example, in overcoming barriers to community recreational access, one interviewee explains:

"It can come down to something as simple as...approaching the party that does not wish to provide access and explaining why access is required – and identifying incentives to that individual to allow a project to continue."

An associated success factor is a clear definition of 'who is the community', in addition to an awareness of previous community activities. Similarly, the landowner must be known to the community, therefore the importance of visible and accessible land management representatives (e.g. landowner (estate owner or farmer) and/or appointed land manager) is highlighted as important. If land management representatives are not known to the community, there may be a greater likelihood of negative communication, as described:

"People have got to know who to come and speak to – or they just won't do that. If it is easier to pick up the phone to the local paper or councillor, then they will do that. ...you've got to put yourself out there [i.e.as the representative of landowner]."

However, this viewpoint contradicts that held by other interviewees, who believe that a distance or external perspective to the community can be important for land management representatives in order to overcome barriers (see also Section 5.3). More generally, as mentioned in Section 5.1, the perceived attitude of the land management representative is considered the key success factor in communications with communities. Therefore, land management representatives are also required to be "open, honest, and transparent in their thinking".

A further success factor relating to communication is the need to 'get the language right for engagement'. In particular, certain words and the technical use of language used in land management can be exclusionary for those not involved in the professional land sector, therefore such language may be misconstrued and misunderstood. Land managers may be asked to explain processes, such as the requirement for slow-moving and heavy machinery, deer management, etc. Interviewees asserted that all landowners, agents, communities, and those acting for communities should be able to speak a similar or common professional language. However, it was questioned whether land agents should speak a language that those not trained in land transactions/management could also understand, or whether community

representatives should be trained to be able to better understand the existing professional language. Nonetheless, a common technical language is considered a critical success factor by the interviewees, as well as consideration of the role of culture in land management.

### **5.5 The role of professional brokers and external support**

Professional brokers can act as the intermediary when disputes arise, can lead negotiations, understand the processes and viewpoints, build on existing positive relationships (e.g. with landowners), or alternatively can adopt an external, facilitative position: 'I'm an outsider, let's talk this over'. The interviewees described a current perception that advisors tend to be aligned with one or other viewpoint in the current land reform debate. Nonetheless, the involvement of high quality support staff, able to bridge the gap between land managers and other parts of the community, are considered a critical success factor to 'working well together'. Such support roles may be provided by charities, bodies such as the administrators of the CARES Fund, Foundation Scotland, independent 'registered facilitators', or Local Access Groups.

A further factor suggested by the interviewees is the ability of communities to partner with commercial enterprises or governmental bodies to help them to overcome a lack of expertise, issues of community capacity and critical mass. Stronger partnerships between communities and local authorities were also identified as useful. Consequently there is a need to ensure 'helpful' staff cultures within community support agencies, local authorities, the national park authorities, amongst others. Scottish Enterprise, Business Gateway and SRUC were highlighted as providing support to communities and landowners, especially private landowners, due to existing policy support for public landowners. Raising awareness of the support available to landowners and communities (in particular where it is free) was highlighted as important.

Training is also recommended by the interviewees for institutions (including local authorities or other public bodies) in order to improve community engagement, and to foster a 'cross-cutting' culture of assisting and being integrated with communities; thus: "training programmes or signposts to assistance for communities should be very well known across council departments or other bodies." It is noted that PAS has specifically designed training in advanced engagement skills for the public and private sector<sup>3</sup>. Similarly, community engagement training has been explored by Scottish Land & Estates, in order to encourage landowners and land agents to 'put themselves in the shoes of the local community'. The interviewees believe that such training should be integrated into college courses on estate management and that there is an opportunity for community development professionals to

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<sup>3</sup> Interviewees referred to the PAS toolkit for effective engagement 'SP=EED®' and associated verification programme.

update their approach. A key success factor in overcoming barriers to community land-based activities is thus developing the knowledge base and skillset of Local Development Officers (see also Section 5.1).

## **5.6 Adopting an outcomes approach: assessing options for community land-based activities**

Interviewees also described the merits of an ‘outcomes’ or ‘shared visions’ approach, with consideration of the options for achieving the desired outcomes, as a means of overcoming barriers to community land-based activities. Such a ‘resolution-focussed’ dialogue approaches issues from the ‘solutions-end’, rather than a negative perspective (see also Section 5.3). A resolution strategy ‘road map’ or ‘toolkit’ is suggested by interviewees, similar to that provided by DTAS, Cairngorms National Park toolkit or the visioning, charrette approach used in creating ‘Ballater, One Voice Our Future’. Interviewees stated that even the process of completing this toolkit during a meeting would encourage progress, allowing discussion regarding aims, ambitions and agreed measures of ‘successes. This will require all stakeholders expressing the goals of what they are trying to achieve, and the involvement of individuals and organisations that specialise in the desired outcome, e.g. housing associations, Rural Housing Scotland, private companies, etc.

Related to this, the interviewees highlighted the need to understand the desired ‘end-points’ of those in the discussion, including political timescales and budget cycles. It should also be recognised that cycles of community capacity exist and community energy can diminish. Therefore, there is a need to be transparent, up-front and honest about time requirements/limitations faced by the community, landowner and public bodies involved, including the time anticipated for decision-making, and additional time required in the instance that a decision has to go to the Minister.

The interviewees described how motivation can change towards community land-based activities when ownership becomes an option, thus: “once people take over the land they have much more incentive or investment in making things happen – and therefore they tend to happen more.” In many situations ownership is considered the best option to ensure a continuous/secure land use and/or access to land for a community activity. However, the interviewees also suggested that assessing options other than ownership might lead to better community outcomes. Establishing alternative arrangements for community use of land other than ownership, e.g. lease arrangements, part ownership, could be a way forward. The interviewees advocated ‘thinking outside of the box’ in order to overcome barriers, with one example of a special purpose vehicle designed for a community group to become ‘gardening contractors’, therefore establishing a maintenance agreement (and access to land for a community garden), rather than a lease or ownership transfer.



It was agreed that different types of assets require different types and lengths of leases and a success factor is ensuring the appropriate lease type is agreed. A further success factor may be to reduce fees for lease arrangements and to develop relationships with funding organisations that will provide support to communities with lease arrangements. Examples of landowners negotiating with the source of community funding (e.g. the Big Lottery) were highlighted in order to reach agreement that a long lease was a suitable alternative to ownership transfer. This arrangement was considered successful because it permits community capacity building through the management of the asset and demonstrates the community's commitment to the land-based activity, which supports a later proposal for ownership.

Whilst opportunities of 'meanwhile use' by communities can be a route to overcome barriers, the interviewees explained that further concerns regarding the community group getting security of tenure may be overcome by documenting community use as a licence and not a lease, thereby removing the possibility of creating unintentional agricultural leases (which may lead to eligibility by the community for right to buy, compensation for improvements, etc.). However, where community growing becomes more commercial it may be considered closer to the definition of agriculture, thus highlighting the potential for 'unintended consequences' of insufficient landowner-community engagement. A key success factor therefore is ensuring early and adequate discussion, and supporting requests for appropriate lease arrangements.

'Local Management Agreements' (LMAs) were also highlighted as useful by the interviewees. LMAs are described as an option with a full lease attached, an option within a lease, or an option with a possibility to purchase, depending on the aspirations of the community body. The LMA mechanism is designed to overcome a community perception that the landowner will automatically refuse a request for land access, therefore dissuading community proposals. It therefore 'removes barriers' and seeks to demonstrate that the landowner is supportive of community land-based activities, developing positive relationships. The documentation of a LMA can support funding applications by the community body, as well as an "incremental process for people to have the confidence to say, 'we're making progress and this might work'."

## **5.7 The importance of community planning processes**

A common theme amongst the interviewees was the importance of community action planning that integrates with a proactive local development plan. Critically, this relies on greater awareness by, and community engagement in, local planning processes, and ensuring opportunities for participation. It was recognised that this goal is supported by the increasing dynamism of local development planning processes within Scotland and the increasing frequency of the plan review process. Similarly, the role of the 'Place Standard' was highlighted by interviewees as supporting more discussions around 'place', and encouraging greater involvement in the place agenda, by



landowners and community groups (i.e. taking an interest earlier rather than waiting to be consulted). The interviewees believe that local planning authorities can be a catalyst for positive relationships through initiating and participating in multiple discussions with housing associations, private landowners, developers and community groups, and can provide an honest broker-type role. Neighbourhood planning in England and Wales was also highlighted as models from which to learn. The ability of communities to hold local authorities and public landowners to account is also recognised as a success factor in overcoming barriers to community land-based activities.

The interviewees suggested that the production of a community action plan should involve consultation with all community groups (including children; see Section 5.3) undertaken by clearly-defined facilitators, and with the ability to gather the wishes/needs of the community and landowners, as well as an objective assessment of how/who can fulfil these needs. Success factors therefore include evidence gathering processes, effective public consultation, clarity of communication, community-led visioning and associated action plans. It is also considered important to include land use/capability assessment and the identification of 'most productive use'. Both community and landowner need to maintain a broad outlook, possess an appropriate skill set, provide time and effort to the community planning process, and where necessary, funding. The opportunity to explore examples of best practice (and to identify why certain options have been unsuccessful) was highlighted as useful, in particular the level of high quality information available from existing community land-based activities. It was also flagged by interviewees that DTAS provides grants for members to visit other community projects around the country.

## 5.8 Tools and approaches for successful community engagement

A key factor in overcoming barriers to community land-based activity highlighted by interviewees is the need for an engaged general public, in both rural and urban areas, and it was recognised that successful engagement required the use of appropriate and high quality tools and approaches. For example, a 'Charrette' process is advocated by interviewees, as it provides an opportunity to begin open discussions with community groups regarding local development and land use planning, as well as a route to ensure that community proposals are well considered. Charrette processes are interactive, but also resource and time intensive, and the issue of who should cover this cost (i.e. developers, landowners or communities) remained unclear. A further challenge to successful Charrette processes was the need to integrate 'animation' and to ensure a 'hook' to motivate participation. One suggestion to overcome this challenge is to develop processes/policy in conjunction with national-scale funders, therefore undertaking this engagement model could be a criterion for funding.

Whilst some Charrette processes experienced by interviewees have included external parties, such as famous architects, it was suggested that locally-focussed events may be more 'sustainable'. A successful Charrette depends on the engagement process overall and how it is perceived by different parties, including the community, and their expectations. Interviewees noted that the PAS *Charretteplus*® programme is increasingly used by communities and Local Authorities to build partnerships and align aspirations.

Managing expectations is important. This depends on the composition and concerns of the 'community' (e. g. whether there is housing need, which may minimise objections to new developments, etc.), and where consultations cannot be a 'blank sheet' for community input, because of restrictions in terms of critical infrastructure needs and engineering parameters. In such cases, interviewees recommend the use of large-scale, clear maps during consultation processes (e.g. for forestry planning), and to provide a set of draft proposals that consultees can agree/disagree with. However, there is also a need to recognise the difference between 'informing' and 'consulting', and to be clear as to which operational aspects require consultation.

The greater use of IT for gathering views from urban communities in particular (e.g. through online polls) was suggested. Stakeholder mapping exercises were also suggested as a means of ensuring representation of community members beyond the community council. Therefore: "it is important to take some time to think through everybody that you are trying to reach, before you start - rather than just putting an ad in the paper, or saying 'we need to have a drop-in event'."

A related success factor in overcoming barriers to community land-based activities is the presentation of alternative locations/timescales, in order to

seek compromises. A facilitated 'round table' discussion can be successful for all stakeholders to present and discuss alternatives, and was frequently mentioned by the interviewees. To overcome entrenched views, or if the outcome of the discussion is binding for participants, mediation processes are recommended. The interviewees stressed that mediation should be undertaken by a professionally trained mediator. It is reported that in other countries (e.g. Austria and Sweden), mediation is more successfully utilised than in Scotland, and that there is potential for greater uptake in Scotland. Indeed, a key success factor is awareness amongst landowners that guidance exists regarding community land-based activities. For example, the RICS dispute resolution service was flagged by interviewees as useful and freely available to all.

Despite the availability of free support, a critical success factor is funding, for both community groups and landowners. Funding is required for feasibility options appraisal, technical and surveyor costs, as well as the cost of asset acquisition. Government funding at present does not provide all funding required and particular skills are required in order to be awarded grant funding. Interviewees highlighted the need for bridging finance for community groups as critical when competing with a conventional buyer. Land use planning that seeks to avoid land value inflation is considered a further success factor. However, others believe that funding availability is a driver for community ownership. Either way, funding provides confidence and the possibility of assessing different options to achieve positive outcomes.

### **5.9 Private landownership accountability: balancing incentives and regulation**

Finally, interviewees explained that a critical success factor in overcoming barriers to community land-based activities is an approach to governance and regulation that ensures landowners engage effectively and proactively, with associated penalties and incentives. Interviewees asserted that if a barrier is insurmountable through processes of dialogue (using tools and approaches outlined in Section 5.8) then legislative power should be enacted although it was noted that this has been a rare occurrence since the implementation of the Land Reform (Scotland) Act 2003. An integrated regulatory system is recommended, but also one that is not overly-bureaucratic. For example, interviewees propose that it is in the landowners' interests to register land assets with the Land Register for their own 'data storage', as well as for public knowledge.

The interviewees also asserted that changing the rhetoric around land reform is critical, promoting the message that supporting community land-based activities is neither about removing private landowners across Scotland, nor about 'winning with others losing'. Instead, a matrix of land tenure is desired and changing relationships amongst different groups in society. The accountability of private landowners in Scotland is a critical factor in

overcoming barriers to community land-based activities. Improving accountability is intended through the Scottish Land & Estates' 'Landowners' Commitment', which seeks to encourage landowning members to be much more open about their management practices, to provide management statements and estate plans, for wider scrutiny. This may help identify opportunities for assets to be sold where not 'needed' by landowners.

## 6. Challenges facing private landowners

A range of challenges facing private and third sector landowners were identified affecting their ability to overcome barriers to community land based activities. These included perceptions that **the community lacks a cohesive vision**. Interviewees shared experiences of community groups 'at odds with each other', presenting different views and aspirations, and raising the question of 'who' is the community. Indeed, interviewees agreed that there is a need to define 'community' and challenged the correspondence of existing legislative definitions with 'reality', e.g. the differences between crofting and non-crofting communities, plus communities of interest (e.g. recreational land users).

Challenges arise where a community's population lacks consensus and it is difficult for landowners to decide which community group to work with when divisions appear. Furthermore, where a community land-based activity is proposed on land owned by multiple owners, there may also be division in views between landowners, thus: "other landowners didn't necessarily sing from the same hymn sheet".

The interviewees perceived a tendency of communities to object to new developments, unless there is housing or employment need. A fundamental challenge as expressed by the interviewees is that stakeholders (including communities) become aware too late of how the planning system works, and therefore, there are too few people involving themselves at the early, development planning stage. Landowner and community **engagement may therefore be at too late a stage** during the development process to be able to overcome barriers. Early stage discussions can identify current assets and potential, as opposed to late stage discussions that tend to meet barriers, for example, mis-matched timescales for development that inhibit partnership working. However, interviewees explained a sense of anxiety on the part of landowners with regard to open consultation processes, due to the need to manage expectations (especially where infrastructural limitations to development exist), in addition to scepticism, thus: "if you look to ask, you'll definitely get answers". They also highlighted a need to be 'politically careful' as to whether concerns raised through consultation processes are valid.

Interviewees identified several challenges arising from **perceived limitations in community capacity, in terms of skills and knowledge**. This can lead to a slow pace of decision-making/action by some community groups/leaders, limited business experience of some community groups, and concerns where active individuals were to depart from the community. Challenges also arise when messages are not understood, or there is a lack of knowledge and awareness by community groups, e.g. a lack of understanding of farming practices and cycles by those who live in rural areas. Community groups also may lack communication skills, and can struggle to articulate what their aims

and intentions are; this type of communication underpins mutual understanding and respect. There may also be unwillingness within the community to assess alternative options (e.g. different sites/buildings) for their land-based activity, therefore landowners may consider them inflexible. Interviewees stressed that community land-based activities must be “backed up by well thought through, costed, and deliverable plans”.

In some cases challenges arise from **an apparent lack of community interest in engagement processes**, and a lack of direct contact between community and landowner. As experienced within forestry management planning, the interviewees reported that only a small number of people are motivated to comment, with key issues around recreation and maintaining the right of responsible access. Most don't respond due to lack of interest and distance from forests. Challenges therefore arise where communities are considered 'apathetic' (e.g. failing to attend planned meetings) and presume that their proposals will be refused (i.e. perception that landowners will say 'no'). In other cases the community may reject the opportunity to work with a landowner, or where engagement is not well received, e.g. people don't want to speak to the landowner or see them as 'normal', through maintaining a 'feudal' perspective. Interviewees believed that this indicates a need for cultural change. A further challenge, as described by interviewees, arises when a community group does not attempt to speak to a landowner. Indeed, one interviewee described an example where a steering group and feasibility study had been established, before the landowner was approached for land access. Experiences of planning applications from community groups that come 'out of the blue' can be a challenge to landowners, especially as it is easier to integrate community proposals with development plans (as previously described).

Private and third sector landowners are faced with challenges in overcoming barriers to community land-based activities **where disputes arise between landowner and community**, there are conflicting motivations, polarised relationships and a lack of trust between landowner and community (and at times, within the community group). Ongoing disputes between landowners and communities can create pre-emptive barriers. Interviewees explained, for example, that whilst farmers would like the rural community to 'enjoy' their land, disputes can arise when access is taken irresponsibly, e.g. during lambing season, disturbing cereal crops, etc. Landowner representative interviewees explained that challenges to engagement can be due to perceived rudeness, the rejection of landowners' ideas, individuals being made to feel uncomfortable, and even concerns regarding personal attack. Similarly, the apparently 'irrational and unreasonable viewpoints' that can emerge when land use decision-making becomes more participatory can be difficult to overcome on the part of the landowner, as community members can be seen to persist if their wishes are not accommodated for in the final land use plan.

Challenges also arise from entrenched viewpoints and potential loss of control by both parties. For example, it is reported that NGO landowners face 'resentment' due to their involvement in some community projects, despite community capacity issues. Polarised relationships can occur due to behaviours and circumstances (see Section 5.1). Whilst the example of one landowner demonstrates their desire to work in partnership with the community, interviewees perceived that communities generally view this landowner as a 'benign landlord' rather than an empowering partner.

Furthermore, whilst some interviewees believe that 'farmers should be part of the community', others explained that in their view there can be a different relationship between farmers and communities than that of estate owners and communities; thus, whilst estates can provide employment and facilities on their land, farmers tend to be more involved in the local community. Farmers can also be tenants of the estate (in addition to owner-occupiers); therefore inherent differences emerge. The interviewees agreed that a key challenge is the difference in perceptions between landowners and communities; in particular there is a sense that the community want to see the landowner as 'laird'; therefore a key challenge is how to change societal views more widely towards landowners. There is also a sense that landowners are 'damned if they do and damned if they don't', i.e. if they want to be part of the community, they can then be excluded.

The interviewees explained that at times, landowning trustees do not prioritise and therefore proactively support community land-based activities, especially where they do not fit with landowners' objectives. Where local debates are not central to landowners' objectives, landowners can take an 'ostrich approach', and avoid engaging with the issue. Conflicting motivations and objectives of the landowner (e.g. conservation objectives) with the community (e.g. employment and housing) can also contribute to challenges.

**Uncertainty on the part of the landowner** was highlighted as a significant challenge, reflected in a lack of confidence to initiate/participate in community engagement activities. This may result from family responsibility and expectation, political rhetoric around land reform, lack of experience in community engagement, negative perceptions held by the community, and/or personality type. In more detail, the interviewees described uncertainty regarding what is needed by the community and its location, as well as managing different views. Concerns also arise regarding the long term prospects for the community land-based activity/land use, therefore questions emerge including: 'what will happen when community use ends?' and 'will the government take on ownership/management?' There was a perception amongst the interviewees that landowners have concerns regarding the short and long term issues facing community groups. They are also uncertain regarding their role in the community and its development, thus:

“As a landowner, with communities living on the land...[complicated by some crofting and some non-crofting] – should we have a community development officer role really – to be helping to do that. Or should the community be doing that and we’re just part of that process? At the moment, neither is really happening.”

On the other hand, interviewees described uncertainties perceived by landowners that solely concern their business and personal interests. These include: (i) that the landowner will not be able to get vacant possession of a site if it is offered on a temporary basis to a community, and if they need to resort to legal action, then they risk reputational damage; (2) that the resultant land use may be ‘inappropriate’; and (3) that community use could endanger the security (i.e. property rights) of other land. The interviewees describe a fear amongst landowners of acting incorrectly and jeopardising their landowning continuity (with an impact on their family, for example). Uncertainty regarding the impact/influence of the Land Reform Bill<sup>4</sup> was highlighted by interviewees, in addition to the surrounding political rhetoric.

**Perceived and actual resource costs** are a challenge to landowners. Such costs can include estate staff time, specialist advice, funding for feasibility studies, support for project management, and facilitating community engagement activities. There is also a perception that creativity in community engagement can be restricted due to associated costs (and tight resources) as well as ‘defensiveness’ and mistrust. Landowner representative interviewees explain that land use decision making that is more participatory and requires facilitating a dialogue with a community is in turn more time-consuming. This could lead to less management time available, and due to a lack of funding, there could also be less access to specialist advice (e.g. crofting expertise). This has implications for the availability of skills and how landowners’ undertake estate management/future planning. Interviewees also highlighted commercial sensitivity which can impact on how barriers to community land-based activities can be overcome.

When barriers arise regarding a landowners’ reluctance to sell land, interviewees recommended an increased understanding of the landowner’s tax situation would be helpful. Therefore, the landowner may not wish to/be able to sell land (and at time desired by the community), because if the sale counts as a capital receipt then the landowner may have to pay 40% tax. Such tax consequences are also mentioned in relation to current and potential absolute ‘rights-to-buy’ for communities. Furthermore, interviewees representing third sector landowners revealed a lack of community and funder recognition of the landowners’ fiduciary duty and conditions of ownership (e.g. inalienable rights).

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<sup>4</sup> During the period of interviewing the Land Reform Bill had not yet reached the Stage 3 debate in the Scottish Parliament; see also Footnote 1.



The interviewees also described issues associated with lease arrangements, including the potential cost to landlords of registering leases of more than 20 years in the Land Register<sup>5</sup>, as well as examples of defectively-worded leases and community groups that no longer functioning, therefore it is not clear who is entitled to end the lease. However, these problems must be kept ‘in proportion’ according to the interviewees and to satisfy the Registers of Scotland, therefore interviewees are in agreement with the intentions of the Long Leases (Scotland) Act 2012.

Interviewees agreed with the earlier report (Roberts and McKee, 2015), which they believe suggests that ‘farmers are sometimes less willing to communicate with communities in order to take a project forward’, due to the scale of impact on farm businesses<sup>6</sup> and the potential to lose income from transferring land ownership/management to communities. Thus: “small farmers...might have more to potentially lose, than a bigger estate – they could afford to lose a small piece of land, whereas a small piece of land to a farmer could be 25% of their income.” In addition, estates may be better placed to offer alternative sites for community projects. Interviewees agreed that scale of business and land owned is a critical factor in how landowners engage with communities. Interviewees recommend that ‘safeguards’ /government interventions are established that understand the implications for the individual farmer, and assess the extent of landownership, land use, and the potential impact on the value of the business overall.

A further challenge as described by the interviewees is that of **landowner capacity and skill set**. At times landowners can be less well equipped to communicate an estate/business plan, which restricts their perceived transparency, and how well a community can understand their position. Landowners (and their representatives) are described as at times lacking in ‘emotional intelligence’ and empathy, although it is noted that this is very subjectively viewed. Nonetheless, apparently panicked and reactionary responses by private landowners to requests by local authorities or communities can generate a perception that the landowner does not wish to engage in discussion or negotiation. Interviewees mention a tendency for foreign and absentee owners to appear less motivated to engage, which can lead to a lack of recognition by the landowner of the representative community body, as opposed to individuals (e.g. tenants).

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<sup>5</sup> As explained by one interviewee, the cost of registering a lease would be borne by the tenant – i.e. the community group. However if the landlord’s ownership title is not yet in the Land Register of Scotland, in terms of the Land Registration etc. (Scotland) 2012, the owner’s title must be registered at the same time as the new lease. This is where the cost to the owner may arise.

<sup>6</sup> To clarify, the interviewees in this earlier study argue that “individual private owners of small landholdings are more cautious in engaging with community land-based activities” (Roberts and McKee 2015: 24).

Related to this challenge is that of **perceived ‘power imbalances’** as described by the interviewees. Firstly, on the part of communities, it is recognised by interviewees that community groups are unable to afford the fees of land agents (or other intermediaries), in contrast to private landowners who can afford the advice of these professionals. Interviewees also highlighted a perceived sense of ‘disempowerment’ on the part of landowners, and rhetoric of ‘landowners – bad, community leaders - good’, therefore power is held in the hands of community leaders (see also ‘polarised relationships’ above). Challenges to landowners therefore include a perceived fear that being ‘open’ may lead to further ‘attack’. Similarly, interviewees explained that the regulation of land-based businesses has increased, therefore reducing landowners ability and freedom in decision-making. The significance of ransom strips as a barrier (Category C1; Roberts and McKee, 2015: 15) is highlighted by interviewees, especially in relation to renewable energy developments. However, the alternative as explained is to increase the powers of wayleaves, and in turn reducing the security held by the landowner, who then ‘cannot control what happens on their land’. Interviewees also proposed that a perceived ‘sphere of influence’ held by landowners is preconceived and less significant than assumed. In particular, interviewees described a lack of recognition of conservation landowners on a national scale, who struggle to raise their profile and therefore have their voice heard/ be able to contribute to debates.

## **6.1 Challenges and opportunities specific to geography/ activity type**

Whilst most interviewees initially agreed that there should be no differences in barriers between rural and urban areas – for example, community dynamics are often shared, and the market value of property is calculated in the same way – there are practical differences, thus: “the principles in the round are exactly the same, but the realities of doing them is hugely different.”

In rural areas, the issue of scale was raised, in particular the challenge of scattered rural communities hindering effective community governance, issues of transport and broadband networks (with associated communication limitations) and the role of small community bodies undertaking negotiations with landowners (which may be much larger institutions or powerful individuals). Whilst urban communities have a greater pool of potential community body members, there was a perception amongst interviewees that it is more challenging within urban areas to reach a consensus within a community due to the larger population. It is also necessary to negotiate with a greater number of communities of interest and range of stakeholders within urban areas. The interviewees considered that ‘the rural is easy’ with regard to accessing ‘community’ for engagement exercises, and in contrast, it is more challenging to engage urban communities within the ‘responsibility agenda’, e.g. to encourage local people to join boards, or generate income from asset ownership. For example, one public meeting can involve a significant proportion of a rural community, which would be very unlikely within an urban

area. This challenge relates to the perceived limits of rural communities, in contrast to unclear community boundaries within urban contexts.

Specific challenges to overcoming barriers to community land-based activities in urban areas were anticipated to become more apparent as the community right-to-buy powers are implemented through the Community Empowerment (Scotland) Act 2015, and are likely to add 'complexity' for property owners. A key role for community councils is also mentioned in this context; however, interviewees also anticipate issues around community representation and the legitimacy of community bodies in urban areas (e.g. tensions between development trusts and community councils in urban areas). Community viewpoints are perceived as more difficult to gather in urban areas, with the limitations of single ballots highlighted, and a lack of community cohesion. Interviewees raised common themes of the need for enthusiasm and leadership on the part of urban community bodies.

The role of property agents and intermediaries was considered to be different between rural and urban areas, with the latter focussing on commercial land sales/management, and with potentially different educational backgrounds and professional experience. The interviewees reinforced the role of professional culture and standards in overcoming barriers. Furthermore, interviewees recognised a greater use of third party agencies in urban areas, therefore less direct landowner- community engagement. This may be because in rural areas the personal impact of decisions is more evident. For example, the resident rural landowner has to 'live with the consequences' of decision-making, therefore wishes to maintain a good relationship with the local community. As one interviewee surmised, 'rural landowners work better with communities than urban landowners, because there is a greater need for them to do it.'

## 7. Good practice principles

Through reflection on their personal and professional experience of working with landowners and communities, the interviewees described their perception of principles for ‘good practice’ by communities and landowners. Broadly, interviewees agreed that many of the principles should be shared by both community bodies and landowners; nonetheless, key distinctions arise. These ‘good practice’ principles are detailed in the following sections.

### 7.1 Good practice principles for private landowners

#### (i) Clear aims and processes

The interviewees were in agreement that good practice on the part of private landowners includes clarity and transparency regarding engagement processes (the developing Community Land Scotland (CLS) and SLE protocol was advocated<sup>7</sup>) in addition to honesty about intentions including whether or not motivations are financial. Establishing a shared understanding of timescales and pressures is perceived as important, plus a recognition of the costs associated and who should cover them. For example, clarity of terms at the outset of a discussion regarding land sale/transfer, and based on a shared framework of principles, in addition to a mutually-agreed land value (based on the VOA/DV’s advice) was considered ‘good practice’. Interviewees also highlighted the need to increase awareness of the likely impact of the land use planning system on future community land-based activities.

An agreed format or discussion agenda for landowner-community engagement processes was suggested by the interviewees. Such a format, including facilitation, would build confidence amongst participating individuals, including landowning representatives. Existing standardised formats include Charrette planning processes (see Section 5.8) and statutory pre-application consultations with stakeholders and local communities for defined major developments. However, a development may not be ‘major’ in terms of a statutory requirement, but still significant to that local community. Therefore additional good practice principles in community engagement are required by the landowner.

Interviewees also suggest that community-landowner discussions and engagement processes are recorded for decision-making purposes to permit later scrutiny. For example: “if the landowner had a meeting with the community council, they could fill in 10 boxes of things that they had discussed, and that could be appended to the minutes of the community council.” This record would allow for subsequent comparison, and external evaluation (e.g. by Ministers).

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<sup>7</sup> The ‘Protocol for Negotiated Sales’ was published on 28<sup>th</sup> May 2016; see: <http://www.communitylandscotland.org.uk/find-out-more/resources/> (accessed: 2.6.16).

## **(ii) Supportive behaviour and attitude**

In alignment with clear aims and an agreed process, good practice for private landowners is also dependent on individual behaviour and attitude. Principles should reflect a change in ‘thinking about how you interact with people’. The interviewees suggested that there is a need for a shift in thinking and attitude and to normalise community within land management business. Whilst the proposed CLS-SLE protocol (see above) will ‘get people to the table’, the interviewees questioned the extent to which such a protocol could succeed in directing behaviour.

Good practice with regard to landowner behaviour and attitude (as detailed in Section 5.1) includes respect, honesty, responsiveness, as well as a willingness and commitment to community engagement. It also requires attitudes of pragmatism and compromise, thus landowners seeking to be practical and reasonable about reaching a solution. Some interviewees advised that landowners be clearer about the challenges they face, demonstrate leadership and flexibility, and not to feel obliged to comply with community wishes/intentions. Time is required to appreciate the views and interests of others’ within decision-making processes, avoiding reactionary responses, and considering underlying motivations if problems arise.

Furthermore, the interviewees believe that good practice involves landowners being prepared to support communities and to demonstrate that they are making a positive contribution to the community who lives on and around their land (i.e. more than monetary return). This may involve support through funding, and involving those who have energy and commitment to progress community engagement/land based activities.

## **(iii) Fostering positive relationships and direct communication**

The interviewees asserted that the key principles of good practice relate to ensuring amicable and constructive relationships between landowner and community, and to maintaining processes of dialogue, ‘understanding issues and frustrations’. As mentioned above, it is good practice to develop a ‘track record’ of community engagement, not only because isolated engagement processes are not sufficient, but also to ensure an ongoing dialogue. Indeed, the interviewees described examples of estate businesses that are successful and multifunctional due to a basis of constant dialogue with those on and around the estate, and where landowners meet together (and with the national park authority, for example) to discuss and debate. Therefore, as interviewees explain, ‘talking’ is key to good practice, thus: “I don’t want to say that all landowners aren’t talking – many of them do; many of them have been talking to their communities for many years, and they’ve been doing it very successfully.” Good practice therefore involves frequent, open, honest and consistent conversations that tackle barriers, empower people to speak freely, and necessitate senior management capacity and networking.

Direct contact between landowner and community including communication about day-to-day and strategic land management (on farms and estates) was considered important. Landowners are advised not to abdicate responsibility to professionals, instead to be 'known and open'. Direct communication has benefits in terms of efficiency and accountability; can be simpler, ensure consistency in message, and build positive relationships. Thus: "the more direct contact that you have between the landowner and the community the better, and building that relationship is really key". Direct communication is also cost saving; if there are concerns about the need for legal advice, communication can be caveated (i.e. 'this is what I'm thinking, but I'll need to check'), therefore ensuring direct dialogue rather than working through a third party who might have a different agenda.

### **(iii) The role of advisors**

Interviewees recognised that there is sometimes a need to involve expertise and specialist knowledge (e.g. regarding crofting), and it is suggested good practice for landowners to establish an advisory group, to support the landowner and management, and avoid mistakes. However, the personalities of advisors were frequently highlighted by interviewees as a critical factor (see Section 5.5), and the difference between professional advisor or agent (i.e. representing those who have employed you) and mediator (i.e. when a conflict or impasse arises) is also recognised.

Interviewees who represent the rural land agency sector explain that they appreciated the recent approaches by CLS to 'reach out' in a pragmatic way to the land management sector: "We want to understand, in real life, how can a [rural surveying] company... reach out in that way, and how could we shape ourselves as a company to meet the challenge." Good practice therefore includes a role for land agents to 'think more widely', e.g. to become more involved locally, building relationships with the community council, Scottish Enterprise, tourism organisations, etc.; building knowledge and profile. Landowners are also advised to partner with more experienced partners in order to build that relationship, with SLE providing 'peer review and solidarity'. Overall, interviewees stressed the need for good practice guidance to be published for professional land management advisors<sup>8</sup>.

### **(v) Reflectivity in land ownership and management**

Finally, interviewees advocated reflective and transparent ownership. As described: "I've seen really good examples of individuals just sitting down and saying, 'do you know the reason why I own this estate?'" Landowners are therefore advised to have a clear vision for their farm/estate, and a development strategy, of which a key part should be a community engagement strategy. They should communicate their vision/development

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<sup>8</sup> Including a link to the existing guidance documents on rent reviews produced by the interim tenancy commissioner, plus NFUS, SLE and STFA.

strategy, involving community views. As described: “Estates have to get used to understanding what their goals and aims are and they have to get used to, first of all, conveying that, but also then moving towards involving the local community in that.” Whole estate reviews are also recommended by the interviewees. There may be potential long-term benefits of supporting community land-based activities (e.g. providing land assets may lead to increasing value of estate through developing access roads, etc.).

‘Reflective ownership’ thus also includes identifying which parts of a landholding are central to the estate business/family ownership, and which might be made available for community land-based activities. Interviewees highlighted the need to fully understand the benefits and dis-benefits to landowners of community land-based activities, and for wider stakeholder reflectivity (i.e. including community and policy; see Section 7).

Good practice by private landowners therefore includes recognising the public interest in their decision-making; indeed, interviewees advised that large estate owners take a more strategic view, and act in a more altruistic manner. Adherence with SLE’s ‘Landowners Commitment’ was suggested as a significant mechanism for overcoming barriers to community land-based activities.

## **7.2 Good practice principles for communities/community bodies**

The interviewees discussed the key principles and practices which may be considered ‘good practice’ by community bodies in overcoming barriers to community land-based activities. Interviewees agreed that community landownership is challenging, and some barriers may be insurmountable. However, there is also the recognition that there are ways of achieving goals, despite structural and ‘systemic’ barriers.

### **(i) Early engagement with the landowner**

Positive, early community engagement with the relevant landowner(s) is advocated as the first step in the pursuit of any community land-based activity. Information flows must be two-way. Some interviewees intimated that landowners and farmers should be considered part of the ‘community’ (according to definition), in order for land-based activities to progress. Community groups are invited to send questionnaires to landowners to seek up-to-date information and views, rather than ‘jumping to conclusions’ that access to/purchase of land will be prevented. At minimum, the respective parties need to be clear on community aspirations, and the implications for the landowner. Communities need to respect and value land management practices throughout the year (e.g. farming cycles) and recognise what the land is used for at present and its ‘best use’. This will mean the benefits of proposed alternative land-based activities are considered in the context of current land use, Local Development Plans and the national-scale Land Use Strategy.

## **(ii) Strategic and critical thinking**

A further crucial step for communities is to undertake strategic and critical thinking, i.e. 'what are we trying to achieve?' Some interviewees were concerned that communities are adopting an 'unthinking route' with regard to asset ownership, and there is a need for community 'self-examination' regarding dynamics, governance and needs. Whilst the empowering role of asset ownership is asserted, leasing and other management agreements are highlighted as a valued alternative (see Section 5.6). Communities are advised to be 'realistic' in terms of progress pace and scale of land-based activity. For example, one community body seeking to develop a community garden have initiated land-based activity through establishing a community composting scheme, in order to build activity incrementally.

## **(iii) Establishing a 'sustainable development' plan**

Good practice by community bodies seeking to develop land-based activity is centred on establishing a robust, realistic and strategic 'sustainable development' plan. It is expected that the implementation of measures within the Land Reform (Scotland) Act 2016 will ensure that communities go through the process of developing such a plan, establishing what they want to do and what can be done on the land in question. Communities will have to prove to that they can make 'best' use of the land asset (if they wish to acquire rights), that there is long term support for the project and that they have sustainable resources. Communities will be challenged as to whether they are proposing the most sustainable land use (economically, environmentally and socially). The planning process should anticipate questions regarding what would happen if/when community land-based activity ends, and the role of government in taking on ownership/management of assets, given issues of timescale/capacity of the community group. Community visioning processes are advocated as a means of developing and agreeing action plans, and engaging positively with private and public stakeholders (e.g. the local authority). Such a process should produce a comprehensive and detailed plan for the community's land-based activity, but recognising that planning process and accompanying dialogue is the key outcome and can, in itself, be rewarding.

## **(iv) Achieving a unified voice**

Due to the present heterogeneity of communities in both rural and urban Scotland, interviewees explained that it is challenging to obtain a unified voice within a community. Associated challenges are the lack of standard 'community' definition, and recognition that the majority of residents in a community of place have little active participation in community governance, apparently due to a wish to remain outwith the process or anxiety around participating. Therefore, it remains "hard to judge what they would want or need". Community bodies need legitimacy (e.g. to progress negotiations in pursuing land-based activities), and such legitimacy can suffer if different groups are in dispute over the ownership or use of assets. Furthermore, given



the number of community groups and plans, working with different parts of the public sector, it is realistic to assume that not all land-based activities will be achieved.

Interviewees highlighted the importance of community dialogue processes and ballots, ensuring quorum, establishing community companies, as well as measures to show that a majority of the community has engaged to ensure the representativeness of community plans. In identifying the consensus view or action plan by community bodies, there is a need for local democracy that functions well, however this is challenged by a reliance on volunteer time and effort.

#### **(v) Community capacity, behaviour and knowledge of process**

Particular issues arise due to a lack of capacity associated with the reliance on volunteers within community bodies. Community body members are 'juggling' and not able to focus their efforts full-time. Interviewees recognised a need for communities to consider contingency, for example, if key community members are unavailable for decision-making processes.

Interviewees described that in some cases, communities don't know how to behave, and that they can meet perceived power with 'all guns blazing'. Therefore it is good practice to act in a professional manner, and to be courteous. Community bodies must 'get all the facts in place' (i.e. be certain of landownership, although this inhibited by the lack of coverage of the Land Register), and to be open to suggestions of alternative locations. Interviewees also highlighted the need for community good practice to include a broader understanding and awareness of wider processes of change and policy drivers.

The opportunity for capacity building to include developing skills in negotiation, in order for community groups to understand good quality negotiation process, is also highlighted, plus the need for compromise and reciprocity. This approach can engender 'goodwill' and realistic and positive engagement, in order to achieve 'win-wins' and partnership working. Indeed, whilst it is recognised that that communities are no longer 'passive consumers', but empowered 'players', community bodies may benefit from training with regard to how the approach processes of land acquisition/development (e.g. planning applications, fundraising, growth and succession planning, identifying potential liabilities, etc.). Similarly, it is suggested that communities should be pragmatic and with business acumen, articulating their community plan to demonstrate that they 'know what they are doing and why they are doing it'. As one interviewee asserted: "if you want to be in the position of managing land, then be organised, with a clear sense of purpose, and with an outcome."

A particular area for greater community education and awareness-raising relates to the valuation process. Interviewees described concerns raised by

the Valuation Office Agency (VOA) regarding the quality and level of detail presented, demonstrating: “a lack of understanding...[on the part of] both parties – the vendor and the potential purchaser – as to what level of information we seek when we ask for their representations”<sup>9</sup>. It is important that communities provide the correct information to the VOA/District Valuer (DV) and with consideration of which capacity the VOA/DV is appointed (i.e. whether in a client-acting capacity or as a statutory appointment under measures within the Land Reform (Scotland) Act 2003): “it’s about the valuation integrity, so that when you report back the community have the confidence that you’ve covered everything”. Communities need to understand and provide the VOA/DV with all of the information required on exactly what the asset is that they wish to acquire, in addition to all leases and up-to-date rent information, feasibility studies, etc. Good examples of documentation received from communities included detail on what the land holding comprised, how it was constituted (e.g. how many acres were under crofting tenure).

Communities also need to understand that their particular future planned use of the land is not considered in the valuation; the valuation process is based only on market value and not on future social benefit/end use value. This process therefore relies on community capacity, skills, plus an awareness and understanding of the ‘right to buy’ mechanisms within the Land Reform (Scotland) Act 2003. Interviewees recommended greater sharing of good practice, to ensure that these messages are reaching communities, and that they are receiving sufficient advice.

#### **(vi) The role of community advisors**

The role of community advisors was highlighted by interviewees as central to overcoming barriers to community land-based activities, in particular sourcing funding and providing guidance in ‘good practice’. In particular, interviewees raised concerns regarding whether communities were accessing apolitical advisors and whether available advisors had the same skills as those found internally within public sector agencies (e.g. Forestry Commission Scotland). Communities typically lack expertise in engaging with the process of acquiring rights to land. Whilst there is a need for the appropriate professionals to progress transactional/legal processes (i.e. professionals with indemnity insurance), and act as an arbiter, an opportunity is recognised for a specific support role between community bodies and lawyers in particular, which may be more economical.

This support role would be best provided by professionals who regularly deal with complex land issues, e.g. chartered surveyors or ‘land agents’. A

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<sup>9</sup> Interviewees reiterated that these comments also apply to the vendor (i.e. the landowner), not only community groups seeking to acquire the land, therefore may be considered in conjunction with the good practice principles for private landowners presented in Section 7.1.

‘community land agent’ would be ideal to finalise land transaction details for community groups. However, the interviewees were not sure that communities frequently access land agents/rural surveyors, due to perceived costs. This barrier might be best overcome by making it clear to communities how land agencies are paid (i.e. whether standard day rate or by commission). Interviewees also describe legal firms that specialize in charity law, which could be replicated for a community land agency, and the role of PAS in providing advice and training through its network of volunteers representing a range of disciplines including planners, architects, planning lawyers, landscape architects. One example described a ‘community-minded’ land agent who was praised for “speaking the same language” in negotiations between landowner and community (see Section 5.4).

Independent community development agencies can provide a support role, and interviewees also suggested a mentoring scheme for communities, to build understanding and ensure that when they do engage with landowners, they know what questions to ask, and the options available. Finally, whilst community networks are well established (i.e. through CLS or DTAS), interviewees suggested that there may be the opportunity for greater networking by/with local authorities and the professional land sector, e.g. engaging with council planning departments.

### **7.3 The role for policy in supporting good practice to overcome barriers to community land-based activities**

The interviewees were largely in agreement that policy has a role to play in overcoming barriers to community land-based activities although they cautioned that there is value in evaluating the existing legislative measures and underlying policy, before seeking to add further regulation or guidance. They also raised concerns that policy considers the impact on Scottish businesses within a global market and avoids over-regulation in particular for farmers. Interviewees therefore suggested a collaborative role for policy, through working with landowners, communities, and the professional disciplines (e.g. planners, surveyors, lawyers). Policy development should include discussions with stakeholders, and build on experience from related policy, e.g. planning and outdoor access. The interviewees recommended measures of success to be incorporated into policy implementation and guidance, in addition to a need for recognition of good practice and standards of professional conduct.

The area identified where policy has a role is in diffusing conflict situations and reassuring land managers. Interviewees recognised a role for policy to support capacity building within communities, e.g. developing knowledge and experience of how to access funding, land management and wider training, information sharing. Some interviewees would also like communities to be made more aware of the possibilities ‘beyond the feudal system’; such capacity building could contribute to that culture change. There is also a need

to raise community awareness of support available, and the future trajectory of support. It is therefore suggested that policy support the SQA in developing training/qualifications to help community capacity to manage resources. There is also a role for policy in building public knowledge and awareness of the planning system, including how and when to participate; this may include overcoming challenges and exclusions regarding language use.

Monitoring whether the supporting agencies and charities are delivering according to their funding was considered useful and a policy priority. There is then the opportunity to provide further support to those services that are effective (e.g. role of the Rural Forum – and how that can be replicated). Some interviewees were concerned that there is a need for good quality support, rather than a greater quantity of support services. The example of the Scottish Outdoor Access Code was raised by interviewees as a model that could be translated for the guidance proposed within the Land Reform (Scotland) Act 2016. The Code is considered to have been successful due to its accompanying educational campaign and government funding for access officers and local authorities to introduce and embed the legislation, contributing to a perceived ‘cultural change’ around how people use the countryside. Opportunities are also perceived as arising from the Land Use Strategy pilot projects in Borders and Aberdeenshire, e.g. using the maps as a tool for bringing together local stakeholders to identify the best use of land on local scale, underpinned by national-level principles, therefore a locally-tailored approach. The interviewees believe that ultimately it is not possible to ‘legislate for stubbornness’, and the key factor in overcoming barriers to community land-based activities is to ensure face-to-face dialogue between all stakeholders.

Opportunities were also identified for simplifying planning policy to remove barriers to community land-based activities, and how this is considered at local authority scale. The different approaches taken between local authorities are perceived as at times frustrating and that policy is convoluted; the interviewees would like more easily understandable policy for those who are influenced by it (e.g. helping communities to progress projects). The provision of training for institutions in community engagement is suggested. ‘Soft’ policy approaches are suggested by the interviewees, including best practice templates and guidance that is regularly updated. Guidance may be piloted by local authorities, and is requested in particular with regard to barriers arising from divided (multiple) ownership. Local ‘visions’ are recommended as the basis for local development planning (see Section 5.7). Local authorities are apparently reluctant to exercise their existing powers of CPO because of perceived risks and costs and the interviewees wished to make local authorities ‘bolder’ in utilising existing CPO powers.

There is a need for clarity regarding the consequences of land owners/managers failing to adhere to forthcoming engagement guidance

(Part 4 of Land Reform (Scotland) Act 2016), whether statutory or voluntary. The forthcoming guidance should consider who the stakeholders are, how best to include them equally in an engagement process (i.e. avoiding a 'tick box' exercise). The interviewees would like to see policy-led (rather than politically-driven) stakeholder guidance. Indeed, they suggested that policy explores the experience of localism in England and Wales. The role of existing the 'Community Engagement Standards' as 'rules of engagement' were considered and the interviewees were doubtful of real change due to the influence of relationships and power. The Planning etc. (Scotland) Act 2006 brought in a requirement to 'engage', which it is believed was valuable. It is suggested that a benchmark is established and a set of incentives for landowners to achieve with regard to Part 4 of the Land Reform (Scotland) Act 2016. Some interviewees believed that 'community' should be defined within the then Land Reform Bill (see Footnotes 1 and 2), including how community groups should be constituted (i.e. required office bearers, etc.). The interviewees would like to see greater transparency around the boards of community trust, to ensure good governance.

Similarly, with regard to the Land Reform (Scotland) Act 2016, the interviewees described a role for the proposed Land Commission to gather necessary evidence and make recommendations for mediation/negotiation/compensation processes, but the interviewees believe that further work is required to develop the relevant policy. The interviewees also suggested a revision of the local government finance manual, questioning whether 'best value' should be required for asset transfer, accounting for social and environmental benefits (in addition to economic).

Overall the interviewees called for policy 'work streams' to be brought closer together (e.g. the Land Use Strategy, LEADER and the National Planning Framework 3). There should also be recognition of the similarities and implementation of the three intervention measures available for overcoming barriers to community land-based activities, namely CPOs, the Community Empowerment (Scotland) Act 2015 (namely the 'abandoned and neglected' measures), and the Land Reform (Scotland) Act 2016 'sustainability test'. Furthermore, there is a call amongst the interviewees for planning policy to better support community developments (see Section 5.7), with national policies to be better integrated (e.g. LUS and NPF 3).

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## Appendix A

Table 1. Case studies of strategies adopted to overcome barriers to community land-based activities (sorted by barrier type, cf. Roberts and McKee, 2015)

Location	Community land-based activity pursued	Perceived barrier	Barrier type <sup>10</sup>	Resolution strategy
[Unknown]	Community garden	Trustees of landowning trust all deceased; local authority reluctant to engage.	B1	Community group working with solicitors representing landowning trust; have now agreed short term lease for growing.
Highlands and Islands	Community shop	Landowner unable to transfer ownership of property to community due to inalienable rights (and wishes of former owner who bequeathed land). Community unable to obtain funding without asset ownership	B4	Long lease agreed and funding obtained from the Big Lottery Fund.
Highlands and Islands	Community purchase of foreshore.	Landowner can only sell to formally constituted community body.	B4	Partnership/collaborative approach adopted; representative lawyers working together; landowner and community representatives in touch by email and developing relationship.

<sup>10</sup> See classification by Roberts and McKee (2015), reproduced in Appendix B.

Highlands and Islands	Community-owned village hall	Due to conservation landowner with inalienable rights, transfer of ownership to community restricted.	B4	Community has partially bought property, with remaining part leased from conservation landowner on 120 year lease.
Borders	Community allotments	Allotments developed on privately-owned site bought for supermarket development.	B6	Community have approached landowner, who has agreed to find alternative site for allotments when development begins. Commitment both on part of community and landowner.
Badenoch and Strathspey	Community allotments	As a result of objections from neighbouring property owners; estate has pulled out of lease arrangement.	E2	Alternative allotment sites sought by local councillor.
Highlands and Islands	Community purchase of estate.	Lack of affordability of estate market price to community body.	F1	Community buy-out through traditional negotiation: 'friendly rather than statutory route', involving VOA. Due to affordability, community seeking to buy only part of estate.
Aberdeenshire	Community-led housing	Community lacked funding/expertise to develop housing.	F1/G3	Private landowner willing to sell land; joint ownership agreed with housing association.
Morayshire	Asset transfer of harbour.	Lack of community representation; high	F1, F3, G2/3	Landowner, local authority and community group have agreed

		maintenance and liability costs; lack of business plan.		‘Charrette-type’ planning process.
Edinburgh	Community garden	Legal fees to establish lease with landowner too expensive for community group.	F1	Special purpose vehicle established for community group, therefore community operating as grounds maintenance company.
Edinburgh	Community use of former walled garden	Two community groups seeking to buy same plot of land, but with different aims and intentions.	G2	Unresolved – community groups reluctant to work together.
Aberdeenshire	Community garden	Change of landowner requires ‘re-start’ of negotiations by established community group.	[No barrier?]	Process of negotiation for land access starting again from outset.
Highlands and Islands	Community-led housing	Planning barrier, plus community not satisfied with sites suggested by private landowner; perceived lack of community vision.	G2	Community involved local housing trust as objective mediator to achieve outcome (affordable housing).
Dumfries and Galloway	Community-owned village hall and business hub	Despite gift of land from private estate, community group unable to source necessary funding for development and agreed that group did not have skills required to progress project.	F1, G3	Estate took property back ‘in hand’ and leased to community at peppercorn rent. Estate also provided project management and additional financial support for development.

Dumfries and Galloway	Redevelopment of multi-purpose community facility	Community project management challenged by skill set and availability (capacity) of community group, pre- and post-development.	G3	Community working with estate; estate took on project management with community group agreement.
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## Appendix B

Table 2 Classification of alternative land ownership barriers to community activities (Roberts and McKee, 2015: 15)

Categories of barriers	Sub-categories	Underlying cause
Deficiencies in ownership rights	A. Ownership unknown or unclear	A.1 Information on title deeds are incomplete, missing or difficult to access
		A.2 Ownership in dispute
		A.3 Owner lacks legal capacity (including executors/administrators)
	B. Ownership rights divided	B.1 Land held in Trust [functionality of Trust]
		B.2 Land subject to leases or licences [or subordinate real rights]
		B.3 Land subject to mortgages or other securities
		B.4 Land subject to restrictive Title conditions/real burdens
		B.5 Land subject to servitudes or rights of way
		B.6 Land subject to options or conditional contracts
Landowner behaviour	C. Assembly of ownership required	C.1 Ransom strips
		C.2 Multiple ownership
	D. Unacceptable terms	D.1 Restrictive terms of conditions of sale/transfer of lesser rights
		D.2 Different valuations
	E. Owner unwilling to sell or lease land	E.1 Retention for continued current use (includes for occupation/investment/making available to others on non-profit basis)
		E.2 Retention for control or protection/conservation
		E.3 Retention for subsequent own development
		E.4 Retention for subsequent sale (due to indecision, postponement, uncertainty or speculation)
External factors affecting communities	F. Structural barriers facing communities	F.1 Inability to raise funding
		F.2 Regulations and limitations to advisory support
		F.3 Lack of legitimacy
Internal factors affecting communities	G. Community constraints and decisions	G.1 Potential liabilities of ownership disproportionate to community benefits
		G.2 Differing community aspirations
		G.3 Lack of community capacity
		G.4 Lack of willingness to engage with landowner

## **Appendix C**

### **Report consultees**

Steve Callaghan, The National Trust for Scotland  
Ian Cooke, Development Trusts Association Scotland  
Mike Daniels, John Muir Trust  
Teresa Dougall, National Farmers' Union of Scotland  
Hew Edgar, Royal Institution of Chartered Surveyors  
Murray Ferguson, Cairngorms National Park Authority  
Bob Frost, Forestry Commission Scotland  
John Glover, Community Land Advisory Service  
Priscilla Gordon-Duff, Moray LEADER Local Action Group (former chairperson)  
Raymond Henderson, Bidwells  
John Hillis, Scottish Hydro Electric Transmission plc  
Alan Laidlaw, The Crown Estate  
Sarah-Jane Laing, Scottish Land & Estates  
Drew MacFarlane-Slack, Scottish Land & Estates  
Debbie Mackay, Savills  
David Melhuish, Scottish Property Federation  
Lorna Paterson, National Farmers' Union of Scotland  
Lucy Sumsion, National Farmers' Union of Scotland  
Alastair Watson, Valuation Office Agency

### How to access background or source data

The data collected for this <statistical bulletin / social research publication>:

- ☐ are available in more detail through Scottish Neighbourhood Statistics
- ☐ are available via an alternative route
- ☒ may be made available on request, subject to consideration of legal and ethical factors. Please contact [annie.mckee@hutton.ac.uk](mailto:annie.mckee@hutton.ac.uk) for further information.
- ☐ cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



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# A question of capacities? Community resilience and empowerment between assets, abilities and relationships



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## ABSTRACT

The empowerment and resilience of communities in rural contexts is often seen to be linked to their capacities—for example, organisational, infrastructural and personal capacity—and the types of capital (e.g., social, physical, human and financial) that the community can access. While the 'community capital' and 'capacities' perspectives overlap, they define community characteristics in slightly different ways, with different analytical categories at their disposal. Here, we loosely draw on the capacities perspective and supplement it in a grounded manner with aspects from the community capital literature, to analyse the development of a small rural, dispersed community in Scotland over the course of two years.

Our analysis is based on two sets of qualitative interviews with residents of the community and other relevant actors, conducted around an interval of two years, combined with observation of community events in the interim period. While at the beginning of the study, the community appeared a place where people were cautiously hopeful, with an asset transfer planned that was intended to support empowerment and resilience, the case unfolded at least temporarily as an 'unsuccess story', due to the failure of the asset transfer. Our analysis elucidates how organisational, infrastructural and personal capacities of the community interacted, and leads to three major findings. First, interactions between capitals and capacities are crucial to a comprehensive understanding of a community's situation, but tend to be understudied. Second, capacities can not only be 'low', they can also be negative (thus not only neutral but outright destructive), and extremely hard to overcome through standard approaches to capacity building. And third, in our study case, 'social capacities' that emerged from people's experiences of social interactions acted as powerful microstructures that constrained individuals' abilities to engage in community action. To conclude, we discuss these findings in terms of their implications for community empowerment and resilience more broadly.

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## 1. Introduction

### 1.1. Background

Increasing the 'vibrancy', resilience and empowerment of local communities in rural contexts has become a key political issue in Scotland (Scottish Government, 2015a) and the wider UK, appearing as an objective in many government policies. This policy direction is seen as essential to halt rural depopulation, to maintain and enhance quality of life in rural areas, as well as to secure the provision of services. The Scottish Government is seeking to fulfil

this objective, not least through the Community Empowerment (Scotland) Act 2015 and accompanying action plans. A cornerstone of the Community Empowerment Act is to enable both rural and urban communities to acquire assets, such as community centres and other public buildings, and to run them for and with the community. The passage of the Land Reform (Scotland) Acts of 2003 and 2016 was a significant step in the Scottish institutional framework, aiming to increase resilience and community empowerment through asset based rural development (Shucksmith, 2010; Skerratt, 2011, 2013; Hoffman, 2013; McKee, 2015). However, such policy is uncritical in its assumption that communities are able to overcome barriers to their development through empowerment (Steiner and Markantoni, 2014). Furthermore, this policy drive can be seen to be embedded in a neoliberal agenda, which is in turn contested and criticised. For example, there are criticisms that it

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does not, as claimed, reduce state control, but that it instead exerts control in ways that puts the onus of delivery on individuals and organisations that are not necessarily equipped for the task (Herbert Cheshire, 2000; MacKinnon, 2002; Ransome, 2011; Shucksmith and Rønningen, 2011). MacKinnon and Derickson (2012) raise concerns that such neoliberal policy has uneven effects, with some communities disadvantaged by the lack of material resources, professional skills and social capital, which are therefore less able to fill in the gaps created by reduced direct state support and service provision (Cox and Schmuecker, 2010; Fyfe, 2005 in MacKinnon and Derickson, 2012).

Within the broad academic literature on community action, where 'resilience' and 'empowerment' are discussed, we find a diversity of conceptualisations that explain how these critical properties emerge and are fostered. Highly comprehensive reviews and critiques of 'resilience' and 'empowerment' are provided by Skerratt (2013), Berkes and Ross (2013), and Mohan and Stokke (2000), amongst others, therefore it is not necessary to replicate their efforts. Here, we focus on those policy and academic discourses that, in understanding and explaining how communities come to be empowered and resilient, use substantive ideas such as 'community capacity' or 'capitals'. In particular, these constructs are utilised to assess and characterise the factors that help or hinder a community to become empowered and resilient. For example, the Scottish Community Empowerment Action Plan considers community capacity to be the vital "skills, confidence, networks and resources" necessary for empowerment (Scottish Government and COSLA, 2009: 11). Similarly, in the academic realm, and in relation to international development, the different forms of capitals and community capacities are regarded as useful to understand resilience, both at the household and community level (Norris et al., 2008; Callaghan and Colton, 2008; Cassidy and Barnes, 2012), and are seen as necessary (albeit not necessarily sufficient) preconditions of resilience (Magis, 2010). Here, we unpick the discourse on community capacities and capitals from a sociological perspective, to contribute to the academic debate around the use of such terms within the field of community<sup>1</sup> development. We empirically examine the roles that capacities and capitals play in the case of a small rural community that, at the beginning of the research process, was seeking to acquire a community asset for development purposes, but had failed to do so two years later.

## 1.2. Conceptual framework

The concept of 'community capacity' is widely used within the health, urban policy, regeneration and social development literature, and may be defined as: "the set of assets of strength that residents individually and collectively bring to the cause of improving local quality of life" (Easterling, 1998 in Labonte, 1999:430). Key factors among such community capacities are seen to include group ability, skills, knowledge, resources, leadership, participation, norms of trust and reciprocity, social networks, sense of community (including values and history), transparency, efficacy, critical reflection, and community 'power' (Goodman et al., 1998; Labonte, 1999; Laverack, 2001; Gibbon et al., 2002; Middlemiss and Parrish, 2010). These factors underpin the community's ability to identify and act on community concerns and effect positive change (Labonte and Laverack, 2001). Community

capacity is thus both a means and an end of community development (Laverack, 2006), and may be supported through so called capacity building approaches (Barker, 2005). However, research also highlights that community capacity can be 'depleted' where community and individual resources are exhausted, and demands are unmanageable, with limited resources of time, energy and funding, leading to the failure of community projects (Simpson et al., 2003).

There appear to be many commonalities between the concept of 'community capacity' and the idea of 'community capital' (Labonte, 1999; Falk and Kilpatrick, 2000), and boundaries are, at times, blurred. Community capital can be understood much like household capital in the context of the sustainable livelihoods approach (Gutiérrez Montes et al., 2009), but relates to the community as an analytical unit rather than to households or individuals. It can be seen to include natural, human, social, cultural, political, financial and built capital (Emery and Flora, 2006; Callaghan and Colton, 2008). However, whilst the term 'capacity' describes an ability and therefore something processual and dynamic (not unlike capabilities as defined by Nussbaum, 2011), going back to the original meaning of the term, community 'capitals' are stocks of assets, even where abstract and symbolic capital is concerned (Bourdieu, 1986) and their assessment therefore tends to be a 'stock take'.

Again, some scholars have shown conceptual and empirical links between these two sets of concepts (Bebbington, 1999), in particular the focus of both conceptual perspectives on strengths rather than needs or deficits (cf. Emery and Flora, 2006). Both sets of concepts lend themselves to a 'check list' type of analysis that statically assesses a community against a list of different types of capitals or capacities (e.g., Sseguya et al., 2009; Ahmad et al., 2013), with a risk of simplistic conclusions that attribute failure of community processes to missing characteristics on the 'list'. However, we argue here that the usefulness of such conceptual frameworks depends on the way in which they are applied, and that both approaches, the capitals and the capacities lens, can enable dynamic, process oriented analyses (e.g., Emery and Flora, 2006).

Here, we adopt the framework presented by Middlemiss and Parrish (2010) to organise our data, who suggest four types of community capacity that facilitate or, in their absence, hinder a community's ability to take on responsibility (Table 1).

We acknowledge considerable overlap between this and other frameworks (for example, Emery and Flora, 2006), but as we will see, there are also crucial areas relevant for community empowerment missing from this framework, and we will draw on notions of capital, in particular, social capital (Bourdieu, 1986; Coleman, 1988), to elucidate these. Social capital has been defined in a range of contexts with varying nuances (Poortinga, 2012); here, based on the findings emerging from our analysis, we will concentrate on relationships within the study community, i.e., bonding social capital, and on the role that these relationships play at the collective level (Poortinga, 2012).

However, rather than to compare the strengths and weaknesses of the different frameworks, or to use them as a static framework to identify a lack in capital or capacity, we use these concepts as flexible analytical tools to examine community processes and dynamics. We recognise that such capacities, held by communities, can emerge from factors at different levels. Here, we do not explicitly analyse the influence of structures at the macro level, determined by national policies and other factors external to the study region. Instead, we focus on capacities arising from structures at the meso level, for example, the local authority<sup>2</sup> (organisational

<sup>1</sup> Note that this paper does not wish to raise further debate around definitions of community, although these continue to be live debates within Scottish land reform policy development at the time of writing. Here, we adopt the definition contained within the developing policy, i.e. that of community defined by geographical area (Scottish Government, 2015a,b), in accordance with Skerratt (2013).

<sup>2</sup> Scotland has 32 'local authorities', described by Hoffman (2013) as unitary county councils, which serve entire regions.

**Table 1**  
Four types of community capacities (Middlemiss and Parrish, 2010).

Capacity type	Description
Personal capacity	The individual community members' skills, understanding of the problem, underlying values and enthusiasm
Organisational capacity	The values of the organisations active in a community and their support for community action
Infrastructural capacity	The provision of facilities by government, business and community groups
Cultural capacity	The legitimacy of community development objectives with regard to the history and values of a community

and infrastructural capacities) and at the inter individual (or micro) level (personal and social capacities).

We present a critical case study of a rural community in Scotland, spanning two years. The original motivation for this study was to examine a process of 'asset transfer' – i.e., the transfer of built capital, in this case, a school, into community ownership –, observing how this process unfolded within the community and the implications of this process for community empowerment and resilience. Our initial aim was to explore the assumption (and existing research evidence) that asset ownership contributes to community empowerment and resilience (Scottish Government, 2015b; Skerratt, 2013). However, the case developed in unexpected ways that generated much wider questions about the factors underpinning community dynamics, with implications for our understanding of community empowerment and resilience more broadly. Here, we present our analysis of a part of these dynamics, focusing on the role of different aspects of community capacities and their interactions in shaping the overall situation of the community.

## 2. Methods

We selected a critical case<sup>3</sup> (cf. Flyvbjerg, 2006) for study based on researcher knowledge and stakeholder recommendation, due to this rural community's planned application for an asset transfer of their former primary school building from the local authority. The 'power' of case studies to richly illustrate individuals, organisations and processes of change is described by Gillham (2000; see also Yin, 2003). The opportunity arose to explore this process and the implications for rural community resilience; however, as it turned out (Section 3.1), the asset transfer application was unsuccessful at the beginning stages of this research. Nonetheless, we recognised the value of gaining a better understanding of this 'unsuccess story', and the evident pressures facing this rural community, illustrating a microcosm of the challenges facing rural communities more widely (cf. Skerratt et al., 2012). A research approach, covering two years, was agreed with community gatekeepers, namely the development officer and the directors of the (then) Community Enterprise. This longer term approach allowed us to take a more dynamic perspective, rather than capturing a mere 'snap shot,' and to develop an understanding of the changes experienced by the community in this period of time (Curtis, 2010; Skerratt, 2013).

We chose a qualitative methodology, with the main data collection technique a series of semi structured, in depth interviews with a member of each available household in the community (this included farmers and business owners), as well as individuals considered as friends of the community and key external actors (e.g., external charity trustees and community support professionals; Table 2). All households in the community were contacted (based on a list of residents held by the Community

Enterprise) and thus had the opportunity to join the study. Other relevant actors that played a formal role in the Glen were identified through discussions with community members. Initial interviews were undertaken during early Summer 2013, and explored questions of personal history within the community and changes observed, the interviewee's 'sense of community', including themes of social activity, attendance at community events, and the role of the Community Enterprise. Questions were broad, for example: "If you think of the Glen, what comes to mind?" and "Since you've been living here, have there been any changes?" Interviewees were also asked about their views on their ideal future for the community and the changes necessary to achieve this future. The interviewees were invited to participate in a second interview in Summer 2015, which provided the opportunity for them to reflect on the processes of change within the community over the previous two years. Additional questions at this stage therefore included changes observed by the interviewee, their view on these changes and how they had influenced the interviewee, options for community support, perceived sources of disagreement or conflict within the community and the interviewees' viewpoint on the strengths, weaknesses, opportunities and threats facing the community.

Interviews were recorded by digital Dictaphone with interviewee consent, and fully transcribed. Most interviews lasted between one and two hours, the majority carried out face to face in the interviewee's home, with a small number undertaken over the phone.

A secondary data collection technique was observation at community events, such as summer fetes, craft markets and community consultations, attended by the research team between Summer 2013 and Summer 2015, and recorded through reflective researcher field notes. These included, for example, impressions of who participated and how the participants interacted with each other.

After an exploratory analysis, all qualitative data gathered during the case study period, including interview transcripts and researcher notes from community events, were collated and coded using NVivo software, according to Middlemiss and Parrish's (2010) capacities framework. We extended this framework in a grounded way where the existing categories did not seem to reflect the data well (Sections 3.5, 3.6), and also added a category that captured descriptions of the place and the current state of the community. All data sources were anonymised and we decided post analysis to anonymise the study area entirely. The case study is therefore described under a substitute name ('the Glen'), references to neighbouring towns edited accordingly, and potentially identifiable events kept deliberately vague.

## 3. Results

### 3.1. Case study overview: the (hi)story of 'the Glen' 2013–2015

The Glen, a rural dispersed settlement of around 26 inhabited houses, is situated in a landscape characterised by heather

<sup>3</sup> Flyvbjerg defines a critical case as one "having strategic importance in relation to the general problem" (2006: 229).

**Table 2**  
Interviewee types and numbers, 2013–2015.

Interviewee type	2013 (n)	2015 (n) <sup>b</sup>	Label used in quotes
Household members	15	13	M
Directors/trustees of the community enterprise/association <sup>a</sup>	6	5	T
Key external actors	4	3	E
Landowners		1	

<sup>a</sup> The directors/trustees interviewed also spoke in a private capacity, as members of their household, however they are only included within this row of the table.

<sup>b</sup> Including where no longer resident within the community, but agreed to be contacted by researchers.

moorland and open farmland, grazed by sheep and cattle, although in low numbers. Much of the farmland is managed by tenants of a large estate, with several owner occupied farms also operating within the Glen. A large part of the residential property is also owned by the estate; the estate in turn is owned by a non resident private individual, who bought the land several decades previously. The Glen contains a famous pub and former hotel, which remains popular with passing bus tours.

At the time of initiating the case study (Spring 2013), the research coincided with a 'crossroads' of change and possibilities for the people who live and work in the Glen. During Spring and early Summer 2013, the Glen Community Enterprise were preparing an application for an 'asset transfer' from the local authority of the former primary school building, which was now used as a community centre, in addition to the derelict village hall building and an adjacent house. The aim of the asset transfer was to ensure the security of a community meeting space and facilitate other community activities, for example, small scale tourism, plus historical and cultural interpretation. The Enterprise was run by a small group of directors, who were volunteers from the local area (within and beyond the Glen), in addition to a community development officer, whose post was funded by the local authority and regional development agency.

Later in 2013, the asset transfer application was rejected by the local authority, on the grounds that the Enterprise had not developed an adequate business plan for the renovation and future maintenance costs of the buildings. Subsequent to this disappointment for the Enterprise, the contract for the community development officer ended, and the group decided to disband the Enterprise and, instead, opted to form a 'Community Association' constituted as a Scottish Charitable Incorporated Organisation (SCIO). A new chairperson was appointed to this new organisation, and several directors of the Enterprise left office at this point.

Concurrently to (but independently from) the asset transfer application, planning permission was granted to an extensive windfarm across the area of the Glen on the land owned by the private estate. Construction work had not started yet in 2015, and an application for an upgrade of the windfarm was pending. This windfarm is the second such development in the area surrounding the Glen, and discussions were ongoing with other local communities regarding the anticipated 'community benefit funds' as detailed within the planning applications (see also [Pinker, in press](#), on this case). The use of these funds was also a subject of discussions within the Community Association.

A further development proposed within the Glen was the conversion of farm buildings owned by a neighbouring landowner into a heritage interpretation centre. During the period of study, this neighbouring landowner initiated a small charity involving external trustees, with the intention of developing the heritage centre and providing support to the community of the Glen. The charity began to lease the former primary school building on behalf of the Community Association and provided it for community events free of charge.

A further change during the study period was the decision by

the large estate owner to host annual community ceilidhs, inviting all residents of the Glen, local businesses, councillors, former community development employees and representatives of the renewable energy company. Staff turnover on the large estate also featured within community discussions over the two year study period, in addition the outmigration of several households from the Glen. Overall, while our interviewees were generally very appreciative of the natural environment in the Glen, its 'peace and quiet', landscape and wildlife, they painted a rather negative picture of its social dimensions, with the ongoing depopulation as a main facet.

Therefore, this example of community change, situated in a dynamic, complex institutional and infrastructural landscape, against the backdrop of Scottish community empowerment policies (Section 1), provided a rich and multifaceted case study. The following sections describe our key findings, using 'capacities' as an analytical lens to examine the factors and their interactions that seemed to underpin community dynamics. We first present personal (Section 3.2), infrastructural (Section 3.3) and organisational capacities (Section 3.4) separately, and then highlight their interactions (Section 3.5). We conclude with our analysis of the social capacities emerging from relationships between people (Section 3.6).

### 3.2. A question of personal capacity?

Considering our conceptual framework (Section 1.2) and at first sight, an obvious interpretation of the unsuccessful asset transfer, the disbanding of the Community Enterprise and the general image of a "dysfunctional" (M 2013) and "broken" (T 2013) community in a "godforsaken" (M 2013) place would be the diagnosis of too little personal capacity. Indeed, the small population size was certainly brought forward as a key factor that held the Glen back. There were simply too few people to take on responsibilities in the community organisation, and too few people to attend community events and activities, which often, where not enough people from outside the Glen participated, rendered these financially unviable. In addition, there was also a recognition that the small group of actively involved people might not have the skills required to manage an asset transfer and other similarly complex endeavours:

I'm actually beginning to doubt whether we can manage to do it. [...] I think it's going to be too big for us and at the moment there's only five of us and ... it just seems too daunting. (T 2013)

However, a lack of personal capacity in terms of numbers and skills, while certainly an important factor, could not fully explain what was happening in the Glen. Throughout the last 20 years, many different individuals had taken on active roles in the community, in a formal capacity in the Community Association or its predecessor organisations, as part of the committee who organised the use of the school hall for weekly activities such as badminton, or in other ways. Members of most households in the Glen, whether long term residents or recent incomers, had at some point or other been actively involved in and contributed to community life in the

Glen, often with substantial personal investments in terms of time, effort and even money. However, over the years, almost all of them had become disengaged, and the current Community Association had only three active members that were resident in the Glen. Aside from a number of families and individuals who had moved away in the last years, importantly, most people who resigned from formal responsibilities were no longer active in the community at all, even if they still lived in the Glen. They had either transferred their personal networks to neighbouring towns or retreated into a form of internal emigration:

No, I'm not a member of the community, I've nothing to do with anything. [...] I always say this is my small island, I'm like a small island, I just sit up here and all the troubles flow down past me. (M 2015)

This withdrawal was not only due to a simple overload of work that some individuals had faced, but, notably, also because of experiences of substantial tensions and frustration. In our analysis, we explored why, if so much personal capacity could be mobilised in the last few decades in this small community, this engagement has not had a more significant, long lasting and possibly a cumulatively positive effect on the community's situation, and why the Glen now finds itself in a situation that most of our interviewees characterised as rather negative, if not entirely hopeless. A number of factors emerged, here loosely structured around the categories infrastructural, organisational and relational capacities, which helped us to understand community dynamics in the Glen.

### 3.3. Infrastructural capacities

Among our interviewees, the view was prevalent that there was a significant lack of facilities in the Glen that could support community empowerment and resilience. Key factors here were, first, road access, especially in winter, but also, the safety of the road due to high roadside vegetation in summer. Second, the extremely slow broadband connection hampered internet access and therefore limited the type of people who could move into the Glen and work from home – in fact, it also made farm management difficult, which increasingly relied on internet access. This was exacerbated by the lack of mobile phone reception. Third, the closure of the primary school was still regarded as a major incision that had removed a focal point for socialising and joint activities from the community. The local authority was largely held responsible for this lack of infrastructure and public services, and interviewees saw themselves as powerless in relation to them:

... the school used to be our polling station, that got taken away. We used to have a recycling point down there that got taken away, the phone box we have here is not working so there are no services so that is the bad side and [...] it was all kind of connected to that school being open and running, and every time you enquired as to why they just said there isn't the demand which is complete and utter baloney but ... try and convince them. (T 2013)

However, it was also recognised that there were other relevant facilities that were independent from the local authority. There was, notably, the pub, which had been run by a local resident for several decades. In the past, the pub had been a popular venue for regular dances, events and community meetings. However, apart from occasional consultations organised by the windfarm developers, the pub had not been used as a meeting place in recent years, for a variety of reasons, among them accessibility for

children. Instead, the former school was now being used for events and meetings. In 2013, the place was still seen by some as a space of opportunity that brought people together. However, even at that point, the potential of the former school to act as a community venue and hub seemed to be doubted:

There is some sort of community centre now at the [former school], um ... I still don't really know whether it has an impact on people or not because I don't have a feeling that people are really interested in ... attending any events or doing anything there. (T 2013)

In 2015, while still available for community activities, the former school was barely mentioned as a place that could be used as a venue to bring people together. Instead, two other aspects of infrastructure attracted our interviewees' attention.

First, the windfarms and their concomitant opportunities and problems were most controversially discussed. Our interviewees focused here largely on the windfarm that had not been built yet on the Glen. While some residents expressed hopes that this new windfarm would create employment, housing – thereby bringing new people to the area – and also financial income for the community, others were much less optimistic, but saw a potential community income that would have to be carefully administered to ensure its benefit. Other local residents were outright negative, concluding that any jobs that might be created through the wind farm would be temporary or not of benefit to local people, the landscape would be scarred, – especially as it was believed that the turbines would not eventually be decommissioned as promised – and that the revenue created would only accrue to the landowner, not to the community.

They [the consultants] said do you like wind farms? And I said well I've really nothing against them, I said if they're going to be productive then good! But I said this one I am against, I said not because I'm against wind farms, because of the man that's going to get the benefit! [...] I said he'll just scoop the lot for himself that's his aim is to entirely scoop it. (M 2013)

There was also the concern that even if the community obtained money from the windfarm, this would have no – or at least not a positive – effect:

There might be some argument about how to spend the money that's coming in from them. [...] I think there's going to be too much money for such a small area with nothing really to spend the money on. (T 2015)

By contrast, the second infrastructural development, a planned heritage interpretation centre, was met with more enthusiasm, especially the fact that the owner, a charity, would also maintain the former school for community use, which would allow the inhabitants of the Glen to meet, without the burden of property management:

... the community have still got a meeting place. They come together, they meet on their terms, they start to have fun again, they can enjoy being part of a community and the pressure is removed ... (E 2013)

On the other hand, there were also considerations that an interpretation centre, like other developments, could attract too many visitors and new residents to the Glen. Especially if new houses were built as a cluster or if they targeted disadvantaged



families, these were seen as a risk to the character of the Glen. And indeed, several of our interviewees weighed the constraints imposed through a lack of infrastructural capacities against the positives of living in an infrastructure poor area:

... but then again, you know, I don't know why we have to kind of fill up every space with as many people and as much busyness as possible. Human beings don't like ... vacuums, do they, and empty places, but I think it's important that we preserve that as well, it's a difficult balance, isn't it? (M 2013)

Such statements also showed how closely infrastructure (or its lack) was intertwined with the Glen's geographic location, its landscape and natural resources – in other words, its natural capital. Despite all its shortcomings, the Glen was deeply appreciated for its environmental qualities:

A man I know [...] before we moved, he says he was standing out in the driveway at home and he said you could hear the burn trickling down beneath, the birds up in the trees, and he says to me: 'How are you thinking of moving from this location here'? He said: 'This is absolute ... the most peaceful place I've ever been'. (M 2013)

#### 3.4. Organisational capacities

Our overview of infrastructural capacities of the Glen highlighted the severe lack of facilities that were seen as important for a vibrant community, but also the potential of some opportunities that had not been realised (yet). A look at organisational capacities – here understood in a broad way and including the local authorities, community organisations and landowners as actors with an institutionalised role – sheds more light on the possibilities and constraints for developing infrastructure, but also on these capacities as factors helping or hindering community empowerment in their own right.

First, generally, as indicated in the previous section, the Glen did not feel supported by the **local authority**, although the support of a few select individuals, such as a previous development officer, was appreciated. There were numerous references to the council's lack of understanding of life in the Glen and the needs of its inhabitants, and an outright feeling of abandonment:

I don't really see that there's anybody on the council really fighting for the Glen is there? [...] The general feeling you get is if the Glen died altogether the council wouldn't be too unhappy! (M 2013)

Second, a key organisation meant to support community development in the Glen was obviously the **community association** itself, which had changed its organisational form several times over the years, and in 2013 had been turned from an enterprise into a Scottish Charitable Incorporated Organisation (SCIO) with charity character, trustees instead of directors, limited liability and relatively uncomplicated reporting requirements. Already during our first interviews, while the asset transfer was still a possibility and there was some degree of hope and enthusiasm at least among some of the organisations' directors, others were critical of its impact and the support it had among the community:

Whenever there's a meeting about the wind farm and the community fund then people turn up to hear about the money! How much are we going to get? But ... when it's about doing something or helping out with something nah! [...] I think

beyond the people immediately involved ... there's no real impact on anything. (T 2013)

Too few community members attended meetings in order to achieve a quorum, and therefore left the directors unable to take binding decisions. Visioning workshops were conducted "*with all kinds of props and things*" (T 2013) but then not followed up, leaving the participants disappointed. Generally, there was a very negative attitude towards the community enterprise held by non directors:

I really don't know ... so far it's done nothing, it seems to be going nowhere, and I think at the end of the day people will get fed up with it going nowhere and it'll fold! (M 2013)

This also included doubts in the collective abilities of the directors, accusations of decisions being made behind closed doors and of other practices that effectively excluded others. While some of the directors shared the disappointment to some degree as indicated above, others felt that these negative reactions were the result of too high expectations amongst the wider community, and a low level of patience and tolerance.

Later in 2013, after the SCIO had been set up, there was again a hope that the new, less administratively demanding organisational form would be more effective and inclusive. However, in 2015 our interviewees, both ex directors and community members seemed largely even more disenfranchised:

So I just didn't bother to go anymore, they were just going absolutely nowhere. They'd learnt absolutely nothing about why it had all failed. (M 2015)

To some degree, this disappointment was again related to a mismatch in expectations. Whereas there was, among some, a recognition that the absence of grand aims – such as an asset transfer – could be seen as a relief, others felt that without a larger, more strategic objective that would help to improve community life in the long run, the association's efforts were tokenistic. Interestingly, the role of the charity that planned to build the heritage centre and take over the school building on behalf of the community was seen in a similar light. Their taking responsibility for the maintenance and administration of the former school relieved the overburdened community organisation of the duties they would have had if the asset transfer had been approved. At the same time, they thereby removed a crucial catalyst of community action:

[The charity] then came in and said, 'Oh if you want we will take care of all of this', and everyone said, 'oh yes, if you can do it, just take it' and I think that was a mistake because it was one of the things that held the community together, it's working towards something, and that was lost. (T 2015)

At a more general level, however, some of our interviewees were even more negative about the potential of a community organisation to achieve anything:

R: I can't see a role for a Community Association.

I: In what way?

R: I canna see it working there. I just cannot see it working. There's nothing for it – there's really nae goal to work for. It's like two teams playing fitba and nae goals. Ken<sup>4</sup>? (M 2015)

<sup>4</sup> Ken know (Ken? You know?); nae not/no; fitba football.

This was to a large degree also due to the role that the main **landowner** of the area was seen to play. He had bought the estate more than 30 years ago and had since then developed a reputation amongst some in the community of wishing to clear the land of its inhabitants:

R: And then the laird he does'nae want anybody in anyway so he ... he's quite happy for them all to disappear.

I: Right. And why do you think he doesn't want anybody around?

R: He wants it just as a wilderness. (M 2013)

Interviewees described how, when a tenant moved out of a property, the house would not be let out again (unless to game keepers or other employees of the estate), with some properties being demolished. Remaining farmland had then been leased to non resident graziers. All of this was seen as a systematic attempt to depopulate the Glen over time, and was repeatedly labelled by interviewees as the 'modern day (highland) clearances'. It was exacerbated by a perceived lack of support in favour of the remaining community. For example, the landowner was seen to obstruct community driven projects that required a small amount of land, and stories were imparted of his gamekeepers being instructed not to talk to the 'peasants' (although this had recently changed) and to discourage recreational access takers seen as 'inconvenient' by shooting activities. Some farmers commented on the lack of fencing to keep sheep and deer out, which impacted on their opportunities for crop cultivation. Tenants, as well as estate staff, were regarded as unable to speak their mind, as their livelihoods depended on the good will of their landlord and/or employer. A large part of the Glen's situation was therefore perceived as connected to the influence of the landowner:

Well, there's nae much of a community in the Glen, because the man that owns the Glen, of course, he destroyed it. (M 2013)

Again, this was combined with a strong feeling of powerlessness in relation to **public authorities and Scottish Government**. Many of our interviewees felt that this particular landowner was able to manipulate the regulatory and even the judicial system, so that governmental actors had little means to control him. At the same time, the Scottish Government was seen as the only force that could potentially constrain him to some degree:

But now his main worry is [the current Scottish Government]. That is his big worry now for land reforms, now he is running a wee bit scared [...], he is now offering to give a bit of land and this would be maybe to just sweeten the community a bit towards his wind farm development. (M 2015)

Overall, local residents felt that more recently, the landowner had indeed made "*rather more amicable noises*" (M 2015), for example, by organising annual community ceilidhs, or promising new housing for workers on the windfarm. As expressed by the speaker above, this was partly attributed to the pressure of the forthcoming Land Reform (Scotland) Act 2016, and partly to the need to minimise community objections to the wind farm. The annual ceilidh was, consequently, interpreted as an event to get local residents on his side for the windfarm development, or even more cynically, as the "*annual thing where all his tenants that remain are forced to come and break bread with him*" (M 2015).

The landowner himself, by contrast, explained that the

windfarm was the first sustainable and economically sound development opportunity that had emerged in this remote and climatically challenged area since his purchase of the estate. For him, the revenue emerging from the windfarm was a major chance for the Glen to invest in new developments and business opportunities that could reinvigorate the community. However, how exactly the future windfarm revenue could be used to effectively support the community was also unclear to him.

In contrast to the local residents, many of whom saw the land owner as a key reason for the bleak prospects for positive change in the Glen, the landowner described how a long term impasse with a neighbouring landowner that crystallised around a disputed place of cultural value to both had stalled any efforts for improvements in the Glen. It was this long standing conflict that lay at the root of the disapproval of some of the community initiatives as these were associated to the particular place in dispute.

### 3.5. Organisational, infrastructural and personal capacities: links and interdependencies

Organisational, personal and infrastructural capacities were closely intertwined, with the population size of the Glen, housing availability and job opportunities being the key components of this complex nexus and the landowner being seen as holding the power to influence this nexus to a large extent, in either an upward or downward spiral. For example, the absence of opportunities for young farmers to move into the Glen and for young local families to find accommodation in order to stay meant that net depopulation was continuing, and left the community organisation without members, which in turn decreased its power to effect positive change. Both public and privately provided services, such as a shop, the post office and the school had disappeared due to a "lack of numbers" (M 2013). It also meant that the association's work could be regarded as fruitless if depopulation was not addressed effectively:

I just sometimes think the cairt is put afore the horse, I mean – fit are they going to do with the community money if there's no folk in the community to make use of it, ken? (M 2015)

Our interviewees voiced many ideas to attract small businesses and young farmers, but these would, in their view, require the landowner to be supportive of a repopulation of the land. The windfarm was by some regarded as a major opportunity that could, as it committed the landowner to delivery, bring new housing into the area, and allow the community to grow again. Whilst the windfarm income to the community would constitute a management challenge to the current association, it might also provide funding for infrastructure that would facilitate small businesses, such as a better internet connection or the provision of office and workshop space. The idea of spiral like interactions appeared several times in our interviews, both in a positive sense – how experiences of success in terms of e.g., the community benefits from the windfarm and new housing could help to rekindle enthusiasm and the motivation to engage in community matters – and in a negative sense:

There's just nothing happening, nothing happening in the area to attract or to keep people, nothing seems to happen, there is just deterioration on a weekly basis, which is sad. (M 2015)

At the same time, it was recognised by some that the organisational capacity embodied in a professional development officer, who might be funded only for a limited amount of time, would

strengthen the personal capacities of the volunteers active in the community association (and thus its organisational capacity) only if an active approach to capacity building and skill sharing was employed that involved community members “hands on” (E 2015) in the work. The absence of such capacity building was seen as unsustainable, given the temporary nature of the funding for professional support.

### 3.6. *Relationships: cultural capacity, social capital and beyond?*

Beyond this nexus, another set of factors appeared to strongly influence community life in the Glen to a much greater extent than the community capacities framework (Section 1.2) implies, namely the quality and experience of relationships between people. Our interviewees offered rich and detailed insights into this area, often without us prompting a focus on relationships at all, and appeared deeply affected by their experiences of social interactions in the Glen. While there was also a cultural, i.e., socially shared and enduring element to these interactions, our interviewees' accounts went well beyond what would commonly be seen as ‘community culture’ or cultural capacity, as much of this was about memories of specific incidents, associated feelings, and how these shaped relationships between people in the long term. As we will see (Section 4), it also seemed to transcend the notion of social capital.

There was an overall image of the Glen as being subject to longstanding ‘feuds’ between some of the indigenous families (repeatedly labelled ‘clans’) that could trace their history in the area back several hundred years, and that these feuds were disrupting constructive interactions:

Here are a lot of clans, there are two clans, three clans in the Glen and that's nae us! [Laughter] And if one clan is the chief the other clan they cannae agree with that chief ken? That's been a big problem in the area all my life that, and then vice versa if that other member of the clan became chief the other 'een that was chief his family all took the sulks! (M 2013)

However, such phenomena involved by no means only long standing residents of the area. Several of our interviewees told us how they had been actively engaged in the community in the past, but how an unpleasant incident had led them to withdraw from their engagement. Such incidents might have happened as long as ten or more years ago, and could include the experience of others talking negatively about oneself, the experience of being excluded from a meeting or pushed out of a role or function in the community, or other confrontations with actors in the Glen. And like the ‘feuds’ mentioned above, these tended to inform people's engagement today, often many years after the original incident had taken place:

The school, to me, was never a meeting place, because there was so many fall outs with the school before the school closed. I never once attended anything at the school since the hall closed. (M 2015)

In addition, within our interviewees' speech, we found strong rhetoric patterns that seemed to serve to establish (or challenge) the legitimacy of people's engagement in the community. Interestingly, these were used by long standing residents as well as incomers and non residents, and centred on arguments that doubted the rightfulness of individuals taking on roles as directors or trustees. The engagement of members of century old families, born and grown up in the Glen but now living a few miles away as they could not find accommodation was drawn into doubt as well

as that of ‘incomers’, whether they had been living in the Glen for two, twenty or even more years, and whether they had moved in from another country or just a few miles up the road. Suspicions were voiced that recent incomers as well as people living outside the Glen were getting involved in the Community Association solely due to a selfish interest in the money that might be generated by the windfarms, and generally, that incomers did not understand the Glen. By the same token, tenants of the landowners were suspected to be on his side, and therefore were not seen as suitable office bearers either. This essentially led to an arguably absurd situation where no one associated to the Glen was unanimously seen as a legitimate representative of the community.

The flipside of this exclusive understanding of rightful community engagement was a widespread lack of trust in others. Most interviewees seemed to believe that if they were not actively invited, this meant that they were not wanted at an event or meeting. This had often led to long term withdrawal from activities, even though in many cases, the absence of an invitation had just resulted from the organisers of the meeting feeling overwhelmed by the workload or from a misjudgement in the choice of information channels, but had by no means been related to the individual in question as a person. The only person that our interviewees trusted unreservedly and unanimously was a former development officer who had left the community several years ago. And although each of our interviewees seemed to be friendly with one or two individuals or families in the Glen, there was a general expectation that others beyond this small circle of friends would not appreciate one's contributions or engagement. Such generalised feelings were grounded, for example, in experiences of being badmouthed or reported to the authorities. There were also stories regarding why people had ‘dropped out’, which again, often included a negative message about the individual. This led to a situation – and this was particularly obvious in 2015 – where people were connected in dyads or triads, for example, between neighbours who felt that they could rely on each other, but large parts of the remaining social environment was territory that was, metaphorically speaking, fenced off as a no go area.

Since this incident arose I just stood back. My husband and my other son they went to the fun day last year but [...] I deliberately stayed away! (M 2013)

This was combined with a general feeling that one could not be open and honest, as others would not appreciate this openness and would penalise it through further exclusion. This perceived lack of opportunity to be open led to further, almost intractable tensions and withdrawal even though a few individuals tried to work against it:

Very different views, but that is a major problem with this area you've got to look past people having different ... you can have a really good friend, you don't have to agree with everything they say. (T 2013)

These negative views of others and negative expectations culminated in a blanket dismissal of the community organisation, as voiced by some of our interviewees, of which the directors and trustees were well aware:

R: I would like to see something come out of it but I can see nothing coming out of it from day one.

Int: What would you like to see come out of it?

R: Well ... I've never given that a thought! [Laughter] Because I know nothing will come out of it! (M 2013)



Collectively, these mechanisms resulted in a combination that rendered engagement and the taking of responsibility for the Glen almost impossible. Classifications of people as legitimate or illegitimate representatives of the Glen were not only conceptual but were used in practice to work towards the exclusion of individuals or groups from taking on active roles.

Numerous examples of such mechanisms were mentioned in our interviews and illustrated how the people of the Glen created their own social micro structures that restricted the scope and direction of their action, and essentially, constrained constructive interactions within the community. This had apparently not always been the case. Many of the long standing residents were happy to talk about the past, but found it difficult to develop a vision for the Glen's future. In conjunction, and possibly mutually reinforcing each other, these social processes contributed to an atmosphere of decline and hopelessness, which demotivated initiative taking and active engagement. Interviewees were aware of the implications that these processes had:

Ach, I think of the fighting between themselves, if you can't get on with your neighbours at a meeting, you've no chance against outsiders. (M 2015)

But, as one of them remarked, there was little individual ability to cope constructively with disappointment and tensions, and as people withdrew in response to negative experiences, there was no opportunity to overcome these through positive social encounters.

Overall therefore, in addition to factors that could be interpreted as organisational, personal and infrastructural capacities and their interactions (Sections 3.2–3.5), relational aspects and the social capacities that arose from these appeared to be a key component of what characterised community life in the Glen. Again, these relational capacities were closely linked to other factors, with, for example, bi directional interactions between relational and organisational capacities, especially with regard to the role of the community organisation and the landowner. There was a recognition that the prevalence of relationships fraught with conflict reduced the community association's organisational capacity. Similarly, relational and personal capacities interacted with each other, for example, the small population size amplifying the challenges arising from social tensions:

Historically they used to come together in the pub and the place, you would have heard, it was bursting at the seams so why is that not happening anymore? Because the fewer people there are it seems to be there's more spotlight and it's almost like you're zooming in on every little thing and they become big things and then you have the feuds, and the feuds become big things. It's geography as well as the dynamics of the personalities! (E 2013)

At the same time, the absence of a vibrant and positive community life contributed to the Glen's lack of attractiveness for young people to stay. Finally, infrastructural and relational capacities were also seen to be connected. Some interviewees commented on the lack of a place for people to meet informally, and that there was therefore limited opportunity to create more positive relationships. However, it seemed also clear that the existing spaces for such encounters did not function as meeting places as interpersonal conflicts and negative relationships prevented individuals from making use of these (see quote above).

#### 4. Discussion and conclusion

Our analysis unpicked the situation in the Glen and its dynamics over two years using a set of broad categories from the community capacities literature (Middlemiss and Parrish, 2010). 'Community capacities' can be seen as important factors that help to operationalise community empowerment and resilience as overarching policy goals (Section 1.1). In relation to these categories of capacities, three main findings emerged.

First, there were strong and important interactions between the different categories (Sections 3.5 and 3.6). Different aspects of capacities might interact in spiral like ways, feeding off each other, to either improve or worsen the situation in a place (Section 3.5; Emery and Flora, 2006). The case of the Glen thus seems to lend support to Skerratt's (2012) thesis that empowerment processes are often self reinforcing; our analysis shows how such mechanisms of reinforcement might work in practice. The presence of these interactions also underscored that categories such as the ones proposed by Middlemiss and Parrish (2010) are best understood as mental tools for flexible, process focused analysis rather than as hard and fast classifications for 'stock takes'.

Second, we found that while the Glen had some positive capacity in organisational, personal and infrastructural terms (e.g., a small but active group of trustees, and access to the school building), its situation was characterised not so much by the *absence* of other aspects of capacities but by the *presence of negative* capacities (note that this is different from the negative consequences of social capital, e.g., exclusion, as summarised by Portes, 2014). To some degree, the distinction between absent and negative capacities might be regarded as semantic nit picking. However, we argue that negative capacities can come in two forms, both of which are important to understand when considering ways to 'empower' a community or to make it more resilient. For example, in terms of social capacities (Section 3.6), the conventional perspective on social capital considers it as either present or absent. Our findings suggest that there might be a difference between absent social capacities (e.g., 'as I do not know anybody at the community event, I am not sure if I will enjoy it and if I should attend') and outright negative social capacities, as described by our study participants who categorically refused to attend an event that was associated with a person with whom they had, almost literally, burnt their bridges (Section 3.6). These negative relationships actively prevented them from supporting and engaging in community activities. A different type of negative capacities emerged from the use of existing skills, power and resources (such as the landowners' organisational capacities, see Section 3.4) in a way that was seen to work against, rather than in favour of, the community's aims and ideals. Again, here it was not just the absence of capacity, but its presence with a negative direction that could be regarded as damaging rather than just restraining community capacity. This is relevant not least because it might be much harder to overcome 'negative' capacities than to acquire positive capacities starting from a neutral baseline. In addition, it seems important to understand the entanglements of power (e.g., Frisvoll, 2012) and processes of interaction (e.g., McKee, 2015) that constitute and shape these capacities, two aspects that are implicit but, not least for space reasons, were not a focus of our analysis.

Third, rather than cultural capacity in the sense of Middlemiss and Parrish (2010), people's experience of *interactions between people* and the conclusions they drew from these played a major role in shaping the community's ability to take an active role in making their own future. To some extent, this cluster of relational, interaction based factors (or perhaps 'social capacities') is akin to social capital (Bourdieu, 1986; Coleman, 1988), especially where

this is defined as 'relational embeddedness', i.e., as a quality of relationships that then influences behaviour (Nahapiet and Ghoshal, 1998; cf. Granovetter, 1985), rather than as a capital stock that can, at least partially, be exchanged for other types of capital. However, in the academic literature, this particular aspect of social capital is usually described in conceptual or social network terms only, and hardly ever expanded on in any empirical detail. Connected to this, there is often a mismatch between the 'what' perspective (descriptions of concepts and relations) and the 'how' perspective (explanations of links and processes) of social analysis (Falk and Kilpatrick, 2000). Coleman (1988), for example, states that norms can be seen as a form of social capital, but does not explain how this capital – as held by individuals or groups – is translated into norms or vice versa in practice. Our analysis provided in depth insights into the ways in which lived relationships, and importantly, the ways in which these were experienced, were turned into micro level structures that had the power to shape our interviewees' social behaviour. Importantly, these structures were not norms that were socially enforced (e.g., Janowitz, 1975), but it seemed that each individual enforced their norms, created based on their personal experiences, for themselves in their own personal space. The absence of infrastructural conditions that would force the inhabitants of the Glen to co operate and engage with each other (e.g., at the school), then, made the persistence of such self imposed norms (e.g., of not attending meetings which involved a specific person) viable and meant that opportunities for more fruitful encounters and the circumstantial building of trust were extremely rare.

Together with the Glen's organisational and infrastructural capacities (Sections 3.3, 3.4) which could be seen as meso level structures, and those determined at the macro level by national policies and other factors external to the Glen, which were not a focus of this analysis, these micro structures shaped behaviour at the local level. Interestingly, our data poignantly illustrates how our interviewees acted as agents who, at the same time as creating their own (micro and meso) structures, were constrained by these. This interpretation adds to the framing implied especially by the notion of (community) capital (e.g., Emery and Flora, 2006), as it transcends the notion of people as a resource and holders of assets, by highlighting their agency in not only the use of the existing capacities (as suggested by Middlemiss and Parrish, 2010), but also their creation. It points at an area of research that seems understudied (see also Christens, 2012), possibly because it lies at the intersection between sociology and psychology. It also answers to the call for more studies of social practices (Frisvoll, 2012).

By contrast, cultural capacities as defined by Middlemiss and Parrish (2010) were difficult to identify in our interview material. Some interviewees explicitly referred to characteristics of the inhabitants of the Glen 'in general' (for example, to its clan like structure), or to the idea that the Glen had always been different due to its role as a refuge for Catholics until the 19th century and as a place of illicit stills – which could be interpreted as perceptions of 'cultural', pervasive and enduring features. However, most references to the inhabitants of the Glen did not specify a 'generalised' nature of the values or habits that were used as descriptors, and it would therefore be a gross over interpretation to label these as 'cultural'. At the same time, an interpretation as 'cultural' might obscure people's agency in the creation of such capacities, prescribe them as enduring, and thus suppress opportunities for change.

We interpreted our analysis as a 'critical' case (Section 2): The Glen might be as seen an observatory of processes and mechanisms that – *because* rather than *despite* its small size – might be more visible than elsewhere, but highly relevant also for other, larger communities.

We also note that many of the phenomena mentioned in the

interviews could be analysed from several angles within these frameworks. For example, the pub could be interpreted as part of the Glen's infrastructural capacity (as a potential physical meeting space), its organisational capacity (the degree to which the pub as an institution can foster inclusive community action) and in terms of personal capacity (e.g., related to the role of the owner as a person with particular skills and inclinations). Such interpretations might depend on their discursive context, which has implications for the attribution of responsibility to act. For example, skills and resources to organise community action can be seen as personal capacity (e.g., if we focus on the engagement of volunteer community members) or as organisational capacity (if we focus on professional support, e.g., by community development officers, funded by public bodies, see Section 3.5), depending on how an 'empowered community' is conceptualised. Reflecting on such interpretations is important to make underpinning perspectives (e.g., the often quoted neoliberalism, Section 1.1) transparent.

In more practical terms, our analysis attempted to disentangle the complex social mechanisms underpinning the Glen's situation today. Two conclusions for the community empowerment and resilience agenda arise from our insights. First, going back to the starting point of our research, i.e., the aim to observe the processes related to and impacts of a community asset transfer and community empowerment more generally, the case of the Glen illustrates that the tasks taken on by a community – such as the administration of an asset or a grant – have to match the capacities of a community. The experience of failure can further damage both capacities (for example, as key players withdraw) and community resilience overall. At the same time, the complete delegation of responsibility to other actors (here, e.g., the charity taking over the management of the former school) can remove a crucial sense of direction and purpose for the community to come together.

Second, importantly, in a situation where capacities are, generally speaking, not only low but in parts even negative, it appears unrealistic to expect successes from single pronged approaches, such as the provision of a development officer, the organisation of a visioning process, the availability of funding for the community, or the inclusion of a few more individuals into the Community Association. Any attempt to change the situation in the Glen has to take multiple factors and their interactions into account. For example, it seems essential that relationships between people fundamentally improve and a general level of trust is established that assumes that everybody's contribution is valued in principle. Unless the 'social capacities' of the Glen are enhanced (Section 3.6), any newcomer into the community is likely to make similar experiences as most others before them, and to eventually withdraw (Section 3.2).

Overall, our study shows how different types of capitals and capacities interact, are constructed and used by people, and underpin the current situation in our (spatially delineated) study community. Our analysis has identified a number of factors – the role of interactions between capacities, of negative capacities and of the relational microstructures emerging from social experiences – that tend to be neglected in the community empowerment literature, but seem essential for an understanding of the situation. An attempt to increase community capacities – whether driven fully by the local residents themselves, or supported by external actors – will have to take these into account in order to be successful.

## Acknowledgements

We are very grateful to all our interviewees for their time, openness and hospitality, Liz Dinnie and Annabel Pinker for substantial help with the interviews and visits to the Glen and for numerous discussions, and Catriona MacLeod and Karen Stewart for their transcriptions of the interviews. Liz Dinnie, Joshua Msika,

Deb Roberts, three anonymous reviewers and the journal editor provided helpful comments on previous versions of this manuscript. This work was funded by the Rural & Environment Science & Analytical Services Division of the Scottish Government through the Strategic Research Programme, 2011–2016.

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Scottish Land Commission - Info gathering  
**Date:** 22 July 2019 11:50:03

---

Good morning [REDACTED],

I work within the support team for the Fair Work Convention which has been in place since April 2015 and acts as an independent advisory body to Scottish Ministers. I'm currently gathering some information on other Independent Bodies and wondered if you'd be willing to share some info about Scottish Land Commission.

I'm looking for the following information:

- How often do the Scottish Land Commission meet?
- Where are the Secretariat/Support Team located? (within a Government building or external location)
- How big is the Secretariat/Support team?
- Could you share your Terms of Reference or Framework Document with me?
- Do you publish / share the details of meetings and your work plan?
- If yes to the above, where do you publish this?
- Are the members of the body paid?

The Fair Work Convention are updating their Terms of Reference and are keen to see how other independent bodies function.

Please feel free to give me a call if you have any questions regarding this.

Kind regards,

[REDACTED]

[REDACTED]

Fair Work Convention | Scottish Government | 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU



[REDACTED]



[REDACTED]



[REDACTED]

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Date 23/07/2019

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10016**

I refer to your recent request for information which is being dealt with under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested and the information is provided below.

- The Commission may convene a Commissioners Meeting whenever it thinks fit; and if a meeting has been requested in writing by two or more of the Commissioners to the Chair, the meeting must be held within 28 days of this request. No less than 4 Commissioners meetings will take place each year.
- The Scottish Land Commission is a small organisation of 15 staff that does not have such a team allocated. Any meeting papers requiring circulation and travel arrangements are usually arranged by our Chief Executive's PA. We do have a Sponsorship unit based within a Scottish Government building in Edinburgh, but they do not provide any support in the arrangements of Commissioners meetings.
- As above there is no such team but there will be three members of staff that are available to help with the preparation of Commissioners meetings.
- Our Framework document is published on our website and can be found [here](#).
- The Standing Orders and documentation regarding board meetings are also published on our website and can be found [here](#).
- The Land Commissioners appointed by Scottish Ministers receive a fee of £210 per day and are required to devote up to 2 days per month to performing their functions.  
The Chair of the Scottish Land Commission receives a fee of £263 per day and is required to devote at least 4 days per month to performing their functions.  
The Tenant Farming Commissioner receives a fee of £210 per day and is required to devote up to 8 days per month to performing their functions.  
The above remuneration is taxable and the commissioners and chair do not receive a pension.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).



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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

  
*On behalf of the Scottish Land Commission*  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 01463 423300

**From:**  
**To:**

[Redacted]

**Subject:** RE: FOI - non-salary awards  
**Date:** 20 November 2019 11:51:34

---

Hi all,

A few bodies have asked for a definition of non-salary awards. I'm working off this definition.  
Hope that's helpful - <https://www.gov.scot/publications/scottish-public-finance-manual/non-salary-rewards/non-salary-rewards/>

Thanks

[Redacted]

---

**From:** [Redacted]

**Sent:** 19 November 2019 13:10

**To:** [Redacted]

[Redacted]

[REDACTED]

**Subject:** FOI - non-salary awards

Hi,

In accordance with FOI, please provide the following information.

How much have you spent, in total, on non-salary awards in each of the last five years – 2015/16, 2016/17, 2017/18, 2018/19, and 2019/20 to date.

Please provide a breakdown of the five highest individual awards, the value, the type (eg cash payment, vouchers, goods, etc), reason for the award, the date, and ideally the job title of the person paid to.

Many thanks

[REDACTED]

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[REDACTED]



Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

By email

Date 27 November 2019

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10017**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested and can confirm that we have spent £0 on non-salary awards in 2017/18, 2018/19 and 2019/20. The Scottish Land Commission was created on 1<sup>st</sup> April 2017 so was not in existence for 2015/16 and 2016/17.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[REDACTED]  
*On behalf of the Scottish Land Commission*  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 01463 423 300

**From:** [REDACTED]  
**To:** [info](#)  
**Subject:** FOI - Regional Land Use Partnerships  
**Date:** 10 November 2020 14:55:43

---

Good Afternoon.

I note in your submission to scottish ministers that there were 16 detailed responses and comments to the interim report on establishing the Regional Land Use Partnerships.

I would be grateful for copies of these responses and any others from 'stakeholders' relating to the wider consultation.

Thank you.

[REDACTED]

[REDACTED]

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FOI10018 - RLUP  
**Date:** 04 December 2020 15:16:00  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)  
[FOI10018 - Combined - Redacted.pdf](#)

---

Dear [REDACTED]

**RE: Freedom of Information Request**

**REF: FOI10018**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search please find attached the information requested in PDF format. Please contact me if you have any difficulty accessing this information.

We do endeavour to provide information whenever possible. However, in this instance the below exemption under the Act applies to some of the information requested:

**s.38(1)(b) Personal data relating to third party.**

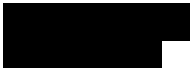
This information is exempted if (i) it is personal data and (ii) its release would breach one of the data protection principles. Information that falls under this category has also been redacted.

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## REGIONAL LAND USE PARTNERSHIPS Interim Report

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Galloway and Southern Ayrshire Biosphere welcomes the interim report on Regional Land Use Partnerships (RLUP) from the Land Commission. They recognise the ambitious nature of the report and want it to be clear that the intention is for future Forest and Woodland Strategies to come under the umbrella of the RLUP.

### **Key issues for further consideration:**

- **Which functions are core to initial establishment of the Partnerships and which could develop over time**
- **What are the most significant opportunities for the Partnerships to target relevant public funding streams.**

The Biosphere feel that the core function of the Partnership should in the first instance be to develop a strategic Regional Land Use Framework within the RLUP area that is given a statutory footing ensuring all other land based strategies follow its lead.

The focus should be on public funding streams being aligned to delivery of the RLUF, with a transition of funding moving from Pillar 1 to Pillar 2 style objectives with a particular focus on supporting natural capital and wider public benefit objectives.

### **Key issues for further consideration:**

- **The appropriate statutory basis for Regional Land Use Frameworks**
- **How the relationship with Regional Spatial Strategies can best simplify and integrate land use planning for most effective delivery**
- **The data required to develop land use frameworks and monitor results (a SEFARI-led group is reviewing key issues).**

The Regional Land Use Frameworks needs to be given the same statutory footing as the Local Development Plan.

Whilst RSS are not intended to be part of the statutory development process, local authorities will have to give them regard when preparing, revising or amending the LDP. It's essential that the RLUF and the RSS share a close alignment and that LDP's have to take account of both.

Scottish Landcover. Mitigation Mapping and Adaption Planner by Edinburgh-based Satellite data company Space Intelligence is working alongside partners Scottish Natural Heritage (SNH) and the Scottish Wildlife Trust (SWT) to develop AI that can interpret satellite images and identify different land cover types such as forests, meadows and crops. This has the potential to help address the climate emergency because some types of vegetation and ways of using land store more carbon and

are more beneficial to biodiversity than others, using this technology to map all of Scotland (with appropriate ground trothing) could provide a baseline for future RLUF monitoring. This should be backed up by wider ecosystem services mapping particularly cultural services, along with land capability mapping.

All publicly funded schemes (e.g. IACS, SG grants, Peatland Action etc) should be mapped and the detail made publicly available so new proposals can be considered and amended to take account of the wider landscape creating opportunities for habitat networks, access links, health and wellbeing etc.

**Key issues for further consideration:**

- **Options for the selection/nomination routes to participation**
- **What governance mechanisms will ensure effective connection between devolved regional decision making and ensuring national targets are achieved**
- **How can partnerships empower local action and decision-making within a region.**

GSAB supports the tripartite governance model which also broadly aligns with that of the Biosphere. They do believe it's important that the people who sit on the Partnership do so as individuals representing their personal knowledge and expertise rather than that of organisations such as NFUS, CONFOR, RSPB. The development of the RLUF should also include formal engagement of both sectoral and community interests.

The presence of local representatives of national bodies (both public and voluntary) in RLUPs should ensure that the national perspective gets injected as part of the process. Representatives from each RLUP should also be invited to sit on an overarching national body that ensures national targets are still considered at the regional level.

Local action and decisions making will ultimately be achieved through having direct influence over funding within the RLUP area. It's essential that devolved local budgets are part of this and should ultimately incorporate both the existing Pillar 1 and Pillar 2 support mechanisms.

**Key issues for further consideration:**

- **How could advice be delivered in order to stimulate and support most effective collaboration and delivery**
- **How could place-based agency teams work most effectively to support Regional Land Use Partnerships.**

A whole holding plan (farm or forestry) that includes short/medium/long term aspirations should be a prerequisite of any funding bid. These should embrace a balance of social, environmental and economic objectives. Proposals should also be required to consider their impact within the wider landscape – e.g. opportunities for habitat networks, impact on landscape character etc. This advice will come at a cost which should be borne by the applicant.

A two tier system of advice is suggested, with FWAG-type staff helping with the development and implementation of more strategic, landscape-scale ambitions (a facilitator role) and the more traditional SAC/private sector advisors focusing more on the holding level – though with the benefit of whole farm plans to ensure adequate attention to environmental and other non-commercial objectives and a holistic approach. For private sector advisors it may be advantageous to explore

partnerships or training for traditional to bring in new skills linked to community, climate change, biodiversity etc.

The current place based agency teams are already heavily stretched and would require a review of the areas they cover and significant additional investment to create a resource within them that could have meaningful engagement with applicants.

**Key issues for further consideration:**

- **What would be the most appropriate effective approach to implementation across Scotland**
- **How could parts of Scotland which have less capacity through existing initiatives be best supported**
- **What resource requirements are considered essential.**

The coverage of RLUFs must be countrywide and the RLUPs should be broadly consistent in their operation. The Biosphere believes that where possible the use of existing 'partnership bodies' should help form the basis for successful implementation of the RLUP. We recognise that there are some areas without such a partnership in place and would suggest that this could be addressed by a combination of enlarging the coverage of existing partnership areas to cover 'gaps' and through a process of shared expertise.

We do think that where possible RLUP areas should be largely based on Bio Geographic criteria rather than local authority boundaries. In many respects with the delivery of the RLUF likely to be through incentives aligned to funding regimes administered by RPID SNH, SEPA, SF etc boundaries should be complimentary to these rather than local authority. It may be that slightly different approaches are required for rural and peri urban areas.

Resources required are going to depend on exactly what the role of the partnership is – the development of a RLUF is going to require analysis of the data sets collated for each area. Whilst much of this may be derived from national data sets local analysis will be required to inform and substantiate regional priorities. Ongoing maintenance of the dataset will be required to update and measure progress against national and regional priorities. This will also require a period of widespread public engagement.

The RLUP will require a chair, secretariat and communications support and a budget for facilitating a series of annual meetings. Its suggested that having a budget available for 'learning journeys' or 'open days' to enable the sharing of best practice would also be beneficial.

A team of local officers to facilitate engagement with land managers, local communities and agents offering support, advice and training on the objectives of RLUF would also help ensure a more rapid adoption.

## Community Land Scotland Comments on Regional Land Use Partnerships – Interim Report

### Introduction

Community Land Scotland welcomes the opportunity to comment on specific issues raised in the Scottish Land Commission's interim report on Regional Land Use Partnerships (RLUPs). We note that RLUPs are envisaged as being part of a wider step change in making a just transition to a net zero economy. We further note the identification of climate change and nature targets; economic recovery and renewal; Scotland's Land Use Strategy; the Scottish Land Rights and Responsibilities Statement; Post-CAP rural support; planning reform; and landscape-scale collaboration as key elements of that step change. Community Land Scotland contends that consideration of that wider policy context is essential in shaping the status, functions and governance arrangements of RLUPs. In particular we argue that it is vital to locate the establishment of RLUPs within the broader canvas of community-led sustainable development that recognises the direct relationship between land ownership and land use in delivering outcomes that serve the public interest. We return to this theme later in our submission.

### RLUPs' Functions

Community Land Scotland is in broad agreement that the core function of RLUPs should be the development of Regional Land Use Frameworks which are used to deliver on local, regional and national priorities as appropriate. We consider that there is merit in establishing both the RLUPs and their Frameworks on a statutory basis that determines their functions, focus and governance arrangements if they are to maximise their potential to deliver against Scotland's National Performance Framework and, by extension, the UN's Sustainable Development Goals. However, we recognise that there may be implications for the practicality of establishing a statutory basis for RLUPs given the Commission's suggested phased approach to their introduction, as discussed below.

We also see merit in giving RLUPs a remit to prioritise and target elements of public funding in relation to climate mitigation and adaption, natural capital and rural development; especially – but not necessarily exclusively - in relation to post-CAP funding streams. However, our support in that regard is premised on:

- ensuring an appropriate balance between national, regional and local priorities in the allocation of such funding;
- synergy with (rather than duplication of) other rural development funding and delivery structures;
- ensuring funding conditionality that facilitates community involvement and leadership in delivering land use outcomes that provide both community and wider public benefits.

Our support is also premised on the over-arching need to diversify the pattern of land ownership in Scotland (*principle two of the Land Rights and Responsibilities Statement*) in the public interest. That need has been acknowledged by the Scottish Land Commission in its 2019 report on large scale and concentrated land ownership in Scotland<sup>1</sup>, which notes that “*highly concentrated land ownership can have a detrimental effect on rural development outcomes*”. Moreover, the Just Transition Commission's recently published advice to Scottish Ministers on a green recovery<sup>2</sup> also highlights the structural challenge of concentrated rural land ownership, together with the importance of community involvement and land tenure in helping to deliver a green recovery. We therefore strongly urge the Scottish Land Commission to make reference to these wider contextual issues as they relate to the establishment and management of RLUPs within its final report to Ministers.

<sup>1</sup> Scottish Land Commission. 'Investigation into the issues associated with Large Scale and Concentrated Land Ownership in Scotland'. <https://landcommission.gov.scot/downloads/5dd7d6fd9128e-Investigation-Issues-Large-Scale-and-Concentrated-Landownership-20190320.pdf>

<sup>2</sup> Just Transition Commission: 'Advice on a Green Recovery'. <https://www.gov.scot/publications/transition-commission-advice-green-recovery/>



There are significant strategic opportunities for RLUPs to target relevant public funding streams to deliver against climate change targets in relation to, for example, peatland restoration and management; renewable energy generation; forestry development and management; and habitat restoration and management. Ideally, such funding should be allocated on the basis of delivering multiple economic, environmental and social benefits on a holistic basis. Training and employment opportunities – especially for young people – should also feature as components of funding streams where appropriate. Given the importance of adopting a holistic approach to the establishment and implementation of RLUPs, we are also of the view that consideration be given to extending the spatial scope of RLUPs to also encompass elements of the marine environment, particularly the foreshore of coastal areas given its importance to the sustainability of coastal communities.

## Regional Land Use Frameworks

As noted above, we consider there to be merit in placing Regional Land Use Frameworks on a statutory footing to enable the effective implementation of their functions within the broader policy context described earlier. The interim report rightly highlights National Planning Framework 4 (NPF4) as an opportunity to set out clarity in policy relationships and expectations. We note that in its response to the Scottish Government's call for ideas regarding NPF4, the Scottish Land Commission suggests that new regional spatial strategies could be required to take account of land-use plans that will be produced by RLUPs. We see value in that suggestion but further contend that such a relationship should be symbiotic in that RLUPs' plans should also align with all of NPF4's outcomes including '*increasing the population of rural areas of Scotland*'. That necessitates making clear strategic links between RLUPs and Scottish Planning Policy, local development plans and local place plans to delivery mutually beneficial and sustainable outcomes.

The data required to develop Regional Land Use Frameworks and to monitor results will depend on the focus of initiatives undertaken within the context of specific RLUPs. Broadly, we suggest that baseline data should include information on:

- Land ownership within each individual RLUPs' spatial parameters;
- Relevant socio-economic data (e.g. employment; demography; economic profile; 'hard' and 'soft' infrastructure);
- Condition of environmental media (land, air, water) and other natural resources (habitat and wider biodiversity etc).

Monitoring data should be sufficiently robust to capture causal relationships between the outputs (*what is done*) and outcomes (*what difference it makes*) of RLUP interventions at different spatial levels (*national, regional and local*) using both quantitative and qualitative data as appropriate.

## Geography and Governance Model

Community Land Scotland strongly supports the Commission's view that Planning Authorities provide an appropriate starting point as a unit of analysis for determining Regional Land Use Partnerships' potential geographical areas. We agree that such an approach offers significant scope for ensuring greatest impact and integration with other key drivers of regional spatial and economic planning.

Whatever governance model is adopted by RLUPs will be critical in influencing their effectiveness in practice. Community Land Scotland is broadly supportive of the Commission's proposed tripartite 'partnership board' governance model. We are very strongly of the view that communities' voices must be placed front and centre in determining the governance structures of RLUPs at their regional and local levels, reflecting the ethos of '*governing through community*' which is integral to the Scottish Government's approach to public policy. As the Commission will be aware, the rhetoric of community empowerment in public policy is not always matched by reality in implementation<sup>3</sup>. It is therefore vital that RLUPs' governance arrangements drive their direction of travel from the

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<sup>3</sup> See '*Community Empowerment and Landscape*', a 2018 research report by Community Land Scotland and Inherit which found that communities feel "locked out" of Scottish landscape policy.  
<https://www.communitylandscotland.org.uk/2018/09/communities-feel-locked-out-by-scottish-landscape-policy-according-to-major-new-research/>

‘bottom-up’ via community leadership rather than from the ‘top-down’ at the behest of public agencies and privileged sectoral interests.

In that vein, we question the distinction made by the Commission in relation to its characterisation of three distinctive ‘pools’ from which to draw partnership boards. Specifically, we contend that it would be entirely appropriate to include representatives of community landowning trusts as repositories of “relevant expertise and ‘user’ perspective” within the ‘sectoral expertise’ pool included in the interim report given that many such trusts have considerable expertise in land management, business *and* rural development. We would welcome clarification and confirmation from the Commission in that regard in its final report to Ministers.

We see some merit in having a national board for ensuring broad oversight as regards the achievement of national priorities. Community Land Scotland would wish to ensure that an appropriate level of community representation was included in any such board for the reasons outlined above. However, we caution against furnishing such a board with undue allocative power in relation to priorities and resources to the extent that so doing would run counter to the scope for autonomous regional and local action on the part of RLUPs via their own governance structures.

Turning to the issue of RLUPs’ scope for empowering local action and decision-making in a region, we argue that there is an important role for landowning Community Trusts to play in that regard given their capacity as local ‘anchor’ organisations. *‘Built-In Resilience: Community Landowners’ Response to the Covid-19 Crisis’*<sup>4</sup>, a recent joint report by Community Land Scotland and Scottish Woodlands Association shows that ‘anchor’ Community Trusts were able to respond with flexibility and agility to the crisis because of their organisational infrastructure and capacity and by virtue of being embedded within their local communities. That ‘anchor’ function offers considerable scope for Community Landowning Trusts to help undertake local action, working with partners to deliver community-led net zero solutions focusing on, for example, the peatland, woodland and habitat management elements highlighted earlier in our submission. That is in addition to potentially leading and/or partnering on other local initiatives such as provision of local transport services and infrastructure (electric, hybrid); fuel poverty reduction; and affordable, energy efficient housing.

### **Advice and Delivery**

We are unclear from the interim paper whether the Commission is proposing that RLUPs’ envisaged advisory function be delivered via existing ‘place-based agency teams’ or via new custom-built administrative structures for that purpose. If – as we assume is the case – the ambition is to deliver holistic advice relating to the range of possible actions RLUPs can undertake, then we see merit in adopting the latter approach to more effectively co-ordinate partnership working and practical outcomes. It would be helpful if the Commission could elaborate on its thinking in that regard in its final report to Ministers.

### **Approaches to Establishment**

We support the Commission’s view that a phased approach to developing the role of RLUPs is the most appropriate approach to implementation. Some further elaboration on what a phased approach might mean in practice would be helpful within the final report. Our assumption from the interim report is that there will be ‘phasing’ in terms of the range of activities/functions that RLUPs might initially undertake upon establishment and in terms of where (geographically) ‘early adopter’ RLUPs might be established. We would welcome more clarity in the final report on what criteria the Commission has in mind for evaluating what areas “are ready to go” as the interim report puts it. We note that there may be an issue of timing and strategic alignment which has implications for the relationship between establishing ‘early adopter’ RLUPs and NPF4 in terms of achieving co-ordination and synergies that may require further consideration on the Commission’s part within its final report.

We strongly agree that it is important that parts of Scotland that do not currently have capacity in place are not disadvantaged in terms of taking up opportunities that RLUPs may present. However, it would be helpful if the Commission could elaborate on the types of capacity gaps that it has in mind in that regard (e.g. organisation,

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<sup>4</sup> <https://www.communitylandscotland.org.uk/2020/06/built-in-resilience-new-report-highlights-community-landowners-responses-to-the-covid-19-crisis/>

knowledge, finance, social capital, etc) and at what spatial level within the RLUPs such capacity gaps might be anticipated to exist (regional and/or local). We would favour specifically targeted financial, organisational and advisory support for geographical areas within Scotland with less capacity, thereby enabling them to develop community-led initiatives in line with the aims of their particular RLUPs. Basic essential resource requirements include finance to cover staffing and administrative costs for the establishment and management of RLUPs

In closing, we hope that our submission will be of assistance to the Commission in completing its final report. We would be happy to discuss any of the issues cover in our submission in more detail if that would be helpful.



**Community Land Scotland**

## **The Scottish Government's proposal to establish Regional Land Use Partnerships**

### **Consultation Response from Community Land Trusts – Outer Hebrides (CLSOH)**

*Submitted to Scottish Land Commission (SLC) following the issuing of an interim report on proposals to establish regional land use partnerships and to support SLC to advise SG as part of the commitment in the 2019-20 Programme for Government.*

1. The Community Land Trusts network in the Outer Hebrides welcomes the opportunity to respond to the Scottish Land Commission (SLC) following the issuing of an interim report on the proposal to establish regional land use partnerships.
2. The Community Land Trusts network in the Outer Hebrides (CLOH) consists of sixteen community landowning groups who are members of Community Land Scotland. Twelve of these groups are post-purchase and four are pre-purchase. The network was formed to allow trusts in the Outer Hebrides to address local issues and work collaboratively, ensuring representation from the community land sector on various fora such as the Outer Hebrides Community Planning Partnership, relevant Joint Consultative Committees etc. This response draws on practical experience and insights from the community land sector in the Outer Hebrides.
3. CLOH fully supports the development of regional land use partnerships and recognizes the proposal as a significant opportunity to change the way land use decisions are made. It is recognized there are various challenges and targets, particularly around climate change, that must be met by taking a collaborative approach to land use planning. Collaboration is vital to support achievement of targets and aid social and economic renewal. It is also recognized that the framework is considered within the terms of Scotland's National Performance Framework and implementation of the Scottish Government's Place Principle. This is also welcomed as Community Land Trusts are committed to improved collaboration and community involvement, already taking forward transformation projects that support community wealth building.
4. In terms of regional land use partnerships' potential functions, it is recognised this role, remit and function is important in order to fulfil their purpose, which should have clarity and sufficient "space" to take account of regional variations. It is encouraging to read the report detailing that the function would include the prioritisation and targeting elements of public funding and recognition that not having this within their remit would minimise the impact of the partnership. Without a clear purpose and a remit to make decisions around funds there is a danger the partnership becomes more of an advisory body only. The functions outlined are encouraging and recognition given to wider rural development is welcomed. The model seems to be similar to the proposals for regional marine planning partnerships. It is important that the partnerships are not viewed as a local authority body, but are vehicles which should seek engagement from a range of stakeholders.
5. Planning authority areas would make the good sense in regard to geographies for the partnerships in many areas, but not all. There should also be recognition that further integration is required across other areas of public sector. Areas of definition using the local authority planning area makes good sense for the Outer Hebrides, but in larger areas

i.e. Highland and Argyll and Bute this may not be possible or make best sense. Other island groups such as the Inner Hebrides and more remote parts of the Highlands would benefit from a different approach.

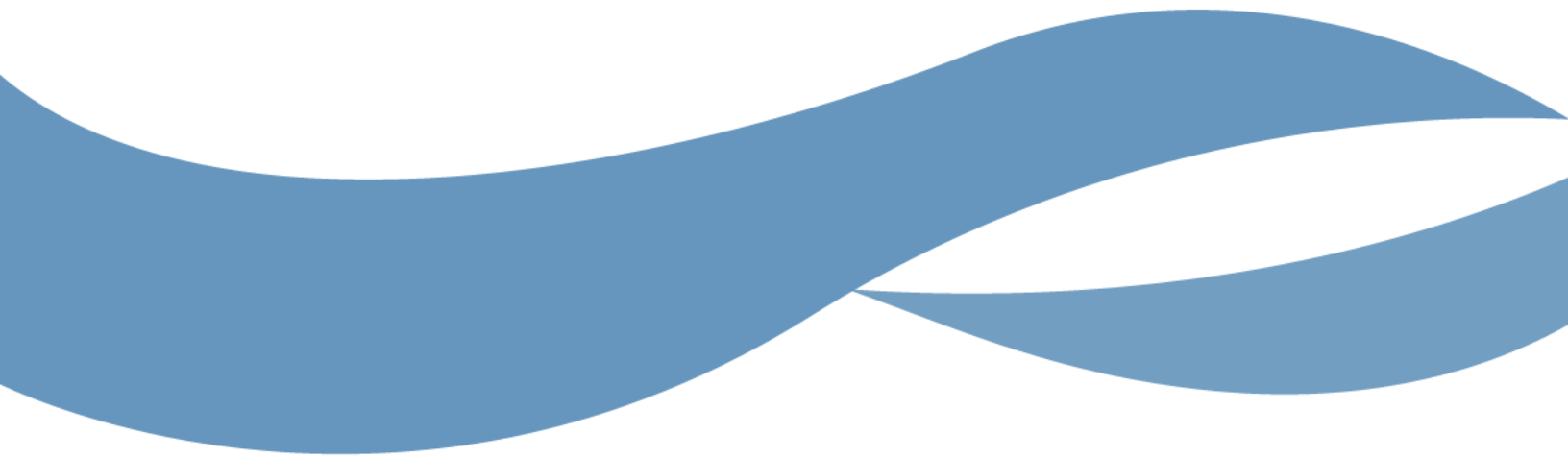
6. Land use should also take account of marine use as land is often the access route to development offshore. As seabed leases and ownership is considered and transitions it is even more vital that there is some integrations and engagement.
7. Adoption of a tripartite governance model is an excellent approach and it should be recognised that the correct stakeholders are invited onto the partnership board. If there is a community landowner within an area, then they should be considered a key stakeholder. In the Outer Hebrides the landowners network already exists and a mechanism exists for ensuring landowners can engage, without a need to involve every landowner individually at a board level. The suggestion of forming a national board is welcomed and this too would ensure that work is feeding into national targets, but also there is an opportunity for learning more about what innovative ideas are in other areas. This oversight could help to grow the vision of each area and ensure localism does not become an issue. The positive work being carried out around land owners rights and responsibilities underpins this further and this too is welcomed and supported by CLOH.
8. Place based agency teams could work best with improved collaboration with community landowners and/or community anchor organisations. Economic development teams have in recent years been situated out with the rural communities they serve. A more blended approach would support the building of relationships, understanding of a community's vision and plans for their area, maximising the potential of an area. A good example of this has been the placement of staff within community land trusts i.e. Scottish Natural Heritage's Peatland Action project. Staff are hosted within community organisations, but form part of a wider network. This approach results in added value and means advice is provided and actioned as it comes from trusted sources as relationships have been established. This approach also supports implementation in areas whereby capacity is an issue. Hosted staff work within one community organisation but offer advice and guidance to a range of organisations.
9. Resources will be an issue for the establishment of the partnerships and it should be considered that posts are created to support management, stakeholder engagement and undertake the administration of the partnership. It is vital to resource this properly if outcomes are to be robust and the partnership is to have credibility. This post should be hosted within the community, again with community landowners or anchor organisations, strengthening the message that the partnership is simply that, a "partnership" not local authority led.

## Regional Land Use Partnerships- Interim Report Response

07/08/2020

### **About Scottish Land & Estates**

At Scottish Land & Estates (SLE) our work helps to ensure that rural Scotland thrives. We are a membership organisation for landowners, rural businesses, and rural professionals. We promote the wide range of benefits land-based businesses provide: tourist attractions, leisure facilities and landscapes enjoyed by the public, as well as housing, employment, tourism & enterprise and farming opportunities. We represent the interests of our members and wider rural Scotland to the UK and Scottish Governments to help ensure that policy and legislation reflects the unique requirements of rural Scotland and its communities.



As an organisation with a diverse membership involved in all aspects of land management, SLE are supportive of the potential Regional Land Use Partnerships (RLUPs) to provide integrated delivery of both Government policy as well as a thriving economy for Rural Scotland. In our discussion paper [#Route2050](#) , SLE outlined the need for this and the opportunities this approach could bring both in terms of delivery of output of food, drink and forestry products, but also natural capital and the emerging commercial opportunities in carbon markets. The principle of the right activity in the right place at the right time is one SLE firmly supports.

SLE also recognises the need for land management to contribute to ambitious climate change targets set by the Scottish Government which are time bound while also delivering benefit for local communities. Similarly, the opportunity afforded by the transition from the EU CAP system to a more specific package of measures for Scotland should not be missed to drive the economic, social and natural capital potential of Scotland.

SLE is therefore comfortable with the context provided for RLUPs and the opportunity they afford.

## Functions

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We agree with the need to prioritise opportunities for land use in specific parts of Scotland and that the use of public funding and support is the best way to achieve this. Encouraging and incentivising while still allowing individual businesses to make their own decisions will work well. RLUPs could be used to do this and enable the needs of local communities to be embedded within this process.

This can be delivered by using RLUPs as an administrative centre to provide a focal point in each region, we do-not envisage the RLUP taking on a farm advisory service role of delivering specific business advice. While not perfect the Farm Advisory Service (FAS) currently works well and having a degree of independence allows greater uptake, with land managers having the choice of which advisor and which particular skills they require to aid their business. There would be value in FAS and RLUPs working together to ensure available knowledge and skills training is clearly sign posted and accessible to all land managers. Similarly, it is important that RLUPs remain lean in their structure and have a focus. By adding a variety of services and other roles this could dilute the work they do.

SLE has long advocated a mix of public and private finance in particular with the development of ecosystem services and natural capital in terms of Private funding, we agree RLUPs can work as a focal point to bring together land managers with similar interests along with private funders who wish to fund their work. This will be an important role in achieving landscape scale management and consistency. However, we believe RLUPs should not become involved in the financial transactions themselves. This could create major issues in terms of contractual obligations for long term natural capital projects. Dealing with this would require a substantial

administrative capacity, which in turn then uses up the resources which cannot then be used to fund projects. By playing an advisory role, but without being involved in the transaction, balances this role well.

### **Statutory Footing**

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SLE does not believe the RLUPs require a statutory footing. If there is an overburdened statutory requirement it could hamstring the RLUPs from proving their worth, particularly given the tools to enable change will likely be limited to pilot projects in the initial years to 2024. Similarly given the role being advisory, it is difficult to define exactly what statutory powers an RLUP would have without straying away from this advisory role. Creating change through consensus and trust would seem a logical and more powerful method of working.

### **Geography**

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This is crucial to the success of the partnerships; the areas need to be easily defined and its inhabitants feel an affinity to it. Local Authorities would be a relatively easy way of implementation, however there are wide ranges of land use and need within them, they are not designed to reflect the needs of land use. Thought would also need to be given to areas where land management crosses over boundaries. In theory it is possible for two areas to work together, however the reality may well be a doubling of the administration required and an over burdensome reporting requirement with two sets of priorities.

Where there is work already ongoing to establish Regional Spatial Strategies (RSS) as part of the implementation of the Planning Act, it would make sense to dovetail this work by using the same geographic areas as the foundation of the RLUPs. However, this becomes problematic when there are inconsistencies in RSS delivery, for example, some may be on an individual local authority basis while others could be across multiple authorities or regional groupings. There are also difficulties with piggybacking on the planning system, for example, the RLUPs are intended to be reviewed every 5 years yet much of the plan-making within the planning system is moving to a 10-year cycle.

A catchment scale approach would seem a good fit, as a way of both delivering the desired changes and also of enabling local buy in and control of the partnerships.

### **Governance**

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SLE is supportive of the model of including government, sectoral expertise as well as community members. The sectoral expertise will be the most important factor within this however to provide practical knowledge and understanding and ensure that proposals are workable and goals achievable. We note the sentence “this may include people actively involved in land management”, a small change but this should read “must include people actively involved in land management.”



In terms of representation, it would be helpful to have membership organisations representing land managers and other main stakeholders involved in the national steering group. However, this would be less vital on a local level as it is important that each area has its own identity and not simply the same lines taken by national representative organisations. Working with organisations to identify candidates with the right skills would be welcomed.

The interplay between national and regional priorities will be vitally important, being able to give regional groups autonomy whilst ensuring the sum of these groups reaches the national requirements will need careful consideration.

### Advice & Delivery

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We support the outline of “Regional Land Use Partnerships to include a “brokerage role in building relationships with land managers, communities and interest groups to stimulate and guide action and delivery.” This can be done with the help of targeted public funding.

A point which was raised on the recent webinar was that of a need for a dispute resolution procedure. SLE believe that a properly working RLUP should not need this. It perhaps needs to be outlined, in addition to what the RLUP will do, what types of things the RLUP cannot and will not do. Namely enforce changes in business practices on land managers. Given the role of the RLUP as a broker and advisor, rather than an enforcement body, there should be no need for dispute resolution. What will be required are good people and communication skills to ensure all voices and points of view are given a fair hearing, ensuring that differing opinions can be brought together and work for mutual benefit. This will then allow land managers to make an informed choice in terms of the interests of the community and the support available, which can be weighted towards agreed land management activities outlined by the partnership board. This again highlights the need for a mix of skills and interests within the partnership board.

### Conclusions

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SLE is supportive and indeed excited by the potential of RLUPs to work with land managers to enhance both their business and the role of land management for natural and social capital. The interim report makes many good points and looks to be heading towards a workable and successful model. There are some however some issues, such as the geography and precise role of the RLUPs where thoughts need to be developed further. SLE is happy to contribute or discuss this at any time.

For more detailed information



**From:** info  
**Sent:** 10 August 2020 09:04  
**To:** [REDACTED]  
**Subject:** FW: Consultation Regional Land Use Partnerships

Good Morning

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**Sent:** 06 August 2020 17:15  
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**Subject:** Consultation Regional Land Use Partnerships

Dear [REDACTED]

I hope you are well and coping as well as can be possible in these socially distant times.

I watched the Regional Land Use Partnerships Webinar on 28<sup>th</sup> July and also read the Regional Land Use Partnerships (RLUPs) - Interim Report and I have a couple of points to make which I feel are relevant to the consultation. I felt it was a very informative webinar and the intention of the RLUPs are well intentioned.

1. There does not seem to be much communication with the agricultural industry and/or rural business groups/bodies which I feel is a large omission. As was referenced by your guest speakers, engagement was key to success, but exclusion and/or mis-communication will alienate these sectors which will be key to achieving landscape scale success. Success in agricultural/conservation and 3<sup>rd</sup> sector groups has been achieved in multiple projects in England including SCaMP (United Utilities lead, Catchment Sensitive Farming) and Nestle/University of Cambridge Dairy Farming 'Modelling Better Business' case study to name but two.
2. In the webinar it was said that there was no intention for RLUPs to provide best practice advice which is worrying, how are landscape scale changes to be achieved if those involved are not given the knowledge to do so? In the interim report there is a reference to Farm Advisory Service and commercial availability, however the farming community generally make slender profits over a number of years. I believe the RLUPs would be more successful and achieve greater steps towards meeting the Scottish Government's climate change and greenhouse gas reduction targets if this advice was provided free of charge to the farmers. The Catchment Sensitive Farming project has achieved very high implementation of advised mitigation measures (59.6%) partially due to this factor.

3. Finally, community engagement is key as is widely acknowledged as key to success, however what measures will be in place to ensure a diverse range of consultation will be sought? This diversity needs to capture a range of demographics, income bands and occupations to ensure the RLUPs meet the needs of all those within rural communities and just a small proportion. Due to rural depopulation and business concentration within cities, an ever growing proportion of residents in rural areas are moving to rural residencies from a former city lifestyle. The result is a tension and lack of mutual understanding between those who move to rural locations through choice and those who live and work in rural locations due to necessity. This lack of mutual understanding can cause community tension and very different expectations of what the countryside should look like and what is commercial reality.

I look forward to hearing from you and am interested in the decisions that are made as a result of the consultation period.



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Date : 7 August 2020  
To : Scottish Land Commission  
From : [REDACTED]  
Direct dial : [REDACTED]  
E-mail address : [REDACTED]

## **REGIONAL LAND USE PARTNERSHIPS**

**Which functions are core to initial establishment of the Partnerships, and which could develop over time?**

1. NFU Scotland (NFUS) believes that the functions, as well as the priorities, of Regional Land Use Partnerships (RLUPs) should be clearly communicated from the outset to manage expectation and secure buy-in. NFUS members have expressed that Partnerships should develop and agree desired outcomes, particularly for managing land in a local context, and work towards common goals from the beginning. NFUS members believe that it will be especially important that these Partnerships work towards delivering climate change benefits and supporting local economies and communities.
2. NFUS understands that the Scottish Land Commission (SLC) believes RLUPs should have a role in terms of rural funding going forward. NFUS members have reservations over the role that RLUPs could play in allocating post CAP funding streams and are wary of the potential for deviation of agricultural support to other issues.
3. In terms of funding allocation, the concept of having agreed national priorities which are underpinned by local priorities appears to make sense. NFUS

recognises that this has the potential to help ease potential conflict between national governance objectives and local aspirations.

4. Where funding is being considered and then applied to land management activities it is vital that allocation is based on clear and practical considerations by individuals who understand farming operations, and the implications their decisions could have for farm businesses. Funding must not be allowed to become a catch all, as it became under the previous LEADER format. NFUS emphasises that this funding needs to be monitored to ensure that actions taken to achieve national targets remain balanced and continue to recognise local priorities.
5. NFUS members have sought reassurance about how rural funding streams will be allocated by RLUPs and have expressed a desire to see payments that reward and incentivise land managers in a timely manner. This chimes with NFUS' proposals for future agricultural policy, which recommend shifting support for Scottish agriculture to targeted action-based payments on practical measures to drive productivity while delivering environmental gains<sup>1</sup>. NFUS understands that SLC is not in a position to provide the requested reassurance but urges SLC to recommend to Scottish Government that it must provide definitive answers about this as soon as possible following publication of the final report. NFUS believes that these answers will be essential in providing much needed clarity for Scottish farmers, crofters, and growers who operate against an already-challenging financial backdrop. Operating in such circumstances has been reported to limit optimism, investment, innovation, and employment opportunities and it is

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<sup>1</sup> NFU Scotland, *Steps to Change*,  
<https://www.nfus.org.uk/userfiles/images/Policy/Brexit/STEPS%20FOR%20CHANGE%20March%202018%20-%20for%20email.pdf>

therefore essential that no further insecurity is generated for those working within the industry.

6. The ability to draw wider sources of funding and finance into rural Scotland is something which NFUS welcomes. This is not a route which rural business has traditionally pursued, but it could be a useful addition to public funding. As a major land use in Scotland, agriculture occupies a unique position in protecting and supporting Scotland's natural capital. NFUS notes that the Scottish Government's Advisory Group on Economic Recovery from the COVID-19 pandemic highlights that supporting natural capital will be essential to the future of land-based industries<sup>2</sup>. NFUS welcomes further opportunities that will build on current funding opportunities and offer Scotland's farmers, crofters, and growers the opportunity to invest in their businesses and finance measures to improve natural capital and be rewarded for work already carried out. NFUS recognises that this could deliver wins for both on-farm productivity and the wider environment.
7. NFUS recognises the importance that cross-sector discussion at regional level can have for communities. NFUS notes that there was a strong desire to see a cross-sector regional discussion forum established in Aberdeenshire, following the Regional Land Use Pilot<sup>3</sup>.
8. NFUS believes that clear communication will prevent RLUPs avoid duplicating existing workstreams. NFUS believes that RLUPs should consider work already

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<sup>2</sup> Scottish Government, *Report of the Advisory Group on Economic Recovery*, <https://www.gov.scot/publications/towards-robust-resilient-wellbeing-economy-scotland-report-advisory-group-economic-recovery/>

<sup>3</sup> Aberdeenshire Council, *Aberdeenshire Land Use Strategy Pilot, Final Report*, <http://publications.aberdeenshire.gov.uk/dataset/aberdeenshire-land-use-strategy-pilot>

done by existing regional groups, including regional economic forums and flood management strategies.

9. It is essential that an enabling approach is adopted by RLUPs. NFUS strongly recommends that overburdensome regulation and bureaucracy should be avoided at all costs.
10. NFUS members are very concerned about community empowerment generally and it is important to note that, as with conversations around community right to buy, consideration is given to ensuring that land managers are protected against the potential for harassment by local communities. It is laudable that the recommendations are positive, but it is important to recognise that there are going to be scenarios where the aspirations of land managers and interested communities are not the same. NFUS members seek clarity over how this will be dealt with and what level of weighting will be given in terms of considerations. A significant part of the development of the Land Rights and Responsibilities Statement was to consider what was reasonable in terms of ensuring that farmers were able to go about 'everyday farming activities' without undue interference, and this concept needs to be borne in mind.

**What are the most significant opportunities for Partnerships to target relevant public funding streams?**

11. NFUS has welcomed the idea that a core function of RLUPs should be allowing each region to review local needs and aspirations and then decide how to prioritise these. NFUS has consistently recognised that there will be no 'one size fits all' approach to delivering national priorities across different regions, and

therefore welcomes targeting of relevant public funding streams if this approach ensures actions that are realistic, practical and reflect local priorities.

12. Targeting funding to deliver landscape scale initiatives that work towards achieving more nature friendly farming practices that fit with local land type and predominate use are welcomed. Targeted funding could also reward the preservation and enhancement of existing natural capital on farms.
13. NFUS members recognise the multiple benefits that can result from proactive collaboration between farmers and local communities and welcomes the opportunity to fund collaborative projects that fit local needs. This will continue to be key as the sector responds to the climate and biodiversity crises.

### **Appropriate statutory basis for Regional Land Use Frameworks**

14. NFUS understands that SLC believes Regional Land Use Frameworks need to be responsible for delivering rural funding and have a statutory footing in order to be effective. Whilst NFUS appreciates the need for statutory oversight, concerns have been raised about the potential creation of another regulator for rural Scotland and the increased bureaucracy that this could create. NFUS therefore believes that Frameworks must be transparent, flexible, independent, and accessible by all.
15. Primary legislation appears to be the most logical direction for the creation of this. However, NFUS is concerned that there may be a disconnect between the availability in the Scottish parliamentary timetable and the speed at which Partnerships may be established, especially if these are to be operational by 2021.



16. NFUS recognises that SLC recommends that Partnerships and therefore

Frameworks should be transposed onto existing local authority areas. Although NFUS understands that administrative boundaries would allow an easy interface with local authorities, particularly regarding planning policy, NFUS is concerned this approach does not align with variation of land types in Scotland. There are other reasonable concerns in relation to local authorities subsuming these Partnerships, including capacity and expertise within local authorities, and the high number of local authorities within Scotland. NFUS would again ask SLC to take these concerns into consideration when making recommendations to the Scottish Government. If SLC determines that local authority areas should be used, NFUS seeks assurances that steps will be taken to recognise land type and potential land use during the development of underpinning frameworks.

**How the relationship with Regional Spatial Strategies can best simplify and integrate land use planning to ensure effective delivery**

17. It is hard to comment on how Partnerships will integrate with Regional Spatial

Strategies as these are currently at a very early stage of development. However, the potential for better integration of the planning system with rural needs is likely to be a positive step.

18. If the goal is to enable local delivery of national objectives in relation to climate change, biodiversity and food production, amongst others, then spatial targeting must be predominantly built on agricultural systems (and associated land use and management) and other primary land uses.

19. NFUS believes that flexibility must be built into these strategies in order to allow for variations of seasons and changes to farm rotations to meet market demands.

Partnership working between the agricultural sector and these partnerships, and the inclusion of relevant sectoral knowledge will aid this and ensure that delivery is effective.

### **The data required to develop land use frameworks and monitor results**

- 20.NFUS would like to emphasise that until RLUPs have strategic objectives for identified priorities, it is not possible to state which data will be required. It would be useful if, once RLUPs have commenced, there is a continued link with research institutes who may be able to undertake research on 'gaps' which are identified through the function of the RLUPs.
- 21.NFUS notes that there is substantially greater transparency over landownership available now via the Land Register and recognises that this sort of information will be key to identifying responsible parties with whom partnerships should engage.
- 22.NFUS recognises that the use and continued collection of data will be key to developing Land Use Frameworks, monitoring their results, and ensuring that land use capability is reflected in decision making across Scotland. This could support work to balance national targets, for example on climate change and biodiversity, with local priorities.
- 23.NFUS is aware that a large amount of data is already collected from Scottish agriculture. NFUS members would like to see this data used more effectively to support agriculture. NFUS considers that there is opportunity to share and use this data more widely across the farming community and recommends that RLUPs could provide a useful framework in both disseminating and using this information to support the ambition of regions and farm businesses.

24. NFUS also notes calls from the agricultural sector for the continued investigation of climate change impacts of Scottish agriculture. NFUS believes that RLUPs could play a role in identifying gaps in current research relevant to each region, and share information on work done by Scotland's research institutes.

### **Options for the selection/nomination routes to participation**

25. NFUS is of the view that practical farming interests must be represented on Partnerships, so the principle of including sectoral experience is fully supported. It will be vital that those with practical knowledge of land use are involved from the outset and their membership is maintained as these Partnerships develop. NFUS wishes to highlight that farmers are an important part of local communities and economies and should not be viewed as separate to these when considering what constitutes a community or its views.

26. NFUS also believes that a nomination process from within communities will be essential in ensuring that members of Partnerships truly represent the interests of each region.

27. It is important that the selection and nomination process is transparent, open, and accessible process so that stakeholder involvement follows best practice. The proposal that this should be via open recruitment is positive.

**What governance mechanisms will ensure effective connection between devolved regional decision making and ensuring national targets are achieved?**

28. NFUS supports the principle of having an overarching national governance board.

This will help ensure that strategic direction is cohesive. The suggestion that a national board be made up from representatives from each RLUP is democratic and should allow for fair representation. However, with 32 members representing each local authority area, NFUS is concerned that although highly democratic, this board could become cumbersome and ultimately be too large to function effectively.

29. Consideration will need to be given to whether national objectives are set in the first instance, thus providing direction to RLUPs, or if RLUPs should determine their own direction first. NFUS believes that a regular review process should be built in to provide opportunity for areas of disconnect to be highlighted and, where required, policy or process changes to be applied.

30. NFUS believes that each RLUP should have a clearly defined remit. NFUS believes that these Partnerships should be given a clear Terms of Reference. This should be underpinned by strategic objectives and complemented by a workplan setting defined and measurable goals and establishing timeframes and reporting mechanisms. NFUS believes that a degree of flexibility regarding operation and administration should be built into this to accommodate local needs.

31. NFUS is aware the Scottish Land Commission is currently working on a set of protocols to underpin the Land Rights and Responsibilities Statement and feels

that the key principles of accountability and transparency of decision making must be built into governance and reporting requirements for RLUPs.

### **How can partnerships empower local action and decision making?**

32. NFUS recognises that RLUPs have the potential to positively impact local action and decision making if they deliver on all actions they identify as priorities. NFUS members would like to see Partnerships that present proposals in a deliverable manner, and work to ensure local engagement generates both buy in and understanding. NFUS recognises that continued delivery of outcomes will underscore the relevance of these Partnerships and allow for sustained engagement.

33. NFUS believes that in order to secure buy-in proper representation of those with practical knowledge of agriculture will be essential. Agriculture is the largest land use in Scotland, and it is therefore vital that it is represented at all levels.

34. NFUS members believe that if those involved buy in to the proposals put forward by Partnerships, understand their relevance, and connect the importance of this to their business, it will be easier to empower involved communities.

35. NFUS members recognise that these Partnerships could provide an opportunity to share information and create dialogue around issues, facilitating collaboration and avoiding disconnect on important community issues. This will be important for both those involved in agriculture in rural areas and those farming on the periphery of urban areas.

36. There are clear links between local empowerment and the delivery of advice, discussed in further detail below. In terms of local empowerment, RLUPs could encourage the provision of practical advice by qualified local people (for example,

agricultural consultants, forestry consultations or environmental consultants). The use of a 'trusted tradesmen' type register of those offering advice services in an RLUP area could provide a useful economic boost and help bolster advice offered by place-based agency teams.

**How could advice be delivered to stimulate and support most effective collaboration and delivery?**

37. NFUS supports existing initiatives that advise farmers on how to improve their environmental and climate performance, including Farming for a Better Climate, and believes that this success can be built upon if given the right support.

38. NFUS is aware that many of its members also engage with the Farm Advisory Service (FAS). For some, this experience is positive, but NFUS is aware FAS operates on delivering for the whole industry and as a result this advice can sometimes miss the mark in terms of delivering what practical land managers need.

39. NFUS also believes that in order to stimulate and support effective collaboration and delivery of priorities, advice must be tailored to what farmers on the ground want and need. NFUS notes that one recommendation from the Aberdeenshire Land Use Strategy Pilot was to explore the provision of local, on-the-ground advice for land managers. Any training or advice seminars must be held at times convenient for those whose working patterns do not follow a 9-5 schedule. NFUS also believes that it will be important to facilitate peer to peer learning to ensure the continued transfer of advice and upskilling of the sector.

40. NFUS is a firm supporter of Scotland's world-leading research institutes. NFUS believes that it is essential that the outcomes of this research are accessible,

clearly translated and succinctly and simply communicated in order to direct policy and inform practice on farm. NFUS believes that RLUPs or the Frameworks they facilitate could provide a useful format for this.

### **How could place-based agency teams work most effectively to support Regional Land Use Partnerships?**

41. There is a role for place-based agency teams with specific remits in new Partnerships. The role of these teams should be to enable collaboration and ensure that the work of Partnerships is aligned with agreed strategic direction and delivery of tangible outcomes which fit the priorities identified in that Partnership area. Support for these agency teams from other organisations will be important.
42. NFUS believes that it will be vital to ensure that any policy brought forward by RLUPs are easily translated and implemented for farmers and land managers enacting them. Place-based agency teams could play a key role in achieving this.
43. NFUS members believe that these agency teams will most effectively support Partnerships if members of the community do not view themselves as peripheral to these agencies. There will therefore be a key role for agency teams in working to connect all sectors in a community, include their views, and address relevant concerns.

**What would be the most appropriate effective approach to implementation across Scotland? How could parts of Scotland which have less capacity through existing initiatives be best supported?**

44. NFUS recognises that ‘early adopters’ could provide an opportunity to learn from best practice. This principle appears to be sound as these areas have staff in place on the ground and experience of partnership working. NFUS recognises that National Parks already have a working relationship with many systems in place that could inform the establishment of RLUPs. NFUS recommends that SLC and Scottish Government closely examine the successes of this type of working and the frameworks that facilitate this.
45. However, NFUS has concerns around the links and overlap between National Parks and local authorities if National Parks were chosen to be ‘early adopters’. For example, Loch Lomond and the Trossachs National Park encompasses several different local authority areas, who may then have to establish their own individual RLUP. NFUS recognises that there is scope to learn from best practice already carried out by National Parks but recommends that SLC and Scottish Government consider the implications of this approach.
46. In terms of areas which require more support, an early scoping exercise of local authority areas which asks them to consider the own capacity in their local area could provide useful content to identify where additional support may be needed.
47. The concept of learning in ‘real time’ is also appealing and may help other areas which may struggle to become established. NFUS recognises the benefits of establishing relationships between neighbouring areas, which could alleviate



shortfalls in capacity and could facilitate learning from best practice across regions over time.

**What resource requirements are considered essential?**

48. NFUS feels strongly that If RLUPs are to succeed, there needs to be long term commitment from Government regarding standalone funding for these. NFUS does not believe that resource for establishing and sustaining the functioning of RLUPs should come from the rural budget.

49. NFUS does not believe there should not be a requirement for RLUPs to be self-funding as, where commercial organisations are the overseeing body, it causes a significant shift in terms of outcomes and can hinder delivery of successful outcomes.

50. NFUS encourage SLC and Scottish Government to explore in detail how RLUPs and the projects they implement will be adequately resourced. NFUS believe it will be essential to understand what resource will be dedicated to project management delivery and creating regional strategies. NFUS encourage SLC to consider this when outlining a potential Terms of Reference for RLUPs and include project lifespan and funding within these.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 07 August 2020 14:45  
**To:** [REDACTED]  
**Subject:** Feedback on RLUP interim report

Dear [REDACTED],

Thank you for circulating the interim report on the establishment of Regional Land Use Partnerships and for the interesting webinar summarising some of your work to date. It was great to see how thinking around RLUPs is developing and to hear insights from the examples of existing partnerships that were presented.

As requested, I'm writing with a few small comments (included below) about the interim report, which occurred to me as I read it and listened to your presentation. These are mainly points of emphasis in the document in relation to Scotland's climate targets.

Best of luck in finalising your advice,

[REDACTED]  
University of Edinburgh

### **Feedback on RLUP interim report**

As noted early in the document, facilitating decision-making to help deliver Scotland's climate change and nature targets is an immediate impetus for the development of the RLUPs, but this objective seems to lack emphasis later in the document. As far as I can tell, the proposal currently is for this mainly to be dealt with through ensuring alignment with other national strategies and frameworks (e.g. Regional Spatial Strategies). It would therefore be good if that relationship could be addressed in more detail (including the gap that RLUPs and RLUFs fill in comparison to these initiatives), or otherwise outline more directly aspects of the principles relating to the delivery of such targets by RLUPs.

This is at one level a point of detail in how the Partnerships function and the planning processes they use, which may be beyond the scope of the work at this stage but I wonder if there are upstream implications (e.g. for governance structures) that may need mentioning? For example, should and could RLUPs have a mandate to establish some form of voluntary greenhouse gas reduction target for a region? Or more generally should there be reference to some form of M and E framework (e.g. in the 'functions' or 'governance' sections) that helps ensure the broad set of initiatives decided on by the partnership are 'climate friendly'?

A related question (which may be implied by the terms 'conditionality and cross-compliance' on pg 10) is whether RLUPs should have some form of Monitoring and Verification function. This may be particularly important, for example, in relation to the natural capital and climate change related funding schemes that the document mentions may form part of the RLUP remit as a channel for such finance. Such schemes are often performance-based (e.g. on measures of GHGs reduced or biodiversity preserved) so might require these functions to exist either in the RLUP or independent of it. I realise that such monitoring, evaluation and verification functions could start to compromise some of the collaborative nature of the partnerships

but presume this is the difficult line they may have to tread in order to drive delivery through some of the mechanisms suggested, rather than simply being advisory.

The University of Edinburgh is a charitable body, registered in Scotland, with registration number SC005336.

## **Crown Estate Scotland consultation response**

### ***Regional Land Use Partnerships – Scottish Land Commission – Interim Report***

**Submitted on: 7 August 2020**

Crown Estate Scotland manages land and property on behalf of the Scottish Ministers. Our core purpose is investing in property, natural resources and people to generate lasting value for Scotland. This includes delivering excellent tenant service, enhancing revenue and capital value and, ultimately, creating long-term social, environmental and economic benefit.

Crown Estate Scotland manages:

- 37,000 hectares of rural land with agricultural tenancies, residential and commercial properties and forestry on four rural estates (Glenlivet, Fochabers, Applegirth and Whitehill)
- Rights to fish wild salmon and sea trout in river and coastal areas
- Rights to naturally occurring gold and silver across most of Scotland
- Just under half the foreshore around Scotland including 5,800 moorings and some ports and harbours
- Leasing of virtually all seabed out to 12 nautical miles covering some 750 fish farming sites and agreements with cables & pipeline operators
- Rights out to 200 nautical miles, including the rights to offshore renewable energy and gas and carbon dioxide storage
- Retail and office units at 39-41 George Street Edinburgh

We work with people, businesses and organisations to ensure that assets are managed in a sustainable way.

Crown Estate Scotland welcomes the Scottish Land Commission's interim report. We are keen to engage at a regional scale and recognise the value in facilitating a richer dialogue and ensuring we have good awareness of regional priorities and issues that allow for action and decisions that take the long term view based on these priorities.

Much of the work of regional land use partnerships (RLUPs) will be directly relevant to Crown Estate Scotland's role, as land managers and in relation to the range of work and action we are involved in. Our [2020-23 Corporate Plan](#) set out the work we will lead on over the next three years. We are keen to be involved with RLUPs as they evolve.

While we are supportive of RLUPs our response below asks a number of questions on the purpose of RLUPs and how they will work in practice. This is in part influenced by our experience with regional marine planning. A recent report from the Environment Climate Change and Land Reform Committee identifies a number of issues with regional marine planning that might usefully inform the approach to RLUPs and which could be usefully reflected in the advice to the Scottish Government (SG).

<https://digitalpublications.parliament.scot/Committees/Report/ECCLR/2020/6/26/Develop>

[ment-and-implementation-of-Regional-Marine-Plans-in-Scotland--interim-report--July-2020-  
.#](#)

## Context

The context section of the interim report sets out a number of key elements in making a just transition to a net zero economy. Each of these elements a) – g) suggests a role for RLUPs. It would be useful for the report to be clearer on what it sees as the main role for RLUPs in relation to these different elements.

We note that Section 1 – *Opportunity of RLUPS*, states that RLUPs should “stimulate action at the pace and scale needed to deliver Scotland’s climate and natural capital targets, in a way that is joined up with wider economic and land use planning and empowers local and regional decision making.” We also note in section 2.1 that “funding for climate, natural capital and rural development should be delivered and targeted through Regional Land Use Partnerships” On this basis we wonder if the focus for RLUPs is on climate change and natural capital and perhaps rural development and that if so this should be made more explicit in the advice to SG.

We recognise and support RLUPs being involved in a breadth of policy areas, but their relationship with existing mechanisms and resources should be clarified to ensure that RLUPs clearly add value to what is already happening. Section f) illustrates this point, indicating the range of regional approaches that already exist.

We agree that the relationship with regional spatial strategies will be key and for there to be clarity on what that relationship will be and what the focus of each regional body will be to ensure duplication is avoided and added value is apparent.

In relation to the list of strategic plans referenced in section f), we consider that regional marine planning will also be relevant (regional marine plans and marine planning partnerships). Clearly these focus on the marine environment, but they also address the inter relationship with the land which may be of interest and relevant to the work of RLUPs. The role and interest of RLUPs may also extend into the marine environment itself, particularly perhaps in relation to foreshore and nearshore sea uses.

It should be noted that Crown Estate Scotland, as set out in our [2020-23 Corporate Plan](#), will work with partners to develop a number of land use plans and strategies across the estate. In taking the development of such plans forward it will be important for them to join up with RLUPs and to ensure alignment with the proposed Regional Land Use Frameworks, to be developed.

We are supportive of the statement set out in section d) that a wider range of voices should be able to influence and benefit from land use decisions. Crown Estate Scotland is currently developing our own engagement strategy based on SLC and SG guidance and will promote

the need to engage with a wide range of interests including those voices that are less frequently heard.

In relation to point e) on post CAP rural support it is important to recognise that post-CAP funding is just a part of the financial picture. Place-based agendas, private and commercial interests, and other funding such as through regulated asset bases (particularly key infrastructure such as digital and power) should be brought into consideration more prominently. This may be what is inferred by the Report's reference to looking beyond public funding mechanisms and leveraging finance from multiple sources, which we would support.

It may be useful to note that Crown Estate Scotland is developing a number of funding streams and recently launched its Sustainable Communities Fund focusing on sustainable development, regeneration and environmental enhancement in coastal communities.

<https://www.crownestatescotland.com/media-and-notice/news-media-releases-opinion/new-ps750k-fund-to-support-communities-green-recovery>

## **1. Opportunity of Regional Land Use Partnerships**

We are supportive of the difference that collaboration and partnership can make to delivery and positive change. We note and support the reference to the Place Principle, which has a focus on collaboration. Crown Estate Scotland's 2020-23 Corporate Plan also references the Place Principle, particularly in taking forward our work on built development, stressing the value of taking a collaborative approach.

It would be useful if the advice to SG could draw out what is meant by the Place Principle in the context of RLUPs and how it will be applied. Collaboration already takes place on land use and it will be important to demonstrate why collaboration through RLUPs is needed in addition to that which already takes place and what additional benefit RLUPs will bring in that area.

### **2.1 -Functions**

We agree that RLUPs should be capable of driving delivery action rather than simply having an advisory role. It will be important for RLUPs to have teeth if they are going to make a positive impact. It would however be useful to expand on the local delivery mechanisms the Report envisages could be used. We note in section 2.4 of the Report the intention to have an accountable body to underpin RLUPs and lead the running of partnerships. We also note the reference in section 2.5 to place based agency teams. We remain slightly unclear on how RLUPs and their work will be delivered and that this could be usefully made clearer in the Report.

As an example, the Report states that substantial elements of funding should be channeled, delivered and targeted through Regional Land Use Partnerships. Does this mean that RLUPs

will be the body administering funding? If this is the case it is not clear how this will be done and where the resource would come from to deliver this role.

This said, where resources are clear and secured we agree that RLUPs could make a significant difference where they are able to fill capacity gaps that currently exist and where worthwhile projects and activities simply do not go ahead because they rely too heavily on volunteer time and the good will of individuals.

It will be important for RLUPs to be supported by a strong secretariat, well-resourced and with a long-term commitment.

## **2.2 Regional land use frameworks**

Linked to our comments above, it would be useful to provide some clarity on the areas that frameworks will focus on. If the priorities will be on climate change, natural capital and rural development, then this could be made clear and some indication of the sort of action a framework might take in relation to these areas, set out.

We note that the Report states that frameworks' focus should be on enabling the delivery of the strategic priorities set within other plans and strategies. We wonder however why you would need an additional framework to do that rather than delivery happening through the existing plans and strategies? As stated, RLUPs and frameworks need to clearly spell out what they will bring that is not already being done and how this will clearly add value to existing delivery mechanisms.

It is suggested that in addition to enabling the delivery of other plans, frameworks should also play a role in setting the land use agenda and direction in geographical areas. That frameworks should build on the collaborative role of RLUPS to identify priorities and to introduce policy or action, where it does not already exist or is lacking, to address these priorities.

We agree that a statutory basis for frameworks would help to give them authority which will support RLUPs to make a positive difference.

## **2.3 Geography**

We agree that it makes sense to explore the scope of matching partnership boundaries with the indicative boundaries emerging for Regional Spatial Strategies.

We agree that RLUPs are suited to a municipality level of governance.

## **2.4 Governance**

Regarding the tripartite approach to representation on the proposed Board, it would be useful to clarify whether national government would include government agencies that

operate at a national level. And to note that national agencies can also provide sectoral expertise.

In relation to the three pools proposed for the Board, it seems to us that representation from the private sector could be important. We recognise that this could come via sectoral expertise but equally such expertise could come exclusively from the public or third sector. We consider it useful, based on the aspirations for RLUPs, to consider the value that private sector involvement could bring and whether the need for such involvement should be made more apparent in the advice to SG.

Additionally, consideration of political involvement should be given. A nominated political 'leader' could act as a conduit and have accountability for delivery.

As stated, Crown Estate Scotland is interested in being involved with RLUPs. It is not clear that we would need to be (or could be) involved at Board level, noting proposals for a nomination process. We wonder however if there are other mechanisms to facilitate and encourage involvement with RLUPs e.g. through forums or working groups etc. and that it would be useful to set such detail out in the advice to SG.

We note the reference to each partnership being underpinned by an accountable body that would be the lead organisation for running the partnership and that this could be a public body such as local authority or National Park Authority, or a third sector body. It would be useful to understand the view of e.g. LAs in being the accountable body and whether they have the resources and desire in place to provide this function, noting the Committee report on marine planning comment in this area.

## **2.5 Advice and delivery**

We are unclear on what is meant by place-based agency teams. Does this mean the range of interested bodies in an area who would support the work of RLUPs? It would be useful to clarify on this point. And how will these agency teams relate to the role of the accountable bodies and the local delivery mechanisms referred to above?

## **2.6 Engagement**

We support the role of RLUPs in being exemplars for those who make decisions about land. In becoming exemplars it is important for RLUPs to involve and learn from those bodies who currently make decisions about land, recognising that there is already a range of good practice and exemplar activity that should inform the development and delivery of RLUPs. Crown Estate Scotland would be happy to share our knowledge and experience.

## **2.7 Approach to establishment**

It might be useful to consider whether RLUPs are needed to cover all areas in Scotland or whether it is better to focus on those areas with most need and support for them. This



might support the phased approach proposed – ie starting with such areas first and reviewing the need for other areas over time. They may not in practice be needed everywhere, recognising that this may be politically sensitive to do. This is a point that is being considered as part of the SG approach to the roll out of Marine Planning Partnerships across Scotland, and whether in practice there is enough support and need for them in each regional marine planning area.

**Further information**

For further information or clarification on any part of this consultation response please contact:

[REDACTED]  
[REDACTED]



## **Regional Land Use Partnerships – Interim Report, Scottish Land Commission**

### **Dumfries and Galloway & Scottish Borders Council Officers Response**

We welcome the contents of the Interim Report and offer the following observations.

#### **Overview synopsis**

We applaud the ambition and scale of the proposals and hope that additional resources and appropriate statutory status will be directed to the establishment of the RLUPs to realise this ambition.

#### **Key Issues 2.1 Functions.**

We agree that a core function of RLUPs ought to relate to the development of a framework to guide future land-use priorities. We also believe that to effectively develop this framework the collation of real time data at the right scale and the development of associated opportunity mapping is a crucial function. With such a baseline “audit” in place, the Partnerships can move on to develop principles and policy to reflect the current picture of land use in their region.

This framework will only be realised if the high quality, “live” data is linked to the incentive regimes enabling it to have significant effects.

We support the idea of partnerships being able to locally prioritise spend on priority areas and think this is crucial to the success of the partnerships. Where policy and funding priorities are retained centrally there will need to be a mechanism for Partnerships to influence this central policy or they risk being ineffective for large sectors of land use. Influence or control of financial incentives at a local level will be required to ensure a coherent implementation of the regional frameworks. The focus on partnership working to bring in alternative funding sources is welcomed to enable local priorities to be supported however this should not be at the expense of central government funding. In the South of Scotland (Scottish Borders and Dumfries and Galloway Council areas) influence over forestry and post CAP agricultural incentives will be crucial.

It is critical that Partnerships deliver action on the ground as well as providing an advisory function. This action could take several forms and this diversity of delivery mechanism and action should be welcomed. In order for the RLUPs to be accepted, respected and seen as a positive step we feel that as well as early focus on developing the Framework there should be an accompanying phase of on the ground activity. This might provide an opportunity to test ideas and processes while developing wider policy, funding and delivery mechanisms. Existing local



organisations such as the Galloway and Southern Ayrshire Biosphere (GSA Biosphere) and Tweed forum could be vehicles for the trialling of early delivery ideas. This should be aligned with testing existing ideas for post - cap reform to ensure that eventual funding mechanisms are fit for purpose and achieve our high aspirations.

It is important when relating the RLUPs to the post COVID 19 economic recovery and renewal that we emphasise the need for a sustainable, inclusive, economic recovery based on a green agenda. There is a growing recognition that this could be a turning point in terms of Climate Change and our Natural Capital, and land use is central to this. We should seize this opportunity and prevent a return to the old ways of doing things. This report offers another opportunity to re-emphasise the need to do things differently going forward. There is increasing recognition of this need within local and regional economic development agencies and enterprises and it will be important that RLUPs forge close links with these agencies.

## **Key Issues 2.2 Regional Land Use Frameworks**

We welcome the recognition that the Regional Land Use Frameworks or Partnerships should have a statutory footing. Whether we should choose one or the other is a difficult choice. Frameworks would ideally have a statutory role integrated with other special planning mechanisms but there is a danger that without the Partnership having a similar footing statutory duties could be fulfilled solely by production of the Framework without the resources and drive to use the Framework to achieve real change on the ground.

We support the concept of a spatial plan for land use frameworks. This would in part replace indicative forest strategies and introduce a similar process for agriculture, link to regional spatial plans and rural/urban development planning. They should take a medium to long term view. We need to develop confidence so that long-term decisions can be made. The Frameworks should be monitored and reviewed on a regular basis, with changes only made where it is clear that they are essential. Further thought and clarification will be needed on the relationship between RLUFs and planning and other policy documents.

We agree that the role of the RLUPs should go beyond the task of producing Frameworks. They need to be established with a remit of driving the delivery and achievement of the framework's objectives from their inception and should start work on this in parallel with developing the framework.

Having up to date 'real time' data associated with the frameworks will be crucial to facilitate decision making and to identify multiple benefits and best value for public funds. This data should be locally accurate and detailed and regularly updated. To facilitate this vital tool, we should be ambitious about utilising new technology and gathering new data. Decisions going forward should not be made on current,



national inadequate data sets often well out of date. Given the likelihood of a period of rapidly changing land use ensuring that this data is regularly update is vital and needs to be adequately resourced. Such a data base would be useful for different sectors and consideration should be given to joining forces with others requiring similar or complementary spatial data i.e. social and economic data. This would also enhance the integration of our environmental, economic, and social interventions.

### **Key Issues 2.3 Geography**

We welcome the preference for LA administrative boundaries while acknowledging the potential issues this may cause. The emphasis on flexibility and the opportunity to involve third party organisations and cross-planning authority collaboration is essential to overcome the short comings of such as system.

It may be that working a LA or multiple LA scale for strategic RLUPs would achieve the strategic ambition of regional planning. Experience with the Scottish Borders Pilot and elsewhere showed that many people find it hard to work at such a scale, but this could be tackled through a second layer of activity at more local geographically /community recognisable areas. Local knowledge of land and issues is often relatively geographically confined. It may be worth developing structures that allowed for “sub” RLUP scale discussions – at a catchment or local landscape scale. Certainly, some land-use issues are very local and may need to be considered in a different way – a flexible approach is key.

### **Key Issues 2.4 Governance**

We broadly agree with the suggestions made.

It is important that effective dialogue exists between Regional Partnership and any national policy/target setting to ensure regional priorities and concerns are not undermined by nationally imposed decisions.

In terms of empowering local action and decision making it will be important to utilise the existing network of organisations working locally with good community contacts, only considering new structures or interventions where there are holes in the existing provision. In the south of Scotland, the GSA Biosphere, Crichton Carbon Centre, Solway Firth Partnership, Tweed Forum, and the Southern Uplands Partnership could all be engaged to facilitate / support development and would cover most of our area.

### **Key Issues 2.5 Advice and delivery**

Enhanced land manager advisory services in the south of Scotland has been a recognised need for some time. Advice should be delivered through existing organisational mechanisms and cover general, sectoral, and place-based expertise.



This would be largely new services and would therefore need to be resourced accordingly.

The RLUPs themselves will require staff and a budgetary resource. To be effective this cannot be left to local government and existing resources. Major government agency/central government funding/ resources would need be committed. There will need to be a willingness for existing agencies and organisations to work collectively and collaboratively under the umbrella of the RLUPs to ensure efficient use of resources, sharing of data and effective delivery on the ground. This may involve changes to resource allocation and or working practices within existing organisations.

We support the comments that strategies should not just be relevant to rural stakeholders but should seek to influence urban communities as well.

### **Key Issues 2.6 Engagement**

We agree that wide engagement will be vital in developing understanding of the role of the RLUPs and the reasons for their establishment. It needs to be recognised at the outset that such engagement is time consuming, resource heavy and cannot be hurried. It should be an ongoing process over the life of the Partnership/Framework and needs to be adequately resourced.

### **Key Issues 2.7 Approach to Establishment**

We welcome the phased approach which is advocated. This makes sense financially and provides an opportunity for RLUPs to learn from each other. An early adopter model allows some partnerships to be rolled out quickly.

We would welcome the opportunity for the South of Scotland (D&G & Scottish Borders) to be an early adopter. The Natural Capital element of the Borderlands Inclusive Growth Deal and recent work between the two local authorities scoping out potential RLUPs proposals gives the basis for moving quickly forward. In addition, strong environmental and community-based partners such as the Biosphere, Tweed Forum and the Southern Uplands Partnership, give a readily available and trusted engagement mechanism. The recent formation of the South of Scotland Enterprise Agency is also an opportunity to start looking at things in a new and better way.

We should take advantage of the experience that different regions have, to test different approaches so that lessons can be learned and applied quickly. The south of Scotland would seem to have a head-start and it would form an ideal pilot area for a RLUP, while other areas are helped to catch-up.



## Conclusions

The conclusions of this report are wide ranging and ambitious. There is no doubt that given sufficient political will and resources that over time they can be achieved. However, there is a danger that if sufficient resources are not directed at Regional land Use Partnerships then success may be limited. There is no capacity in current local government to deliver such an ambitious concept without additional ring-fenced funds.



southern uplands partnership  
*living land, living community*

There is much to commend within this report. The ambition is high and we hope it is underpinned by knowledge that the Govt want to go in this direction. We welcome the content of the Interim Report and offer the following observations.

### **Key Issues 2.1 Functions.**

We agree that the initial function of RLUPs ought to relate to the development of a framework to guide future land-use priorities. The collation of data and the development of opportunity mapping should be the start-point for this and much was learnt in the Borders Land-Use Pilot. With a baseline “audit” in place, the partnerships can move on to develop local principles and targets and then systems to help deliver them.

We are aware (from experience with the old RPAC process and the organisation of the Rural Development Programme) how complex an undertaking it is to get agency staff and land managers to understand what is wanted and to get applications compliant with whatever rules are set. And it is not just the mechanics of getting the funding sorted, because the hearts and minds side of what are we trying to achieve longer term is of even more importance. That shared goal is still some way from being agreed.

We have for some time argued that we need landuse partnerships to chart a change to landuse planning to better match decisions to ecosystem service opportunity so that we really address climate change and the biodiversity crisis. We know that producing such opportunity maps (as has been done in the Borders) is the first step but it needs to be based on good quality, “live” data and linked to the incentive regime to have significant effect.

In particular we support the idea of partnerships being able to locally prioritise spend on certain areas. The LEADER model used this approach to some degree, and the current Peatland Action and some agri-environment measures like collaborative catchment activity may offer pointers. The bulk of farm support and forestry incentives look likely to remain centrally driven. We support the idea of direct allocation of funding but with the LRUPs able to help shape the central spend priorities locally, otherwise the partnerships are fiddling on the edge of the problem only.

We also welcome the idea that these partnerships should be structured in such a way that they are expected to draw other funds in to tackle local needs. The partnerships need to be collaborative and not competitive in this respect.



We would also support the view in the report of the need for partnerships to deliver action rather than just be advisory. This action should be based on collaborative landscape scale initiatives, which could be community led, similar to the mechanisms in place for the Biosphere but with adequate funding.

As the urgency of climate change and biodiversity loss increases, there will be significant opportunities to bring together public funding streams to support appropriate land-use initiatives. Promoting collaboration between land managers, communities and others could also create a range of new “green” jobs which will be vital post Covid-19. Links to local Enterprise Agencies would make this more achievable.

## **Key Issues 2.2 Regional Land Use Frameworks**

We recommend that the Regional Landuse Framework should have a statutory footing. It is in principle the overarching statement of need in tackling the very biggest issues we face, making us resilient in the face of climate change and associated breakdown of our natural systems. This should eventually set the lead for all the other economic, social and development planning but that will take time.

We support the concept of a spatial plan for land use frameworks. This would in part replace indicative forest strategies and introduce a similar process for agriculture.

Regional land use frameworks should be statutory and integrated with regional spatial strategies. They should take a medium to long term view. We need to develop confidence so that long-term decisions can be made. The frameworks should however be monitored and reviewed on a regular basis, with changes only made where it is clear that they are essential.

We agree that the role of the RLUPs should go beyond the task of producing frameworks. They need to be established with a remit of driving the delivery and achievement of objectives. Having some control of funding will enable this. We suggest below that this could also be facilitated through an advisory service.

## **Key Issues 2.3 Geography**

We note that there is a preference toward planning authority areas as a building block /starting unit for RLUP areas. In principle this is fine but the opportunity to involve third party organisations and cross-planning authority collaboration should be retained. It is important that regional spatial strategies are not seen in isolation, they need to reference each other, and take into account cross-border issues.

We agree that this would work in the Scottish Borders at LA level because there is an excellent track record of working at this scale. It is difficult then to not see the same approach being applied in Dumfries & Galloway, especially as that would fit with the South of Scotland Enterprise (SoSE) and cross-border work. However, we would also be keen to see the Biosphere have a role, perhaps as a delegated partner in delivering D&G's RLUP as that could really help them deliver their ambitions and the Biosphere Board have also thought about this more than many



others to date. There is much to be said for there being a pan-South of Scotland approach, which could then be divided into two or more sub-groups. Treating the South of Scotland as unit would add value in a number of ways. It would fit with the agenda of SoSE. It would bring the Biosphere into the process and it would strengthen the newly established Environmental Alliance of South Scotland (EASoS) which has formed specifically to promote the idea of a more strategic approach to the environment.

Experience with the Borders Pilot and elsewhere showed that many people find it hard to work at such a scale. Local knowledge of land and issues is relatively geographically confined. It may be worth developing structures that allowed for “sub” RLUP scale discussions – at a catchment or local landscape scale perhaps. Certainly, some land-use issues are very local and may need to be considered in a different way.

## **Key Issues 2.4 Governance**

We generally agree with the suggestions made.

We can foresee some discomfort in the more traditional and powerful landuse representative bodies such as NFUS, Confor, RLEs. The proposals would give Local Authorities and communities a handle on the public funds that they have never been able to control in the past. These have traditionally been administered by the relevant land managers “own” departments, FCS and RPID. These industries will want strong representation on any RLUPs and that will challenge the ability of the RLUPs to realise the changes needed.

It might not be possible to prescribe a single specific governance model for all of Scotland. Rather it may be sensible (at least at first) to base the structures on the opportunity presented locally. Eg the Biosphere has many of characteristics required, if it was adequately funded. Similarly, Tweed Forum and the Southern Uplands Partnership could facilitate / support development.

## **Key Issues 2.5 Advice and delivery**

The Southern Uplands Partnership has been calling for a new, fully-funded land manager advisory service for some time. Such a service should offer advice on the full range of natural capital and be a service that can explain and support land management changes required to enhance these. We think such a service should focus on communicating the principles of ecosystem services and the opportunities for individual land holdings as that is a critical learning point for all involved. This would still allow land managers to pay for work in completing applications or plans so it would not undermine existing ecological advisors etc. The service could be delivered through direct employment or through contracting existing experts. Either way, it is an example of employment created to deliver on this greening agenda alongside the contractors who will be needed to do the work on the ground. If RLUPs were directly associated with such a service, it would provide a

mechanism to increase awareness of the need for change and facilitate the actions needed.

The RLUPs themselves will require staff and a budgetary resource. We are not sure how much local government could support this but major government agency funding should be committed.

We support the comments that strategies should not just be seen as relevant to rural stakeholders but should seek to influence urban communities as well. Ongoing political support will depend on the wider benefits being appreciated by all.

We welcome the phased approach which is advocated. This makes sense financially and provides an opportunity for RLUPs to learn from each other and potentially develop at different rates. An early adopter model would allow some partnerships to be rolled out quickly.

### **Key Issues 2.6 Engagement**

Wide engagement will be important in developing understanding of the role of the RLUPs and the reasons for their establishment. There is much useful guidance on this and the Scottish Land Rights and Responsibilities Statement will be a useful tool in this. Our only comment here is that in our experience, such engagement is time consuming and cannot be hurried. It should be an ongoing process of exchange and needs to be adequately resourced.

### **Key Issues 2.7 Approach to Establishment**

It is clear to us that there is no level playing field across Scotland and that different regions are at different starting points. This should not be allowed to delay progress. Rather we should take advantage of the experience that different regions have to test different approaches so that lessons can be learned and applied quickly. The Scottish Borders would seem to have a head-start and it would form an ideal pilot area for a RLUP, while other areas are helped to catch-up.

The opportunity offered by the new Enterprise Agency in South Scotland (and perhaps also by the Borderlands Initiative) may enable the Borders experience to be quickly extended to cover a larger area – and perhaps two or even three RLUPs. We would certainly be keen to help such an approach if that was appropriate.

While we agree that the framework needs to be put in place first, there is the danger that this could be a complex and lengthy process and therefore public perception may just see the RLUPs as being talking shops. We suggest we should be pushing for some form of on the ground delivery at the same time to show some action, this could be a way of testing out ideas which may form part of the emerging frameworks.

I trust this of some help

██████████ on behalf of the Southern Uplands Partnership Board.

Thanks you for the opportunity to comment on the interim report. These comments are submitted from [REDACTED] from SEPA, with input from a number of colleagues.

<b>Key issues for further consideration:</b>	Summary comment
<b>• Which functions are core to initial establishment of the Partnerships and which could develop over time</b>	<p>SEPA support the idea of an initial focus of the Regional Land Use Frameworks to inform RLUP decision making. We also recognise the challenge of ensuring the framework development does not become the only focus, at the expense of delivery of outcomes.</p> <p>An early version RLU framework could reflect the key targets for delivery against the National Performance Framework that are identify opportunities for action within the region. This could then be built on, adding regional and local priorities without the need to 'complete' the whole framework before driving any action.</p> <p>Shaping some early actions at the regional partnership level that deliver against key national framework targets could help in building the partnerships and drive momentum to achieve outcomes.</p> <p>There could be benefits to building a more agile RLU framework that could provide flexibility to suit the RLUP future needs. The RLUP could be responsive to the disruptions and system shocks, such as those brought about by COVID 19 pandemic, within the region. It could pull in and respond to data and information as it becomes available. In this case the framework might not be 'completed' and then 'reviewed' but rather it could be built on as the partnership grows.</p>

<p><b>• What are the most significant opportunities for the Partnerships to target relevant public funding streams.</b></p>	<p>SEPA recognises the challenge of reduction in public funds in this space and the need to establish partnerships that leverage private investments in order to deliver against priorities.</p> <p>SEPA considers that blended finance opportunities, including the initial opportunities identified through the £Billion challenge fund could enable RLUPs to deliver more effective landscape scale changes in the timeframe required. Learning from recent experiences and reporting on the effectiveness of blended finance models for landscape scale work (2020 publications) will be necessary. RLUPS could identify and utilise funding mechanisms and approaches available to them to drive change at scale within their landscape. Where there are gaps and shortfall in private funding for key outcomes, more public funding could then be targeted.</p> <p>SEPA acknowledge that the author identifies post cap funding streams. SEPA considers there to be other public funding opportunities that may also drive more collaborative, landscape scale action, such as those for peatland restoration &amp; flood risk mitigation currently being utilised in a similar way in England &amp; Wales by CaBA.</p>
<p><b>The appropriate statutory basis for Regional Land Use Frameworks</b></p>	<p>SEPA sees benefit to the NPF 4 approach suggested in the interim report.</p> <p>RLUPs should be given a statutory footing and integrated with National Planning Framework (NPF4). SEPA considers it is essential there is join up between the two strategies rather than the latter having an urban focus and the former a rural focus.</p>
<p><b>• How the relationship with Regional Spatial Strategies can best simplify and integrate land use planning for most effective delivery</b></p>	<p>Regional Spatial Strategies provide opportunities for RLUPs to build on their frameworks with regional priorities for the area. The successful development of land within the RSS will rely on effective functional landscapes for their demand of water supply, flood risk mitigation, good air quality food and other raw materials. Where these landscape functions and the assets that they rely link closely with the delivery of national targets for RLUPs, there can be more effective delivery of outcomes. .</p>

<p>• <b>The data required to develop land use frameworks and monitor results (a SEFARI-led group is reviewing key issues).</b></p>	<p>Initial data, mapping &amp; verification tools already available at the regional level could be provided to RLUPs from government sources or through its statutory agencies and the Main Research Providers (particularly for opportunity maps). These could then be built on as partnerships develop. This more dynamic approach will play to the need to identify crucial data gaps and drive action to collate / access / research the information necessary for the partnership to be successful.</p>
<p><b>Options for the selection/nomination routes to participation</b></p>	<p>SEPA considers that the RLUP needs to be enabling, supporting and driving new collaborations, growing relationships and bringing together partners from across a landscape to achieve outcomes. To achieve this the routes to participation in RLUPs have to be truly inclusive.</p> <p>Landscape scale interventions cannot happen without collaboration. This approach is new, it must be to be to tackle our new set of challenges (climate change, biodiversity loss, green renewal etc.). A new approach must be curious, embrace innovative interventions, involve participatory research, create a 'learn by doing' environment and be future focussed around the demands on our landscapes.</p> <p>In order to drive real action and to succeed at delivering change at pace and scale, Scotland could look to global examples of where partnerships are already most effective at delivering this and how their participation worked?</p> <p>New, more open forms of participation could provide the cross section of community, academic and business sector buy in that will be essential for RLUPs to succeed in delivering outcomes. Utilising networks, rather than nomination and representation, might be one way to approach this.</p>

<ul style="list-style-type: none"> <li>• <b>What governance mechanisms will ensure effective connection between devolved regional decision making and ensuring national targets are achieved</b></li> </ul>	<p>Clear communication that translates core aims and objectives will also empower local decision making and accountability whilst ensuring action is in line with the overall framework.</p> <p>Within our uncertain world, there will be a need for RLUPS to adapt to external factors whilst continuing the delivery of outcomes against the national targets. Perhaps a package of work exploring systems thinking approaches in governance could be useful here?</p> <p>Our climate emergency &amp; nature crisis define the need for us to deliver at pace and at scale, the likes of which we have not faced before. SEPA agrees that need to cut unnecessary additional bureaucracy is clear, we simply don't have time.</p>
<ul style="list-style-type: none"> <li>• <b>How can partnerships empower local action and decision-making within a region.</b></li> </ul>	<p>Facilitation is key to successful collaboration and outcome delivery. A skilled facilitator will be required to explore with the partnership the blends of available opportunities, challenges, advice, finance and delivery mechanisms that may be appropriate to drive action and delivery for the area.</p>

**How could advice be delivered in order to stimulate and support most effective collaboration and delivery**

Land managers and their supply chains are essential to the development and dissemination of learning, guidance and advice on natural capital opportunity and land management. Providing the 'space' (virtual as well as physical) to enable shared learning and experiences to shape guidance development and dissemination would be vital. This is something that RLUPs could do. It would also build trust in working with partners for RLUPs. Jointly owned and promoted guidance is vital to delivery. This view is shaped by our own experiences of working with land managers, rural sectors and their supply chains.

**• How could place-based agency teams work most effectively to support Regional Land Use Partnerships.**

Maximising the delivery of outcomes at pace and scale is an overarching principle for agencies tackling climate and nature crisis. Initially place based agency teams could provide information and evidence to help build RLU frameworks. They may also then play a key part in the RLUP or in the delivery and verification of the outcomes. This will depend on the existing relationships they have and initiatives already operating in the area. Their support may be shaped by opportunities that the agency leads on, such as in £billion challenge fund. This work is likely to require flexible and agile mind-sets to explore the potential opportunities for outcomes that supporting RLUPs will deliver. Once some RLUPs have been established and ways of working have been embedded it could be possible to then provide clear Terms of Reference, guidance and expectations in new RLUPS . This will be dependent on the partnership and the opportunities in the region.



<p><b>What would be the most appropriate effective approach to implementation across Scotland</b></p>	<p>SEPA considers that it would be difficult for Scotland to manage and fund the implementation of all RLUPS simultaneously. The suggestion of a small number of initial partnerships seems reasonable. More could then be phased in. These should be focussed around where existing opportunities already exist and where learning can occur.</p>
<p><b>• How could parts of Scotland which have less capacity through existing initiatives be best supported</b></p>	<p>It will be important to understand the opportunities available to each area as part of the building of the RLU framework. Identifying a lack of opportunity for specific areas of Scotland may help to drive future innovation in finance.</p> <p>In blended finance propositions, the proportion of public and private finance may be variable across areas.</p>

**• What resource requirements are considered essential.**

The talents of a wide range of individuals will be needed to deliver RLUPs outcomes. Without the right people round the table at the start, it will be difficult to gain sufficient focus on action and inertia may occur. There is also recognition that there are initial costs of setting up a functioning RLUP before it can attract and secure a range of finance and investments for delivery of outcomes. It may be possible to second / agree with key agencies and partners the provision of a person / persons whose talents are considered essential in key roles of initiating RLUPS .

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 06 August 2020 17:05  
**To:** [REDACTED]  
**Subject:** Interim report feedback

Hi [REDACTED],

I'm sorry not to be able to give you more comprehensive feedback, but hopefully these few comments will be of some use.

All the best,  
[REDACTED]

## FUNCTIONS

- **Which functions are core to initial establishment of the Partnerships and which could develop over time**

Analysing the delivery of public goods and ecosystem services from current land use and identifying the opportunities for enhancing that delivery in the Regional Land Use Framework. This has to be the first order of business. This means that the aspirations for links with planning are second order, which could have implications for the appropriate statutory basis.

- **What are the most significant opportunities for the Partnerships to target relevant public funding streams.**

The biggest target has to be post-EU agricultural/rural funding. But there are potentially issues here in that the policy direction is being influenced by the governments Farming and Food Production Future Policy Group and the degree to which the future farming policy discussion is linked with the work on RLUP/Fs is not clear.

I was concerned by this sentence in the document: ... "we propose that substantial elements of funding for climate, natural capital and rural development should be delivered and targeted through Regional Land Use Partnerships." This suggested to me that we could see a continuation of the current 2 pillar system in which there is core farm support and supplementary environmental and rural development funding and that the RLUPs could be used for shaping the latter. This will not be much good if the bulk of the money goes to core farm support.

So the opportunities to target funding streams is really important and RLUP/Fs need to be integral to the whole of the future farm/rural funding package and this needs to be factored in at an early stage of scheme design.

## REGIONAL LAND USE FRAMEWORKS

- **The appropriate statutory basis for Regional Land Use Frameworks**

Development Planning has a statutory basis in the Planning Acts. These plans become the basis on which planning decisions get made. Similarly, we want a regional land use framework to provide the basis on which funding decisions get made. So there are really strong parallels. But a statutory basis could require primary legislation, which is always highly contested and sometimes goes in directions not desired. The government will have to bring forward legislation for the future of agricultural policy (after the current Ag Bill, which is mainly about making payments post-Brexit) and it could be that that would provide an appropriate legislative vehicle. But the timing is out in that the government has committed to establishing partnerships on a timeline that is probably quicker than any agricultural legislation.

- **How the relationship with Regional Spatial Strategies can best simplify and integrate land use planning for most effective delivery**

This is really difficult given that there is no real clarity on Regional Spatial Strategies. My understanding is that they do not really have to be focused on land, so they could not be entirely congruent.

- The **data** required to develop land use frameworks and monitor results (a SEFARI-led group is reviewing key issues).

Useful datasets were explored in the development of the Draft Framework in the Borders pilot here:

<https://www.scotborders.gov.uk/info/20013/environment/723/biodiversity/4>

## **GOVERNANCE MODEL**

- **What governance mechanisms will ensure effective connection between devolved regional decision making and ensuring national targets are achieved**

This gets really difficult the wider the remit of the partnership. If the partnership is focused on shaping the delivery of rural funding, it could be created in such a way that it is built in to the new rural funding regime established by law. But if the partnership is going to be much wider, linking with economic development and planning, then there are several different agendas that need to be connected at the regional and national level. So it is easier to ensure connection between regional and national levels if the partnership is more tightly focused.

Sorry to keep beating this drum; my concern is that we could create a monster process and potentially a new tier of government/governance that actually is doomed to fail from the beginning because it has sought to do too much. (glass half-full maybe!)

Trying to be specific, what are the ways that this normally happens? I guess, formal reporting on a regular basis? Participation of someone from central government? Coordination of a network of partnerships from the centre? Could depend on how the statutory basis is written down; could formalise the relationships to ensure connections.

- **How can partnerships empower local action and decision-making within a region.**

It strikes me that initially the partnership, in creating a framework that helps deliver rural funding, will be shaping local action/land use decisions. A bit top down. Empowering local action may come later and may be dependent on the partnership having an independent budget that it can use locally and so prompt local initiatives.

## **ADVICE AND DELIVERY**

- **How could advice be delivered in order to stimulate and support most effective collaboration and delivery**

Advisory support needs to be enhanced anyway. At the moment it is primarily delivered through the SRDP.

If the Framework is statutorily based and linked to funding, then advisors (especially farm advisors) will definitely be focused on it and ensuring that farmers are working in relation to it, but that all depends on the scheme design and RLUP/Fs being central in the first place.

There is also a differentiation between farm business advisors e.g. SRUC and farm environment advisors e.g. ex-FWAG folk, and land manager brokers e.g. Tweed Forum – we need lots more of the latter two.

A local funding pot that requires collaboration would focus minds. i.e. it may be that it's not that we need advice to support collaboration so much as the incentive for collaboration. There has been work done on why farmers do not collaborate more and advice is not necessarily top barrier.

## **APPROACH TO ESTABLISHMENT**

- **What would be the most appropriate effective approach to implementation across Scotland**

If the SLC proposes an 'early adopter' approach which sees some areas move forward ahead of others, it raises a question mark in my mind as to whether they would be able to influence rural funding at the start because we would end up in the situation of some areas being treated in different ways to others, which could be problematic when it comes to farm support payments. My understanding is that RPID didn't go with some options that would have treated farmers in different places in different ways last time round because of the potential for some farmers being seen as being disadvantaged. This suggests that all of Scotland needs to be covered from the start, which itself suggests keeping things really focused to start with.

- **How could parts of Scotland which have less capacity through existing initiatives be best supported**

It's up to government to fund a whole Scotland roll-out – could be framed as supporting rural areas in green recovery

- What resource requirements are considered essential.

Each Partnership will require a manager/coordinator at least. Plus a team in government to help national coordination and learning. Not cheap – which may be a barrier.

[REDACTED]

RSPB Scotland 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH

[REDACTED]

My normal working days are Monday to Thursday.

[rspb.org.uk](http://rspb.org.uk)

Let's give nature a home in Scotland



RSPB Scotland is part of the RSPB, the UK's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 06 August 2020 08:38  
**To:** [REDACTED]  
**Subject:** response to Land Commission webinars  
**Attachments:** response land commission.pdf

Dear [REDACTED]

I attended the webinars on 'Regional Land Use Partnerships - Delivering on the ground' and the 'Putting into Practice Land Rights and Responsibilities - Community Engagement and Transparency of Ownership and Land Use.'

I found them all interesting, useful and show what should be done.

The topics raised are connected so I hope you do not mind if I send you both my response that combines the Protocols and RULP

I have been campaigning for allotments for over 30 years and was active in the Scottish Allotments and Gardens Society until 2019, being involved in the new legislation (Part 9 of the Community Empowerment (Scotland) Act 2015) and the Guidance For Local Authorities Section 119 Duty to Prepare Food-Growing Strategy and the subsequent Guidance covering the rest of part 9. This legislation contains duties on local authorities to identify suitable land for growing and work in partnership with their citizens to fulfil the needs for allotments and other communal growing spaces.

I have written this submission from my experience in Glasgow as a plot holder for over 44 years and a member of the Glasgow Allotments Forum since it's inception. We need far more growing spaces for all the well known reasons of health, food, environment, climate change etc. There are many small enterprises and communal groups which are working well, the Council has consulted and produced many glossy reports but the sea-change that is needed in land use, engagement with communities and the co-creation of growing and green spaces across the city is not happening. If they are empowered to act at a neighborhood level, local people have the energy, skills and responsibility to turn Glasgow into a true 'dear green place'. The Protocols and RULP could contribute to making the step change we desperately need.

I suggest that a Viable Systems Model could be used to deal with the complexity of the information flows, data collection, connections across the different groups that would enable subsidiarity to occur so everyone is involved with the use of the land in Glasgow.

This is only outline of a possible process but I should be interested in your response.

best wishes

[REDACTED]  
[REDACTED]  
Member Glasgow Allotments Forum

Tel: [REDACTED]  
[REDACTED]

<https://glasgowallotments.org>

## **Response to the Land Commission webinars on Protocols 1 and 2 and the RLUP.**

I am responding from my experience as an inhabitant of Glasgow for over 50 years and as a member of the Glasgow Allotments Forum since its inception in 2001

### **Why decisions on land for growing should be a priority:**

The purpose of the RLUP is to deliver a step change in the way land use decisions are made and such decisions should include land for people to grow in urban and rural areas.

- Benefits of engaging in growing for health and wellbeing, companionship, climate change, food security etc are well known and need to be supported as a priority by local councils, health boards and planners.
- Covid 19 has shown the need for food security and right to food.
- The Community Empowerment (Scotland) Act 2015 sets a duty on local authorities to write a Food Growing Strategy and to take reasonable steps to ensure no-one waits more than 5 years for an allotment. Land is a pre-requisite for implementation of these duties.
- National Performance Framework big picture illustration has several images throughout of cultivating the land. The inclusive use of land Land use is central to the sustainable development goals
- Place Principal - provides communities and partners with a way to exercise local or regional accountability over decisions taken about the way resources, services and assets are directed and delivered. Land is the primary resource and asset of place.

### **Barriers to obtaining land for growing**

The experience of GAF and those who want allotments in Glasgow suggests that local authority planners and decision makers are not recognising the benefits and the contribution such use of the land makes to their wider agenda, for example:

1. Open Space Strategy for Glasgow (feb 2020) does not recognise growing spaces as important.

For example the section on food inequality states *'Should a deficit be identified across the City, new residential developments will be expected to make a financial contribution towards helping meet this demand.'* The deficit has not been accepted even though there are 12 year waiting lists in several areas and the OSS has identified 11 wards which do not meet the Quality Standards of publicly available open space. The new residential developments are not expected to provide available open spaces, only to 'contribute towards them' which could be monetary options not land. *'We will produce and consult on a Food Growing Strategy for the City and will identify land that could be used for allotment sites or community growing.'* (Action 16) This is not a pro-active action.

2. Glasgow local development plans and strategies do not recognise growing spaces as important.

The new Glasgow Development Plan Scheme 2020-2021 only states that LDP's must consider housing needs, a list of persons seeking land for self-build, health and education needs/capacities and the likely effect of development on those needs/capacities, any local outcomes improvement plan, maintaining an appropriate number and range of cultural venues and facilities, the desirability of preserving disused rail lines for future public transport needs, the supply of water and energy facilities, assessment of the sufficiency of play opportunities, the land available for development and the use of facilities for renewable sources of energy.

They will also *'take cognisance of emerging Scottish Government policy, regulations and guidance in relation to: Community Engagement, Play Sufficiency Assessment, Self-Build Housing, Masterplan Consent Areas - Short Term Let and Land Value Uplift'*

There is nothing about land for growing spaces or allotments in any of this.

3. Consultations on Growing spaces do not work:

The Glasgow Development Plan states *'The Planning Act has set a clear direction towards enhancing empowerment and engagement in helping communities inform and influence change in their neighbourhoods and places.'* To date any consultations that Glasgow Allotments Forum members have been engaged with have been very disappointing. Questions such as 'would you like an allotment' do not resonate if the respondent has no experience of allotments or of any form of growing. The New Development Plan did not mention the Land Commission protocols. It did mention the New Planning Charter but this is not available until agreed by Scottish Government. Consultations on place will *'take a place based approach and seek to support the use of the Place Standard tool to facilitate conversations about place across different services and with partners and communities focussing on area of inequality and disadvantage. Provide guidance and support to all local communities on how to use the Place Standard tool to inform their place plans and focus*

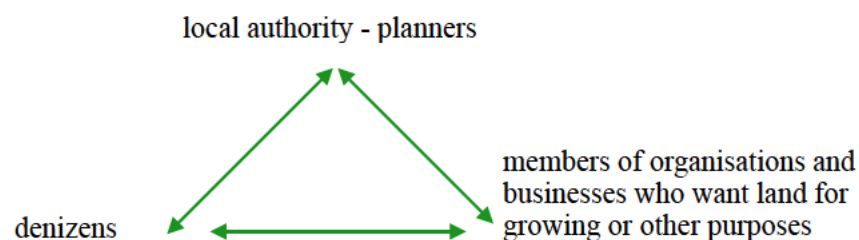
*on place based actions that help to create well designed, sustainable and good quality places that are fit for purpose now and in the future.*

The Place Standard has been shown to be flawed and does not identify growing spaces as a category. Again if those engaged in decisions have no experience of alternative models or opportunities than they will not make the decisions that are most beneficial.

### **How the RLUP and protocols could help.**

1. **First and Second Protocol** - An aim of Protocol 1 is to support the practical implementation of the Scottish Government's Guidance on Engaging Communities in Decisions Relating to Land, which sets out reasonable expectations for those who take decisions about land, to engage with those who are affected by those decisions. Protocol 2 recognises that a lack of transparency about land ownership and land use decision-making is a barrier to dialogue and progress. If these Protocols were followed by GCC and groups wanting land for growing the resulting collaboration should tackle the barriers to land use for growing and enable the benefits to be realised.

There are three groups who should be involved with planning decisions about land owned by Glasgow City:



If all parties understood and abided by the protocols, they could all be engaged at an appropriate level in constructive dialogue about decisions and plans for the land and then work together to co-create the space.

### **2. Role of RLUP**

Subsidiarity should be the driving force behind decisions about land and its use.

Three relevant partnerships are local place (LLUP), area (ALUP) and regional (RLUP). Decision making, data collection and information sharing should take place at the appropriate level and relevant connections made between all three partnerships. If the RLUP is created without empowering local people it will not achieve the aims and create the change that is needed.

### **3. Examples of responsibilities and power of the different partnerships:**

#### **(i) LLUP**

This LLUP would bring together local land owners, council officers and local people to make decisions and recommendations on land use in their local.

#### **(ii) ALUP**

The local authorities divide Glasgow into 3 areas. If an ALUP is established in each area it could ensure there is coherence between the different plans for each neighbourhood and the Local Place Plans, mediate on any potential conflicts and act with the LLUP to fill any gaps in provision. Receives and disseminates information on LDP and Regional Spatial Strategies; health improvement and community development strategies and local business and development plans.

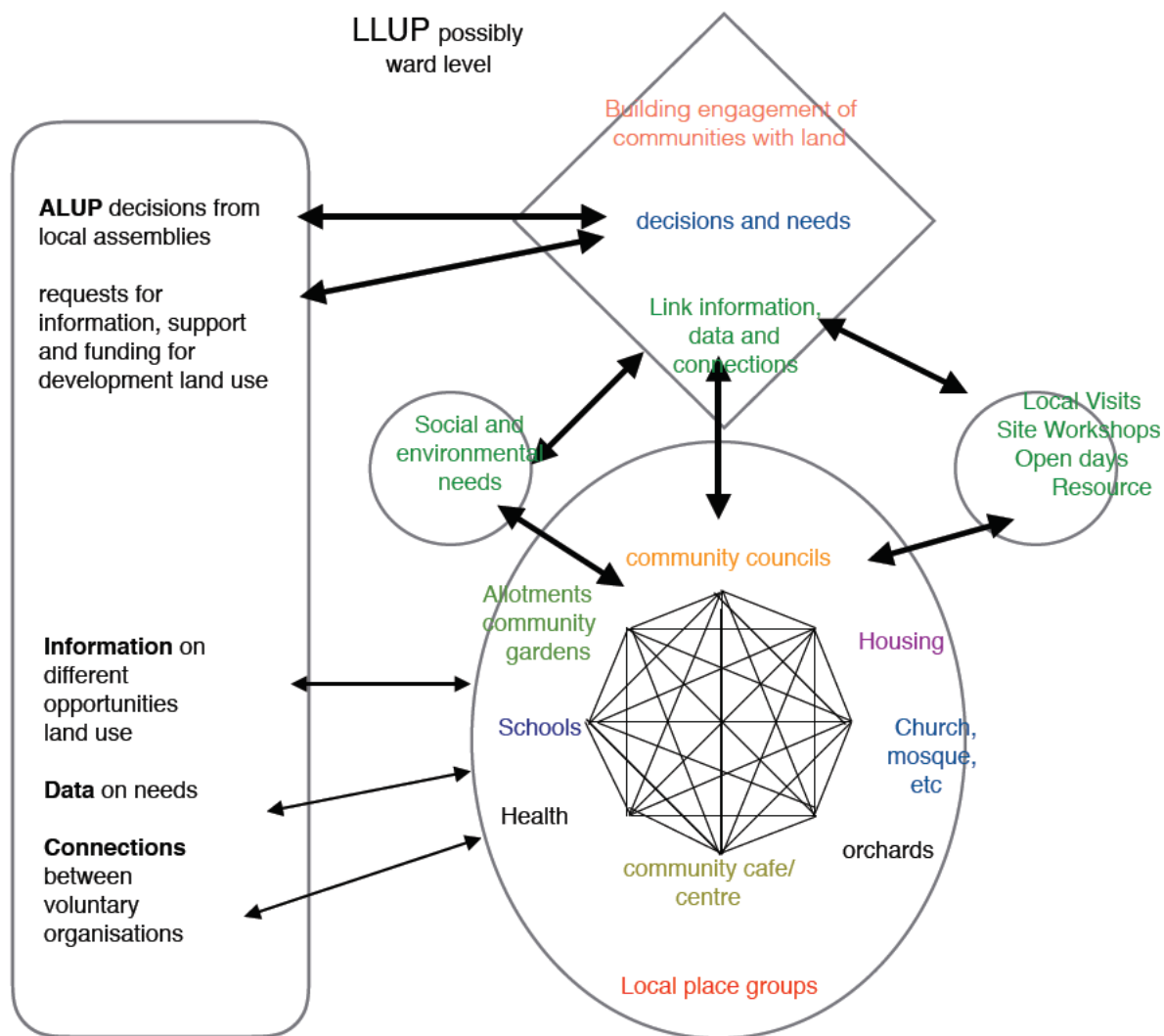
#### **(iii) RLUP**

The RLUP oversees and monitors the land use in the region, ensuring that decisions fulfil aspirations of the climate, environmental and social targets. It informs the local authority planners and Scottish Government of requests for development and change. It disseminates information about Scotland's National Performance Framework and implementation of the Scottish Government's Place Principle to the ALUP.



#### 4. Diagrams of Possible Viable Systems Models for the different partnerships

##### (i) LLUP

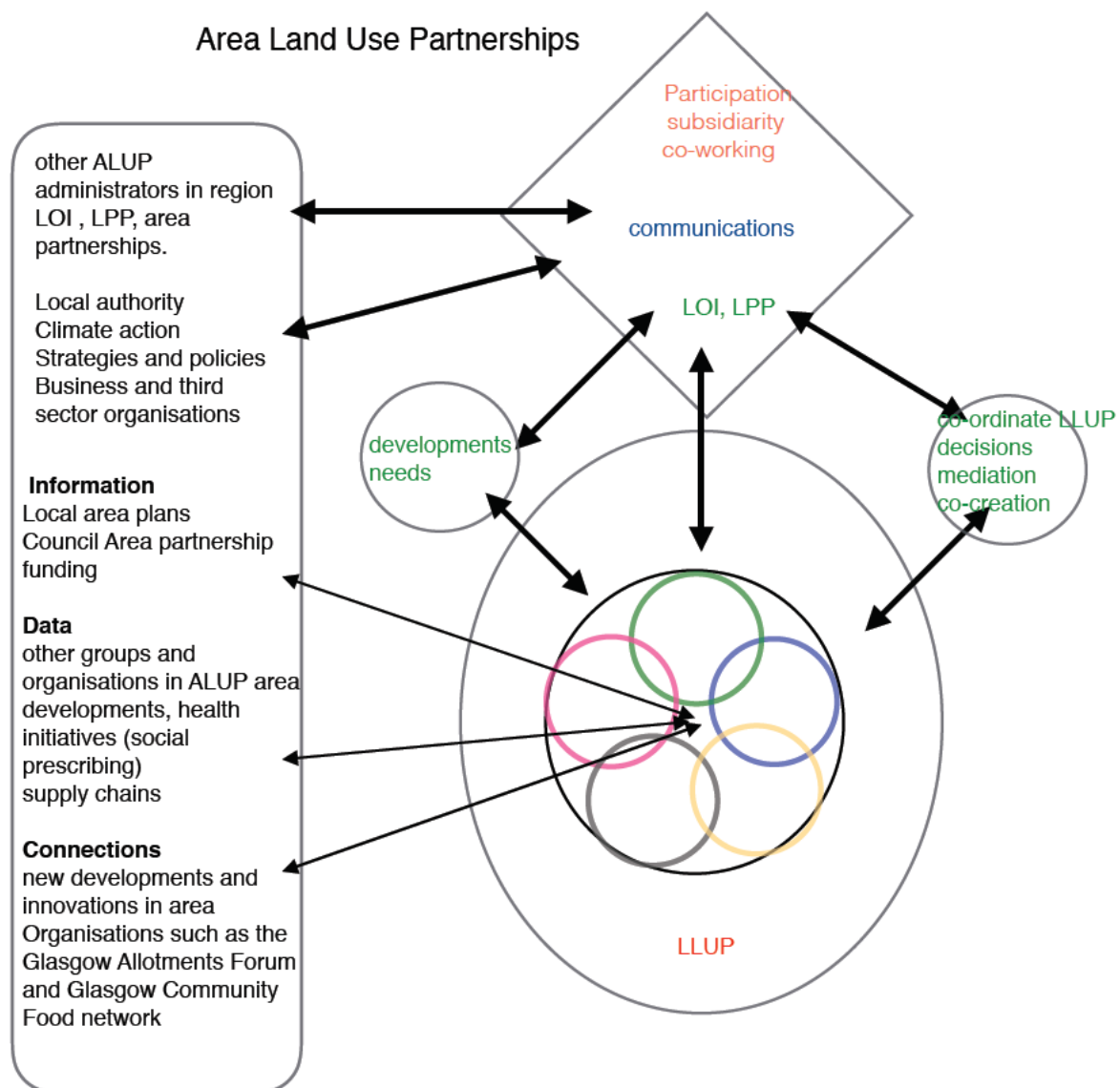


Governance: through neighbourhood green assemblies (see Annex 1) which are open to all where information is disseminated, data collected, connections made between individuals, groups and organisations then decisions made on land use in the neighbourhood.

Each LLUP would require an administrator reporting to the green assemblies and to the ALUP

Green assemblies - following the Citizens Assembly model but open to all as in local participatory budgeting. Convened by the LLUP in the ward and involving community councils, anchor organisations, schools and open to everyone living and working in that community - Doctors, dentists, police, teachers, cooks, gardeners, community organisers, health improvers, members of churches, allotments, community gardens, community cafes, pensioners, young people, asylum seekers, tenants housing associations etc. As in Citizen's assemblies those who wishes to participate would agree to spend at least one day a month on this, receiving information on the history of the place, the ownership and condition of the land and benefits of different options with if possible visits to see these in practice. The green assembly would make recommendations on the land use that should be ratified by the constituent organisations.

#### 4(ii) ALUP

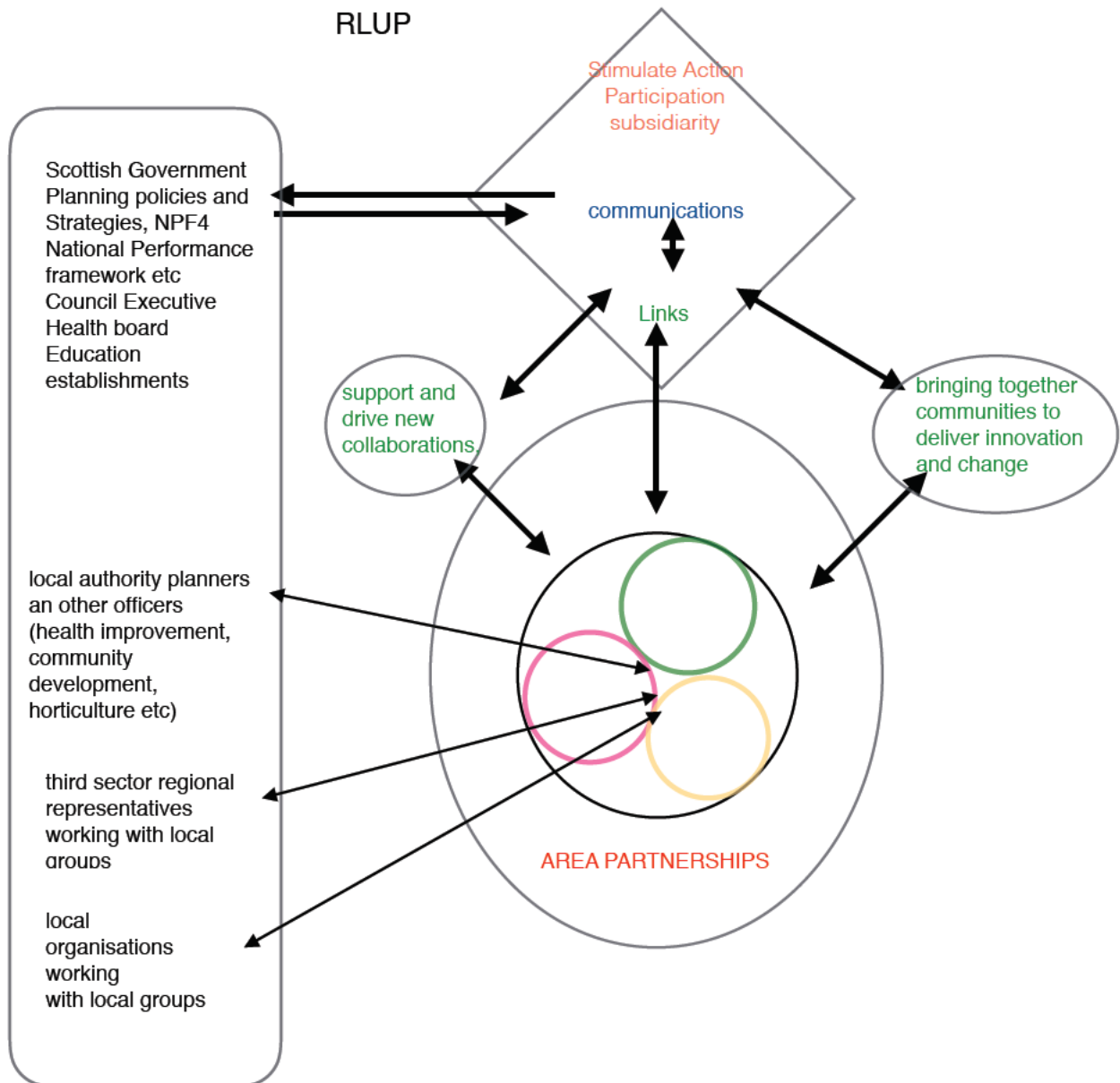


Governance - delegates from the LLUP ( would include reps from local business, community councils , community organisations - should ensure diversity gender, age, ethnicity as well ); Councillors, Council officials (planning, environment);

Meetings are open and follow the Good Practice Protocol

Each ALUP would require an administrator who work together to provide information for the RULP and their LLUP. They support each other in the needs after listening to and learning from their LLUP.

#### 4(iii) RULP



Governance by a board consisting of reps from for example Scottish Government, Glasgow Council (e.g. Chief Planner, Chair of environment committee), Housing association (e.g. Nghomes or GSWF), University (Principal Glasgow or Strathclyde or Caledonian), Health (CEO Glasgow health board), Trade Unions, Developers, ALUP  
 The Board could meet bi-annually to fulfil it's role.  
 Meetings follow the Protocols.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 05 August 2020 13:52  
**To:** [REDACTED]  
**Subject:** Rural Land Use Partnerships - ADMG Response

Dear [REDACTED]

Thank you for the opportunity to comment on the Interim Report on Rural Land Use Partnerships. I write on behalf of The Association of Deer Management Groups (ADMG), an organisation that helps facilitate landscape scale collaborative deer management across the uplands of Scotland on behalf of our members that include a wide spectrum of land management objectives. ADMG have followed the Scottish Government's proposal to establish Rural Land Use Partnerships and we support the need for collaborative land management and the benefits that it provides in the public interest.

The Interim Report proposes the existing Planning Authorities as the unit for determining each separate Rural Land Use Partnership. Our experience of landscape scale deer management shows that all land management objectives should always be included if collaboration is to be effective. ADMG therefore have reservations about the proposed scale of Regional Land Use Partnerships. The varying nature of land management types across entire Planning Authorities will require very careful consideration.

ADMG note that the recent Deer Working Group report to Scottish Government also recommends that Scottish Natural Heritage develop Local Authority Areas as an intermediate level for deer management. We felt that deer management on this scale was not practicable on the ground when the variety of habitats and landscape were considered. ADMG believe that with Rural Land Use Partnerships proposed on a similar scale it will be challenging to consider the interests of all concerned whilst at the same time maintaining useful collaboration.

The Scottish Government's targets for climate change are welcomed by ADMG and our members play an important part in its delivery including habitat impact assessment, peatland regeneration and woodland expansion. The suggestion that elements of public as well as private funding will be available and prioritised by Rural Land Use Partnerships is a good thing and an avoidance of a 'one size fits all' approach to land management is also positive. We would welcome the opportunity for collaborative landscape scale initiatives to drive delivery of actions but we would stress that in our experience the strength of collaborative management is based on the voluntary principle.

The development of Regional Land Use Frameworks to identify opportunities is likely to highlight the variety of objectives that will have to be considered across a whole Planning Authority. There is a concern that within a single Rural Land Use Partnership the objectives of the population of a large town could vary considerably from the objectives of a small rural community, striking a balance may not benefit both. ADMG hope that there is a recognition that sub units are likely to be required within each Regional Land Use Partnership area in order to deal with more localised land management issues. Sub units that recognise varying land use types would enable a more targeted and personalised approach to the issues that Rural Land Use Partnerships hope to tackle.

The Association of Deer Management Groups understand that the progress of Deer Management Groups has been considered when investigating Rural Land Use Partnerships and would welcome the opportunity to liaise further or to be considered where sectoral expertise is required.

Yours sincerely

[REDACTED], The Association of Deer Management Groups  
[REDACTED]

## **National Trust for Scotland- feedback on the Scottish Land Commission's Interim report on Regional Land Use Partnerships**

**29<sup>th</sup> July 2020**

The National Trust for Scotland (the Trust) welcomes the report and believes it is firmly set along the right lines to: support the achievement of Scotland's climate change and biodiversity targets; better value and deliver the full potential of its land; as well as encourage all stakeholders to participate in decision making.

Based on the interim report and SLC workshop held on Tuesday 28<sup>th</sup> July 2020, the Trust has provided feedback below and looks forward to continuing to develop Regional Land Use Partnerships (RLUP) with the Scottish Land Commission.

### **Environment and planning**

- The Land Use Strategy is designed to meet the Scottish Government's climate change ambitions, and the interim report sets out the crucial role land use will play in achieving climate change and biodiversity targets. However, aside from this initial scene setting, the interim report is relatively light on the environment (it is only referenced four times compared to economic value which is referenced 16 times) and has only one reference to climate change. It would be helpful to strengthen the interim report's focus on the environment and climate change to emphasise the role land use and regional partnerships play in meeting climate change and biodiversity ambitions.
- We believe the emphasis on incentivisation rather than regulation is right, given the legal basis for the Land Use Strategy, but would welcome further thought on how it can be ensured that the Regional Land Use Partnerships and land use strategies are appropriately considered when Local Authorities are drafting Local Development Plans and deciding planning applications.

### **Governance and engagement**

- Without Local Authorities taking on this role of main partner it may be difficult to fully integrate the RLUP with planning.

The interim report sets out an expectation for the RLUP to play an active role in delivering and brokering projects. This would require both control of budgets and a larger staff (e.g. a constituted body or an enhanced role for local authorities). It would be helpful to further understand if this would require the transfer of power and budget from the organisations that currently hold them (e.g. would powers need to be transferred from Local Authorities or would grants that currently go directly to farmer need to be re-directed?).

Overall, the Trust feels the RLUP have more chance of success where they can overlay on the decision-making of others (e.g. planners, developers and public funders) rather than seeking to take over their role.

- In the development of regional land use strategies, the Trust is likely to be a stakeholder, but may also be a landowner. This may also be the case for other organisations. Further thought to this tension may be required. For example, how it would function in the nomination process for the partnership boards.
- The interim report emphasises that ongoing engagement throughout the creation of frameworks and delivery of RLUP projects will be key. We agree this is important, but would welcome a better understanding of what this would mean in practice (for example, would communities be able to feed in at designated times in the design process; would there be an

appeals process for communities post- finalisation of the design process; does this include informative engagement once final decisions have been made?). We suggest that landowners could be engaged with by identifying priorities and then requesting a call for ideas which could then be folded into the plan.

### **Prioritisation and conflict resolution**

- We would welcome further discussion on how stakeholder's concerns would be assessed and prioritised when the RLUP are being designed. The Trust is entrusted to use and preserve land specific ways (e.g. Mar Lodge has been entrusted to be run as a traditional hunting lodge), and feels it is important to understand how obligations such as these, as well as other social and economic concerns are considered when deciding what RLUP should deliver.
- It would be helpful to give further thought to what conflict resolution methods the RLUP could use, not only to resolve issues between public bodies/strategies and communities/landowners but also to resolve issues between different community groups that have different expectations for their area.
- Additionally, it would be useful to develop a process by which minority and vulnerable voices can be identified in each RLUP and provide support to RLUP to make sure these voices are represented.

### **Language**

- In the workshop, Pauline mentioned the use of shared and simple language to help people in the partnership to better understand the aims of the partnership and build common goals. We agree with this and the importance of language to secure public buy in to the RLUP and encourage participation.



**Subject:** FW: Soil Association Scotland  
**Date:** 24 July 2020 11:55:01  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)  
[image003.jpg](#)  
[image004.png](#)

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**From:** Emma Cooper <xxxx.xxxxxx@xxxxxxxxxxxxxxxx.xxx.xxx>  
**Sent:** 22 July 2020 17:08  
**To:** [REDACTED]  
**Cc:** Hamish Trench <xxxxxx.xxxxxx@xxxxxxxxxxxxxxxx.xxx.xxx>  
**Subject:** Soil Association Scotland

Afternoon

Just had my meeting with [REDACTED]. His views were as follows:

#### General comments

- There is a risk of a disconnect between post-CAP funding and RLUPs and of an imbalance between agricultural and environmental priorities. Agriculture is a major land use and we should be seeking to encourage positive change rather than maintaining the status quo. **RLUP achieving env objectives but listening to ag sector, getting voice heard but ensuring doesn't dominate.**
- There are parallels between the RLUPs and RISS. SAS leads RISS after a successful tender process. There are delivery partners (SAOS and SAC) and a strategic management team including Scottish Government representatives, but it is a bottom-up process. The structure helps connect grassroots with national priorities. They did have issues around a lack of reporting to SAS from the RISS groups which has been resolved through stricter contractual arrangements. The EU Horizons Project is using RISS as a case study and there might be useful lessons: the report is due September but David will give us early sight of it. **Misunderstood seen as projects that.**

#### 2.1

- Communication is key, firstly in raising awareness of the partnerships and in engaging people in designing the priorities. People with the right skills need to be in these roles. People with excellent local connections need to be involved at all levels. The communication and engagement process needs to be more than just attending meetings.

- It's very difficult to know where funding would come from at the moment because of Brexit: National Lottery Heritage Fund, Local Authorities, forestry grants, smaller trusts, turbine money might all be suitable. A mix probably.

#### 2.2

- Don't know.

#### 2.4

- Assumed it would be a tender process for an existing lead organisation to run one or all RLUPs.



The contract would include KPIs relating to national priorities and requirements to report to Scottish Government. This lead organisation would be required to secure local organisations as partners and be able to step back from the actual delivery in order to provide a scrutiny function.

- Important to ensure there is learning across RLUPs.

2.5

- It would be helpful to map out advisory services to understand what's available to avoid duplication and competition. Some advice is directive and this may conflict or complement RLUP priorities; that which complements could be in-house.
- The RLUPs could support a signposting function but not directly deliver advice. They should focus on delivery and not advice. They should be linked with advisor services.

2.7

- There needs to be a well resourced central team and there needs to be effective scrutiny mechanisms in place.

He will also be attending the webinar.

Many thanks,

**Emma Cooper**

**Head of Land Rights and Responsibilities**

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF

☎ 01463 423300 / 07500 811158 | ✉ [xxxx.xxxxxx@xxxxxxxxxxxxxxx.xxx.xxx](mailto:xxxx.xxxxxx@xxxxxxxxxxxxxxx.xxx.xxx) | [www.landcommission.gov.scot](http://www.landcommission.gov.scot)



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**From:** [REDACTED]  
**To:** [info](#)  
**Subject:** Freedom of Information request - Gender balance and register of interests of board members  
**Date:** 20 March 2021 10:46:30

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Dear Scottish Land Commission,

Please treat this as a freedom of information request.

In November 2015 The First Minister made a commitment to work towards gender balance on all public boards in Scotland.

Please could you supply me with the following information on gender balance in the organisation?

1. How many women are now on the board of your organisation and how many people of other genders are there?

2. Is the current Chairperson (or person with an equivalent role) a woman or someone of another gender?

3. What is the current median FTE pay for men and women in the organisation?

In addition, I would be grateful if you could provide me with the following information about board members.

4. Please supply the names of everyone currently on the board along with their registers of interest and the date that their register was last updated.

5. Please supply details of any payments made to any of the board members in the last 12 months, and a summary of the purpose of each payment.

Please do not send the requested information in pdf format files. I would prefer to receive the requested information by email in a machine readable format such as MS Excel.

I look forward to hearing from you in due course.

Yours faithfully,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Date 06/04/2021

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10019**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested, and the information can be found below and attached.

The Scottish Land Commission has 6 Commissioners appointed by Scottish Government Public Appointments, although most of this information is already published, for your ease, I have not applied the exemption under s.25(1), and all details are provided as below:

1. The 6 commissioners are made up of 2 women, 4 men
2. The Chairperson is a man
3. The Scottish Land Commission employs 16 people, 13 women (3 of which form the management team) and 3 men (one of which is the CEO) The current median FTE pay for men in the organisation is £44801, women £31201, the median for all staff is £32644, Median FTE for women commissioners is £56,454.3 (£216.30 Per day), median FTE for men commissioners £56,454.3 (£216.30 Per day)
4. The SLC Commissioners are Andrew Thin (Chairperson), Bob McIntosh (Tenant Farming Commissioner), Megan MacInnes (Land Commissioner), Sally Reynolds (Land Commissioner), Lorne MacLeod (Land Commissioner), David Adams (Land Commissioner). The register of interests was last updated in September 2020 - Link to register of interest [5f510f278440f Commissioners Register of Interest September 2020.pdf \(landcommission.gov.scot\)](#)
5. Attached (FOI10019 - Point 5 Payment Information)

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

The supply of these documents does not constitute permission for their re-use in such a way that would infringe copyright. You should obtain permission from the copyholder before any such use.

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[Redacted signature]

*On behalf of the Scottish Land Commission*

Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)

Tel: 01463 423 300

Payments made to Commissioners

Commissioner	Gross fees March 2020 - Feb 2021	Gross childcare expenses March 2020 - Feb 2021	Reimbursement of Travel and Subsistence Expenses for meetings and events 1st March 2020- 20th March 2021	Other Expenses March 1st 2020- 20th March 2021
Andrew Thin (Chairperson)	12971.16		295.35	
Bob McIntosh (Tenant Farming Commissioner)	20714.4		432.65	
Megan MacInnes (Land Commissioner)	5178.6	892.8	149.95	102.72
Sally Reynolds (Land Commissioner)	5178.6		70.3	
Lorne MacLeod (Land Commissioner)	5178.6		425.45	
David Adams (Land Commissioner)	5178.6		168.87	

**From:** [REDACTED]  
**To:** [info](#)  
**Subject:** Freedom of Information request - Board member remuneration  
**Date:** 28 March 2021 22:56:06

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To whom it may concern

I am writing to you to request details of the remuneration of your non-executive board members. I am looking for figures on:

- a) The number of days of paid work claimed by each individual member of your board members from Jan to Dec 2020, including the chair. (Please break this figure down so it show the totals for each member.)
- b) The total paid to each board member from Jan to Dec 2020.

I am requesting this information under freedom of information legislation and look forward to your response within 20 working days.

Yours faithfully,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Date 06/04/2021

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: FOI10020**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested and a copy is enclosed.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[REDACTED]  
*On behalf of the Scottish Land Commission*  
Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)  
Tel: 01463 423 300



Commissioner	Number of paid days per month	Total paid days Jan - Dec 2020	Total gross pay Jan - Dec 2020
Andrew Thin (Chair)	4	48	12908.04
Bob McIntosh (Tenant Farming Commissioner)	8	96	20613.6
Megan MacInnes (Land Commissioner)	2	24	6046.2
Sally Reynolds (Land Commissioner)	2	24	5153.4
Lorne MacLeod (Land Commissioner)	2	24	5153.4
David Adams (Land Commissioner)	2	24	5153.4

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Communications FOI – 210125  
**Date:** 09 February 2021 12:22:00  
**Attachments:** [image004.png](#)

---

Good Afternoon

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

Ref: FOI – 210125

We have now completed our search for the information you requested and you can find our response below:

The Scottish Land Commission was legally formed on the 1<sup>st</sup> of April 2017, however some staff were in place in the month prior to this and were paid by the Scottish government.

1. Please find the details of the number of communication staff for each year FTE  
2016/17 – 0.8  
2017/18 – 1.8  
2018/19 – 1.8  
2019/20 - 2.8
2. There were 2.8 FTE communications staff in January 2021
3. Total Costs of communication staff by year rounded to the nearest thousand  
2016/17 – N/A set up costs covered by Scottish Government  
2017/18 – £72k  
2018/19 – £85k  
2019/20 - £122k
4. There were no outsourced frontline communications staff/press officers employed
5. No outsourced staff costs

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxx](mailto:xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxx) via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards

[REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

---

**From:** [REDACTED]

**Sent:** 24 January 2021 10:03

**To:** [REDACTED]

**Subject:** Communications

Hi.

I have some Freedom of Information questions

1. Can you please set out how many FTE frontline communications staff/press officers there have been for each of the ten years to 2019/20. If an average number cannot be sourced, pick March as a snapshot.

1b. How many FTE frontline communications staff/press officers were there in January (snapshot) 2021.

1c. What was the annual cost of employing those frontline staff in all those years 2009/10 - 2019/20.

2. How many FTE frontline communications staff/press officers have been employed that have been outsourced, In other words, not in-house but external PR/communications supplied by a private company in all those years 2009/10 - 2019/20

2b. How much was spent in those outsourced frontline PR/communications/press office functions, in other words, not in-house but external PR/communications supplied by a private company (as per Q4).

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

-----

[REDACTED]

[REDACTED]

[REDACTED]

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** RE: Freedom of Information Request  
**Date:** 30 March 2020 17:25:00  
**Attachments:** [image004.png](#)

---

Good Morning [REDACTED]

**RE: Freedom of Information Request**

**REF: SLC-01305-R0M5K9**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission are currently tenants within a shared Government building, unfortunately we do not hold the EPC rating for this building.

Unfortunately we do not hold a record of the energy efficiency of our electrical equipment or in use appliances.

The Scottish Land Commission make use of an under counter shared refrigerator however it is impossible to tell the age or energy efficiency of this refrigerator as it was in place when we started our tenancy in 2017 and would not be relevant to provide a guess under FOI.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



[REDACTED]



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**From:** [REDACTED]

**Sent:** 09 March 2020 16:38

**Subject:** Freedom of Information Request

Good afternoon,

I would like to obtain the following information:

1. Whether this organisation has a record of the EPC rating of its buildings. If it does, please provide this.
2. Whether this organisation has a record of the energy efficiency of its electrical equipment such as laptops, projectors and printers. If it does please provide this.
3. Whether this organisation has a record of the energy efficiency of its in-use appliances such as refrigerators and air-conditioning units. If it does please provide this.
4. The number of refrigerators in use by this organisation and the approximate age and energy rating of the appliance.

Kind regards,

[REDACTED]

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** RE: Freedom of Information Request  
**Date:** 30 March 2020 17:31:00  
**Attachments:** [image004.png](#)

---

Good Evening [REDACTED]

**RE: Freedom of Information Request**

**REF: SLC-01306-N1R4Y3**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission have never used any Taxis or Company cars to transport Documents or property in any way.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxx](mailto:xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxx) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]  
[REDACTED]  
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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**From:** [REDACTED]

**Sent:** 09 March 2020 16:07

**Subject:** Freedom of Information Request


Good afternoon,

May I please request the following information:

- Any records you have of taxis or company cars being used to transport documents and or property, broken down by (a) journey, (b) duration and (c) the 2017-18, 2018-19 and 2019-20 financial years.
- Any records you have of taxis or company cars being used to transport documents and or property with no one other than the driver, broken down by (a) journey, (b) duration and (c) the 2017-18, 2018-19 and 2019-20 financial years.

Please provide any information in table format.

Kind regards,

A black rectangular box redacting the signature of the sender.



**From:** [info](#)  
**To:** [REDACTED]  
**Subject:** RE: Freedom of Information Request  
**Date:** 02 April 2020 09:32:00  
**Attachments:** [image004.png](#)

---

Good Morning [REDACTED]

## **RE: Freedom of Information Request**

**REF:** SLC-01307-R2V1W1

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission utilises a shared recycling facility within the building run by the Scottish Government, all ink cartridges used within Longman house are recycled using this facility.

Unfortunately we do not hold all of the information requested, the main printer that the Scottish Land Commission uses had previously been set up to automatically order ink cartridges when required and we were billed for usage that did not include details of how many cartridges we had used and we did not retain details. The printer no longer automatically orders the ink following an IT change. During the IT change-over period in 2018-19 we used a small backup printer so we can provide details of that and for a staff member who works from home, and full details for 2019-20 as below.

2019-20	Longman House	6
	Home worker	4
2018-19	Longman House	8
	Home Worker	4

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xorx](mailto:xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xorx) via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]  
Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF

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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**From:** [REDACTED]

**Sent:** 09 March 2020 15:53

**Subject:** Freedom of Information Request

Good afternoon,

I would like to obtain the following information:

1. Whether there is a recycling policy for printer ink cartridges at this organisation. If so please provide this.
2. How many printer ink cartridges have been used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years, broken down by each year and the office in which they were used.
3. How many printer ink cartridges have been recycled by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years , broken down the each year and the office in which they were recycled.

Kind regards,

[REDACTED]

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** Freedom of Information Request  
**Date:** 02 April 2020 09:05:00  
**Attachments:** [image004.png](#)

---

Good Morning [REDACTED]

**RE: Freedom of Information Request**

**REF:** SLC-01308-KOD7Z7

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission do not have a policy in place that defines what kinds of paper can be used for different purposes.

Please find details of the paper purchased below:

Financial Year	A4 Volume (sheets)	Cost	A3 Volume (sheets)	Cost	A4 recycled Volume (sheets)	Cost
17-18	19000	94.34	1500	25.77	2500	16.74
18-19	27500	175.17				
19-20	17500	118.38			7500	75.92

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xorx](mailto:xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xorx) via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]



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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**From:**



**Sent:** 09 March 2020 15:56

**Subject:** Freedom of Information Request

Good afternoon,

I would like to obtain the following information:

1. Is there a policy in place dictating what kinds of paper can be used for different purposes?  
If so please provide this.
2. How much paper has been bought and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial, this should be broken down by year and office.
  - a. In relation to above, I would like a breakdown of the different types of paper purchased and the volumes and costs of each.

Please provide this information in table format

Kind regards,



**From:** [info](#)  
**To:** [REDACTED]  
**Subject:** RE: Freedom of Information Request  
**Date:** 30 March 2020 13:59:00  
**Attachments:** [image004.png](#)

---

Good Morning [REDACTED]

**RE: Freedom of Information Request**

**REF: SLC-01309-B8M4V0**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission does not own lease or otherwise control any vehicles nor has it done since its inception in April 2017.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxxx](mailto:xxxxxxxx@xxxxxxxxxxxxxxxxxxxxx.xxxx) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**From:** [REDACTED]  
**Sent:** 09 March 2020 15:39  
**Subject:** Freedom of Information Request

Good afternoon,

Can I request the following under freedom of information legislation:

- The number of vehicles owned, leased or otherwise controlled by your organisation in the 2017-18, 2018-19 and 2019-20 financial years .
- In relation to above, the make and model of each of these vehicles.
- In relation to above, the mileage of each of these vehicles in each of the 2017-18, 2018-19 and 2019-20 financial years.
- In relation to above, the fuel type of each of these vehicles.
- In relation to above, the purpose of owning, leasing, or otherwise controlling each of these vehicles in each of the 2017-18, 2018-19 and 2019-20 financial years.

Thank you for your assistance,

[REDACTED]

**From:** [info](#)  
**To:** [REDACTED]  
**Subject:** RE: Freedom of Information Request  
**Date:** 02 April 2020 14:26:00  
**Attachments:** [image004.png](#)

---

Good Afternoon [REDACTED]

## **RE: Freedom of Information Request**

**REF: SLC-01310-X2B7X0**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

The Scottish Land Commission did not purchase any bin liners in any of the given years. Bin liners are provided and put in our bins as part of our shared buildings facilities.

Plastic cups were purchased in 17-18 at the cost of £1 for a public meeting however the quantity is unknown.

No bubble wrap was purchased.

The organisation purchased bottles of water for their employees at outdoor events and meetings as follows:

17-18	54
18-19	30
19-20	18

The organisation did not purchase disposable drinks cups.

The organisation does not hold a record of all single use plastic purchased.

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxx.xxrx](mailto:xxxxxxxxx@xxxxxxxxxxxxxxxxxxxxxxxxx.xxrx) via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Thanks and regards

[REDACTED]

[REDACTED]  
Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF

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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

**From:** [REDACTED]

**Sent:** 09 March 2020 15:46

**Subject:** Freedom of Information Request

Good Afternoon,

I would like to obtain the following information:

1. How many bin liners were purchased and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years.
  - a. In relation to above, how many of the purchased bin liners were biodegradable.
2. How many plastic cups were purchased and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years .
3. How much bubble wrap was purchased and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years .
4. How many units of bottled water were purchased and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years .
5. How many disposable drinks cups, such as coffee cups, were purchased and used by this organisation in each of the 2017-18, 2018-19 and 2019-20 financial years
6. Does this organisation have an record of all the single use plastic purchased and used by it in each of the 2017-18, 2018-19 and 2019-20 financial years, if so could it be sent over.

Could I please have all data in table format.

Kind regards,

[REDACTED]



**From:** [info](#)  
**To:** [REDACTED]  
**Subject:** RE: Community ownership in the CSGN area  
**Date:** 04 September 2020 15:00:00  
**Attachments:** [image006.png](#)  
[image007.png](#)  
[image008.png](#)

---

Good Afternoon [REDACTED]

Unfortunately the Scottish Land Commission do not keep the kind of data that you are looking for as we do not keep this kind of information, however my colleagues have provided the below information and contacts to assist you with your task.

On the community ownership side [REDACTED] at HIE [REDACTED] or the Community Land Team at SG ([xxxx@xxx.xxx](mailto:xxxx@xxx.xxx)) will have figures for community owned land and may be able to provide some information on how many of those are community owned greenspaces.

Management is much trickier as it wouldn't necessarily be recorded anywhere and data that does exist is likely to be held at a local level rather than centrally. Greenspace Scotland ([xxxx@xxxxxxxxxxxxxxxxxxx.xxx.xx](mailto:xxxx@xxxxxxxxxxxxxxxxxxx.xxx.xx)) help communities to access and manage greenspace so may be able to help. Communities can take on management of land through participation requests. Each local authority would hold their own data on those and there is a three year evaluation report here: <https://www.gov.scot/publications/participation-requests-evaluation-part-3-community-empowerment-scotland-act-2015/>. Local authorities may also have data on allotments. Other organisations that may be able to help with information are DTAS (<https://dtascot.org.uk/>), the Scottish Allotments and Gardens Society (<https://www.sags.org.uk/>), or Social Farms and Gardens (<https://www.farmgarden.org.uk/>).

I hope that is of help.

Thanks and regards

[REDACTED]

[REDACTED]

Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF

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COIMISEAN FEARAINN NA H-ALBA

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**From:** [REDACTED]  
**Sent:** 04 September 2020 12:02  
**To:** info <[xxxx@xxxxxxxxxxxxxxxxxxx.xxx.xxx](mailto:xxxx@xxxxxxxxxxxxxxxxxxx.xxx.xxx)>  
**Subject:** Community ownership in the CSGN area

Hello

Wondering if you can help, I've been asked to come up with indicators that might be able to report on the following Central Scotland Green Network objective:

GI4 Increase the number of communities owning and/or managing greenspaces and other green infrastructure

It would be good to discuss this with one of your data guys to see what info is available.

Thanks and best wishes

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **Freedom of Information Questions**

- 1] Please state the effective date (day, month and year) of your organisation's 2021 pay review.
- 2] If the 2021 pay review has yet to be finalised please state the month in which you anticipate it will be concluded.
- 3] Please state the employee group/s covered by the 2021 pay review.
- 4] Please state the total number of employees covered by the 2021 pay review.
- 5] Please provide a copy of your 2021 pay agreement (if applicable) or generic pay circular sent to employees (that is one that does not identify any individual employee) outlining the outcome of the latest pay review if there are no collective negotiations.
- 6] Please state the % consolidated basic pay rise received by the lowest-paid adult (aged 18 and over) employee as a result of the latest pay review, excluding the effect of any incremental progression, merit pay or bonuses.
- 7] If an employee's annual pay award is determined solely according to an assessment of their individual performance (commonly known as a merit increase) as opposed to an across-the-board pay rises (where all employees generally receive the same increase irrespective of their individual performance) please state the percentage of the paybill allocated to fund these awards, the range of increases and whether or not the awards are consolidated.
- 8] If any employees were eligible for individual performance-related payments or bonuses over and above the general pay rise please state the range of increases (either as a percentage of their base salary or a cash amount as applicable), whether or not they were consolidated into basic pay and please state the overall % of the paybill allocated to fund these awards.
- 9] Please state the overall paybill increase as a result of the latest pay review expressed as a percentage of the paybill.
- 10]. Please state the name of the union/unions party to your main collective agreement covering pay and conditions if there are collective negotiations.
- 11] Please provide the name and contact details of the person/s responsible for overseeing your organisation's annual pay review.

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Date 24/05/2021

Dear [REDACTED]

**RE: Freedom of Information Request**  
**REF: SLC-01669-X5M6D5**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested and the responses are below/ enclosed. We have applied one exemption for point 5 under s.38(1)(b) Personal data relating to third party. This information is exempted if (i) it is personal data and (ii) its release would breach one of the data protection principles. Information that falls under this category has also been redacted.

1. Please state the effective date (day, month and year) of your organisation's 2021 pay review. [1<sup>st</sup> April 2021 - backdated](#)
2. If the 2021 pay review has yet to be finalised please state the month in which you anticipate it will be concluded. [Pay award implemented in May 2021 and backdated to 1<sup>st</sup> April 2021](#)
3. Please state the employee group/s covered by the 2021 pay review. [All employees](#)
4. Please state the total number of employees covered by the 2021 pay review. [16](#)
5. Please provide a copy of your 2021 pay agreement (if applicable) or generic pay circular sent to employees (that is one that does not identify any individual employee) outlining the outcome of the latest pay review if there are no collective negotiations. [Email enclosed](#)
6. Please state the % consolidated basic pay rise received by the lowest-paid adult (aged 18 and over) employee as a result of the latest pay review, excluding the effect of any incremental progression, merit pay or bonuses. [3.6%](#)
7. If an employee's annual pay award is determined solely according to an assessment of their individual performance (commonly known as a merit increase) as opposed to an across-the-board pay rises (where all employees generally receive the same increase irrespective of their individual performance) please state the percentage of the paybill allocated to fund these awards, the range of increases and whether or not the awards are consolidated. [N/A All staff have the ability to move up the pay increments within their salary band, unless they have already reached the top or have failed to meet performance requirements.](#)
8. If any employees were eligible for individual performance-related payments or bonuses over and above the general pay rise please state the range of increases (either as a

percentage of their base salary or a cash amount as applicable), whether or not they were consolidated into basic pay and please state the overall % of the paybill allocated to fund these awards. [N/A as per above](#)

9. Please state the overall paybill increase as a result of the latest pay review expressed as a percentage of the paybill. [3.68%](#)
10. Please state the name of the union/unions party to your main collective agreement covering pay and conditions if there are collective negotiations. [N/A](#)
11. Please provide the name and contact details of the person/s responsible for overseeing your organisation's annual pay review. [Hamish Trench – CEO and Accountable Officer](#)  
[Hamish.trench@landcommission.gov.scot](mailto:Hamish.trench@landcommission.gov.scot)

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards



*On behalf of the Scottish Land Commission*

Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)

Tel: 01463 423 300

From:

[REDACTED]

Subject:

2021/22 Pay Award - formal offer

Date:

28 April 2021 16:00:58

---

Hi there

The Cabinet Secretary for Finance has now agreed following national discussions with the Trade Unions that given the delayed Scottish budget and the continuing pandemic, public bodies should implement the basic award elements of the Public Sector Pay Policy as soon as is practicable. We progressed the proposed payroll modelling (that was discussed with staff at the last SEF and then amended following SG revisions - communicated with staff by e-mail on 31<sup>st</sup> March) and the SG Finance Pay Policy team have now confirmed approval for us to make an offer to staff.

So, the offer we are making, is as follows:

- Guaranteed 2% basic award for staff earning over £25k up to £40k, and 1% for those earning over £40k
- Guaranteed £800 (pro rata) cash underpin for staff earning £25,000 (fte) or less (to note the e-mail of 31<sup>st</sup> March stated in error that the cash underpin is £850).
- Incremental progression for eligible staff in all salary bands, to be implemented on 1st April 2021 for those staff who have been employees of the organisation for more than 6 months prior to the implementation date (i.e. were appointed by 30th September 2020); or to be implemented on 1st October 2021 for all staff who joined the organisation within the 6 months prior to 1st April (1st October 2020 to 31 March 2021). Incremental progression is dependent on satisfactory performance as evidenced through the performance review process.
- Continuation of No Compulsory Redundancy policy commitment of Scottish Government.

The pay award will be effective from 1 April 2021, and is in line with the proposals already tabled.

We hope that staff agreement to this offer can be secured in time to implement this award in the May payroll. As contingency planning within the Business Continuity Plan we are running May payroll early. As such, could you please confirm your acceptance of the offer with your staff reps by Next Friday, 7<sup>th</sup> May. Your staff reps are [REDACTED]

Best wishes

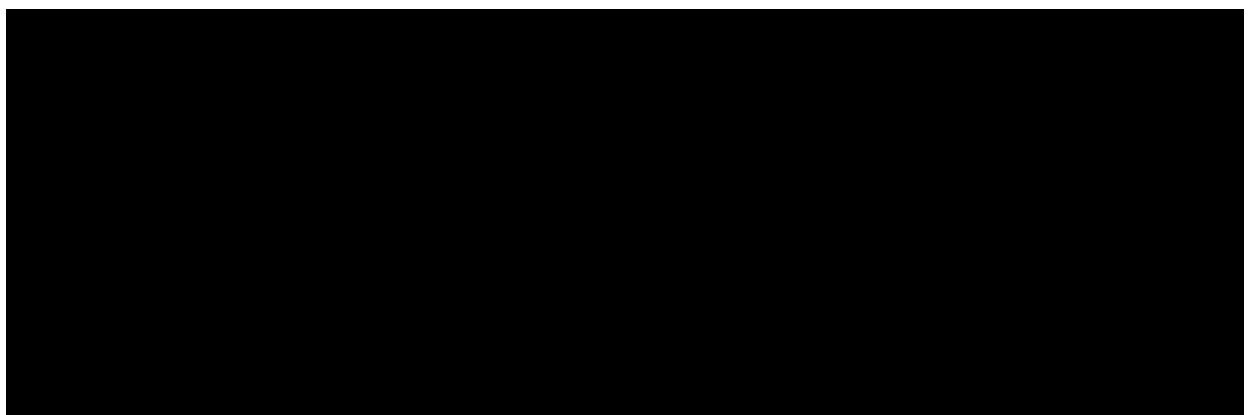
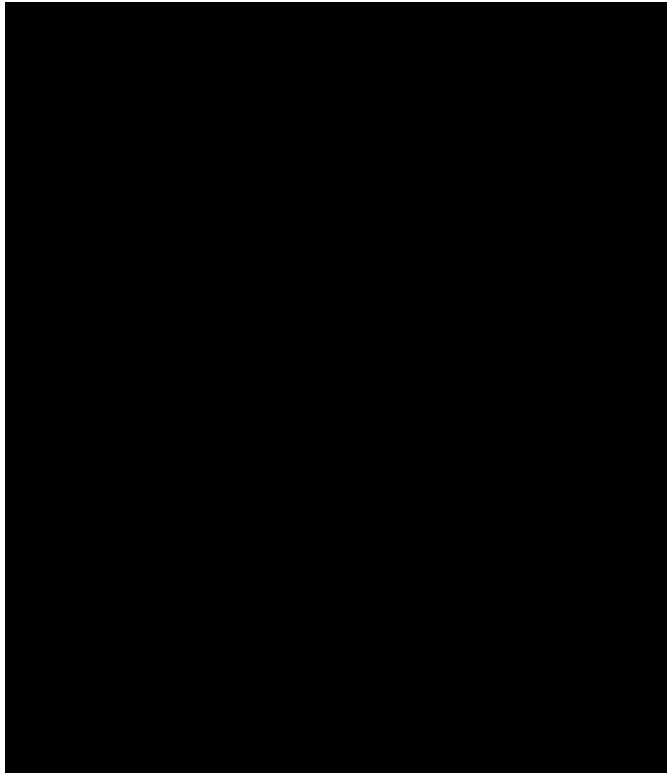
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** FW: RE: FOI COMMS POLICY BLUE CRM:0025007  
**Date:** 02 November 2021 11:17:29  
**Attachments:** [image004.png](#)

---

----- Original Message -----

**From:** info <[info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)>;  
**Received:** Wed Jul 14 2021 12:22:00 GMT+0100 (British Summer Time)  
**To:** [REDACTED]  
**Subject:** RE: FOI COMMS POLICY BLUE

Good afternoon,

Freedom of Information Request: SLC-01700-P7R8D8

Thank you for your email, we will respond within 20 days of receiving your request. Please quote the above reference number in any future correspondence.

Many Thanks

[REDACTED]

[REDACTED]  
Scottish Land Commission | Longman House | 28 Longman Road | Inverness | IV1 1SF



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SCOTTISH LAND COMMISSION  
COIMISEAN FEARAINN NA H-ALBA

---

**From:** [REDACTED]  
**Sent:** 14 July 2021 11:52  
**To:** info <[info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)>  
**Subject:** FOI COMMS POLICY BLUE

Hello

UNDER FOI LEGISLATION

1) Please send me all policy documents which inform/ govern/ guide the way your organisation handles media requests and the publication of information. Please include all such documents which mention the Scottish Government, ministers or Scottish Government departments.

2) Please also send me any emails, minutes, memos and documents which update that policy or affect the way it is implemented which have been sent from



the Scottish Government to your organisation or from your organisation to the Scottish Government since January 1 2020.

I understand I can expect a response within 20 days, by Tuesday August 3.

Thank you so much for your time,

Any questions please call [REDACTED].

--

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

██████████  
By email

Date 30/07/2021

Dear ██████████

**RE: Freedom of Information Request**  
**REF: SLC-01700-P7R8D8**

I refer to your recent request for information under the Freedom of Information (Scotland) Act 2002 ("the Act").

We have now completed our search for the information you requested and a copy is enclosed/below. We have applied one exemption under s.38(1)(b) Personal data relating to a third party. This information is exempt if (i) it is personal data and (ii) its release would breach one of the data protection principles. Information that falls under this category has been redacted.

1. Please send me all policy documents which inform/ govern/ guide the way your organisation handles media requests and the publication of information. Please include all such documents which mention the Scottish Government, ministers or Scottish Government departments. – [We have enclosed our Media Protocol](#)
2. Please also send me any emails, minutes, memos and documents which update that policy or affect the way it is implemented which have been sent from the Scottish Government to your organisation or from your organisation to the Scottish Government since January 1 2020. – [We have enclosed an email from Scottish Government detailing team changes within Scottish Government Communications department.](#)

If you are unhappy with this response to your request, you may ask us to carry out an internal review by writing to our Chief Executive at the above address within 40 working days of receipt of this letter. We will reply within 20 working days of receipt. The review will be undertaken by staff not involved with your original request. If you are not satisfied with the result of the review, you then have the right of appeal to the Scottish Information Commissioner, who can be contacted on 01334 464610, via email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info) or via their new online appeal service at [www.itspublicknowledge.info/Appeal](http://www.itspublicknowledge.info/Appeal).

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If you wish to contact us, please quote the Scottish Land Commission Reference Number shown above.

Kind Regards



*On behalf of the Scottish Land Commission*

Email: [info@landcommission.gov.scot](mailto:info@landcommission.gov.scot)

Tel: 01463 423 300

Team Leader – [REDACTED]					
NET ZERO, ENERGY AND ENVIRONMENT				RURAL AFFAIRS AND ISLANDS	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<ul style="list-style-type: none"> <li>• COP26 delivery</li> <li>• International climate change policy</li> <li>• Environmental and climate justice</li> <li>• Circular Economy</li> <li>• Deposit Return Scheme</li> <li>• Single-use plastics</li> <li>• Waste and litter</li> <li>• Zero Waste Scotland</li> <li>• Environmental protection</li> <li>• SEPA</li> <li>• Environmental quality</li> <li>• Radioactive waste and nuclear decommissioning</li> <li>• Environmental standards (EU exit/UK legislation)</li> <li>• Land use and land reform</li> </ul>	<ul style="list-style-type: none"> <li>• Domestic climate change</li> <li>• Net Zero policy</li> <li>• Sustainable development</li> <li>• 20 minute neighbourhoods</li> <li>• Renewable energy industries</li> <li>• Energy and energy consents</li> <li>• Energy efficiency</li> <li>• National public energy agency</li> <li>• Heating and Domestic Energy transformation</li> <li>• Heat networks</li> <li>• Fuel Poverty</li> <li>• Just Transition</li> </ul>	<ul style="list-style-type: none"> <li>• Biodiversity and wildlife</li> <li>• Protected areas</li> <li>• Peatland</li> <li>• Access to the countryside</li> <li>• Invasive species</li> <li>• Animal health – sanctuaries</li> <li>• NatureScot</li> <li>• Wildlife crime</li> <li>• Grouse moor management</li> <li>• Species</li> <li>• Flooding, coastal erosion</li> <li>• Drinking water and water industry</li> <li>• Scottish Water</li> <li>• Forestry &amp; Woodlands</li> <li>• National parks</li> <li>• Gardening &amp; Horticulture</li> <li>• Royal Botanic Garden</li> </ul>	<ul style="list-style-type: none"> <li>• Social media co-ordinator for @ScotGovNetZero and @ScotGovRural</li> <li>• Graphic and video content lead for Net Zero and Rural</li> <li>• COP26 delivery</li> </ul>	<ul style="list-style-type: none"> <li>• Agriculture</li> <li>• Crofting</li> <li>• Islands</li> <li>• Plant Health</li> <li>• GM</li> <li>• Animal welfare</li> </ul>	<ul style="list-style-type: none"> <li>• Fisheries and aquaculture</li> <li>• Marine environment</li> <li>• Marine Scotland</li> <li>• Food and drink</li> <li>• Scottish Food Agency</li> </ul>

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Contacts in SG News  
**Date:** 25 May 2021 12:23:25  
**Attachments:** [REDACTED]

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Hi all,

Thanks very much for your time this morning.

As mentioned on the call, following the Cabinet appointments, SG News has restructured around the new portfolios. Please see attached an overview of our team, who support the Cabinet Secretary for Net Zero, Energy and Transport, the Cabinet Secretary for Rural Affairs and Islands and their Ministers.

Please feel free to share this as required.

Also - to note - that the general communications mailbox for the team will be updated in the coming days and I'll share updated email addresses once that's done.

Thanks,

[REDACTED]

[REDACTED] | Communications: News (Net Zero & Energy/Rural Affairs & Islands )

Communications Team Leader

Scottish Government, St Andrew's House

**e:** [REDACTED]

**m:** [REDACTED]

\*\*\*\*\*

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## **MEDIA PROTOCOL**

### **Introduction**

The purpose of this protocol is to define the roles and responsibilities within the Scottish Land Commission when dealing with the media and outward facing activity of the organisation.

To ensure that all media and press activity is co-ordinated and managed effectively it is important that it is channelled through the Commission's Communications Team.

The guiding principle of this Media Protocol is to ensure that all external communications are directed through, and organised by, the Commission's Communications Team in consultation with the Chief Executive, and when necessary; the relevant spokesperson. This is to ensure a consistent approach to all communications activity in line with the Commission's communications strategy and plan.

This protocol applies to media activity in:

- Local press
- Regional press
- National press
- International press
- Specialist/Trade press
- Social media

### **Principles**

The Land Commission is committed to being open and transparent, as detailed in the Communications Strategy. It is important that positive working relationships are built up with the media.

The following principles will guide all communications activity:

- Proactive – to promote the work of the Land Commission and establishing who we are and what we do
- Honest – to never knowingly mislead the media, the public and stakeholders
- Accessible – to provide information in an efficient and timely manner by aiming to respond to media enquiries as soon as possible and follow the values of 'Open Data' where possible
- Open and fair – to not favour one media outlet to another.

The Commission is a Non-Executive Departmental Public Body of the Scottish Government. As such, it needs to ensure all its communications are factual; in accordance with Freedom of Information and Data Protection legislation; and in accordance with the Commissioners Code of Conduct and the Framework Agreement. The Commission should always aim to be as transparent as possible and as helpful as is reasonable to all press and media enquiries.

## **Narrative**

All communications are to support the Commission's narrative with activity focused on building and maintaining the reputation of the organisation.

The Commission's logo must be prominently displayed on all news releases.

## **Spokesperson**

The principle spokesperson for the Land Commission is the Chief Executive, Hamish Trench. All media requests must be directed through the Communications Team, including requests for interviews or quotes. The Communications Team's contact details will be included in all Commission news releases and they are also available on the Commission's website. If the principle spokesperson is unavailable to comment, the Communications Team, with the Chief Executive, will choose a suitable alternative from the Commissioners or staff to provide comment or be interviewed. It may be that different spokespeople are used for different areas of the Commission's work and this will be detailed in campaign specific communications plans. All quotes are to be attributed to the spokesperson.

Where a press request regards tenant farming, the Commission's spokesperson is Bob McIntosh, Tenant Farming Commissioner. If the press request specifies the need for a Gaelic interview, the Commission's Gaelic spokesperson is Land Commissioner, Sally Reynolds.

## **Managing activity**

Staff and Commissioners have the responsibility for flagging up items that may attract positive or negative media interest to the Communications Team as soon as possible. The team should be notified of any potentially controversial policies, decisions or events and advice will be provided on handling strategies. Lines to take will also be prepared at the earliest opportunity and made available to Commissioners and staff.

Members of the Communications Team will attend key meetings including the Commissioners meetings, Senior Management Team meetings, Commission staff meetings and, where necessary, any political meetings.

## **Press Releases**

The Communications Team is responsible for issuing all news releases. They are to be planned in advance and information requested for news releases should be passed to the team as soon as possible and within the specified timeframes.

Final approval of the news release will be sought from the Chief Executive. Where the release is regarding tenant farming final approval will be sought from the Tenant Farming Commissioner.

As a matter of course the Communications Team will send the release to the Scottish Government (Sponsor Division and SG Comms); but in some instances it may be appropriate to consult on a draft with the Scottish Government and/or other partner

organisations. News releases shall immediately be posted on the Commission's website and social media.

News releases that contain time sensitive information will be issued to the media with an embargo clearly marked.

### **Media enquiries**

All media enquiries, such as request for comment or images, are to be directed through the Communications Team and the team will co-ordinate all responses, liaising with the relevant Commissioners and staff. Staff approached by the media should refer them to the Communications Team. Commissioners approached by the media should respond according to this protocol.

The Chief Executive is responsible for approving quotes, responses and stories. Simple, factual enquiries, or where there are clear lines to take can be handled by the Communications Team without reference to other staff members or Commissioners.

The Commission is open and accountable so where an enquiry cannot be answered we will explain the reason why.

### **Interviews**

Any staff member or Commissioner contacted by a journalist requesting an interview should refer them to the Communications Team. The team will liaise with the spokesperson and journalist to organise the interview and will provide briefings and lines to support the spokesperson for the interview.

Commissioners may be approached informally by reporters. In such cases a Commissioner may not wish to be seen to say 'no comment' by referring the reporter to the Communications Team. If the reporter's enquiry is on a matter where the Commissioner is confident of the answer and the clear Commission "line to take", then they may respond. Should this happen, the Commissioner must inform the Communications Team immediately.

### **Non-Commission related media activity**

Staff and Commissioners who have contact with the media in a personal capacity or in relation to another role/organisation they represent or are involved in must make it clear to the journalist that they are speaking on a personal capacity or on behalf of the non-Commission related organisation.

### **Social Media**

The Scottish Land Commission's social media accounts are managed by the Communications Team on behalf of the organisation and in line with the Commission's Social Media Strategy.



The Communications team will be responsible for sourcing and publishing posts, monitoring accounts and responding to interactions. Social media channels are updated and monitored during office hours, Monday to Friday.

Commissioners and staff who wish to use social media on a professional basis must take the following into consideration:

- If you are acting in your official capacity then make this clear and identify yourself and your role
- Be aware of your association with Scottish Land Commission in online spaces. Ensure your profile and related content is consistent with how you wish to present yourself with colleagues, customers and stakeholders
- Be aware of your language, conduct and of any legal implications
- Never share confidential or sensitive information
- Try to add value. Provide worthwhile information and perspective. What you publish will reflect on the Commission
- Try to frame what you write to invite differing points of view without inflaming others. So be careful and considerate.
- Make it clear under which capacity you are speaking , for example use a disclaimer such as “the views expressed here are my own and do not necessarily reflect the views of the Land Commission”
- Remember your responsibilities whether you are posting officially, professionally or personally.

There may be an occasion when you post something you shouldn't – either by mistake or because an account is hacked. If this happens please inform the Communications Team. On the account; apologise straight away, explain what happened and delete the offending post (if possible). Also advise what you are going to do to limit the chances of it happening again.

### **Managing negative issues**

Negative issues will be managed in accordance to the Commission's Crisis Communications Plan.

### **Correcting inaccurate factual information / Letters to Editors**

The Commission only submits Letters to Editors to correct inaccurate factual information reported in the publication. Letters are prepared by the Communications Team to be cleared by the Chief Executive and signed by the Chair.