

Consultation Title	Land Rights and Responsibilities Statement Review: Consultation
Date	28/1/22
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Scottish Land & Estates is the voice of rural businesses throughout Scotland. We are a membership-based organisation representing a wide range of rural businesses, including farmers, foresters, tourism operators, housing providers, leisure companies, and renewable energy providers.

Our members provide a wide range of economic, environmental and social benefits which are vital to the success and survival of communities throughout rural Scotland. They play a critical role in ensuring sustainable, healthy and empowered rural communities, providing housing, employment and a wide range of economic, environmental and social benefits.

1. Do you think that the revised vision reflects the outcomes that we need to achieve?

A) Yes B) **No** C) To some extent D) I don't know E) I do not have enough information

2. If you have answered 'no' or 'to some extent', what key changes would you like to see to the vision?

SLE is of the opinion that the transition to net zero and other responsible land management practices are already implicit in the original vision statement as well as Principle 1 of the LRRS.

Whilst we firmly agree that land has a key role to play in the transition to net zero, we do not feel that specific mention is required, and indeed specific mention could be viewed as deprioritising the application of the LRRS in terms of other public policy objectives which are more economic and socially focused.

3. Do you think that the principles are still relevant to current Scottish land issues?

Principle 1: Yes/**No**
Principle 2: Yes/**No**
Principle 3: Yes/**No**
Principle 4: **Yes**/**No**
Principle 5: **Yes**/**No**
Principle 6: **Yes**/**No**.

4. If you think that the principles could be made more relevant, or that there are any issues that they do not address, please outline this. Please make sure you state clearly which existing principle each suggestion relates to, if applicable.

Principle 1

We advised in the original consultation on the LRRS that principle 1 should be amended to state that: “The overall framework of land rights, responsibilities and associated public policies governing the ownership, management and use of land, should contribute to delivering environmental sustainability, economic prosperity, community resilience and social justice,” as the phrase ‘fairer society’ is encompassed in social justice and is therefore not required.

SLE believes “community resilience” should be stated as a key outcome of the application of the LRRS.

Principle 2

SLE is still of the view that calls for more diverse ownership disregards evidence showing that fragmented ownership is not necessary to deliver the outcomes referred to in the vision statement and Principle 1. Nor does it take account of the benefits delivered by large scale ownership and landscape scale approaches. We believe that diversity of ownership should not be an end in itself and should not be pursued as a policy objective.

SLE would therefore like to see the principle changed to refer to an increase in *access to land and assets* to assist in the delivery of national and local aspirations and need. This would also cover the many diverse ways in which land and its assets are used to deliver public benefits without a change in ownership or tenure.

In relation to natural capital, the Scottish Government has acknowledged that significant private investment is required to fully realise the potential of natural capital in helping Scotland reach its environmental targets. More fragmented ownership would mean more fragmented and smaller amounts of investment. SLE is therefore of the opinion that the current pattern and scale of landownership is more capable of delivering the private investment needed to realise the potential of natural capital with the benefits of scale.

Principle 3

By definition, Principle 2 would already encompass Principle 3 so this principle is not necessary if 2 is kept. Alternatively Principle 3 could be kept instead.

Principle 5

We agree that management plans (Land Management Plans) can be beneficial to both the land manager and the local community by providing an overview of land management plans and objectives, and providing a mechanism for community engagement where relevant.

The ‘relevance of detail’ is vague as this could look different for every holding or associated community. There needs to be a flexibility in allowing landowners to include the detail that is relevant to their business and community with the resources they have available.

We and our members remain committed to improving transparency of ownership and are fully engaged in land registration and related activity. The scale and cost of this should not be underestimated.

Registers of Scotland do provide support to landowners who may not know where to start with this process, however we believe that this could be more joined up with the SLC/Good Practice Advisory Group. We think it would be beneficial for the GPAG casework service to

encompass supporting landowners in registering their ownership as part of its responsible landownership messaging.

We also think the messaging around land registration could be enhanced to encourage landowners to register their land, on the basis that it is an opportunity for them rather than a task they are being made to do.

Principle 6

SLE agrees with the principle of collaboration and community engagement between landowners/managers and communities. This is a tenet of responsible landownership and coincides with SLE's Landowners' Commitment. However, we are of the opinion that a balance should be struck between private ownership rights and the management of land in the public interest. SLE therefore encourage effective community collaboration with the purpose of *shaping and informing* decisions about land use, rather than communities having the right to decide on land use where they themselves do not own it (unless agreed with the land manager as an outcome of their collaboration).

We are also hugely supportive of landowners being pro-active and creative in their community engagement efforts as we recognise the merits this brings to both business and community.

We have however seen instances where communities have not expressed any interest in engaging with the local estate owner, despite efforts from the estate owner to reach out through various means such as town hall meetings and social media channels. Time and cost should also be understood as a constraint on the process. This raises questions about what level of community engagement is appropriate when communities appear to be happy with the way things are.

5. Do you have any proposals as to how to measure change as a result of implementation of the Statement, including suggestions for indicators of progress?

Measuring 'change' is a broad topic and we would like to see the nature of 'change' and or 'progress' defined. SLC should advise exactly what factors they want to measure change of and timescales for measuring this. Change can be subjective in many areas as it is meeting a vision rather than a measurable target. There are also issues around each individual land holder being able to measure progress.

Some land management and community regeneration projects can take decades, so it is also important that goal posts are not moved during this time to allow land managers, regardless of who they are, a fair chance at delivering outcomes through their projects. Similarly, differing land holding scale can increase or decrease ability to constantly progress while still maintaining economies of scale and viability.

6. Do you think there is a need for regular reporting on implementation of the Principles of the Statement?

Yes

7. If you think there is a need for regular reporting, how do you think this should be done and by whom?

There could be potential for reporting on the part of the landowner if the nature of the reporting strikes the right balance. For example, the language 'regular reporting' can have

connotations of testing land managers on their implementation of the principles on the basis that private land ownership/management is bad and it is on the onus of the land manager to prove otherwise.

To this end, we would encourage a move towards a voluntary, light-touch self assessment if looking at reporting on an individual landowner basis. Ideally, this should take a shorter form than the Self-Assessment Pilot scheme SLE engaged in with the GPAG and instead of asking for details and evidence, it should set out simple, open ended questions to each protocol. An example could be:

Please read the protocol on engaging communities and the associated good practice examples from X and Y estates. Now think about what you are doing to promote community engagement, and what you might consider doing in the future.

Remember, this is a self-assessment for your own benefit so be at liberty to answer this question however you see fit. We have made some suggestions below:

- *Draw a mind map of all the things you are doing, and then add some things you might want to be involved in in the future.*
- *Write a series of notes and thoughts to help you understand all that you already do and anything you might want to consider in future.*
- *Collate information and data that you have concerning all the things you do in this area and see where you might want to do more (take a look at our fact sheet to get a feel for the type of information you might want to collate).*

Similarly, the tone should set a positive tone, encouraging best practice and highlighting where this is happening and highlighting positive opportunities, rather than a negative tone suggesting that current practices are automatically wrong. While this programme continues to develop, several landowners did report benefits from undertaking a self-assessment, including helping them to identify new opportunities and good practice.

Regular reporting could also undertaken by the Scottish Land Commission by monitoring and evaluating the take-up on their casework service. Through the Good Practice Programme in 2019-2020, the SLC has provided support to over 150 landowners and communities in putting the protocols into practice in both rural and urban Scotland, including private landowners, public bodies, community landowners, environmental NGOs and faith organisations. The SLC delivered 16 training events and webinars to 570 people specifically on LRRS. Of surveys participants, 86% identifies specific changes their organisation could make to improve practice, including engaging on and publishing management plans. The SLC produced 35 case studies and a range of guidance and toolkits to further support the sharing and implementation of good practice across a wide range of subjects. These figures, monitored over the long term, could be used to report on implementation of the principles.

8. If you would like to submit a case study, please provide details of a specific example. You may submit more than one case study.

Example of estates already putting net-zero and conservation at the heart of everything they do, is one of our Helping it Happen winners, Rottall Estates. Rottall is an upland estate focussing everything they do on improving wildlife, biodiversity and habitats through restoring and re-naturalising rivers including the South Esk, burns, water margins, riparian planting, natural regeneration, native tree planting, wetland improvements, and flood mitigation and water quality improvements. The estate uses renewable energy (hydro & biomass) and also has sheep farming, holiday lets, events, shooting and stalking. Last year they restored 30 hectares of peatland as part of a scheme to restore 300 hectares over the next five years. This work is helping tackle the climate emergency as it will ensure carbon

remains stored in the peatland and additional carbon is captured from the improved vegetation.

Craigengillan Estate in Ayrshire is also undertaking similar projects. The Estate has provided kms of footpaths for locals to enjoy the landscape responsibly. They have also undertaken significant forestry and ancient woodland planting projects, are in the process of restoring large areas of peatland, and laying kms of traditional hedgerows, which can house up to 1500 species. The Estate also offers a rural skills area for the local college to use free of charge to train its students and hopes to expand this into a fully fledged rural skills centre in the coming years.

Bunloit Rewilding operates on Bunloit Estate and was a finalist in SLE's 2021 Helping it Happen Awards. Their purpose is to enable nature recovery and community prosperity through rewilding. While endeavouring to increase carbon sequestration and biodiversity, they want to create green local jobs and generate ethical profits to reinvest into our work and communities. They plan to donate 10% of annual net profits to local communities. Tackling the climate and biodiversity crises requires community involvement. Applying a community centric approach to rewilding, they've been engaging local communities by sharing their ideas and plans, requesting feedback, and exploring avenues for community involvement in education, employment and cultural/recreational activities.

9. Are there any changes that should be made to the Advisory notes to make it more clear, relevant or reflective of the current context? If your comment relates to a specific principle please flag that.

Overall, there are many aspects of the advisory notes that we agree with and welcome in making the LRRS easily digestible for different types of landowners. However, we would encourage further consideration of some of the language/tone used in the notes, as well as the nature of the case studies.

We have many members who engage with the LRRS because they have seen the benefits it can bring to both their business and their communities, as well as the wider implications for Scotland's National Performance Framework. However, some members have fed back to us that they consider some of the language to be verging on confrontational, bias towards community ownership or at the very least not inclusive of their [private] ownership. By making the language more inviting, landowners may feel that they are not 'the enemy' and be more inclined to engage with the LRRS to deliver positive outcomes for rural communities. This would encourage more trust and willingness to engage with the process as a whole.

For example, a paragraph in Principle 2 states "*There may be occasions when the scale of pattern of land ownership or the decisions of land managers can be a barrier to sustainable development to a community.*"

The advisory notes here fail to recognise the many instances where the decisions of land managers *do* contribute to sustainable development of communities. We think the above message should be balanced with this and a more collaborative approach should be considered, with language pertaining to supporting and collaboration with landowners to make positive decisions about land relating to the outcomes.

Similarly, a paragraph in Principle 3 states "*Having control over land can... Help communities be more resilient in responding to environmental changes...*" Again, while the statement is not untrue for some communities, we would suggest that this be balanced with the acknowledgement that environmental projects are also often successfully delivered by

traditional landowners as a result of the resources and investment they can offer, while also shouldering the inherent risk in these projects. It would also be useful to see an example of the above statement in the text.

The case study for Principle 3 is a positive story about community sale and spirit, however we note that the project was not opened or running at the time of use of the case study. We would say that the inclusion of a proven success story would be more viable in demonstrating the point. We would also like to see the inclusion of a case study in a more rural context. SLE members would be happy to provide case studies for future use.

We fully agree with the principle of good Stewardship in Principle 4, in line with SLE's own Landowners' Commitment. However, this section in the advisory notes does not acknowledge the private vs. public rights as is mentioned in other sections.

Again, it includes a positive case study but we would like to see a more balanced approach with the inclusion of the work of a rural estate. Omitting rural estates altogether from the case studies again alienates land managers who do make positive, sustainable development decisions in rural areas. The inclusion of this would be a positive example for other landowners and would encourage and inspire them to do similar.

SLE recognise the benefits of openness and transparency in landownership in Scotland, as it reduces the potential for conflict, creates win-win solutions for both private businesses/land managers and communities, and can identify issues early before they become a problem further down the road. We therefore would like to see the language more reflective of this message by being more supportive and encouraging for landowners to be engaged with the principle. We would encourage this section to use more positive, supportive language that reframes the principle to be in everyone's interest. In saying that, the case study does reflect this but it would be helpful for the sentiment to also be in the above paragraphs in the advisory notes.

Finally, SLE are supportive of the principle of community engagement and collaboration in Principle 6. However, we do not feel that the case study used is necessarily reflective of engagement between landowners and local communities, and rather is more suited to Principle 4. It should also be noted that communities are not always homogenous in their views and wants from land, which can cause difficulties in engagement and finding consensus. This case study should focus more on successful stories of community engagement and collaboration between an estate and its local community, evidencing positive outcomes of rural communities.

10. Do you have any comments on the layout of the statement?

No need for Principle 3 as this is a duplication of the point made in Principle 2

11. Please tell us about any sectors you perceive to have lower awareness of the Statement.

The general urban public, where land ownership is less important, will have lower awareness of the statement because it is unlikely to be an issue for many people.

Small, under resourced community groups could potentially have lower awareness of the statement if they have not been informed or advised by any of the bodies they engaged with during the acquisition process.

People with smaller holdings or farms may be less likely to be aware of the statement. This may be because they do not think it applies to them due to the size of their holding and they do not have resources to seek out information.

12. Do you have any suggestions of ways to engage with sectors who do not currently see the Statement as relevant to them?

The language in the statement and advisory notes should be as inclusive and balanced as possible, emphasising the opportunities for ALL landowners regardless of nature or size. Please see our comments in question 9.

SLE considers the SLC's Good Practice Advisory Group to be a positive service for landowners to help them engage with the statement in a positive and meaningful way. We would like to see the helpful, positive messaging about the GPAG continue and will continue to recommend it to our own members who may need advice relating to the LRRS.

13. Do you have any ideas for other ways that adoption of the Statement could be promoted?

Promotion of the benefits and opportunities for all those involved would help to engage a wider audience. By highlighting these benefits, rather than messaging around the requirement to meet a set of principles could encourage more engagement and positive interactions, with more focus on the carrot approach rather than the stick.

14. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on island communities in a way that is different from the impact on mainland areas?

There may be a more clear geographically defined 'community' on Scottish Islands compared to the mainland, however it should not be assumed that any community is a homogenous group who all have the same views and seek the same outcomes.

15. Are you aware of any examples of particular current or future impacts, positive or negative, on young people (children, pupils and young adults up to the age of 26) of any aspect of the proposals in this consultation?

Younger people are potentially less likely to be engaged with Scottish land issues. However, this could be an opportunity for enhanced education in rural skills and knowledge.

16. Are you aware of any examples of how the proposals in this consultation may impact, either positively or negatively, on those with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation)?

No

17. Are you aware of any examples of potential impacts, either positive or negative, that you consider that any of the proposals in this consultation may have on the environment?

Any potential positive impact on the environment arising from the proposals in this consultation could be contradicted by the perceived desire for more fragmented land ownership, which could result in subsequent fragmented investment in environmental projects, many of which require large scale area and investment to make a meaningful impact to the environment.

Management of land for wildlife and biodiversity also benefits from a landscape scale approach, which may be harder to manage if land management is more fragmented.

18. Are you aware of any examples of how the proposals in this consultation might impact, positively or negatively, on groups or areas at a socioeconomic disadvantage (such as low income, low wealth or area deprivation)?

No

19. Are you aware of any potential costs and burdens that you think may arise as a result of the proposals within this consultation?

It would depend how the “rights and responsibilities in relation to land and natural capital” are interpreted. We would argue that everyone who enjoys the right to use and own land has a proportionately equal responsibility to be mindful of their responsibilities relating to this land use. We would therefore encourage this balanced messaging.

For landowners there is a cost in reporting of LRRS, both in time and resources which will be required to be met by the landowners, no matter what the ownership model.

20. Are you aware of end impacts, positive or negative, of the proposals in this consultation of data protection or privacy?

No