

Transparency of Ownership and Land Use Decision-Making

This Protocol is the second in a series issued by the Scottish Land Commissioners to support the practical implementation of the Scottish Government's Land Rights and Responsibilities Statement (LRRS). It specifically supports Principle 5 of the Statement: "There should be improved transparency of information about the ownership, use and management of land, and this should be publicly available, clear and contain relevant detail."

The Scottish Government is keen to ensure that land in Scotland is sustainably owned, used and developed in the interests of land owners, communities and wider society. It has been recognised that a lack of transparency about land ownership and land use decision-making is a barrier to dialogue and progress. Information about land and buildings provides the foundation for open and transparent decision-making and can enable participation, which is a key element of the human rights framework. Improved information about who controls land in Scotland will therefore help empower people, including community groups, and give them the opportunity to understand who is in control of land.

In Scotland the General Register of Sasines, which dates back to 1617, is the original national register of property deeds. In 1981, a map-based Land Register of Scotland was introduced. Between the two registers the majority of property in Scotland is detailed. The Land Register currently has 1.6 million properties, and there are a further 1.1 million properties on the Register of Sasines. The Land Register is accessible through the ScotLIS website, and the Keeper of the Register has been invited by Scottish Ministers to complete the Land Register by 2024. This will lead to better quality and more accessible information about land for all of Scotland.



This move towards greater transparency and accessibility of information about land is further outlined in the Land Reform (Scotland) Act 2016, which details requirements for a new Register of Persons Holding a Controlled Interest in Land (RCI). This is to be introduced to identify and make accessible information about those who own and control land in Scotland. Draft Regulations for Delivering Improved Transparency of Land Ownership in Scotland have been published and consulted on, and under these regulations those with controlling interests will be required to publish details in the upcoming Register.

Ahead of the establishment and completion of the Land Register and Register of Persons Holding a Controlled Interest in Land, this Protocol sets out reasonable expectations of the information to be provided by those who own and manage land in Scotland. Information about the ownership, use and management of land should be available to those who could be impacted by the decisions made about that land.

In line with RCI, where there are compelling reasons not to share information (if sharing details about an individual would put them, their business, or another person connected to them, at risk of violence, abuse, threat of violence or abuse, or intimidation) then information need not be disclosed. Where genuine requests are made in these circumstances it should be made clear to the community or anyone requesting information that there are legitimate reasons for not agreeing to the request.

This Protocol is designed to encourage positive behaviour by all interested parties and to make sure that interactions take place in a spirit of mutual respect and understanding, ensuring that legitimate interests are taken into account in a reasonable and fair way.

- Where we use the word *should*, all parties are expected to follow the approach described
- Where we *recommend* a course of action it means this is good practice but recognises that other approaches may be equally effective.

This Protocol is effective from the date of issue until it is withdrawn or revised by a notice published on our website and following the process as detailed in the 'Review' section.

Relevant Parties

The relevant parties covered by this Protocol are defined as:

- **Owners** of land including individuals, companies, trusts, public bodies, non-governmental organisations, charities and community landowners, but excluding individual home owners
- **Land Managers** (such as a tenant or agent)
- A **Community Council** representing the area within which the land and/or a related community sits
- A **relevant constituted community organisation**, having an openly elected membership, and representing the area within which the land and/or a related community sits.

Definitions

Where we mention **transparency** we are talking about the openness of the organisation or individual, for example how easily information and contact details can be accessed, and the availability of information about land use, management and ownership.

By **governance** we mean the structure around the decision-making processes relating to those who manage and implement decisions and policies in relation to land. In this case, when we mention governance it relates to people who take decisions about land, how they make those decisions, and how they involve other people in decision-making. Good governance is a key contributor to the effectiveness, productivity and reputation of a landowning organisation or individual.

Land includes buildings and other structures, land covered with water, and any right or interest in or over land, and can be in either an urban or a rural context.

When we refer to **significant influence and control** this refers to individuals who can impact decision-making processes or act in a way that affects the use and management of the land.

General Principles

The Scottish Government's Guidance sets out the following broad principles, which also provide the basis for the specific expectations below. It is expected that all interested parties will adhere to these general principles:

- i. Scotland's land is a resource for all of its people and should contribute to economic, environmental and social goals within a human rights approach
- ii. Better information about land should be available, in both urban and rural environments, to help with more informed decision-making, efficient land use and management, and creating benefit for the local economy, environment or society
- iii. People should have confidence that there is a fair and balanced system of decision-making in relation to land, and have the opportunity to be engaged in decisions relating to land that impact on them and their local, natural and man-made environments
- iv. Those with decision-making powers in relation to land should recognise and act in accordance with their responsibilities as well as their rights.

Specific Expectations

The specific expectations that apply to all parties are:

- a. Up-to-date information about who owns land or buildings and the extent of the landholding should always be made publicly available. The information should be in line with the information that will be detailed in the Land Register and RCI.
- b. If there are people or bodies with significant influence and control over land and buildings, information about who they are and the extent of their control should be made publicly available along with information about ownership.
- c. Contact information for the landowner or for someone with local decision-making authority over the land (such as a land manager or agent) should always be readily available.
- d. Contact information for the relevant community council and/or community organisations in the area should always be readily available.

It is recommended that information required for (a)–(d) is made available online where possible. Where this is not possible other practical means can be used:

- e. Landowners should make use of the Registers of Scotland's processes for voluntary registration of land holdings, where appropriate.
- f. It is recommended that landowners prepare a summary of land use and management which should be made available online to the local community. Where landowners have a management plan for the land it should be made clear where and how the management plan can be accessed.
- g. Landowners and managers should be open and transparent about their decision-making processes. Proportionate information relating to the rationale for any decisions should be shared with the community.
- h. Where a relevant party makes a reasonable request for information about land ownership, use and management, proportionate and helpful information should be shared in a clear and accessible way. This should be within a reasonable timeframe in line with the LRRS Protocol on Community Engagement in Decisions Relating to Land.
- i. Where there are plans to make significant long-term or permanent changes to land management or use that will impact a local community, landowners should follow the procedures set out in the LRRS Protocol on Community Engagement in Decisions Relating to Land.



Practical Implementation

In most circumstances, this Protocol will involve few if any additional actions that are not already standard good practice.

We may produce practice guidance and case study examples from time to time to support the implementation of this Protocol. This may be through publication on our own website and/or by working in collaboration with other organisations representing the interests of a particular sector.

Informing Us of Your Experience

If you experience a situation which differs significantly from the principles and specific expectations set out in this Protocol, please contact us providing details and supporting evidence.

Where we consider appropriate we will provide advice and engage with the relevant parties to support resolution and improvements in practice. Our main role will be to support implementation of good practice, develop capacity and confidence among stakeholders, and to inform future development of policy, protocols and guidance.

We are keen to hear of and share positive examples of open and transparent land ownership and management. We welcome information about such cases which could help owners, managers and community organisations to learn from the experiences of others.

To share your experience please contact the Good Practice Team at:

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Review

This Protocol has been developed in collaboration with the Good Practice Advisory Group members – Community Land Scotland, Development Trusts Association Scotland, National Farmers' Union Scotland, Scottish Land and Estates, and Scottish Property Federation.

The Protocol will be kept under review by the Land Commissioners in consultation with the Good Practice Advisory Group. Our experience of its implementation and evidence reported to us will inform the future work programme of the Scottish Land Commission and future recommendations made to Scottish Ministers in relation to the Land Rights and Responsibilities Statement.

Further Information

 **More information can be found at the following links:**

www.landcommission.gov.scot

www.gov.scot/policies/land-reform

www.ros.gov.uk/

[www.ros.gov.uk/our-registers/
general-register-of-sasines](http://www.ros.gov.uk/our-registers/general-register-of-sasines)

www.scotlis.ros.gov.uk/

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