



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

FAQs on Protocols on Landownership by Charities and Private Trusts

- **What is a Land Rights and Responsibilities Protocol?**

The Scottish Land Commission is publishing a series of protocols to support the practical implementation of the Scottish Government's [Land Rights and Responsibilities Statement](#) (LRRS). These protocols can be used by everyone in Scotland and they are particularly useful for communities and businesses, as they set out practical ways that these can realise their rights and responsibilities in relation to land in their local area. The protocols set out what responsible practice looks like and support all relevant parties to take a fair and reasonable approach to land ownership, use and management including decision-making.

- **Why has the Commission published protocols for landowning trusts and charities?**

There are rights and responsibilities that come with owning land and property. The Commission recognises that trusts and charities that own land and buildings have the potential to improve their transparency, accountability and governance in line with expectations of the LRRS.

- **What status do the protocols have in relation to my other trustee duties?**

Charity trustees have a legal duty to act in line with the Charities and Trustee Investment (Scotland) Act 2005, (and, if registered in England or Wales, the Charity Act 2011) with emphasis on the meeting the requirements of their governing document. Similarly, private trusts must act in accordance with their trust deeds. This protocol does not take away from these legal duties but seeks to complement them in a positive way to deliver land rights and responsibilities by building better relationships with local communities in which the trust or charity owns land.

- **Who does the Protocol on Landowning Trusts apply to?**

This protocol is for all private trusts that own land or buildings including Discretionary Trusts, Interest in Possession Trusts, Bare Trusts, Accumulation & Maintenance Trusts.

- **Who does the Protocol on Landowning Charities apply to?**

This protocol is for all charities that own land or buildings including Charitable Trusts, SCIOs, and charities set up by Royal Charter.

- **I am a trustee of a charity or a private trust, what should I do?**

Bring the relevant protocol to the attention of your fellow trustees and ask them to consider the expectations in Section 5.



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

- **Where or who can I get help from?**

Charities may be able to get help from:

- Their local Council for Voluntary Organisations or [Third Sector Interface](#), who can assist with issues around governance & management and may be able to provide advice, training & support
- The Scottish Charity Regulator (OSCR) or [Scottish Council for Voluntary Organisations](#) for good sources of guidance and advice
- The [Charity Commission](#) may also help if the charity is registered in England or Wales
- The [Just Enterprise](#) programme is open to enterprising charities across Scotland and can provide workshops and training.

Charities could also seek help from:

- A membership organisation such as [Community Land Scotland](#) (CLS) or [Development Trust Association Scotland](#) (DTAS)
- [Highlands and Islands Enterprise](#) (HIE) or [South of Scotland Enterprise](#) (SOSE), which both have a remit to support communities.

Private Trusts can get help from membership organisations such as [Scottish Land and Estates](#) or [NFU Scotland](#). Advice, training, and guidance can also be sought from appropriate professional advisors, such as land agents or solicitors.

Charities and private trusts can also approach the Commission for advice and support.

- **What kind of information should we share with the local community?**

Our [Protocol on Transparency of Ownership and Land Use Decision-Making](#) sets out what information to share with communities. We have also provided templates that you can fill out and share or publish on your website.

- **How can we find the contact details for local community organisations?**

Local community organisations may share their contact details on their website, social media, on another website for the local area, or on local notice boards. Local Authorities hold the details of community councils.

If you are unsure who the groups in your local area are, you could check the membership of the [Development Trusts Association Scotland](#) (DTAS) or [Community Land Scotland](#) (CLS).

- **How can we develop a good relationship with the local community?**

Ongoing and open communication and engagement is the best way to develop your relationship with a local community. For information on how to go about this, please refer to our [Protocol for](#)



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

[Community Engagement in Decisions Relating to Land](#) and our [Practice Guidance on Developing an Engagement Plan for Decisions Relating to Land](#). We also have a range of case studies highlighting good practice on our [website](#).

Ensuring that the community is aware of the purposes of a charity or trust should help them to understand how and why decisions are made, and hopefully enable interests from both the charity or trust and the community to be addressed appropriately.

- **We are a national body with land and/or properties in a lot of different locations, are we expected to have a community engagement plan for them all?**

Charities and trusts should choose the means of engagement most appropriate to their context. For example, an organisation may have an overarching engagement plan that covers all its property, and which references how communities will be engaged with locally. The most important factor is that engagement should be proportionate to the impact that decisions may have on the community. Engagement should not be disproportionate to either the organisation, its managers, or the community. Appropriate and accessible methods of communication should be used. For further guidance please see our [Practice Guidance on Developing an Engagement Plan for Decisions Relating to Land](#).

- **What should we do if a community group approaches us to ask for information about the land we hold?**

If a community group makes a reasonable request for information, then you should discuss sharing the information with them and the best way to do it. More information can be found in our [Protocol on Transparency of Ownership and Land Use Decision-Making](#).

Where genuine requests are made, and it is not possible to release the information, it should be made clear to the community or person requesting information that there are legitimate reasons for not agreeing to the request. Members of the community may not be aware of any restrictions that might be imposed by the founding document, the purposes and constitution of the charity, Deed of Trust or Articles of Association, so you may need to explain these.

You should consider whether the information requested is something that you could provide regular updates on (e.g. on progress with a large development, or on grant-making activities) through a website, newsletter, or regular meetings.

- **What should we do if a community group approaches the charity/Trust about purchasing an area of land?**

The [Community Land Scotland and Scottish Land and Estates Protocol for Negotiated Sales](#) sets out helpful information and recommended routes for negotiated sales processes.



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

- **How can we assess if trustees have sufficient knowledge of and connection to the community in an area where we own land?**

Consider what contact and relationships trustees have with the local community and whether they know what the local aspirations and issues are. Establishing and building relationships can help you to understand the community's needs and priorities. Think about the different ways that you could do this, e.g. by speaking to local groups, hosting or attending engagement events or public meetings, or setting up a working group with local representatives.

Consider whether the charity or trust receives or hears complaints from the community about lack of information or engagement. If so, consider the nature of these complaints and if any improvements could be made to communications and/or whether additional communication processes could be put in place.

You should also consider what contact the charity or trust has with the community about local development. You could look for ways to involve trustees in community engagement activities and consider whether a representative of the charity or trust could attend public or community meetings.

- **We are considering changing our structure or governance. How can we assess if there will be a significant impact on the community?**

A significant impact means a decision that might affect the social, economic or cultural development of a community. It could also involve a change or restriction of access to local services, a good quality environment or community viability. Useful examples are included in the Scottish Government's [Guidance on Engaging Communities in Decisions Relating to Land](#).

- **Where can I get more information about the protocol?**

More information about the Good Practice Programme including protocols, tools and guidance can be found by contacting the Good Practice Team.

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