



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

FAQs on Land Rights and Responsibilities Protocols on Diversification of Ownership & Negotiating Transfer of Land to Communities

- **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 locality. The protocols set out what responsible practice looks like and support all relevant parties to take a fair and reasonable approach.

- **Why has the Commission published these protocols?**

There are rights and responsibilities that come with owning land and property. The Commission recognises that owners and managers of land in Scotland have an important role to play in achieving a more diverse pattern of land ownership and in supporting communities who wish to own, lease or use land. These protocols help landowners to understand what expectations there are and things to consider to meet the aims of the LRRS.

- **Who do these protocols apply to?**

These protocols apply to all those who own land, covering both rural and urban Scotland. It is for all private and public sector owners of land and buildings, including individuals, companies and trusts, non-governmental organisations, charities and community owners.

- **What does diversification mean?**

When we refer to diversification in this context, we mean diversification of the numbers of owners and tenants, but also diversification of the types of ownership and tenure.

- **What are the benefits of diversification of ownership and tenure?**

A diverse pattern of land ownership can support different sizes and types of ownership and management, adapted to the needs of local regions and areas, communities and businesses.

Wider and more varied availability of land and buildings allows businesses, organisations, individuals and communities to pursue projects of all scales and purposes to provide mutual benefits, including: supporting local economic development; providing spaces for social and amenity activities; supporting local housing development; encouraging set up of new businesses and expansion of existing businesses; and enhancing access to green spaces.



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For landowners, diversifying land holdings can contribute to a more diversified asset base, generate funds to reinvest elsewhere, improve public profile and relationships with the community, and provide opportunities for innovation and collaboration.

- **What are the benefits of community ownership?**

Having control over land as a resource can help contribute to increased community resilience, enabling and empowering communities to adapt land uses to their sustainable development needs and to develop plans to adapt to changing circumstances. Community ownership can support wellbeing and resilience by giving local people the opportunity to identify and respond to their own needs. This can include creating jobs through enterprise, supporting vulnerable people, giving children opportunities, or celebrating local culture, food or sport.

- **What should I consider when I am assessing my land and buildings?**

We ask that you consider whether land and buildings are being maintained and used productively in a way that supports sustainable development. **Sustainable Development** 'is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.'¹

You should consider why the land is held and what the aim of managing it is, thinking about economic, social, cultural and environmental purposes.

Questions you might ask yourself are:

- Are land and buildings in good conditions and being maintained for the long-term?
- If so, will this continue to be the case?
- Do I have a conscious plan for how all of my land and buildings are used?
- Does the way land and buildings are used and managed help me to fulfil my objectives?
- Is ownership and management of land and buildings key to meeting my aims?
- Are they being use in the best way they could be?
- If not, are there opportunities to sell or lease, or to find alternative ways to manage the land and buildings through working in partnerships?
- Are there local needs that the land and buildings could be better meeting? Could I create opportunities for my local community?

- **Where can I get help with assessing my land and buildings?**

You can ask your professional advisers to support you with this process. Alternatively, you could seek support from a membership organisation for your sector.



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- **Where do I find out about local needs and priorities?**

You can learn about local needs and priorities through engagement activities, through consulting local plans that might have been prepared by the local authority, community council, or community organisation, and through speaking to local representatives. You might find existing plans on the websites of local authorities or local community organisations, by emailing those organisations, or by approaching your local Council for Voluntary Services or Third Sector Interface. It is helpful for all local parties to proactively participate in Local Development Plan consultations and local place-planning to ensure that any plans that result from these represent the views of the whole community.

- **What are the different options for collaborative and partnership working?**

Collaborative and partnership working options can include tenancies, short-term leases, partnership arrangements, management agreements and informal arrangements.

See our [case study](#) on Moray Estates which outlines how they manage local nature reserve Doune Ponds in partnership with the community through a management agreement.

- **What are the benefits of making the community aware that I am planning to sell land or buildings?**

Selling land on any scale is a land-use decision which can have a significant impact on the community depending on the local context. The earlier in this decision-making process community engagement begins, the more opportunity there is to establish a mutually beneficial approach, create clear lines of communication and help prevent misunderstandings arising in the future.

Please see our [Land Rights and Responsibilities Protocol on Community Engagement in Decisions Relating to Land](#) for further guidance.

Read more about the value of early engagement for land owners/managers in the planning and development context [here](#).

- **When is it acceptable not to disclose information to the community about my reasons for a decision or about a planned sale?**

There may be occasions when you are prevented from letting the community know the reasons behind a decision or from disclosing to the community that you are planning to sell land or that you have been approached about an off-market sale. This could be for legal reasons, because the issue is particularly sensitive, or because an approach is tentative and is unlikely to go ahead. In these circumstances you may not be able to share full information with the community, but it is still helpful to share what information you can. It is also a good idea to consider the community's needs and priorities when making decisions and to identify a point at which you will be able to disclose your plans.



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Our [Practice Guide on Developing an Engagement Plan for Decisions Relating to Land](#) provides useful information on creating a plan which sets out how you engage with the community, what issues you engage on and when.

- **How can I make the community aware of the land or buildings I own and what my plans are?**

As part of our [Land Rights and Responsibilities Protocol on Transparency of Land Ownership and Land Use Decision-Making](#) we recommend that landowners prepare a summary of land use and management which should be made available online to the local community. To help with this, we have developed a [template](#) that sets out the kind of information that should be shared. This includes information about who owns the land and who manages the land. It also includes sections that summarise the main objectives of land management alongside key activities and priorities. The template aims to help landowners and managers compile relevant information that can be shared.

- **I want to create opportunities for local parties such as residents, businesses, or community organisations purchases, leases and other collaborative working arrangements. How do I do this?**

We have created a [route map](#) which sets out steps to follow when you are considering selling or leasing land, and when you are approached by a local community organisation or business who would like to buy, lease or use land.

See our case study on [Buccleuch Estates](#) which outlines how they prioritised community interests in their Langholm Moor sale.

- **What should I do if I receive competing notes of interest from community organisations, residents and local businesses through the engagement process?**

Different members of a community can have different ideas about the best uses for land and buildings. If you find that you receive competing interests, then you should consider bringing the different parties together for a discussion and encourage collaboration between local groups. Engagement can help all parties to understand each other's wishes, concerns and constraints, with the aim of achieving a better outcome and building better relationships.

Ultimately, it is your judgement on which option to proceed with, but you may want to consider social, environmental, cultural and economic factors, and how the plans of the interested parties align with local needs and priorities.

- **Should I use title conditions or clawback?**

Title conditions can be used for a variety of reasons, including to retain access to an adjacent piece of land, to ensure housing remains affordable (e.g. through a rural housing burden), to set out responsibility for any common areas, or to create a pre-emption right should the property be sold at a later date.



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It is important to consider what you are trying to achieve and whether using title conditions is the best way to achieve that.

Any mechanisms used must be proportionate and appropriate for the scale of the landholding. They should take account of the opportunities to deliver community benefit. Conditions or arrangements which would negatively impact the future viability of any business or project, either through creating an associated cost that makes a project financially unsustainable or restricting use to the extent that a business plan or project could not be delivered, should be avoided.

- **Where can I get more information about these protocols?**

To learn more about the Good Practice programme including protocols, tools and guidance contact the Good Practice team.

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ⁱ Definition from the International Institute for Sustainable Development.