



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Commissioners Meeting

Tuesday 5th September 2023, 9:30am
An Lochran, room 0.02

A G E N D A

Item no	Item	Paper no	Action	Lead
	Welcome/Apologies			Andrew Thin
	Declarations of Interest			Andrew Thin
1.	Minutes of the previous meeting: 8 th August 2023	1	For agreement	Andrew Thin
2.	Land and Human Rights Advisory Forum (joined by Malcolm Combe, forum chair)	2	For discussion	James MacKessack-Leitch
3.	Guidance on social and economic community benefits from land <ul style="list-style-type: none">Delivering social and economic community benefits from land	3 Annex A	For agreement	Hamish Trench
4.	Strategic risk review	4	For agreement	Hamish Trench
5.	Communications update	Verbal update	For information	Nikki Nagler
6.	Board recruitment and succession planning	5	For information	Andrew Thin
7.	Feedback on meeting with Cabinet Secretary	Verbal update	For information	Andrew Thin
8.	Scottish Government update	Verbal update	For information	Fiona Taylor
9.	AOB			

Sandwich lunch will be served at the end of the meeting.

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PAPER 2

Land and Human Rights Advisory Forum

Purpose:	To update Commissioners on the work of the Land and Human Rights Advisory Forum (LAHRAF).
Business Plan context:	Reforming Land Rights: Convening of the Commission's Land and Human Rights Advisory Forum
Previous board papers:	220705 Paper 7 – Land and Human Rights Advisory Forum
Action required:	Consideration

Background

The Land and Human Rights Advisory Forum (LAHRAF) has now met eight times since its formation, and in the past year since the last board discussion the Forum has considered issues including:

- Carbon Rights
- The Land Reform Bill consultation, and responses
- Land Rights and the Food System
- Options Agreements in relation to transparency in the housing land market, as well as effects on Community Rights to Buy
- Reform of Part 2 Community Right to Buy
- The Commission's forthcoming strategic plan

In particular, the forum's extensive consideration of the Land Reform Bill proposals and the Land Reform in a Net Zero Nation consultation was not just critical to helping the Commission shape its response, but also in helping Scottish Government colleagues in their thinking.

Consideration of practical issues, such as those around options agreements and transparency, continue to support the day-to-day work of the Commission, while discussion of wider concerns, such as food systems and carbon rights, ensure the Commission remains sighted on rapidly evolving, and potentially influential, developments.

Similarly, through regular member provided updates the Forum considers legal developments, for example the recent A1P1 challenge to the Cost of Living (Tenant Protection) (Scotland) Act 2022, that while not directly touching upon the Commission's work ensure the Commission remains up to date with current legal thinking.

Forthcoming Discussions

The coming year will see the forum continue to consider and advise the Commission on the Land Reform Bill as it is published and passes through parliamentary stages.

Alongside ad hoc advice and subject to events, other substantive issues likely to be considered include:

- The Human Rights Bill proposals and consultation
- Land Rights and Governance
- The Right to Housing

The Human Rights Bill in particular could be significant in shaping Scotland's approach to land reform, not least in informing the decisions made in the exercise of powers created through the Land Reform Bill. There may be an opportunity for the Commission and Forum to take forward work in this area to ensure these links are well made.

Membership Changes

Prof Elisa Morgera has stepped down from the forum.

Dr Kirsteen Shields (Edinburgh) and Prof Katie Boyle (Strathclyde) have joined the forum.

The Commissioners are asked to:

- note thanks to the forum members for their continued participation, and especially retiring member Prof Elisa Morgera;
- note the work of the LAHRAF to date;
- consider the future programme for the forum, particularly in the context of the Human Rights Bill and wider links to land reform.

James MacKessack-Leitch & Malcolm Combe
August 2023



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PAPER 3

Social and economic benefits for communities from land

Purpose:	To discuss Commission guidance on community benefits from land.
Business Plan context:	Strengthening practical implementation of the Land Rights and Responsibilities Statement (LRRS). Providing advice for policy and practice on natural capital, the land market and a just transition.
Previous board papers:	211207Paper4NaturalCapital 230214Paper3 GoodPracticeNaturalCapital 230509 Community benefit guidance
Action required:	Commissioners are asked to agree the scope of the guidance.

Background

In autumn 2021 Ministers sought advice from the Commission on ways to balance the need for private investment in natural capital with ensuring community benefit and a just transition. We have since carried out a programme of research, recommendations and good practice advice to support delivery of community benefits from natural capital. We have developed Guidance on what is meant by community benefits from land and opportunities for delivering community benefits, a draft of which is appended to this paper. Alongside this work, Highlands and Islands Enterprise (HIE) will be publishing a set of case studies which we will reference in our final Guidance.

Purpose and scope of Guidance

The purpose of the Guidance is to:

- Provide willing and interested land owners and managers guidance on delivering social and economic returns for local communities from land.
- Shift cultural expectations in the way land is owned and managed to bring greater social and economic returns for local communities and support a just transition.
- Support the development of socially just and responsible policy on nature finance and community wealth building, embedding expectations for social and economic returns for communities.

The draft Guidance was originally intended to be for those accessing private nature finance. However, it has become increasingly clear that the expectation of social and economic community benefits from land, and the opportunities to deliver benefits, apply to the way land is owned and managed in general.

Whilst private investment in nature has brought a specific focus to the impact of significant land use change on communities and questions about fair sharing of benefits, these questions are valid regardless of the types and purposes of finance involved. In addition, our latest land market report (REF) notes a shift from corporates and institutions entering the land market to invest in carbon markets, to entering the land market for wider Environmental, Social and Governance outcomes and speculation on the value of the land. These activities bring the same risks for communities, but aren't necessarily captured by guidance aimed exclusively at private investment in natural capital.

Consequently, the Guidance does acknowledge the immediate risks and concerns communities have regarding private finance for nature, but is now framed as being applicable to all landholdings.

In addition, the Guidance has always intended to be recommendations for good practice (as opposed to best practice or enforceable) and remains so. Our intent is continue supporting voluntary adoption of good practice, whilst working to embed aspects of the Guidance in policy and funding more widely. We are also considering how we work with stakeholders to support implementation of the Guidance in different contexts, such as public landowning bodies, environmental NGOs and private investors.

Engagement

We have conducted a significant programme of engagement in scoping and developing the guidance. This includes:

- Incorporating feedback from a range of organisations into a discussion paper on community benefits from investment in natural capital in February 2023.
- Working with those seeking to deliver benefits in practice, through the Good Practice Programme, joint working with HIE and engagement with the Nature Finance Certification Alliance and Scottish Nature Finance Pioneers.
- Convening a Community Benefit Advisory Group (CBAG) to provide insight and advice including Foundation Scotland, Scottish Environment LINK, Scottish Land & Estates, Scottish Forestry, HIE, Scottish Crofting Federation and Community Land Scotland.
- Collaborating with public bodies working on delivering Scottish Government's commitment to a high-impact, values-led market for responsible private investment in natural capital.
- Inputting into Scottish Government and UK Government work on developing a market framework for nature finance and standards for ecosystem services.

Next steps

- Circulate to the CBAG and other core stakeholders for final comments at end August.
- Publish the guidance on 2 October 2023 at Nature Finance Scotland Forum 2023 with FAQs and case studies (the latter have been collated by HIE).
- Publish supporting templates and additional guidance, as needed, including a model policy and guidance on diversification for private rural estates.
- Produce a business case for funding to support community capacity to engage with nature finance opportunities in partnership with CBAG members by December 2023.

- Pilot a community capacity support offer through collaboration with Cairngorm's National Park Authority, if funding is awarded from the Heritage Horizons project, starting in April 2024.
- Provide sector-specific advice and support for others in considering how the guidance applies in different sectors and contexts.
- Support a pilot scheme on a Community Benefit Certification standard as a plug-in to other codes and standards (e.g. Woodland Carbon Code), if awarded funding, starting in September 2023.
- Input into UK and Scottish development of nature finance standards to embed community engagement and benefits – ongoing.
- Input into Scottish Government work on a market framework for responsible investment in natural capital to embed community benefits – ongoing.
- Continue providing advice and guidance to interested parties on community benefits and responsible landownership – ongoing.

Commissioners are asked to agree the scope of the guidance.



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PAPER 4

Strategic Risk Management

Purpose:	To agree risk appetite statements and review the strategic risk register
Previous board papers:	Paper 8, 8 th August: Strategic Risk Management
Action required:	For decision

Following discussion at the board's meeting on 8th August this paper asks the board to:

- a) Agree the proposed risk appetite statements
- b) Review the risks articulated in the strategic risk register

Risk Appetite Statements

The following are proposed based on the board's discussion of risk appetite. The statements are intended as a high level articulation of risk appetite that will provide guidance for the executive team in exercising judgment. The statements describe the board's risk appetite for different categories of risk.

- **Legal Risk** – The Commission is required to adhere to a range of statutory duties and responsibilities. The board has a **low** appetite for a breach of legal responsibilities.
- **Financial Risk** – The Commission is required to manage its finances in accordance with the Scottish Public Finance Manual and is subject to rigorous public audit. The board has a **low** appetite for error in the management of its finances.
- **Reputational Risk** – The Commission's ability to support Ministers and exert influence on matters relating to land depends on our status and credibility as a trusted independent adviser with key stakeholder groups. The board has a **low** appetite for placing that status and credibility in jeopardy.
- **Research Risk** – The Commission aims to provide leading edge advice and analysis on contemporary issues relating to land, and as a basis for this it conducts focused and sometimes speculative research in complex subject areas. The board has a **high** appetite for

conducting innovative and speculative research provided the anticipated use of that research is clear in terms of the Commission's strategic priorities.

- **Advisory Risk** – The Commission provides advice on policy and on the practice of implementing Land Rights and Responsibilities. The Commission aims to ensure that all its advice is based on robust evidence and/or published policy or guidance. The board has a **low** appetite for advice based on poor evidence or guidance but at times will be comfortable adopting a **medium** level risk appetite where advice is explicitly addressing new or emerging issues, provided it is given with reference to established LRRS principles and the Commission's strategic priorities.
- **Partnership Risk** – The Commission undertakes some of its work through partnership initiatives with other organisations (mainly other public bodies) in order to increase impact and deliver value. The board has a **medium** appetite for partnerships of this nature provided that the arrangements entered into take full account of the need to protect the Commission's reputation as a trusted independent adviser.

Strategic Risk Register

It is good practice for the board to review on an annual basis the risks articulated on the strategic risk register (Annex A). The Audit and Risk Committee maintain regular oversight of the risk register at each committee meeting.

In particular Commissioners are asked to consider whether the range of risks identified continues to reflect the key strategic risks the Commission faces.

Hamish Trench

Risk ID	Risk Description	GROSS RISK			Controls in Place	Control Effectiveness	NET RISK			Risk Movement	Risk Appetite	Action Taken/Planned	Target Risk	Target Review Date	Risk Owner
		Untreated Impact	Untreated Likelihood	Untreated Risk Score			Current Impact	Current Likelihood	Current Risk Score						
VISION: Fair inclusive and productive system of ownership management and use of land that delivers greater benefit for all the people of Scotland															
RISK CATEGORY: DELIVERY															
1	Catastrophic loss of systems resulting in the Commission not being able to operate as an organisation	5	4	20	Business continuity plan in place, cloud based IT system accessible outside of the office environment, cyber essentials plus accreditation, improved cyber security for log in to the network.	Effective	2	1	2	Static	Averse	Working closely with IT service provider to ensure cyber security. Cyber incident response plan approved by ARC. Achieved Cyber Essentials Plus for 2022. Multi factor authentication implemented for network access, updated antivirus software aligned to SG recommendations. New office network tested. Cyber security requirements embedded in tender for IT service.	1	Sep-23	Head of Communications and Corporate services
2	Ability to react quickly in matching resources to changes in priorities	3	3	8	Maintain team approach to delivery enabling staff to draw on capacity and expertise across the team as required; Quarterly progress reporting to Board	Effective	2	2	4	Decreasing	Cautious	Improved cross-team working and quarterly planning with delivery tracker monitoring. 23/24 Business plan refreshed resourcing to current priorities. Staff posts reviewed as vacancies arise in order to remain agile and refresh focus where necessary. Changes in corporate team structure to improve resilience.	4	Sep-23	CEO
RISK CATEGORY: REPUTATIONAL															
3	Changes in Board appointments or failure to recruit timeously result in disruption to effective governance or lack of clarity in strategic direction	4	3	12	Recruitment to start 12 months ahead (SG responsibility). Plan succession timescales; ensure effective Strategic Plan in place Sept 23; Board induction processes refreshed and in place.	Partial	3	2	6	Increasing	Minimalist	Chair met with sponsor team in Dec and Jan to agree skills matrix and plan recruitment timescale. Timeline agreed by public bodies unit, advertising starts 26th June. NSET committee scheduled discussion on approach to considering appointments. July - SG info to NSET committee delayed therefore interviews delayed to Nov.	4	Sep-23	CEO
4	Emerging issues result in reactive policy making, and relationship management.	5	4	20	Proactive horizon scanning to anticipate future issues, work closely with stakeholders and put internal processes and measures in place for handling.	Partial	2	2	4	Static	Minimalist	Working closely with stakeholders and sponsor team to identify potential issues in advance and take action. Clear case handling and internal communications procedures. Land Reform Bill consultation indicates likely direction but uncertain. Development of next Strategic Plan underway with stakeholder engagement.	3	Mar-24	CEO
5	Consistently joining up the Commission's outputs in a clear narrative and linking to the wider land reform agenda	4	3	12	Develop strong narrative between role of land in economic recovery and delivering wellbeing economy, climate action, and reducing inequalities. Implement strategic communications plan, including maintaining strong digital and media presence; regular performance monitoring	Effective	2	1	2	Decreasing	Minimalist	Comms planning & improved team quarterly planning providing more joined up approach. Direction for new strategic plan and programme of work emerging clearly, increasing resource for digital comms.	2	Sep-23	Head of Communications and Corporate services
6	Effective management of strong relationships with key stakeholders in policy development and also identify opportunities for collaboration, maximising the potential of relationships with a broad range of stakeholders.	5	4	20	All relevant stakeholders are identified and a clear engagement strategy put in place. Commission presence at key stakeholder events, regular liaison meetings with stakeholders and periodic review of stakeholder analysis	Effective	2	2	4	Decreasing	Open	Wide stakeholder engagement through policy development and communications. Ongoing and increasing LRR engagement. Structured engagement in Good Practice, Human Rights, Tenant Farming, Natural Capital & Strategic Plan. Relations and dynamics may change with the LR bill and need to taken into consideration.	4	Mar-24	CEO
7	Manage relationship across Scottish Government so that Commission's work is understood and recommendations are well received.	5	4	20	Ensure regular engagement between the Commission Chair and the Land Reform Minister, and between the Tenant Farming Commissioner and the Cab Sec for Rural Affairs. Ensure regular engagement between the CEO and the SG Sponsor and Policy Teams.	Effective	2	2	4	Static	Open	Regular sponsorship & land reform team liaison in place. Strong SG link on land reform bill with clear roles and relationships identified. Engagement in other formal SG structures eg NSET Programme, EELG Planning Advisory Group. Annual meeting of board with the Minister held Jan 23 & CEO/Chair meeting with sponsor team. SG changes bring new Ministerial relationships. Chair and board meeting with new Minister - tbc	4	Sep-23	CEO
RISK CATEGORY: COMPLIANCE															
8	Failure to have in place or adhere to statutory or non-statutory corporate governance policies or procedures.	4	4	16	Ensure internal control system in place; Work to the production timetable for completion of all documents, and disseminate widely to ensure maximum awareness.	Effective	2	1	2	Static	Minimalist	Using checklist of assurance controls; Draft annual accounts and report completed on planned timeline. Internal governance refreshers delivered. New external auditors in place and timeline agreed. Internal; audit programme agreed.	1	Mar-24	CEO
9	The Commission fails to deliver to its allocated budget, resulting in reputational, administrative and governance failures.	5	4	20	Corporate and Business plan set appropriate budget allocations. Work to specified monitoring cycles, reporting requirements, and guidelines set out in the SPFM. Ensure correct adherence to authorisation procedures and delegated limits. Close monitoring of spend and profiled spend.	Effective	2	2	4	Decreasing	Averse	Internal Scheme of delegation in place; Quarterly board monitoring in place. Monthly profiling to manage spend evenly through the financial year and to be kept under review. Peer review on budget management from NatureScot Mar 23 to support resilience improvements. Improvements to budget management & reporting identified Apr 23	1	Mar-24	CEO
RISK CATEGORY: STAFFING															
10	Staff turnover or absence due to illness etc resulting in loss of capacity for critical elements of business systems and delivery	5	4	20	Ensure good internal communication and provision of desk instructions for business critical functions. Resilience planning to ensure backup capability within staff team. Continuously seek to improve the working environment by monitoring and improving staff satisfaction and absence levels.	Partial	3	2	6	Static	Cautious	Internal policies prepared and series of desk instructions for critical tasks prepared. Continued review of HR policies & staff engagement. Careful monitoring of priorities and capacity by MT and regular staff communication in place. Staff survey action plan in place. Ongoing absence monitoring in place. Resilience improvements in corporate and comms team implemented.	4	Sep-23	Head of Communications and Corporate services
11	Change in work priorities, competing expectations or insufficient prioritisation impacts on staff wellbeing	5	4	20	Open and transparent - hold regular staff meetings, keep all staff informed of big picture direction, changes in priorities/focus. Overview through management team. Strong internal comms and leadership from managers to ensure wellbeing of staff and manage move to new ways of working.	Effective	2	2	4	Decreasing	Cautious	Improved monthly staff meeting format in place. Improved quarterly resource planning through Management Team. Monthly conversations, effective line management. Capacity reviewed through teams. Regular pulse staff surveys and action plan. Training and development plan in place. Business Plan prioritisation matched to resource capacity.	3	Sep-23	CEO
12	Disruption to delivery and business systems as a result of some staff moving to more permanent options of home working	4	3	12	Preparing new policies, ways of working and adapting internal processes to ensure staff remain well connected across teams and the organisation. Organisational policy that no member of staff should be disadvantaged due to where they work.	Partial	2	2	4	Decreasing	Cautious	Home working policy outlines expectations for home working and monthly all staff team meetings to take place face to face. Office has hot desking and flexible working patterns in place. Closely monitoring and reviewing working practices, and adapting where needed. Office move completed with staff encouraged to meet face to face, routine of monthly in person all staff meetings.	4	Sep-23	Head of Communications and Corporate services