



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Making More of Scotland's Land Our progress so far



Background

The Scottish Land Commission was established in April 2017, and in September 2017 published its first three-year strategic plan 'Making More of Scotland's Land'. Here, we summarise the findings and recommendations of the Commission's work in its first three years.

The plan sets out key areas of work to deliver reform and change on the ground in:

LAND FOR HOUSING AND DEVELOPMENT

Embedding transformational change to bringing vacant and derelict sites back into productive use, improving land supply for housing, and stimulating a more active approach to developing land in the public interest.

MODERNISING LAND OWNERSHIP

Creating a diverse and dynamic pattern of land ownership in Scotland by making community ownership a normal option across Scotland, diversifying the pattern of private land ownership, and further developing recommendations to addressing the issues associated with scale and concentration in ownership.

LAND USE DECISION-MAKING

Improving the quality and accountability of decision-making and supporting land owners, managers and communities in meeting the expectations of Scotland's Land Rights and Responsibilities Statement and the Guidance on Engaging Communities in Decisions Relating to Land. Reviewing key issues in relation to the influence of tax and fiscal policy in land use decision-making.

AGRICULTURAL HOLDINGS

Increasing access to land for those who want to farm, improving the relationships between landowners and tenant farmers, and stimulating the tenant and joint ventures farming sectors.

Our work over this three-year period has been guided by three strategic objectives:

PRODUCTIVITY

To drive increased economic, social and cultural value from our land

DIVERSITY

To encourage a more diverse pattern of land ownership with the benefits of land spread more inclusively

ACCOUNTABILITY

To ensure decision-making takes account of those affected and responsibilities are met

Our vision is a fair, inclusive and productive system of ownership, management and use of land that delivers greater benefit for all the people of Scotland.

There have been significant changes socially and economically across Scotland and the rest of the world over the last three years. Now, more than ever, we need to make the most of our land. Land underpins our economy and the way we organise land rights, both in ownership and use, is significant in determining the distribution of power, resources and opportunities across much of the economy.

We will shortly be publishing our second strategic plan looking ahead to the coming three years, focused on supporting Scotland's economic and social recovery and renewal. The challenges we face require us to rethink the ways we own, manage and use land to unlock greater economic, social and environmental wellbeing for people in urban and rural Scotland.

Over the last three years we have engaged widely with the public and stakeholders in shaping positive change.

The following sections summarise:



What we did



What we found



What we recommended



What we are doing next



Modernising land ownership

The diversity and productivity of land ownership in Scotland is at the centre of the land reform programme. A more diverse pattern of ownership is likely to unlock more opportunities, innovation and economic resilience which is particularly important in driving longer term economic recovery and renewal.

CONCENTRATION OF LAND OWNERSHIP IN SCOTLAND

We did



To understand the concerns about the impacts of concentrated land ownership in rural Scotland, the Commission conducted a substantial investigation into the impacts of this issue receiving evidence from over 400 people ranging from land owners and land managers to community representatives and individuals. We also reviewed international practice in the use of limits on land ownership.

We found



The evidence showed that the concentration of power associated with land ownership can have a significant impact on the public interest in relation to economic opportunities, housing and community development, and that adverse impacts cause significant detriment to the communities affected. The international review showed that Scotland remains unusual in having few constraints on land ownership to safeguard the public interest.

We recommended



In **March 2019** we made recommendations to Scottish Ministers to address the issues of concentrated land ownership using ways that are normal in other countries and economic sectors. The recommendations included statutory change, further policy investigation and action that can be taken now through leadership within the land ownership sectors:

Proposals for legislation

- Public interest test for significant land transfer
- Requirement for a management plan
- Statutory Land Rights and Responsibilities Review.

Non-legislative recommendations:

- Policy options to promote more diverse private ownership
- Local engagement in land use change
- Taking into account the effects of concentrated ownership in the implementation of the Community Right to Buy Land to Further Sustainable Development
- Land owners voluntary review of the operation and governance of their land holdings using the Land Rights and Responsibilities framework
- Implementing a programme of land rights and responsibilities good practice through a series of Land Rights and Responsibilities Protocols.

What we are doing next



By the end of 2020 we will publish further details on our proposals for statutory measures, including the public interest test on land transfer and statutory review mechanism, to support consideration of options in the next Parliament. In the longer term we expect tax and fiscal policy to be one of the most effective ways to stimulate a more diverse ownership pattern. We will shortly publish a scoping report on potential tax reforms and expect to undertake further work looking specifically at potential reforms to support more diverse land ownership.



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[Investigation into the Issues Associated with Large scale and Concentrated Landownership in Scotland](#)

[Review of Scale and Concentration of Land Ownership Report to Scottish Ministers](#)

[Briefing Note: Large scale and concentrated land ownership in Scotland](#)

COMMUNITY OWNERSHIP

With more than 562,000 acres of land (2.9% of the total land area of Scotland) under community ownership, many parts of Scotland are already demonstrating the value that this form of ownership can bring and legislation also extends the option to include urban land, buildings and communities. Community ownership has a proven track record of driving regeneration and renewal in both rural and urban communities.

We did



We reviewed the experience of different mechanisms for community land acquisition in order to identify improvements. We also commissioned a review of international experience of community, communal and municipal land ownership to inform wider thinking for Scotland, and undertook a specific review of options to improve the governance of Common Good Land.

We found



There needs to be a culture shift so that community ownership becomes a routine option for communities; it should be a planned and proactive approach to community development, rather than reactive, driven by specific problems or land coming onto the market. We see the task now being to normalise community ownership as an option for communities across Scotland.

We recommended



In **November 2018** we made a number of recommendations to Scottish Ministers for the future of community ownership; in particular, that it should become a routine option for communities, planned and proactive.

We recommended that there needs to be a:

- Clear vision for how community ownership can become a mainstream way to deliver development and regeneration in urban and rural communities
- Recognition that community ownership is not an end in itself but a means to delivering wider outcomes
- Shift from community acquisition being driven either by specific problems or a reaction to land coming onto the market, to being planned and proactive.

We also recommended specific changes to policy tools and specific interventions that include:

- Embedding community land and asset ownership into local place planning
- Ensuring that targets for community ownership reflect the outcomes sought in both rural and urban communities
- Ensuring support for community ownership transfers is provided across the whole geography of Scotland
- Considering longer-term sources of financial support for both capital costs and post-acquisition development
- Supporting negotiated transfer of land as the norm, whilst streamlining right to buy processes.

What we are doing next



We see community ownership as one part of a much more diverse land ownership pattern in Scotland with the potential to use a range of governance models. Our review of international experience of community ownership in 2019 identified three themes where lessons could be learned from other countries' experience: governance/ownership structures; local democracy and control; and land use planning. The boundaries between private, public and community land ownership are often blended in different governance models much more than is usually the case in Scotland.

We are looking at a range of governance models such as community land trusts and also how Scotland's common good land could drive a new wave of community controlled assets in Scotland's towns and cities. We expect to make specific recommendations on the governance of common good land in 2021.



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[Review of the effectiveness of current community ownership mechanisms](#)

[Review of International Experience of Community, Communal and Municipal Ownership of Land](#)

[Community Ownership and Community Right to Buy Recommendations to Scottish Ministers](#)

[Land Focus: Common Good Land](#)

Land for housing and development

Land reform plays an important role in addressing Scotland's housing and development challenges and help to deliver well-planned sustainable communities in places people want to live at prices they can afford. There are significant opportunities to support Scotland's recovery and renewal by making land markets work more in the public interest, accelerating reforms to land markets in order to stimulate activity, release capital for productive investment and benefit more people.

LAND VALUE CAPTURE

We did



We carried out significant research examining previous UK and international experience. We also prepared a joint report with the Scottish Futures Trust reviewing practical options for implementing forms of land value capture.

The debate about how publicly created uplifts in land value should be shared between society and private landowners is one that has waxed and waned for decades. There is a strong public interest justification for pursuing policies that would enable more of the publicly created increases in land values to be used to help make places where people want to live.

We found



The evidence shows the need for more proactive public sector leadership in the delivery of effective land supply for housing and development. The current model of speculative housing development is not sufficient to deliver the public interest, particularly in parts of Scotland where land values are relatively low, including rural and remote areas, and disadvantaged parts of urban Scotland. There needs to be a fundamental rethink of Scotland's speculative and market-driven approach to identifying and allocating land for development.

A more collaborative approach to development, in which the public and private sectors share risks and reward, should be the long-term aim.



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LAND VALUE CAPTURE

We recommended



In **May 2019** we provided advice to Scottish Ministers to help inform discussions around the Planning Act. The advice included:

- Undertake a national review of developer contributions (Section 75 payments) that are often used to fund onsite infrastructure, needed to make developments acceptable in planning terms
- Implement a new infrastructure levy as set out in the Planning (Scotland) Bill that could help fund infrastructure improvements
- Require that masterplans in the new Masterplan Consent Areas (MCAs) provide detailed costings for the infrastructure they need
- Instruct a regular survey of planning authorities to collate data about the volume and value of contributions secured through Section 75 agreements and any new mechanisms introduced through the Planning Bill
- Acknowledge the need for the public sector to take a more proactive role in initiating and driving forward major development in Scotland and recognise the need for an increased risk appetite to deliver this.

What we are doing next



We are working with stakeholders to consider what changes are required to move away from our current market driven model of housing delivery and toward a less speculative system that operates more in the public interest. We are also working with industry, stakeholders and the Improvement Service to embed a public interest led approach to development through training and guidance.



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[An assessment of historic attempts to capture land value uplift in the UK](#)

[Local authority land acquisition in Germany and the Netherlands: are there lessons for Scotland?](#)

[Land Focus: Land Value Capture](#)

[Land Focus: Land for Housing & Development](#)

[Options for Land Value Uplift Capture Advice to Scottish Ministers](#)



VACANT AND DERELICT LAND

We did



In **September 2018** we established a taskforce to challenge and transform Scotland's approach to reusing vacant and derelict land. This has driven a national focus on the need to tackle this longstanding legacy.

We analysed Scotland's vacant and derelict sites to help better understand the nature of the challenge the impact of vacant and derelict land on communities, identify potential changes to policy and practice and share experience of successful projects.

We developed a new framework for economic appraisal to assess the impact of bringing derelict sites back into use – taking account of wider social, environmental and community benefits – to change Scotland's approach to land reuse to look beyond narrow financial returns and capture the wider benefits that the reuse of sites could generate for society. We convened an expert group to develop an effective proposal for a Compulsory Sales Order mechanism.

We found



The taskforce published a Statement of Intent in **July 2019** detailing the actions required to transform the existing approach to bringing vacant and derelict land back into productive use:

- Coordinate priorities for action and align finance and support
- Use the rich data Scotland has about vacant and derelict sites to promote opportunities for re-use of land
- Learn through demonstration what changes are needed in regulatory, policy and finance systems
- Embed a socially responsible corporate culture to prevent future sites being abandoned.

To help communities and decision makers properly assess the impacts of vacant and derelict sites we have created a toolkit alongside a funding table identifying the different sources of funding available for regeneration of derelict sites.

To tackle vacant and derelict land we need to ensure land is in the hands of active, rather than passive, owners which is even more important now as we recover and renew a dynamic economy.

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VACANT AND DERELICT LAND

We recommended



In **August 2018** we published proposals for the operation of Compulsory Sales Orders, a new measure giving local authorities the power to force a sale of vacant property where ownership is the constraint.

In **September 2020** the Taskforce will make a final set of recommendations seeking to transform Scotland's approach to bringing vacant and derelict sites back into use. We identified the need for action to prevent a new legacy of vacant and derelict sites – a culture change so that it is no longer acceptable to let sites get stuck in long term dereliction. This is particularly relevant now as we look at the potential economic and property impacts of the pandemic.

What we are doing next



By the end of 2020 the taskforce will complete its work, having made challenging recommendations on how to bring more land back into productive use, as well as identifying how these changes can be embedded in doing things differently. The changes are necessary in order to contribute to Scotland's economic renewal. We are working with local authorities, community bodies and Scottish Government to embed this new approach in decision-making.

The renewed focus has created a national step change in the importance of bringing vacant and derelict land back into use. Transforming vacant and derelict land will deliver on Scotland's big challenges of reducing inequalities, climate action and economic regeneration. Tackling Scotland's legacy of vacant and derelict land is now a focus in the Scottish Government's Economic Recovery Implementation Plan and the Infrastructure Commission's Delivery Findings Report.



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[Vacant & Derelict Land Taskforce Statement of Intent](#)

[Assessing the Impact of Vacant and Derelict Land on Communities](#)

[Vacant and Derelict Land Task Force: Phase One Report](#)

[Guidance on Assessing the Full Economic Benefits of the Productive Reuse of Land](#)

[The Case for Change: A New Approach to Assessing the Benefits of the Productive Reuse of Land](#)

[Transforming Vacant and Derelict Land in Scotland – Case Studies](#)

[Compulsory Sales Orders: A Proposal from the Scottish Land Commission](#)

Land use decision-making

With the ownership and use of land comes rights and responsibilities. The Scottish Government's Land Rights and Responsibilities Statement sets the vision for a strong and dynamic relationship between Scotland's land and its people. The Statement promotes greater diversity in ownership of land including more community ownership, high standards and transparency of land ownership and use, and better community engagement in decisions about land.

LAND RIGHTS & RESPONSIBILITIES PROTOCOLS

We did



The Commission has published a series of Land Rights and Responsibilities Protocols, setting out clear expectations for the practical implementation of the Scottish Land Rights and Responsibilities Statement. The Protocols are supported by guidance, training and advice to enable all those with an interest in land to recognise and fulfil their rights and responsibilities.

We found



Land owners, managers and communities require practical guidance on the implementation of the principles set out in the Scottish Land Rights and Responsibilities Statement, with a clear set of practical expectations – clarity not only for land owners and managers, but for the public in what they should expect.

We recommended



Through the suite of Protocols, we have set out practical expectations for what should be considered normal responsible practice. These protocols address:

- Community engagement
- Transparency of ownership
- Land ownership by private trusts
- Land ownership by charities
- Diversification of ownership and tenure
- Negotiating transfer of land to communities
- Good stewardship.

What we are doing next



We are further developing the supporting guidance and information and working with sector groups, including professional advisers, to raise awareness of the protocols and expectations. We are supporting land owners to self-assess their practice against the protocols. We will use the feedback and experience of the protocols to advise on ways to further strengthen implementation of the Land Rights and Responsibilities Statement.



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[Land Rights and Responsibilities Protocols](#)

REGIONAL LAND USE PARTNERSHIPS

The Scottish Government has committed to establishing Regional Land Use Partnerships across the country to help drive the land use action needed to meet Scotland's ambitious climate targets. The partnerships bring a significant opportunity to empower more regional and local decision-making on land use priorities and associated support.

We did



We undertook wide stakeholder engagement to develop advice for Government on establishing the partnerships, using learning from successful initiatives currently operating in Scotland as well as reviewing international experience in regional land use planning.

We found



There is a strong level of ambition amongst stakeholders for the establishment of Regional Land Use Partnerships to be part of a wider step change that delivers the public interest in land use. Effective governance arrangements will be key to being able to meet the scale and pace of action required to achieve net zero climate targets, and to strengthening regional economic resilience.

We recommended



We have developed advice for Scottish Ministers on the establishment of Regional Land Use Partnerships. The partnerships offer a means to maximise the contribution Scotland's land plays in regional economic development as well as meeting environment and climate change goals.

We see particular potential for the partnerships to:

- Drive more regional and local engagement, decision-making and action on land use
- Encourage the collaboration and dynamism that is needed to meet Scotland's ambitions for climate, natural capital and inclusive growth
- Bring a more joined-up approach to land use planning and decisions in the public interest.

What we are doing next



Our advice will be submitted to the Scottish Government in September 2020.



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[Regional Land Use Partnerships – Interim Report](#)

Agricultural Holdings

A thriving and prosperous tenant farming sector relies on a strong and constructive relationship between tenants and landlords and a positive and professional approach by intermediaries acting on behalf of the landlord or tenant. Such relationships need to be based on mutual respect and shared values and a common approach to fairness and reasonableness.

TENANT FARMING COMMISSIONER

The Tenant Farming Commissioner (TFC) is responsible for promoting and encouraging good relations between landlords and tenants, publishing guidance and codes of practice, and has the power to investigate alleged breaches of the codes.

Scottish Government carried out a review of the TFC's functions in April 2020 which demonstrated the value the role has added to the sector over the first three years in helping to build relationships that are fair and reasonable for all parties. The review showed there is a continued need for the role of the TFC and made a number of significant recommendations to further develop the position and strengthen the tenant farming sector.

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TENANT FARMING COMMISSIONER

We did



The Tenant Farming Commissioner has published six Codes of Practice and a range of guidance. He has had nearly 300 different contacts with landlords, tenants and professionals over the past three years.

Codes of Practice:

- Agreeing and Managing Agricultural Leases
- Amnesty of Tenant's Improvement
- Late Payment of Rent
- Planning the Future of Limited Partnerships
- Sporting Rights
- Maintenance of the Condition of Tenanted Agricultural Holdings.

Guidance:

- The Use of Tenanted Agricultural Holdings for Non-Agricultural Purposes (Diversification)
- Joint Ventures with New Entrants
- Essential Features of the Modern Limited Duration Tenancy
- Professional Conduct of Agents
- How to Make a Complaint
- Proposed Legislation on Relinquishment of 1991 Act Tenancies
- Use of Alternative Dispute Resolution in the Scottish Agricultural Holdings Sector
- Transfer of Tenancies by Assignment and Succession
- Tree Planting on Tenanted Agricultural Holdings.

We found



The successful use of mediation offers the potential to help resolve long-standing disputes where relationships have broken down. Confidence in using alternative forms of dispute resolution is growing in the tenant farming sector, particularly in advance of, or as an alternative to, costly litigation.

Alternative business models that address a range of personal, financial and social motivations can provide existing farmers with opportunities to extend their business interests. Engaging in a joint venture with a new entrant increases the availability of agricultural land for those looking to farm.

The Tenant Farming Advisory Forum is a useful vehicle to bring together stakeholders to discuss issues of importance to the sector.

The Amnesty on Tenant's Improvements was fully supported by the industry and has enabled many tenants and landlords to agree on a definitive record of tenant's improvements.



Continued...

TENANT FARMING COMMISSIONER

We recommended



We undertook research on stimulating opportunities for access to land for new and developing businesses, which led to a focus on the opportunities for joint venture arrangements. This was followed by a report looking specifically at the role of business incubators for agriculture and how they could help develop innovation in Scottish agriculture.

The Commission, together with other organisations including NFUS and the Scottish Government, recognised the importance of matching those with land with those who want to farm and established the Land Matching Service. The service seeks to bring together those looking for farming opportunities with those who have land to offer. It is intended to help tackle the issue of an ageing farming population and a lack of access to land for farming.

A new modern list of improvements was drawn up with stakeholders and is now included in legislation.

Following an extensive survey on the operation of agents involved in the tenant farming sector, we made a number of recommendations to Ministers and in consultation with professional bodies produced TFC guidance on professional standards, and associated complaints systems.

What we are doing next



The TFC will continue to support the sector and encourage and promote good relations between all parties. The TFC will be preparing new Codes of Practice and Guidance addressing rent reviews, relinquishment and assignation, and will continue to manage a number of cases and enquiries from tenant farmers, land owners, land agents and lawyers. We will continue to promote mediation as an option to resolve disputes in the sector.



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[Codes of Practice](#)

[Guidance](#)

[Tenant Farming Commissioner functions: review](#)

