

Community Engagement in Decisions Relating to Land

This Protocol is the first 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 6 of the Statement: "There should be greater collaboration and community engagement in decisions about land."

In particular, the aim of the Protocol is to support the practical implementation of the Scottish Government's *Guidance on Engaging Communities in Decisions Relating to Land*, which sets out reasonable expectations for those who take decisions about land, to engage with those who are affected by those decisions.

The Scottish Government Guidance, published in April 2018, states that "the Scottish Land Commission may from time to time issue further advice on its application to real world scenarios." This Protocol is the first such note issued by the Commission to support the Guidance and should be read in conjunction with it. It is intended to provide additional practical support and is specifically for

the relevant parties described below. It sets out the reasonable expectations and behaviours for those with responsibility for taking decisions and for local community organisations affected by them.

- 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This Protocol is effective from the date of issue until it is withdrawn or revised following the review process detailed below and by a notice published on our website.



Relevant Parties

The interested parties covered by this Protocol are defined as:

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

This Protocol is additional to any statutory process or sector specific requirements, such as consultation in relation to planning applications or forestry developments. It sets out principles and expectations for good practice, particularly for early engagement before formal planning processes begin, but it does not impact on or replace the obligation to adhere to such procedures.

Definitions

Landowners and other people who take decisions about how land and buildings are used or managed are expected to engage with local communities where those decisions are likely to have a significant impact on them. All parties are expected to engage positively with each other.

By **engagement**, we mean regular communication and exchanges between the people who take decisions about land, and the communities impacted by them, to build and sustain contact, trust and good relationships and to ensure a two-way flow of information.

Where a decision could potentially have a *significant impact* on a community more formal engagement or **consultation** will be expected. This should be a more structured dialogue that offers people some say on what you are going to do.

The methods of engagement or consultation should be proportionate and will vary. A range of approaches may be considered depending on local context. Examples of appropriate methods are included in the Scottish Government's Guidance, and in Practice Notes issued by us to support its practical implementation.

There is no fixed definition of **significant impact**, but, as set out in the Scottish Government Guidance, it can be taken to mean a decision that might affect the environmental, 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.

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.

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:

- Communities can reasonably expect to be engaged in decisions about the use and management of land where the outcome is likely to have an impact on the community
- Engagement should be a genuine exercise in collaboration, and community views should be considered to aim to achieve mutually beneficial outcomes
- Engagement and communication should be open-ended to encourage positive working relationships and communication between communities, land owners and managers
- Engagement should be proportionate to the resources available to all parties and the impact that the decision may have on the community.



Specific Expectations

The specific expectations that apply to all parties are:

- a. Up to date contact information for people with local decision-making authority over the land and for the office bearers of community organisations should always be publicly available.
- b. Where a community aspiration or concern about current or proposed land management emerges, this should be communicated promptly to the owner or manager of the land. Reasonable opportunity should be given for them to respond to issues raised and enter into constructive dialogue about it.
- c. Where a relevant party makes a request for information, or for a meeting to discuss matters relevant to that organisation; and where the information requested is appropriate and proportionate, this should be accommodated. It is recommended that this is within six weeks of a request.
- d. Those who take decisions about land which can significantly impact on a local community should create an engagement plan that sets out what, how and when they will engage with the community on the decisions that affect them, particularly where a community organisation or elected representative proposes it, or where it becomes clear that such a plan would be useful. It is recommended that this is developed jointly within twelve months.
- e. Where plans to significantly alter an aspect of land management or use can be reasonably anticipated in advance, information about the

proposed change should be publicly available at a stage when there is opportunity for the decision to be influenced. It is recommended that this be at least three months in advance of the planned change.

- f. Arrangements for recording actions and decisions taken at consultation/engagement meetings should be agreed in advance of the meeting with the record made available to relevant parties. It is recommended that this is within six weeks of the end of the consultation period or of feedback being received unless otherwise agreed.
- g. Where decisions about land use or management may have a significant impact, the people making them should explain how views from the community have been considered in their decision-making process. It is recommended that this is within six weeks of the end of the consultation period, or of feedback from a community consultation exercise being received.

The Scottish Government Guidance does not refer to specific timescales, due to the wide range of circumstances that will apply. This protocol proposes timescales that the Scottish Land Commission consider to be a reasonable expectation for the relevant parties this protocol covers. We recognise that these may not always be applicable in every circumstance and that, where necessary and agreed by the relevant parties, alternative timescales may be appropriate.



Practical Implementation

In most circumstances, this Protocol will involve few if any additional actions that are not already standard good practice. Examples that illustrate how the Protocol might be put into practice are available in the *Scottish Government's Guidance on Engaging Communities in Decisions Relating to Land*.

We may produce Practice Guidance and case studies from time to time. This may be through publication on our own website and/or by working in collaboration with other organisations representing the interests of particular sectors.

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 of where any of the **general principles** or **specific expectations** have not been met by one of the **relevant parties** referred to within this Protocol.

Where appropriate we will provide advice and engage with the relevant parties to support resolution and improvements in practice. Our main role will be to promote and share 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 disseminate cases of good working relationships and effective engagement. We welcome information about cases where engagement has been successful which could help landowners and managers and community organisations learn from the experiences of others.

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

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28 Longman Road
Inverness, IV1 1SF

@ info@landcommission.gov.scot

01463 423 300

Review

This Protocol will be kept under review by the Land Commissioners in consultation with supporting stakeholders. 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



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