GOOD PRACTICE PROGRAMME

SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

FAQs on Responsible Natural Capital and Carbon Management Protocol

The protocol

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

  The Scottish Land Commission has published 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 set out practical ways that landowners, investors, communities, businesses and individuals can realise their rights and responsibilities in relation to land. The protocols detail 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.

- **What is the Land Rights and Responsibilities Statement?**

  The Land Rights and Responsibilities Statement was published in 2017 by the Scottish Government as part of its commitments under the Land Reform (Scotland) Act 2016. The LRRS sets out an approach to land in Scotland which adopts human rights and recognises that responsibilities, as well as rights, must be considered in land ownership and use. This is to ensure that Scotland's urban and rural land contributes to inclusive and sustainable economic growth and to social justice.

- **Why has the Commission published a protocol on natural capital and carbon management?**

  Net zero targets have led to increasing investment in carbon and natural capital. This investment is a key driver of change in Scotland and comes with associated wider impacts for communities. Our Land Focus Paper on Natural Capital and Land outlines some of the risks and opportunities associated with this developing area of market activity. Our Rural Land Market Insights report states that land values are being driven up rapidly, in part due to this increased investment.

  The LRRS outlines the rights and responsibilities that come with owning land and property. So, as these markets develop, it is important that those who own or control land understand these responsibilities to ensure that land ownership and use contributes to meeting Scotland's economic, social and environmental outcomes.

  This protocol is intended to support the Scottish Government's Interim Principles for Responsible Investment in Natural Capital and should be read in conjunction with other Scottish Government policy, including Scotland's National Strategy for Economic Transformation.

Natural capital and carbon management

- **What is natural capital?**

  Natural capital is defined by the Scottish Forum on Natural Capital as "the stocks of natural assets which include geology, soil, air, water and all living things." Scotland's National Performance Framework outlines that it is the combination of these assets that benefit humans. Adopting a natural capital approach enables us to understand the role of our natural environment, alongside its intrinsic value, as an asset that underpins and enhances our economy and society. Our stock of natural capital can be renewable (so long as those stocks are not used up) or non-renewable, such as fossil fuels. According to the Office for National Statistics, 'accounting for natural capital is important as many of the most valuable services it provides are intangible, so they are often overlooked.' Mismanaging or not accounting for natural capital stocks threatens ecological, social and economic sustainability.

- **What is carbon management?**

  Carbon management is a process used by people looking to sequester carbon and/or reduce carbon emissions. This can be done by natural or artificial processes. This protocol relates to natural processes associated with land. These can include woodland creation and peatland restoration. Such projects are often for the purpose of creating tradeable carbon credits which can be used to 'offset' carbon emissions which cannot otherwise be avoided.

- **What are carbon credits?**

  Carbon credits are verified 'units' of carbon. Each unit is one tonne of carbon dioxide which has been sequestered or prevented from entering the atmosphere. The emerging voluntary carbon market, which this protocol refers to, is based on these carbon credits. The Woodland Carbon Code is the voluntary standard for woodland creation projects in the UK. It sits alongside the Peatland Code on the UK Land Carbon Registry. A project, such as afforestation or peatland restoration, can be registered, validated and verified under the relevant Code.

- **What status does this protocol have in relation to duties under the Woodland Carbon Code and Peatland Code?**

  This protocol is intended to complement the duties under the Woodland Code and Peatland Carbon Code. It is not intended to replace or supersede them. Not all organisations investing in natural capital and carbon management will use the Woodland Carbon Code and Peatland Code so there may be some overlap between those codes and this protocol.

- **Why is there investment in natural capital and carbon management projects?**

  Reasons for this will vary. Some investors may look to 'offset' carbon emissions that they make through their business or other activities by removing, or capturing, the same amount of carbon they emit through natural processes. To effectively mitigate the threat of climate change, offsetting should only be used when an organisation has reduced its emissions at source as much as possible.

  Landowners or managers who carry out projects such as woodland creation or peatland restoration may also be able to sell carbon credits. These credits are attached to the particular sequestration project. The Woodland Carbon Code and the Peatland Code are currently the only codes recorded on the UK Land Carbon Registry, although others are in development, including the UK Farm Soil Carbon Code. There are a number of sources of private investment for continued stewardship of land. For guidance on these, see NatureScot's Nature-based Finance Opportunities for Land Managers in Scotland.

Rights and responsibilities

- **Who owns the right to profit from natural capital and carbon management projects?**

  Many of the rights associated with land, such as the right to benefit from its resources, sit with the landowner. However, this is not the case for everything. For example, wild animals that pass over the land are ownerless, water that flows through the land is not owned by the landowner, and the rights to some minerals (petroleum, gold, silver, and coal) are held in public ownership in the national interest.

  The right to profit from natural capital and carbon management projects is not necessarily tied to land ownership. However, consent from a landowner is likely to be needed to take forward carbon projects and benefit from carbon markets (and is required for the purpose of the Woodland Carbon Code and Peatland Carbon code).

  To read more about this, see our blog by Dr Jill Robbie on who owns natural capital and our Land Lines paper on Carbon Markets, Public Interest and Landownership in Scotland by Dr Jill Robbie and Dr Giedre Jokubauskaite.

- **Is shared ownership of natural capital and carbon management projects possible?**

  Yes. Like any commercial venture, more than one party can be involved in the ownership or management of the project, sharing the risks and rewards that ownership and management can bring. This includes local communities. As an example, the Scottish Government's guidance on Shared Ownership of Onshore Renewable Energy Developments shows how shared ownership can provide opportunities for increased levels of local ownership, where "all stakeholders stand to benefit from greater partnership working and other additional benefits, including creating a lasting legacy, building community capacity, and strengthening corporate social responsibility." Please get in touch with us to discuss options for alternative approaches to management and ownership of land for carbon management and natural capital.

- **What kind of agreements for the transfer of rights in carbon or natural capital should be recorded?** Any agreement relating to the transfer of rights to profit from carbon management or natural capital should be recorded. This includes transfers of registered carbon units, which are recorded on the UK Land Carbon Registry where applicable. Carbon management projects should only appear in the UK Land Carbon Registry to ensure that, where carbon units are re-sold on secondary markets, there is no double-counting of carbon units. See here in the Woodland Carbon Code for more information.

Community benefits

- **What is community benefit?**

  Community benefit, in the context of this protocol, refers to a package of benefits deriving from a project carried out by a third party. These should be tailored to suit the needs and aspirations of a community. They are usually aimed at fairly distributing revenue from a project with the **local** community. They should not be seen as compensatory payments.

  These benefits sometimes take the form of a community benefit fund, where money from that fund can be awarded to projects that will provide local benefit. Community benefit funds are already a recognised form of good practice for onshore renewables projects. Community benefit requirements are also included as contractual requirements in certain public sector procurement contracts. Statutory guidance in this context outlines some opportunities for community benefit, which include:

    - Generating employment and training opportunities
    - Vocational training
    - Upskilling existing workforce
    - Equality and diversity initiatives
    - Educational support opportunities
    - Working with schools, colleges and universities to offer work experience.

  The community benefit package should result from positive engagement between the land owner and the local community. Engagement will help community aspirations to be understood and will result in a community benefit package that is tailored to the needs and aspirations of the local community involved. This way, community benefits can be effectively created, measured and monitored from the beginning of a project.

It may be that the landowner is an 'anchor institution' in their area. Anchor institutions play a key role in the local economy, particularly in their spending power and potential to be a key employer in the area. Community benefits can be identified as part of a community wealth building approach taken by anchor institutions. See our guidance on Community Wealth Building and land for more information, or contact us for advice and further guidance.

- **If I invest in natural capital and carbon management projects, should I consider a package of community benefits?**

  Natural capital and carbon management projects should produce public benefits such as carbon sequestration, cleaner air and water, and increased biodiversity. However, tailored community benefits, such as community benefit funds, can help local communities by creating a lasting legacy for the communities local to such projects take place. It can help those investing in land to demonstrate impact in contributing to the achievement of economic, social and governance (ESG) goals and meet Corporate Social Responsibility aims. The provision of a carefully designed community benefit package or fund can build links with a community and ensure long-term buy-in for the project. There is also the possibility of a willingness on the part of purchasers of carbon credits to pay a premium for credits which are part of a project with a strong community benefit package.

  Research has shown that there is a link between community benefit requirements and sustainable development. Therefore, community benefit funds can contribute towards achieving local and/or organisational outcomes as well as Scotland's National Outcomes.

- **How can community benefit be assessed and monitored effectively**?

  Community benefit should be agreed with the community, ideally in line with our Protocol on Community Engagement in Decisions Relating to Land. Clear objectives, timelines and responsibilities should be identified. This should make it straightforward to monitor progress and objectives. The community should be involved in monitoring and evaluating community benefit. It may be helpful to carry out impact assessments at suitable intervals to understand the wider social, economic and environmental impacts of projects. Community action plans can be beneficial in outlining investment aspirations and associated outcomes. Such action plans should be co-designed between those involved in the natural capital or carbon management project and the local community, and should be a 'live' document which can change along with the aspirations of that community. Any agreement relating to a community benefit fund should include monitoring requirements, writing in opportunities for review of the plan to ensure its lasting applicability.

- **What effect can carbon management projects have on agricultural holdings in Scotland?**

  The Tenant Farming Commissioner has produced an Interim Guide to Securing Tradeable Carbon Credits in an Agricultural Holdings Situation. This provides a summary of the implications for agricultural landlords and tenants looking to acquire carbon credits from woodland creation of peatland restoration.

- **This protocol states that local communities should be engaged in decisions that may impact them. How do I identify my community?**

  When we talk about community, we mean the individuals who live in and around a place. It can include whole towns, single streets, whole islands or peninsulas, other large geographic areas or small villages or neighbourhoods. This can sometimes be difficult to identify depending on the location of a landholding. Think about the people living in an area who may be impacted by the decisions you are making. Local people and groups, such as elected officials and community councils, may also be able to help you identify who may be impacted by decision-making.

  Communities can sometimes be difficult to define, especially for projects which can last a long time. Landscape-scale approaches to land use can have effects on communities not immediately local. Therefore, for those involved in carbon management and natural capital projects, it can be beneficial to consider casting the net widely when considering what a local community is.

  Our Protocol on Community Engagement in Decisions Relating to Land outlines the expectations for good practice in community engagement. For decisions which may have a significant impact on local communities, an engagement plan should be made. Our Practice Guide for developing an engagement plan for decisions relating to land outlines practical steps that can be taken when putting this together.

- **How will I know if a land use decision will have a significant impact, and when should I engage?**

  This will depend on local context, but the Scottish Government's guidance on engaging communities in decisions relating to land offers some useful broad guidelines. Engagement should begin as early as practicable. Our route map can help you plot out when and how you should be engaging with the local community.

- **What should I do if a community group asks for information about the natural capital or carbon management project we are planning?**

  It is helpful to be transparent about your landholding and decision-making processes with communities and others. You should have easily accessible information available about who to contact about your landholding. 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 the 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 contract(s). You should consider whether the information requested is something that you could provide regular updates on through a website, newsletter or regular meetings.

- **What stakeholders should I consider collaborating with to ensure a consistent approach to delivering environmental benefits?**

  There is no definitive list in this regard, and it will depend on the circumstances and context of the project. However, the following groups may be able to add value:

  - Public bodies – this could include bodies such as NatureScot, SEPA, Historic Environment Scotland, Scottish Forestry and Scottish Water, as well as local authorities
  - Non-Governmental Organisations (NGOs) such as RSPB, Scotways, Woodland Trust Scotland, Scottish Wildlife Trust, and Scottish Environment LINK
  - Other landowners in the area
  - Private companies – including, for example, energy companies.

- **What environmental gains should be considered when investing in carbon management and natural capital projects?**

  The environmental gains sought should be *net* environmental gains. The UK Government's Department for Environmental, Food and Rural Affairs has stated that 'environmental net gain' means 'improving all aspects of environmental quality through a scheme or project. Achieving environmental net gain means achieving biodiversity net gain first, and going further to achieve increases in the capacity of affected natural capital to deliver ecosystem services and make a scheme's wider impacts on natural capital positive.' Whilst there is no one agreed definition, the Chartered Institute of Ecology and Environmental Management has published a briefing paper which expands on the definition offered above.

<u>**Other information**</u>

- **What if I am a new owner and investment decisions have already been made regarding the land use?**

  We recognise that new landowners may not have had control over previous decisions made regarding the land. However, ownership and management of land is an ongoing process. New landowners or managers should consider all expectations in this and other relevant protocols on an ongoing basis.

- **Where can I find out about land carbon projects in the UK?**

  The UK Land Carbon Registry is the public database which stores the data regarding land carbon projects in the UK.

- **What is community wealth?**

  Community wealth is the wealth and benefits generated by jobs, services and income flows within a local economy that are retained by and directed back into that economy. A community wealth building (CWB) approach places control and benefits of assets and resources into the hands of local people. It supports democratic and collective ownership of assets and of the local economy, taking a whole place collaborative approach and is a people-centred approach to local economic development. CWB is led by 'anchor institutions'. These are large employers with a strong local presence in an area.

  There are five core principles of CWB:

  - Progressive procurement
  - Fair employment and just labour markets
  - Shared ownership of the local economy
  - Making financial power work for local places
  - Socially just use of land and property.

  Our guidance sets out practical actions that can be taken by public bodies to support a CWB approach in relation to the last pillar above, on land and property. There is also more information on CWB on the Scottish Government website and via the think tank Centre for Local Economic Strategies.

- **How was this Protocol developed?**

  This protocol was initially developed based on the Land Rights and Responsibilities Statement and the Scottish Government's Interim Principles for Responsible Investment in Natural Capital. We consulted with the Good Practice Advisory Group and more widely with relevant stakeholders.

- **Where can I get more information about the protocol or support and advice to put it into practice?**

  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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