

Scotland's Rural College

Review of the effectiveness of current community ownership mechanisms and of options for supporting the expansion of community ownership in Scotland

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Appendix 1: Content of an Asset Transfer Request¹

An asset transfer request must be made in writing and must:

A] state that it is an asset transfer request made under Part 5 of the Community Empowerment (Scotland) Act 2015

B] contain the name and contact address of the community transfer body

C] be accompanied by a copy of the constitution of the community transfer body

D] if the request is made by a body which is not a community controlled body, explain the basis on which the body is a community transfer body

E] specify the land to which the request relates

F] specify whether the request falls within paragraph (a), (b)(i) or (b)(ii) of section 79(2), ie whether it is a request for ownership, lease or other rights in the land

G] if the request is for ownership, specify the price that the community transfer body would be prepared to pay for the transfer of ownership of the land

H] if the request is for lease, specify

- the amount of rent that the community transfer body would be prepared to pay,
- the duration of the lease, and
- any other terms and conditions that the community transfer body considers should be included in any lease

I] if the request is for other rights, specify the nature and extent of the rights sought

J] specify any other terms or conditions applicable to the request

K] specify the reasons for making the request

L] describe how the community transfer body proposes that the land is to be used

M] specify the benefits which the community transfer body considers will arise if the authority were to agree to the request

N] outline how it is proposed that—

- the transfer of ownership of the land, the lease of the land or the conferral of other rights in respect of the land on the community transfer body (as the case may be); and
- the proposed use of the land, are to be funded

O] describe the level and nature of support for the request from the community to which the community transfer body relates.

¹ <http://www.dtascommunityownership.org.uk/community/community-rights/cea-part-5-asset-transfer/content-asset-transfer-request>

Appendix 2: Interviews framework and questions sheets

Interview dimensions framework (All interviews)

The following table provides dimensions for structuring the questions posed in the interviews with community representatives (established/prospective owners), professional intermediaries and non-community landowners. This enables comparison and readability across the different interviews and provides a starting point for a common interview analysis template.

Dimensions	Line of enquiry	Detail
Structural	Tenure prior to purchase	Public
		Private
		Other
	Purchase process	Legislative
		Negotiated
		Open market
		Gifted
	Type of community	Place
		Interest
	Pre-existing community organisation	None
		Existing organisation not constituted for asset ownership
		Existing organisation appropriate constituted
Contextual	Land use	Agricultural
		Crofting
		Woodland
		Ex-industrial
		Sporting
		Building
		Other
	Population	Rural
		Urban
	Location	Highlands and Islands
		Southern and Central Scotland
		East of Scotland
	Funding (main sources)	SLF
		Co-funding with NGO
		Co-funding with company
		Community shares
		Others (specify)
	Group legal structure	Company Limited by Guarantee
		SCIO
		Other
	Timing	Up to 2000 (pre SLF, great variety of communities and structures)
		2001-2006 (First SLF, more structural conformity imposed on groups)
		2007-2012-ish (No Land Fund, few large acquisitions, land reform down the agenda)
		2013-now (1 Million acre target announced June 2013, SLF starts to work properly 2014, etc)
	Area of land	< 1 ha

		2-10 ha
		11-50 ha
		51-100 ha
		>100 ha
Human	Motivation / trigger	Development threat
		Disposal
		Proposed sale
		Inspired by other cases
		Dissatisfaction with status quo
	Relationships	Consensual
		Adversarial
		Mixed
	Long-term – emotional / engagement / sense of belonging	

Scoping Interview Topics

Initial general brief discussion of current pathways (legislative and non-legislative)

Role of consensual versus adversarial acquisitions and future balance

Community landownership and rural/urban balance previously and in the future

Regional variability in terms of scheme relevance and impact

Relevance to/balance of different land use types (agricultural / crofting / woodland / ex-industrial)

NEGOTIATED/OPEN MARKET DIMENSIONS

Negotiated sales/transfers: (approaching landowner, non-legislative route)

Barriers (less defined route etc., adversarial relationships)

Rural versus urban dimensions

Advantages/opportunities

Consider negotiated sales for private but also public and NGO/charity owned land

Formal facilitated/negotiated transfers (non-legislative schemes)

NFLS scheme (FCS Assets) – barriers, learning from NFLS

Bidding on the open market:

Barriers (uncertainty, timescales, reactive, funding etc. and opportunities)

Bidding for public, private and NGO/charity owned land (examples, issues etc.)

LEGISLATIVE DIMENSIONS

Ownership pathways linked to LR legislation (Public/Private/NGO Land)

CRtB - Barriers (willing seller, timescales, re-registration requirements, motivation, Options, complexity/skills required, community body requirements, landowner relations, etc.)

Impact of recent amendments (Empowerment Act), conversion/success rates

Changes required/opportunities (Specific legislative changes, flexibility, support etc.)

Future legislation: Secondary legislation on CRtB for sustainable development: challenges, potential impacts, measuring sustainability impacts etc.

Crofting Right to Buy:

Challenges/barriers - low numbers/impact, complexity, fit with other crofting legislation

Changes required (legislative, support etc.)

Further legislative schemes/routes to ownership (Public land)

Public Asset Transfer (Public owners, Local Authorities)

Current status/impacts of AT as a pathway to ownership of land/assets (completion rates)

Variability in implementation of AT measures/practices

Barriers and Opportunities

CATS scheme (FCS Assets) – barriers, learning from NFLS/Status of CATS

Transfer of Crofting Estates (SG crofting estates)

Challenges/barriers: (legal barriers, limited experience etc.)

Changes required/opportunities

Support mechanisms related to ownership pathways

Funding, advice and guidance

Streamlining routes to ownership and innovative pathways

Potential for streamlining and aligning existing routes to ownership to improve the interaction and complementarity between routes; (value in use of CRtB over other routes, urban uptake of CRtB/matching ownership route to opportunity/community.

Innovative/future pathways to community ownership (Experience from international models including in relation to land and assets/housing, emergent approaches)

Additional key points/challenges/opportunities for learning

Mechanisms for incentivising landowners and communities to engage in negotiated transfers

Wider challenges/barriers (not-specific to ownership routes)

Tax and fiscal policy (e.g. land values) and their influence on land markets etc.

The urban/rural dimension and enhancing CRtB in urban areas (barriers etc.)

Community body interview questions

Interviews with representatives of community bodies who have considered / attempted / experienced sales/transfers of land to their CLG (or equivalent).

1. Overview of project **[5 mins]**
 - a. Research aims
 - b. Team/approach
 - c. Timescale
 - d. The range of groups that we are talking with
2. Experience of interviewee **[5 mins]**
 - a. The acquisition (or attempted acquisition) – area of land, location
 - b. Clarify their role – during the process, and currently in the community organisation
3. Objective information about the acquisition(s) **(prompts) [10 mins]**
 - a. Structural dimensions: tenure prior to purchase (public/private/other); purchase process (legislative/negotiated/open market/gifted); type of community (place, interest).
 - b. Contextual dimensions: community group legal form and structure; funding; land use; population; location; timing.
 - c. Human dimensions: trigger; relationships.
4. Subjective experience during the acquisition **(prompts) [15 mins]**

Describe process and their involvement and recount challenges

 - a. What triggered the acquisition
 - b. Community governance (constituting; decision-making)
 - c. Planning (feasibility study; paperwork; business planning; advisory processes)
 - d. Finding partners and support
 - e. Valuation
 - f. Fund-raising / including accessing sufficient funds for development needs beyond purchase
 - g. Legal/administrative aspects of the transaction
 - h. Approvals
 - i. Challenges experienced by respondent and group
5. Reflections of interviewee: thinking about their experience(s) as a whole **[15 mins]**
 - a. What worked well, what didn't work
 - b. If you were given the opportunity again what would you do differently
 - c. What would you advise other groups in similar situations to those you have worked with
 - d. What could others do differently (communities, landowners and/or intermediaries)
 - e. What would help
6. Concluding and generalising **[5 mins]**
 - a. Suggest any changes to legislative process to enable more community land ownership
 - b. Suggest any changes to organisational (support mechanisms) to enable more community land ownership
 - c. Suggest any changes to enable or incentivise more negotiated transfer of land to communities (and engaging landowners in the process)
 - d. Suggest any other initiatives or actions that might increase community ownership - to pick up any thoughts about wider issues: tax, etc
7. Any questions from interviewee and/or suggestions for additional contacts **[5 mins]**

Professional intermediaries interview questions

Interviews with professional intermediaries who have facilitated sales/transfers on behalf of community groups and/or have operated for landowners selling to community groups. A sample of 10-12 interviews, including legal advisors, land agents, and community development advisers.

1. Overview of project **[5 mins]**
 - a. Research aims
 - b. Team/approach
 - c. Timescale
 - d. Why we are talking to professional intermediaries

2. Experience of interviewee **[5 mins]**
 - a. The acquisition(s) or attempted acquisition(s) they have been involved in
 - b. Clarify their role in acquisition(s)

3. Objective information about the acquisition(s) **(prompts)** **[10 mins]**
 - a. Structural dimensions: tenure prior to purchase (public/private/other); purchase process (legislative/negotiated/open market/gifted); type of community (place, interest).
 - b. Contextual dimensions: community group legal form and structure; funding; land use; population; location; timing.
 - c. Human dimensions: trigger; relationships.

4. Subjective experience during the acquisition(s) **(prompts)** **[15 mins]**

Describe process and their involvement and recount challenges

 - a. What triggered the acquisition
 - b. Community governance (constituting; decision-making)
 - c. Planning (feasibility study; paperwork; business planning; advisory processes)
 - d. Finding partners and support
 - e. Valuation
 - f. Fund-raising / including accessing sufficient funds for development needs beyond purchase
 - g. Legal/administrative aspects of the transaction
 - h. Approvals
 - i. Challenges experienced by seller of land

5. Reflections of interviewee: thinking about their experience(s) as a whole **[15 mins]**
 - a. What worked well, what didn't work
 - b. If you were given the opportunity again what would you do differently
 - c. What would you advise other groups in similar situations to those you have worked with
 - d. What could others do differently (communities, landowners and/or intermediaries)
 - e. What would help

6. Concluding and generalising **[5 mins]**
 - a. Suggest any changes to legislative process to enable more community land ownership
 - b. Suggest any changes to organisational (support mechanisms) to enable more community land ownership
 - c. Suggest any changes to enable or incentivise more negotiated transfer of land to communities (and engaging landowners in the process)
 - d. Suggest any other initiatives or actions that might increase community ownership - to pick up any thoughts about wider issues: tax, etc

7. Any questions from interviewee and/or suggestions for additional contacts **[5 mins]**

Non-community landowner interview questions

Interviews with landowners and former landowners with experience of community buyouts secured via legislation and those with experience of buyouts secured via negotiation will also be consulted. A sample of 10-12 interviews with relevant non-community landowners, identified using the revised community landownership database, existing contacts, and snowball sampling.

1. Overview of project: **[5 mins]**
 - a. Research aims
 - b. Team/approach
 - c. Timescale
 - d. Why we are talking to non-community landowners

2. Experience of interviewee with community acquisitions/sales to communities (general) **[2 mins]**
 - a. Clarify their role
 - b. *List of specific cases to discuss in more detail*

3. Experience of interviewee (specific cases following question 2) **[15 mins]**
 - a. Structural dimensions: tenure prior to purchase (public/private/other); purchase process (legislative/negotiated/open market/gifted); type of community (place, interest).
 - b. Contextual dimensions: community group legal form and structure; funding; land use; population; location; timing.
 - c. Human dimensions: trigger; relationships.

4. Reflections of interviewee (specific cases, as listed above) **[25 mins]**
 - a. Example(s) following legislative route(s)
 - i. Describe key stages of acquisition (i.e. trigger, community governance, planning, valuation, fundraising, legal processes, approvals)
 - ii. Describe any legal/administrative barriers faced by landowner/ perceived challenges faced by community (i.e. with regard to specific case)
 - iii. Describe any (perceived or actual) challenges experienced by landowners when selling or transferring land to communities (where applicable)
 - iv. Suggest potential solutions to ii. and iii. above
 - b. Example(s) following non-legislative (i.e. negotiated transfer) route(s)
 - i. Describe key stages of transfer (i.e. trigger, community governance, planning, valuation, fundraising, legal processes, approvals)
 - ii. Describe any legal/administrative barriers faced by landowner/ perceived challenges faced by communities (i.e. with regard to specific case)
 - iii. Describe any (perceived or actual) challenges experienced by landowners when selling or transferring land to communities (where applicable)
 - iv. Suggest potential solutions to ii. and iii. Above

5. Reflections of interviewee (general but based on experience shared in 4.) **[10 mins]**
 - a. Suggest any potential support mechanisms for landowners selling/transferring land to communities.
 - b. Suggest any mechanisms for incentivising landowners to engage in negotiated transfer routes to ownership.
 - c. Provide recommendations for future change.
 - d.

6. Any questions from interviewee and/or suggestions for additional contacts **[3 mins]**

Appendix 3: Workshop programme and workshop attendees

Are current mechanisms for achieving community landownership in Scotland effective?

A workshop with community owners to inform the work of the Scottish Land Commission

[location]

[Date]

(Registration & coffee from 9am)

Purpose of the workshop

Scotland's Rural College (SRUC) has been commissioned as part of a collaborative team by the Scottish Land Commission, to review the effectiveness of current mechanisms for supporting community landownership and to identify how these could be simplified or improved.

The key aims are:

- To capture community perspectives, through a sharing of experiences, on the key barriers/constraints and key supporting/enabling factors for communities engaged in acquiring land and/or assets;
- To identify key learning opportunities from these experiences, for other communities, future acquisitions and for wider stakeholders;
- To identify key opportunities for change relating to relevant legislation, support mechanisms and organisations and other factors, to support the expansion of community ownership in Scotland.

Funding and project team

This work is funded by the Scottish Land Commission. Community Land Scotland is fully supportive of the workshop and wider review. Please see overleaf for a workshop schedule.

Contact

If you have any questions or additional feedback following this workshop contact Rob Mc Morran.

Email: Rob.mcmorran@sruc.ac.uk **Phone:** (0131) 5354268/



WORKSHOP STRUCTURE

09:00 - 09:30 Coffee and registration

09:30 – 10:00 Welcome and introductions

10:00 – 10:35 Group Work – Sharing Experiences

Within your group we would like you to address three main questions and relate your discussion to direct experience and examples where possible:

1. What are/have been the greatest barrier(s)/constraints you have encountered on your pathway to ownership?
2. What are/have been the most useful mechanisms/supporting measures?
3. As a group, what do your experiences have in common / how do they differ?

10:35 – 10:50 Coffee Break

10:50 – 11:25 Group Work – Identify Lessons

Within your group we would like you to address three further questions and relate your discussion to direct experience and examples where possible:

- i) Focus on the positives: what worked well?
- ii) Imagine you are giving advice to other groups in similar situations: what would you do differently if given the opportunity again?
- iii) Now thinking about other people involved (landowners, other professionals): what could they do differently?

11:25 – 11:55 Whole group - Identifying solutions

- i) Changes to the legislative process to make things easier;
- ii) Changes to enable more negotiated transfer of land to communities (and engaging landowners in the process);
- iii) Changes to organisational support mechanisms;
- iv) Any other initiatives or actions that might increase community ownership.

11:55 – 12:00 Thank you and next steps