

## RESPONDENT INFORMATION FORM

**Please Note** this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

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Please indicate which category best describes your organisation. If you are a representative or umbrella body, please tick the category you represent:

- Public sector – national or local government  
 Public sector  
 Third sector  
 Private sector  
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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

# The Future of Forestry in Scotland: A Consultation

## A response by Scottish Environment LINK

1 November 2016



### Summary

Scottish Environment LINK fully supports the long-needed further devolution of forestry, and the modernisation of the outdated governance structures around Forestry Commission Scotland. Forestry is an important industry and land use for Scotland, and as such it is heartening to see the priority that it is given within the Scottish Government's plans for the coming years.

This consultation, however, is hampered by the lack of detail offered as to the proposals which do not allow us to offer a clear, unconditional, response in many places.

We agree with the consultation paper that the preservation of the skills, expertise and professionalism of the existing staff within FCS and FES is vital, but beyond that statement of principle no detail is offered as to how that could be ensured, especially within the proposed new Forestry Division of the Scottish Government.

Whilst we are concerned that a big single new Executive land management agency might be unable to respond in a nuanced way to the variety of priorities that different habitats and land uses require, we can see the opportunity that an exemplar of landscape-scale, multi-purpose land management offers to Scotland.

Any new governance structure however still needs a new scrutiny body which can act as an independent auditor of all of the environmental functions delivered by Scottish Government in much the same way as Audit Scotland already does with public money.

One area where the consultation offers the least detail is that of cross-border services, and although we agree with the priority areas highlighted by Scottish Ministers, we would welcome the retention of international forestry as an area where Scotland should play its part and have a say.

Also important is to maintain the breadth and diversity of the work currently done by FCS, the educational work, starter farms, woodland renewables, woodlots, biodiversity, management of public access and recreation, community engagement and trees outwith woods, and as such any new duty on Ministers to promote forestry should be clear that this is about so much more than just planting and timber supply.

**This response is endorsed by the following Scottish Environment LINK member organisations:** Buglife Scotland, Butterfly Conservation Scotland, National Trust for Scotland, Plantlife Scotland, Ramblers Scotland, RSPB Scotland, Scottish Badgers, Scottish Wildlife Trust, Soil Association Scotland, Trees for Life and Woodland Trust Scotland.

## ***New organisational arrangements in Scotland***

**Q1. Our proposals are for a dedicated Forestry Division in the Scottish Government (SG) and an Executive Agency to manage the NFE. Do you agree with this approach? Please explain your answer.**

The published consultation document does not provide sufficiently detailed information for a full assessment of all of the potential implications regarding either the establishment of a Forest and Land Scotland Executive Agency, or the formation of a dedicated Forestry Division within Scottish Government. However, it is environmental outcomes which are important, and the governance mechanisms necessary to achieve those outcomes should follow from that premise.

Forestry Commission Scotland is currently one of the more effective and broad-focused delivery bodies working in the Scottish environment; one that significantly influences the context within which environmental organisations work. FCS - as they are - provide leadership through clear policy and well-tailored support for forestry implementation across the country.

It is vital that any new structure maintains all these essential functions. We would seek assurances that the forestry policy and regulation will not be focussed on economic drivers, and that social and environmental functions will continue to be play a major part in the work of Scotland's forestry.

It must be asked if FCS' regulatory and policy functions will be as effectively delivered if responsibility is transferred into a Division of the Scottish Government. If it is not clear that this move will result in improved delivery of advice and regulation, then an alternative approach which does benefit woodland regulation should be pursued, such as a successor agency to FCS focusing on policy and regulation.

Regarding Forest Enterprise Scotland, the transition to a formal Executive Agency in the form of Forestry and Land Scotland should not have much impact on current operations. It would clearly be beneficial to retain the considerable expertise within FES at the moment and use it to better integrate best practice across a number of different land use policy areas.

Concerns also arise over the prospect of large scale forestry interests such as commercial timber production becoming disproportionately prominent over social and environmental interests in the proposed new set up. To avoid this, both the forestry policy and regulatory side and the Forest and Land Scotland agency should be overseen by Boards whose composition reflects the multiple interests in forestry, with stakeholders reflecting the full range of economic, social and environmental benefits that come from forestry. Board composition must be enshrined in the Forestry Bill and should not just be through government appointees (a positive example might be the BBC model where there is a 14 member Board with only 4 nominated by government).

Any new governance structure should then be augmented by a new body which will act as an independent auditor for all of the environmental functions delivered by Scottish Government (see Conclusion for more on this.)

**Q2. In bringing the functions of FCS formally into the SG, how best can we ensure that the benefits of greater integration are delivered within the wider SG structure? What additional benefits should we be looking to achieve?**

Bringing the functions of FCS into Scottish Government offers the opportunity to better align existing policy areas - such as forestry, biodiversity, and climate change - using the Land Use Strategy as the mechanism by which these policy areas are brought together.

However, this opportunity is dependent on an assumption that integration into the SG will result in greater benefits, and it is not at all clear that the policy and regulatory aspects of FCS will be much improved by such a move. It would be useful to look at the effectiveness of existing Divisions in relation to current policy and strategy aims before adding to the burden within the Scottish Government.

FCS is currently one of the better government organisations at connecting policy with practice and a focus on supporting delivery on the ground. It is essential that Forestry knowledge and experience is retained within the new Division and that this does not become managed by generalist civil servants.

We would seek assurance that the local engagement role, currently fulfilled by conservancy offices, will not be lost and that the functions of conservancy staff will continue to be delivered by specialists.

**Q3. How should we ensure that professional skills and knowledge of forestry are maintained within the proposed new forestry structures?**

The diminution of these skills is the biggest risk of this proposal. There is a strong case for ensuring that the staff within these new structures have a distinct skillset relating to forestry (at all levels). The best way to ensure this is by retaining the existing staff from FCS and FES in positions that use them to the best of their ability. We would expect that specialist staff would be retained, including those staff who have a non-timber focus e.g. education officers, environmental staff.

Staff for Forest and Land Scotland should have technical and specialist knowledge appropriate to their role. For example, an assurance that National Nature Reserves will continue to be managed by staff with expertise in this function is vital.

One concern is the recent experience of the historic environment sector. Historic Scotland was a departmental agency, and then as Historic Environment Scotland became a non-departmental public body. We understand that the intention was for the Scottish Government to retain the strategic policy-making role, including a body of relevant experts, as the Historic Environment Policy Unit. However, we also believe that this has only lasted about a year, and HEPU has been broken up and the staff used to plug emerging gaps elsewhere across the Culture and Heritage division.

Of course, if an outcome benefit analysis of the existing and proposed scenarios shows no improvement within the proposed change of structure, then the possibility of creating an Executive Agency for Forestry policy and regulation as a successor to FCS should be seriously considered.

**Q4. What do you think a future land agency for Scotland could and should manage and how might that best be achieved?**

Ultimately, it is expected that a land agency would manage all publicly owned land including the progression of previous proposals to bring SNH's National Nature Reserves into the same fold as the NFE. It could be questioned how aligned to the SG's Land Reform agenda for diversifying land ownership the act of creating a large single body to manage a significant part of Scotland's land is, but Land Reform would have to be a key interest of the new agency.

As a principle, publicly owned land should be managed with the public good as its overarching priority. These benefits may not be economic in nature; indeed public land represents the best opportunity for integrated management which demonstrates best practice in the delivery of multiple benefits such as ecosystem services, biodiversity and social factors such as recreation.

With the public good as its primary objective, any new land agency for Scotland should carefully assess its priorities. The public good may be best served by delivering benefits such as carbon sequestration by restoring degraded peatland, flood mitigation and biodiversity conservation.

So, there may be some positive benefits from this proposal, but only if there is a systemic recognition of the distinctive approaches required to achieve the different objectives of each group of landholdings. For instance, high value nature land like National Nature Reserves requires a distinct, more tailored approach to land management and people engagement than much of the NFE. Land managed primarily for recreation has its own set of priorities. We are concerned that the more established functions of FES will detract from the focus needed by National Nature Reserves, which have long been predominantly overseen by SNH.

The new agency must therefore identify the full range of objectives, create a structure for delivering each of these and maintain the skillsets that exist under their current managers (such as SNH's NNR management staff).

A new land agency should continue to hold a remit to acquire and own land, be that for a range of diverse productive forestry types focused on the right ground, or land purchase for other benefits such as nature conservation, recreation and local economic development. This power should be used as appropriate to support work in meeting government targets or policy aims relating to multi-purpose benefits, ecosystem services, etc. Natural assets should be secured for the nation by this agency, in the same way as historic artefacts and works of art are. We are therefore concerned that FLS will proceed with the current NFE

repositioning programme, which has already put many biologically important sites at risk. One solution to this concern would be to consider imposing Conservation Burdens on any FLS disposals to ensure that the public interest in these sites is not ignored by new owners.

## ***Effective cross-border arrangements***

**Q5. Do you agree with the priorities for cross-border co-operation set out above, i.e. forestry research and science, plant health and common codes such as UK Forestry Standard? Y/N**

Yes, but we would suggest that international functions should also be retained as a cross-border issue. This is particularly the case where the United Kingdom is a signatory to international conventions and has a single vote. Mechanisms to secure agreement in such situations must be agreed, unless the Scottish Government is content to defer to DEFRA on such matters.

Opportunities to make some of these functions UK (rather than GB wide) could be explored further, particularly research and pest and disease issues.

**Q6. Do you have views on the means by which cross-border arrangements might be delivered effectively to reflect Scottish needs? E.g. Memorandum of Understanding between countries? Scotland taking the lead on certain arrangements?**

Cross-border functions must continue. We would expect that the current UK standards to be the minimum which the Scottish Ministers adhere to.

We'd be very happy to see Scotland take a lead on certain arrangements, but are worried that the lack of detail outlined in this paper signifies slow progress in cross-border negotiations over these services.

## ***Legislation and regulation***

**Q7. Should the Scottish Ministers be placed under a duty to promote forestry? Y/N  
What specifically should be included in such a general duty?**

"Forestry" in a 20<sup>th</sup> century commercial sense needs to be better defined for the 21<sup>st</sup> century so we would urge caution in simply mirroring the old Commissioners' duty

Our new definition would include wider issues than simply the production of timber; such as promoting the sustainable management of woodlands for the public good; delivering the Scottish Biodiversity Strategy; balancing environmental, social and economic outcomes; nature conservation; ecosystem services like carbon sequestration and natural flood management; education; amenity; and recreation should all be the basis of Scotland's forestry future.

It is critically important that the word “forestry” is preceded by “sustainable multi-benefit.” The full range of benefits and functions of a woodland must be fully captured within the definition of “forestry”; commercial interests must not be prioritised above social or environmental interests; and native woodland must be given special recognition.

Any duty must be compatible and consistent with existing duties such as the Biodiversity Duty and the Climate Change Duty. Plus, consideration should be given to how such a duty will impact upon public land to be managed by Forestry and Land Scotland (for example, might a forestry promoting duty have negative impacts on the active management of an NNR?).

The Norwegian “Act relating to forestry (Forestry Act)” provides a useful basis with which to inform the proposed Forestry Bill. It states:

*“The purpose of this Act is to promote sustainable management of forest resources in Norway with a view to promotion of local and national economic development, and to secure biological diversity, consideration for the landscape, outdoor recreation and the cultural values associated with the forest.”*

Alternatively, we would look to the Forestry Act (Northern Ireland) 2010 Part 1 (3) for its definition of “forestry”.

We have significant concerns regarding the proposal to “enforce” “obligations to carry out restocking”. There are many sites where restocking following felling may be inappropriate, for example where priority habitat can be restored. The Control of Woodland removal Policy sets out other examples. This policy is not always well implemented at the moment, therefore we would not wish to see a blanket presumption for restocking enshrined in legislation. The Norwegian Forestry Act uses “regeneration” as opposed to “restocking”; this terminology could be explored for use in the Scottish context.

It is worth noting that beyond just forestry, and within a wider natural capital context, Ministers should be under a duty to promote investment, management and sustainable use of our natural capital assets, and therefore sustainable forestry management should be integrated into this.

**Q8. Recognising the need to balance economic, environmental and social benefits of forestry, what are your views of the principles set out in chapter 3?**

We welcome inclusion of a range of objectives including biodiversity and public interest in land. However, we would like to see greater, more explicit recognition of the range of benefits of forests than is captured by the principles in the consultation document. In particular, the potential of forests to contribute to local community development by being managed for a range of objectives has been recognised but not fully explored to date.

Replacing more of Scotland’s traditional commercial plantations with multi-benefit forests will provide better environmental outcomes while providing more opportunities for local businesses. A stronger lead from Scottish Ministers is needed to increase the number of businesses who make use of forests and to secure more of the benefits locally.



We are supportive of proposals which give greater flexibility to deliver other Scottish Government priorities on publicly owned land.

## ***Assessing impact***

**Q9. Do you think that the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Please be as specific as possible.**

We are concerned that there may be a loss of capacity to carry out key functions, such as environmental regulation, if there is a loss of staff so would urge the retention of existing staff from FCS and FES within the new structure.

We are of the opinion that there is the need to include alongside the financial burdens an assessment of the impact of change on current outcome delivery on the ground. Only then will the SG be able to make any informed decision regarding costs, burdens and the effectiveness of new governance structures.

**Q10. Are there any likely impacts that the proposals contained in this consultation may have upon the environment? Please be as specific as possible**

Yes. Any increased focus on commercial woodland expansion to meet planting targets will potentially have detrimental impacts upon some priority habitats and species. Whilst woodland expansion is generally supported, EIA is not implemented well currently so further woodland expansion presents significant risk in priority areas.

We remain concerned that public land seen as unprofitable will be disposed of, representing an environmental risk if these sites go on to be developed or managed in a less environmentally sustainable manner by private interests.

We have concerns that regulation may not be properly enforced if staff are lost or moved elsewhere in Government as a result of these proposals.

## ***Conclusion***

**Q11. Do you have any other comments that you would like to make, relevant to the subject of this consultation, that you have not covered in your answers to other questions?**

One of the functions that FCS currently provides is supporting Regional Forestry Forums, which bring together various groups and sectors to discuss proposed policy impacts on a regional level. This is a valuable function that should not get lost in any changes to structure, providing FCS staff with a panel of informed and interested views on proposals.

There are a number of issues highlighted in this consultation which require more detail to be provided, notably the function and role of Forest and Land Scotland, cross border functions and any links to the land reform agenda. Clarity on the local operation of the new

agencies is also necessary, for example, will regional Conservancy offices be retained under a Forestry Division of Scottish Government? They are a key element of FCS' current success and would be sorely missed if scrapped.

We have concerns that these proposals may be used as an opportunity for deregulation of the forestry sector.

We suggest that the government undertakes a more comprehensive review of its environmental functions, rather than looking at the Forestry Commission in isolation. We would welcome the opportunity for consideration of the creation of a body which monitors effectiveness (similar to Audit Scotland) and the means of appeal in cases of conflict (e.g environmental courts).