



Law Society
of Scotland

Consultation Response

Developing an Environment Strategy for Scotland: Discussion Paper

August 2018



Introduction

The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Environmental Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government's discussion paper: *Developing an Environment Strategy for Scotland*.¹ We do not seek to answer the consultation questions and the sub-committee has the following general comments to put forward for consideration.

General comments

We welcome the Scottish Government's paper on an environment strategy for Scotland. We note that the discussion in the paper with regards to the strategy is aspirational and in general terms but hope that this will form the basis for a strong strategy for environmental protection in due course.

We are supportive of the wide scope taken in the document, for example by including a strong focus on ecological stability and highlighting the link between environment and health. Legislation and policy in this field is fairly fragmented and so we are in favour of a cohesive strategy which pulls together various relevant matters. It is important that law and policy is comprehensible and can be easily identified and understood by the public.

We note that noise is omitted from the strategy. The World Health Organization has calculated that "at least 1 million healthy life years are lost every year from traffic-related noise in the western European countries, including the EU Member States."² Given the significance of the effects of noise on our environment, we consider that the strategy would benefit from inclusion of this matter.

¹ <http://www.gov.scot/Resource/0053/00537689.pdf>

² World Health Organization, Burden of disease from environmental noise: Quantification of healthy life years lost in Europe 2011.

At this stage, it is not clear from the strategy whether this is to have a statutory basis or policy only. We would welcome greater clarity around this.

In relation to the proposed vision, we note that this includes reference to Scotland's economy. This is not reflected in the proposed outcomes however, and we consider that there would be merit in clarifying the status of the outcomes – are they subsidiary to the vision or reflective of it?

Draft knowledge accounts

Air quality

High importance is accorded to air quality in Scotland. We consider that following the UK's withdrawal from the EU, it is important that there is an effective body in place to ensure that air quality targets are met, in particular the requirements of the Directive on Ambient Air Quality and Cleaner Air for Europe³.

Ecosystems and Wildlife

We note that the draft knowledge account does not consider the many international law obligations to which we are subject. These are relevant as they affect what our policies must be shaped to achieve. In addition, the marine environment does not appear to be covered in sufficient detail.

The focus of the paper appears to be on special sites and species rather than reflecting the wider ecosystems approach which looks at the health of the ecosystem in general. We consider that there is merit in this wider approach to the ecosystem planning and management. In particular, we note that a narrow approach does not fully consider the overall impact of land use change and the conservation onus that land use change places on the remaining "natural" land to carry the burden of supporting wildlife for the country as a whole.

Natural Capital

We note that the draft knowledge account appears to suggest natural capital to be a relatively new concept, however references are made to the concept some time ago, for example, by E.F Schumacher in his book *Small is Beautiful – A Study of Economics as if People Mattered* 1973 and by Paul Hawken *et al* in *Natural Capitalism* 1999 which developed theories of natural capital further.

While natural capital is an important concept in environmental economics, we note that the focus of the knowledge account is the economic benefit to Scotland. We would suggest that recognition is also made to the social, environmental and cultural benefits of natural capital. The knowledge account cites important examples of areas and policies that have been supporting a growth in natural capital, such as for woodlands and peatlands. However, apart from reference to bathing water quality, we note an absence of

³ 2008/50/EC.

reference to the marine environment and would suggest that consideration should be given to marine matters as well as terrestrial. Given changes to flood management in Scotland since the Flood Risk Management (Scotland) Act 2009 with a focus on catchment management, we also suggest that more focus is made to the benefits of natural capital in reducing flood risk.

We also suggest that reference is made within the knowledge account to the Scottish Land Use Strategy⁴ which makes refers to natural capital.

Access to Nature

We note the suggested evidence gap on the barriers to improving access to nature. We consider that there could be greater reference made to what can be done through design to incorporate nature into built areas (for example trees, green walls, green roofs, small planted areas, road/street verges) rather than via distinct land use.

Likewise, in terms of planning and open space policies, we consider that greater emphasis could be given to elements of nature that can be integrated into built-up areas (for example attractive and biodiversity rich SUDS) which can add resilience to the impacts of climate change (for example by providing shade in heat-waves and limiting flooding).

For further information, please contact:

Alison McNab
Policy Team
Law Society of Scotland
DD: 0131 476 8109
AlisonMcNab@lawscot.org.uk

⁴ Getting the Best From Our Land – A Land Use Strategy For Scotland 2016 – 2021.