



Law Society
of Scotland



Consultation Response

SEPA Forestry and wood processing sector plan

September 2019



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 Scottish Environment Protection Agency's (SEPA) consultation on the *Forestry and wood processing sector plan*¹. We have the following comments to put forward for consideration.

General comments

As we have previously indicated, we welcome SEPA's sectoral approach to regulation. This sector plan (as with the other plans consulted on) indicates a desire on SEPA's part to radically change the way in which it regulates the forestry and wood processing sector, reflecting a move away from the 'traditional approach' to regulation. We consider that the plan sets out the approach to be taken at a high level and lacks the detail as to how it is intended that the regulation and policy which currently exists under the 'traditional approach' will be fundamentally changed.

The traditional, rule-based approach is generally measurable and transparent. This enables SEPA to be accountable to the Scottish public in its approach to regulation and enforcement. We consider it important that SEPA maintains a distinction between 'regulatory' and 'encouraging better practice' functions, otherwise there is a risk the public may query enforcement action as inconsistent with some other activity in which SEPA involves itself.

We welcome the commitment to engage with stakeholder groups, for example, the Timber Transport Forum. However, a new approach to regulation based on 'partnership working' with business to encourage improved environmental performance in this sector could result in less public engagement and visibility and therefore affect SEPA's role as a regulator. It is important that the public is reassured that SEPA is no less likely to

¹ <https://consultation.sepa.org.uk/sector-plan/forestry-wood-processing-sector-plan/>

take enforcement action against those operating illegally in the sector, while supporting 'beyond compliance' innovation.

It is crucial that there is clarity around the standard of 'beyond compliance' – both what is meant by this and what is expected of businesses to meet this standard. Clarity is also required as to the consequences, legal and otherwise, if businesses do not go 'beyond compliance'. It is important that individuals and businesses understand what is required of them, and the consequences of non-compliance, in order that they can guide their conduct appropriately.

It is important that there remains clarity and certainty for individuals and businesses in the implementation of environmental law following the UK's withdrawal from the EU.

Consultation questions

4. We outline four key points within our vision for the Forestry and wood processing sector plan. In your opinion, do you agree with our vision and level of ambition? Do you have any comments on the scope of the plan?

In relation to the second point stated, we suggest that not only the benefits of forestry helping to reduce the impacts of climate change are highlighted, but that also the benefits towards the conservation of biodiversity and the mitigation of flood risk are emphasised.

In relation to the third point stated, we suggest that in addition to stakeholders, the close working relationship SEPA needs to have with Scottish Forestry and Scottish Natural Heritage is highlight. As noted on page 7 of the draft plan, Scottish Forestry is the responsible authority for the regulation of forestry management in Scotland, and although SEPA is not the main regulator in this sector, it nevertheless collaborates with Scottish Forestry. It is therefore particularly important that questions of operating 'beyond compliance' take due account of sit as much as possible with existing Scottish Forestry guidelines and requirements.

5. Do you think the plan captures the main environmental risks and impacts of the sector, as outlined in Figure 7? Are there any other environmental risks and impacts that should be included?

We consider the list to be thorough.

6. Have we identified all the main partners and influences for this sector in order to achieve the vision, as outlined in Figure 8? Are there other influences that you think should be included? Please tell us about any relationships you have with any of the influences that we might be able to use to help implement the sector plan?

As per the previous set of questions, the list of parties at Figure 8 appears to be thorough.

7. Have we identified all the actions we should take to solve compliance issues in the sector? Are there other actions that you think we should be taking to improve compliance?

We suggest that focus is placed on SEPA collaborating with Scottish Forestry so that there is a consistent message delivered to operators and landowners. Given the nature of the forestry sector, it is important that compliance is seen in the fuller context of a sustainable forestry sector rather than the environmental compliance aspects being dealt with in isolation.

8. Have we identified the correct opportunities we could take to help businesses to go beyond compliance? Please tell us about any other opportunities that you think could be included to help businesses in this sector to move beyond compliance.

As above, we see the close working relationship between agencies (Scottish Forestry, SEPA and SNH in particular) and presenting a clear message via Scottish Forestry as being key to allow the sector to approach forestry management more sustainably and not just to focus on compliance in isolation.

9. Do you think the actions are ambitious enough? Which of the actions and aspirations proposed in this plan do you consider to be of the highest priority?

It is important that the sector is ambitious in terms of tree planting and sustainable harvesting and processing. Given the current pressing environmental context, we regard environmental protection as being of high priority in terms of actions. With increased natural capital from increased tree planting, greater economic opportunities are likely to arise as a result of increased forestry cover. In developing a larger forestry industry in Scotland, it is important that environmental compliance forms a core part of its culture.

10. Do you have any other comments?

No.

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