

Not-for-Profit Landowning Organisations in the Highlands and Islands of Scotland

Organisational Profiles and Sector Review

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DISCLAIMER

The views in this report do not necessarily reflect the views of the organisations consulted during the preparation of this report or of the sponsors, Highlands and Islands Enterprise and Scottish Natural Heritage. Any errors or omissions are primarily the responsibility of the authors.

INTRODUCTION

In December 1996 a paper was prepared profiling the range of not-for-private-profit (NFP) organisations in the Highlands and Islands that owned, leased, or aspired to own or lease land (Wightman, 1996). This paper reviews the 1996 findings and updates these to take account of recent developments in the NFP sector since 1996. The following chart summarises and compares the key changes in the NFP profiles:

1996 NFP Profile	2001 NFP Profile
<ul style="list-style-type: none">• 23 organisations• comprising some 1.25 million members and supporters UK-wide• generating £85 million of annual turnover UK-wide• owning, leasing or managing 544,388 acres (5.44% of the Highlands and Islands)	<ul style="list-style-type: none">• 45 organisations• comprising some 1.38 million members and supporters UK-wide• generating some £99 million of annual turnover UK-wide• owning, leasing or managing 658,308 acres of land (6.58% of the Highlands & Islands)

- 17 new NFP organisations the majority of which are community-based organisations
- members and supporters UK-wide increased by some 130,000
- annual turnover UK-wide increased by some £14 million
- an additional 113,920 acres brought into NFP ownership/management – a 21% increase.

WHAT ARE NFP ORGANISATIONS?

Not-for-private-profit (NFP) organisations are bodies set up to pursue social, environmental, economic and democratic aims for a defined constituency of people. They have been around for over 150 years and can trace their origins back to the Chartist, Cooperative and Friendly Society movements of the mid-19th century. Their aim is to bring social benefit to their members either through economic activity or collective action. They range from local community associations, self-help groups and voluntary associations to large consumer and producer cooperatives, national voluntary conservation organisations and mutual financial institutions. Not-for-profit organisations are defined through their legal structure and constitutions as being organisations in which: -

profits or surpluses cannot be distributed to members whether on an ongoing basis or upon winding up (except for cooperatives and mutuals where a limited distribution can be made)

the affairs are governed by a board or council which is elected periodically by an equal vote of the membership. The organisation is therefore accountable to a wider social grouping than is the case with a private for-profit company or a private trust.

In addition, NFP organisations are characterised by certain values and attributes. For example:

- motivation is derived from a social, cultural or environmental purpose
- independence from government
- personal and voluntary participation of members
- mutual solidarity with other similar organisations
- a role in informing and educating its members and, in some cases, a wider public about issues

It should be stressed that NFP organisations are not necessarily non-profit making. The critical issue is that any profits made cannot be distributed to external shareholders but are retained by the organisation (or its members in the case of cooperatives and mutuals) in order to further its objectives.

WHO ARE THE NFP LANDOWNING ORGANISATIONS?

This report is concerned with those NFP organisations which own land, lease land, manage land by agreement, or aspire to own land in the Highlands and Islands and who do so as a primary or major part of their activities.

Organisations are included that own significant landholdings (generally in excess of 1 acre). In addition, some organisations are included which, although they may not meet the strict definitions outlined above, aspire to do so through sharing many of the values and attributes of NFP organisations. Such bodies include the Woodland Trust, Clan Donald Lands Trust, Hoy Trust and Hebridean Trust whose membership has no role in the election of their Board or Council (therefore lack a democratic structure) but who nevertheless share all other characteristics of NFP organisations.

A number of such organisations have been set up specifically to purchase or receive gifts of land in the Highlands and Islands. The Stornoway Trust was the first to succeed in a significant way, being gifted 69,000 acres in Lewis in 1923. Earlier, in 1908, the Glendale Estate on Skye was partially transferred to its crofting tenants by the Government's Congested Districts Board through a 50-year purchase arrangement, which saw the full transfer of the property to the crofters in 1958. Three other crofting communities –

Eoligarry 1900 (Barra), Staffin 1904 (Skye) and Syre 1899 (Sutherland) - were also offered similar 50-year purchase arrangements but in 1911 they declined the Board's offer to purchase the properties in favour of remaining tenants.

The National Trust for Scotland (NTS) embarked on a series of purchases from 1931. Most notable were Glencoe and Kintail, which were made possible by the fundraising efforts of mountaineers including the wealthy benefactor Percy Unna. After the war there was a steady expansion of ownership by NTS but few other NFPs were involved. The major expansion came in the late 1970s and 80s when national voluntary conservation organisations such as the RSPB, SWT and JMT began purchasing large areas of land primarily for natural heritage purposes.

In the early 1970s the innovative Clan Donald Lands Trust - a cultural organisation with a global membership - bought from the Clan Donald chief the last remaining 20,000 acres of clan land in the possession of the MacDonal family in the Sleat peninsular of Skye. In 1973 on Hoy in the Orkney Islands the Hoy Trust was being formed to receive a gift of 12,500 acres of land from the owner of Hoy estate.

In 1982 a little reported Strathspey community enterprise - Dalnavert Community Co-operative - was forging a new approach to social ownership. It was the first non-crofting community group in the region to buy land and manage it on a co-operative basis as a club farm. In doing so it was reconnecting with the region's earlier crofting history of club farms of 1820 – 40 and those such as Glendale and Keodale which were established at the beginnings of the 20th Century. Ten years after Dalnavert in the early 1990s crofters again began taking ownership of land - in Assynt (1993), in Borge & Annishader (1993) and more recently in Melness (1994), Bhalto (1999) and Kylesku (2001).

Wider community-based groups too have become very active. Bodies such as the Laggan Forestry Initiative have emerged with aspirations to own land. Most recently, partnerships or consortia of community-based groups, conservation interests and The Highland Council have been formed and have successfully bought the Isle of Eigg and the Knoydart Estate.

The NFP sector is significant in the Highlands and Islands (defined as land north of the Highland line and comprising around 10 million acres). Existing NFPs own, lease or manage by agreement 658,308 acres or 6.58% of the land area.

This is equivalent to over 65% of land owned by the Forestry Commission in the region, two and a half times the area of the Scottish Executive Rural Affairs Department Crofting Estates and almost nine times the land area of Scottish Natural Heritage in the region (see Table 1).

Organisation	Acres (approx.)	% of H&I area
Highlands and Islands Enterprise	10,802	0.11%
Scottish Natural Heritage	75,000	0.75%
SERAD Crofting Estates	270,000	2.70%
NFP Organisations	658,308	6.58%
Forestry Commission	1,080,200	10.80%

Table 1
Comparative areas of land owned, leased or managed by NFP organisations and public bodies.

CHANGES SINCE 1996

Extent of land covered by 1996 survey	506, 864
Corrected acreage for 1996 bodies (+/-)*	11, 063
Additional bodies omitted from 1996 survey**	<u>26, 461</u>
Total land owned, leased or managed by NFPs 1996	544, 388
Area of land added to estates of 1996 bodies	92, 198
New bodies emerging since 1996	<u>21, 722</u>
TOTAL 2001	658, 308

* this figure accounts for errors in the figures quoted in the 1996 report.
** this figure accounts for NFP organisations omitted from the 1996 report but which owned, leased or managed land in 1996.

Table 2
Changes in the ownership, leasing and management of land by NFP organisations in the Highlands and islands 1996 - 2001.

** Organisations added to survey which existed in 1996 but were omitted from the survey include:-

Ardmore Township Grazing Committee (970 acres owned)
Earthshare (16 acres leased)
Glendale Estate (23000 acres owned)
Lochbay Township Grazings Committee (1575 acres owned)
Upper & Lower Halistra & Hallin Park Grazings Committee (770 acres owned)
Urras Clann Mhicneacail (130 acres owned)

Overall an additional 113, 920 acres of land (658, 308-544, 388 acres) have become owned, managed, leased or aspired to be owned since 1996, an increase of 21%. This increase is attributable to: -

- 59, 128 acres of land being added to the estates of conservation organisations.
- 33, 070 acres of land being successfully acquired, leased or managed by community based groups most of whom only aspired to own such land in 1996.
- 21, 722 acres being acquired by organisations which have emerged since 1996.

Key changes have included:-

Expanded estates of conservation bodies

RSPB - an extra 27, 186 acres (28% increase)
JMT - an extra 16, 045 acres (47% increase)
NTS - an extra 15, 897 acres (9% increase)

Success in moving from aspirations to purchase or management

Abriachan Forest Trust now *own* 1322 acres (and co-manage a further 1250)

Isle of Eigg Heritage Trust now *own* 7400 acres

Knoydart Foundation now *own* 17, 200 acres

Laggan Forest Trust now *co-manage* 3000 acres

Expansion of community initiatives

Culag Community Woodland Trust *bought* an additional 2898 acres

Emergence of new not-for-profit landowning bodies

With the exception of Kingsburgh Common Grazings (formed in 1920), Keoldale Sheepstock Club (formed in 1926), the Hebridean Trust (formed in 1982), and Plantlife (formed in 1989) all the following organisations have been set up since 1996. They are all new to the field of owning, leasing, co-managing or aspiring to own, lease or co-manage land in the Highlands and Islands. Kingsburgh and Keoldale have, of course, been engaged in co-management as crofting tenants since their formation.

Bhaltos Community Trust Ltd.

Birse Community Trust

Dunain Community Woodland

Eilean Ban Trust

Fernaig Community Trust

Forres Community Woodlands Trust

Hebridean Trust

Isle Martin Trust

Keoldale Sheepstock Club

Kingsburgh Common Grazings

Kylesku Crofters Trust Ltd.

Laid Grazings Committee

Minard Community Woodland Trust

Plantlife

North Sutherland Community Forestry Trust

Strathfillan Community Development Trust

Strathglass Woodlands Trust

KEY CHARACTERISTICS

Not for Profits range from local organisations with only a few members and negligible turnover to large UK bodies with thousands of members and turnover in the £ millions. Some of the key characteristics of such organisations are as follows.

Legal Status

A range of legal structures are available for NFP organisations depending on their purpose. Historically, Friendly Societies and Co-operatives were the most common but in recent years more organisations have taken advantage of the flexibility of a company structure under the Companies Acts.

The most common legal structure for NFP landowners in Scotland is the company limited by guarantee with no share capital. This structure allows for the full participation of members who control the company and whose personal liability is limited, usually to under £10. The absence of share capital prevents members benefiting personally from their involvement with the company.

Trusts are set up through a Trust Deed, which sets out the objectives and structure of the trust. It is unusual for a Trust to be a democratic body although this is possible as, for example, in the case of the Stornoway Trust because it is incorporated in Parliament. It is less flexible than a company but this can be of benefit where land is intended to be held in perpetuity for fixed purposes. It should be noted that the word “trust” is often used in the names of organisations which are not legally trusts (e.g. Scottish Wildlife Trust, John Muir Trust, Assynt Crofters' Trust) but which are actually companies without a share capital. The main purpose behind using the word Trust in the company’s name is to convey to the wider public, public agencies and charitable funders that the organisation’s primary purpose is social and/or charitable.

In addition to the legal structure, some NFP organisations enjoy charitable status. In Scotland this is obtained via the Inland Revenue. In England and Wales, charities are registered with the Charity Commissioners.

Of the 45 bodies in this report: -

- 25 are Companies Limited by Guarantee with no Share Capital
- 9 are Trusts
- 3 are Companies Limited by Shares
- 3 are Grazings Committees
- 2 are yet to be constituted
- 1 is governed by a Royal Charter and Statutes
- 1 is a Friendly Society
- 1 is Unincorporated club property

Objectives

The objectives of NFP landowning bodies range from: -

- Religion
- Economic and social development
- Heritage conservation
- Nature conservation
- Woodland restoration

Scale

The scale of NFP landownership varies widely. Some organisations consist of a small number of local people (to whom membership is restricted) whose sole function is to own and manage a local landholding and whose financial turnover is low. At the other end of the scale are organisations with a national (Scottish or UK) scope, owning parcels of land across the country with thousands of members and financial turnover in the £ millions.

Not for profit organisations range from: -

Urras Clann Mhicneacail	1200 members	£ 2000 turnover
Isle Martin Trust	200 members	£ 2000 turnover

to

• National Trust for Scotland	236,000 members	£ 25,000,000 turnover
• RSPB (UK wide)	1,011,416 members	£ 49,000,000 turnover

Broadly speaking the smaller organisations tend to have: -

- smaller memberships restricted to certain categories (crofting tenants for example)
- smaller landholdings limited to the immediate area of interest
- low turnovers reflecting limited availability of capital and economic opportunities

The larger organisations tend to have: -

- larger memberships with eligibility open to anyone
- larger and more numerous landholdings
- high turnovers reflecting large memberships and ability to attract public funds
- income from goods , services, trading companies, and investments and endowments

Landownership

Organisations may own a small local area for local community benefit or be national organisations with national objectives owning large areas of land across the country.

Not for profit landowners range from: -

Strathfillan Community Development Trust	17 acres
Dalnavert Community Co-operative Ltd.	125 acres
Treslaig & Achaphubuil Crofters	160 acres

to

RSPB	96,337 acres
National Trust for Scotland	174,897 acres

CONTEXTUAL CHANGES SINCE 1996

Sector Development

The not-for-profit sector is becoming more mature, complex, diverse, experienced and innovative. In 1996 the contemporary idea of community ownership of land was being fought out against the background of titanic struggles in Eigg and Knoydart. In the intervening period almost everything that could happen to change the context for the sector has changed. The most obvious developments are: -

- A Scottish Parliament
- A political agenda on land reform with a strong emphasis on community including a Draft Land Reform Bill which proposes a community right-to-buy and a crofting community right-to-buy
- Establishment of Highlands & Islands Enterprise and Scottish Enterprise Community Land Units
- Success at Eigg and Knoydart
- Emergence of the NFP Landowners Project Group and e.g. publication of 24 Case Studies and the development of a Whole Estate Plan Framework
- Rapid spread of rural development forestry and Forest Enterprise partnerships
- Emergence of the Community Woodland Network supported by Reforesting Scotland
- Emergence of the Community Land Action Network (CLAN)
- Introduction of the Transfer of Crofting Estates (Scotland) Act 1997
- Significant growth in the NFP landowning sector
- Increased availability of information and analysis on landownership and land reform e.g. HIE's Community Land Unit; NFP Landowners Project Group; Caledonia Centre for Social Development websites www.aledonia.org.uk/land, www.aledonia.org.uk/socialland, CLAN website www.clag.bizland.com
- New methods of communication (websites and email)
- Greater co-operation between community and environmental interests
- The establishment of the Scottish Land Fund
- Publication of policy statements by public agencies (e.g. Forestry Commission, Scottish Natural Heritage and Crown Estates on how they engage and involve local communities in decision-making).

Such developments have dramatically altered the prospects for communities wishing more say in the way in which land is owned and used to the extent that aspirations to own, lease or co-manage land are now mainstream.

Broader Developments

At the same time as these developments have taken place, other related changes have been taking place.

Following the 1997 General Election, public bodies now have greater freedom to operate in the land market. This is typified by the purchase by HIE of the Orbost Estate on Skye. Significantly, this initiative marked a break with traditional public sector activity in that it actively sought to promote a partnership with the local community (although with mixed success).

There is also a growth in landownership by private charitable trusts (e.g. the Applecross Trust and the Blair Charitable Trust). These are set up by private landowners with charitable status but are not membership organisations. The forthcoming review of Scottish Charity Law by the McFadden Commission may have implications for such private charities and

possibly provide opportunities for communities to have a greater stake in the running of such bodies.

Finally, there are signs that tenant farmers are becoming more active in buying land. The tenant farmers on the Island of Great Cumbrae successfully purchased their farms when the island was put up for sale. Similarly, tenant farmers on the Panmure Estate in Angus have been keen to pursue a tenant farmer buyout. Although such initiatives appear currently to be promoting individual ownership, it might not be long before some co-operative initiatives are pursued in similar circumstances.

Focus on Management

A significant development since 1996 has been the growth in co-management initiatives between local communities and Forest Enterprise. One new example (Minard) is included in this survey together with the older Laggan initiative but there are now a growing number of such projects running across Scotland. The Forestry Commission has set up a Forestry for People Panel to explore ways of improving the level of community involvement in forestry. Inevitably there will be continued demands from some quarters for full-scale ownership as exemplified by the aspirations of the North Sutherland Community Forest Trust.

A Re-Evaluation of History

The Glendale Estate is included in this review having been omitted from the 1996 review. Glendale has often seemed to get dismissed rather readily in discussions of crofting and community ownership. Part of the reason for this is because of the perception that the share-ownership model of ownership has failed. Each shareholder has been free to sell their share (which comprises a house, a croft, a share in the common grazings and a share in the club property). Some crofting activists have argued that the structure of the Glendale crofting community has broken down. But in a wider context what has happened in Glendale is exactly the same as has happened in other crofting communities except that croft ownership happened some 68 years earlier. However Glendale has in fact been in a stronger position to ensure that its common grazings and club property are collectively run because they cannot be sold independent of the house and croft. In addition Glendale has enabled crofters to sell up and for newcomers to gain entry. In many ways this is similar to communities such as Birse, Stornoway, and Eigg which are made up of local residents. Some people sell their home and move out and others buy them and move in. Such a model may be inappropriate for a pure crofting trust but may be perfectly satisfactory for a community trust.

The historical context is also being brought to the fore by the efforts of the Birse Community in reviving ancient common rights. Across Scotland these rights still exist but are seldom recognised or actively managed. Similarly the Forres Community Woodlands Trust, who own former Common Good Fund land, reminds us that Municipal mutualism once flourished and that some of these assets are still held in trust for the community (sometime quite profitably as in the case of the Dornoch Firth Mussel Fishery run by the Tain Common Good Fund and Highland Council). Suggestions that the Eastern Part of the Cuillin on Skye might be a Crown common also highlight the possible implications for community land management of ancient common rights.

THE FUTURE

The Not-for-Profit Sector is undergoing a period of very active growth and development. New legislation on community and crofting right-to-buy together with greater openness by public agencies to joint or co-management are likely to increase the scope for the sector to become involved in the management of land assets.

For the dramatic successes of recent years to be consolidated and extended the sector requires continued support for learning, training and mutual assistance, a practical and workable legislative framework to expand, research to advance understanding, and increased legitimacy within the broad range of landowning structures present in Scotland.

As the sector matures it will increasingly be faced with the challenge of deciding how to retain momentum, create innovation, improve performance and support weaker NFP members. To do this it will increasingly have to work towards devising approaches which create the conditions for coalition-building and fight against the forces which seek fragmentation. Social movements in many different places and at differing times have had to grapple with these societal forces. In Scotland it has been no different. Older NFPs have struggled in isolation and with limited resources for many decades. That they have survived is testimony to their determination and perseverance in the face of indifference and in some instances hostility. Currently community ownership is a fashionable idea but fashions change like the seasons and the NFP sector will need to be capable of withstanding these changes. To do this the sector needs to begin seeking out how other sister social land movements in other countries have confronted and overcome these challenges. The Trust for Public Land and the Land Trust Alliance in the United States and other social land movements in Europe could provide the sector with useful set of road maps for the journey ahead.

REFERENCES

Wightman, A. (1996) Not -for-profit Landowning Organisations in the Highlands and Islands of Scotland. Organisational Profiles. Report prepared for Highlands and Islands Enterprise and Scottish Natural Heritage, Inverness.