



HISTORIC ENVIRONMENT  
ADVISORY COUNCIL  
*for* SCOTLAND

To stakeholders

1 February 2007

**HEACS REPORTS**

I enclose a copy of a letter from Patricia Ferguson, Minister for Tourism, Culture and Sport, offering an initial response to the four reports which HEACS submitted to her last year.

HEACS has not yet had an opportunity of considering the Minister's response in depth. However, while the response is in part disappointing, HEACS is encouraged by the significant number of positive statements.

HEACS also welcomes the Minister's commitment to producing definitive responses to our recommendations over the next six months. HEACS recognises that this will require a considerable amount of work, particularly on the part of Historic Scotland.

HEACS looks forward to discussing the reports further with Historic Scotland and to participating fully in whatever consultation the agency organises with stakeholders.

In the meantime, HEACS welcomes comments on the Minister's response. Please send them to me at the address below or email [heacs@scotland.gsi.gov.uk](mailto:heacs@scotland.gsi.gov.uk)

A handwritten signature in black ink, appearing to be 'MK' or similar initials.

**M** Elizabeth K Burns CMG OBE  
Chair



## SCOTTISH EXECUTIVE

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*20th* December 2006

*Dear Elizabeth,*

Thank you for your four recent reports.

I very much appreciate the considerable amount of work which has gone into these reports; and the obvious commitment of Council members and staff to this enterprise. I was also pleased to learn of the positive response from the sector at the recent BEFS seminar.

Given that degree of personal and public engagement, I am keen to offer an initial response now. Of course, many of the issues imply further discussion with the sector; and my intention is therefore to follow up this letter with a period of detailed reflection and discussion. So this letter offers a mixture of definitive responses and thoughts to help guide that forthcoming discussion over the next 6 months or so. At the end of that process, we will have produced definitive responses to all the recommendations.

I am grateful that you have recognised that there are issues here which will require such reflection and discussion.

For reasons which I hope will be obvious, I will concentrate on the case for a review of legislation. However, I also attach detailed comments on the other three reports, recognising that there are links between them all.

Your report on the case for review of legislation raises a wide range of legitimate issues in relation to the current legal framework for managing the historic environment in Scotland in the 21<sup>st</sup> century. I agree that the key choice is not whether the law would benefit from updating, but what sort of process is appropriate and proportionate.



By way of context, there have been some significant developments since the Council was first set the task of considering the case for a review. Chief among these, we have developed an overarching policy statement on the historic environment, as part of the Scottish Historic Environment Policy (SHEP) series. Further to the extensive consultation earlier this year, I expect to publish this in its final version early in 2007. Its relevance here is to the underlying theme in the Council's report that we have a system with many component parts but no single stated rationale. The purpose of this SHEP is specifically to provide that overarching vision for the first time, and so promote a shared understanding among the many different individuals and organisations who have a part to play in protecting our heritage and managing change in our historic environment. It is an important development.

The Council suggests a single overarching review predicated on a commitment to introducing major new legislation. We assume that this would require extensive public consultation and discussion. We should not underestimate the resource implications of such a process, both for the Executive and for outside bodies. There would be both direct costs and opportunity costs for everyone involved. Even more important in the long term would be the resource implications of pursuing some of the changes which the Council argues would justify a review. We would not want to embark on any exercise predicated on making those changes without at least some initial attempt to quantify the potential costs, not just to government but also to other parties, and satisfying ourselves that the resources could realistically be found. In addition, any major review always risks giving rise to a period of uncertainty and "planning blight".

A similar process in England and Wales was begun in 2001 and we expect will lead to legislation no sooner than next year. That experience south of the border – and I gather also discussion at your recent conference – suggests that the legislation flowing from a Scottish review might well not be ready for consideration even during the next Parliament. We would be likely to be looking, therefore, at a process whose practical impact might not be felt for many years.

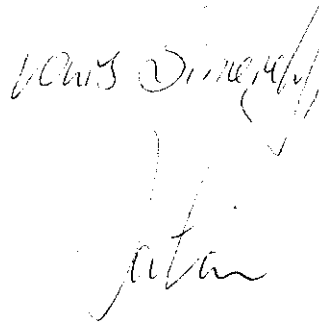
I am conscious that the report bases its case for a large-scale review and legislation in part on a concern about perceived problems of understanding and potential for confusion, and also on the wide range of potential changes noted which might address this. However, the report also notes that some of the areas identified "are perhaps more about resource issues, skills shortages or even operational difficulties". I think we have a responsibility to be very clear about where non-legislative action is likely to produce quicker improvements, at least as effectively and perhaps at less cost, and to take those opportunities. Equally, as the report itself notes at paragraph 111, and I know the Council acknowledged at its conference, there is work still to be done on identifying more precisely which of the changes suggested should be regarded as priorities. I think that more work needs to be done there before making decisions on how much and how best to legislate. I also understand that the Council feels that debates taking place in other parts of the UK about reform of heritage protection legislation are highly relevant to Scotland. In my view, there would be real merit in waiting to see what specific changes follow from the planned White Paper, expected very soon, and subsequent legislation, and the practical impact of these, before drawing too many conclusions from that process.

The choice between Options 2 and 3 in your report is a difficult judgement. Choosing the all-out review is likely to make short-to-medium-term, targeted change to the current system very difficult, as people and institutions are unlikely to commit to the work necessary to change a system that will inevitably be seen as having a short life. On the other hand, there are strong arguments in your paper and elsewhere that targeted incremental change is what is needed more urgently to improve a system that, whatever flaws it might have, provides strong and effective protection for our historic environment.



As a first step in taking this forward, I will therefore look to my officials to use this report as the basis for discussion with stakeholders over the coming months, through organisations such as CoSLA and BEFS, to seek their reaction to the issues raised in the commentary on the existing system contained in the report at paragraphs 42 to 108, with a particular view to teasing out further the administrative and resource issues from the legal ones, identifying where the evidence most clearly makes a case for specifically legal change and where the case for any change is strongest. I know that officials have already had useful discussions with you about gaining access to key pieces of evidence which have informed HEACS' conclusions and I would expect them to continue their engagement with HEACS on this. I would expect that work to be undertaken to a timetable which will enable officials to include some further consideration of the issues raised in the report as part of incoming Ministers' briefing after the forthcoming election.

I realise that this response may fall short of what the Council might have wished, but I would want to reassure that I am keen that we use the next 6 months or so as an opportunity to submit the thoughtful analysis the Council has provided to careful scrutiny, in partnership with stakeholders.



**PATRICIA FERGUSON**



## ROLE OF LOCAL GOVERNMENT

### Overall

We welcome the two key principles in the report – the need for better information of what is currently happening in local government and the importance of building capacity in local government. However, as the report itself recognises, any action here needs to take realistic account of the availability of resources: it will be difficult to consider any resource issues until we have better information about current levels and patterns of investment and a number of the recommendations here will need to be revisited as part of the SR2007 process.

### Detailed recommendations

#### Improvements to the historic environment sector

1. Introduce a statutory duty of care for the historic environment for local authorities and other public bodies and agencies.

*Noted. This is an interesting proposal which would be expected to have resource and other practical implications for a wide range of bodies. These would need to be properly considered before Ministers could reach a view and as a first step we expect it to be considered as part of the short-term follow-up work on the legislation report.*

2. Commission an independent survey of current local authority policies, staffing and resource levels for the historic environment at the earliest opportunity.

*Agreed. Historic Scotland should take this forward from within its existing budgets, in time for SR2007 if resources allow.*

3. Reassess the balance of working between Historic Scotland and local authorities to separate those functions that should properly be delivered nationally and those that can and should be delivered at a local level as part of the wider initiative on community involvement and culture change within the planning system.

*Noted. We feel the balance is about right but are open to looking at aspects of the way work is divided, and as a first step expect it to be considered as part of the short-term follow-up work on the legislation report.*

4. Develop appropriate concordats with individual local authorities to facilitate this transfer of functions between Historic Scotland and local authorities (see recommendation 20).

*Not persuaded that it is realistic to resource 32 separate sets of negotiations, and this may sit uneasily with the proposal for shared services below. But we will explore with CoSLA and local government the scope for a “model” protocol which could apply at local level.*

5. Encourage the establishment of joint historic environment services for adjoining local authorities in areas not capable of supporting individual specialist staff.

*Agreed – this is consistent with our wider public service reform agenda. We will look to Historic Scotland to take this up with CoSLA.*

## Setting new standards of performance for local authorities

6. Establish a recommended set of key performance indicators for local authorities dealing with historic environment matters; and
7. Develop minimum national standards for a quality local authority historic environment service including professional standards, staffing and resources.

*We accept the case for a clearer framework of expectation of local authorities, but the details of this need to be discussed further with CoSLA, taking account of the Executive's overall commitment to streamlining reporting requirements on local government (and concerns at paragraph 33 of HEACS report of diversion of conservation officers' time at the moment into administrative tasks).*

8. Review the allocation of resources to and within Historic Scotland to allow it to expand its involvement and build capacity with the local authorities and the voluntary sector.

*We accept that HS could play a critical role in helping build capacity in local government – this is an issue to be considered as part of SR2007.*

9. Reconvene the Local Authority Historic Environment Forum and empower it to deliver an agenda of service delivery improvements.

*Agree to a further meeting of this group, which was convened by Historic Scotland in 2005, on the basis that it was regarded as a useful forum for professionals within authorities. However, would look for authorities to ensure senior-level attendance.*

10. Develop and facilitate a skills training programme and provide financial support for professional historic environment staff linked to national occupational standards; and

11. Explore specific grant mechanisms to fund specialist posts within local authorities on the SNH model to support the development of a quality historic environment service.

*Noted. These recommendations would have potentially significant resource implications and should await outcome of survey, and be considered as part of SR2007. Any proposal to introduce new specific grant mechanisms would need to be balanced against the Executive's commitment under the Public Sector Reform agenda to reduce the number of bespoke funding streams.*

12. Promote the principle of staff exchange between local authorities and Historic Scotland.

*Agree the principle of finding ways to promote dialogue and understanding of roles, but not this specific mechanism. It will not be practical in many cases, particularly given mainly singleton posts in local authorities and the different skills mix needed. We note that if there were to be a greater move to shared services, this might become a more practical option.*

13. Build into Historic Scotland's next Corporate Plan specific performance measurements in relation to developing working relationships with local authorities.

*We are not convinced that this is easily susceptible to performance measurement. The Agency is committed to undertaking regular surveys of all its stakeholders.*

## Improving Scottish Executive internal communication

14. Provide clear guidance on the significance of the historic environment to broader Scottish Executive policies on economic development, regeneration and social inclusion; and
15. Promote a broader understanding within Scottish Executive departments of the benefits of and impact on the historic environment in respect of their own departmental interests and encourage the allocation of appropriate resources.

*Agreed – the Scottish Historic Environment Policy series, particularly SHEP 1, should provide such this guidance, but we will also look to Historic Scotland to pursue this through a process of continuing engagement with all relevant SE departments.*

16. Provide continued support for the further development of a linked historic environment data base involving local authorities and Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS) for use across government.

*Noted as a matter mainly for RCAHMS and local authorities. We expect Historic Scotland to continue to work with RCAHMS and local authorities to ensure availability of information.*

17. Continue to develop Scottish Historic Environment Policy papers (SHEPs) through partnership working with the historic environment sector.

*Agreed.*

## Community planning and the historic environment

18. Develop a set of qualitative and quantitative performance indicators for including the historic environment in community planning.

*Noted as an area which would benefit from clarification. We expect Historic Scotland to discuss with those responsible for Community Planning how best to strengthen the profile of the historic environment within that process, while also noting that HEACS itself highlights the risk of the community planning process becoming overburdened.*

19. Establish the recommended concordat with CoSLA to promote an enhanced quality historic environment service.

*Noted as an issue to explore further with CoSLA.*

20. As part of recommendation 4 above, develop appropriate concordats between Historic Scotland and individual local authorities to provide advice and assistance on matters relating to the historic environment either directly or through local authority staff.

*See recommendation 4 above.*

21. Explore with CoSLA the establishment of a Scottish version of the Historic Environment Local Management (HELM) initiative that already exists in England, including the promotion of local authority champions of the historic environment.

*Accept the value of exploring this, but implementation will be subject to the availability of resources after SR2007.*



## CRITERIA FOR TAKING PROPERTIES INTO CARE

### Overall

We welcome this report and find most of its recommendations helpful in moving the discussion forward. The report will provide valuable background to the development of future policies. There are already plans to produce a SHEP on acquisition policy: we will take these recommendations into account in the drafting of that document and consider their full implications in more detail there.

### Detailed recommendations

A number of specific points merit comment at this stage.

- While the conclusions and recommendations are broadly acceptable, they come without any consideration of resources. Entering into a major review of the estate, or developing a revolving rescue policy would be likely to carry significant costs.
- The proposal to have a “rescue policy”. We already support the rescue of buildings through grant schemes – however, in these cases we are part-funders rather than project owners. Taking the lead role in a rescue package for which there was no identified future owner would be both more resource-intensive and likely to carry much higher risks. It would not be right to rule out ever taking that approach: acquiring with the express aim of repair and disposal has been done in the past very occasionally. But we think such cases should be exceptional and that the right role for government is more often supporting and facilitating rescue activity by others. We will look to Historic Scotland to examine whether there is a stronger role it could play in relation to finding solutions for buildings at risk, but are not attracted to a policy which would imply that Ministers regularly step in through Historic Scotland as the main backer and promoter of such schemes.
- The proposal to develop a list of potential candidates for state care. We accept that as part of the Historic Environment Audit there ought to be a rolling assessment of the types of buildings and sites which appeared to be at particular risk, and that that assessment should inform consideration of potential acquisitions, but a key issue will always be whether a particular property or site can be satisfactorily preserved by an owner other than the state.
- The concept of properties in care being designated as a “national collection”. Although links with the National Galleries and Museums can sometimes be useful Historic Scotland has more naturally allied itself with the heritage sector, where we have forged more valuable links with HHA, NTS and SNH. Although one of our key partners, RCAHMS, is becoming part of the “national collections” we are not clear what practical difference HEACS believes this will make to Historic Scotland and the estate of properties.

## SKILLS AND MATERIALS

### Overall

We welcome the thoughtful analysis in this report. As with the other reports, action on the recommendations will need to take realistic account of the availability of resources and a number of the suggestions will need to be revisited as part of the SR2007 process. Others raise practical issues which will require more time to consider.

### Detailed recommendations

#### Traditional materials

1. Scottish Ministers must give a commitment to bring about new sources of supply of Scottish slate as a matter of urgency.

*Agreed – we already expect Historic Scotland to be actively engaged in finding a way forward for this issue. Historic Scotland Research on slate testing at Khartoun and Foudland is now 90% complete and links with industry are being made. This issue requires quantification of future demand for which the SSLG, in conjunction with CHT's is well placed to develop. The NHTG Skills and materials audit due in December will identify other key areas.*

2. Scottish Ministers should issue guidance recommending that, until there is a new supply of appropriate Scottish slate, second-hand Scottish slates should be reserved for the repair and maintenance of historic buildings.

*Noted as a suggestion for further investigation. A central planning guidance needs to be subject to a credible supply being enabled (see above). Legal issues will require investigation.*

3. The development of the Scottish stone quarrying industry, particularly dressed stone, should be taken forward as a priority.

*Qualified agreement. The supply of dimensioned stone is only one product from the quarrying sector and cost effective development/re-opening of quarries can only happen if all the extracted quarry products are utilised, as was the case with traditional building techniques/structures. There is a need to educate that "snatch" quarrying for building stone does not have the larger scale impacts that aggregate quarrying might. There is also the need to investigate if aggregate quarries can supply building quality stone.*

4. Historic Scotland be invited to form a study group to investigate the extent to which Scottish vernacular building materials can continue to contribute to regional diversity and a sustainable future.

*Agreed. Historic Scotland has successfully chaired the "Scottish Traditional Buildings Liaison Group" for a number of years. In the past this led to a publication on the Conversion of Traditional Farm Buildings. This Liaison Group could be re-invigorated with new resources and terms of reference to reflect HEACS guidance relating to sustainability, local supply and regional character.*

## Skills and professional issues

5. Skills and materials audits similar to the Glasgow Project should be carried out in different areas, to provide comparative information.

*Agreed. Historic Scotland is seeking to publish the Glasgow Project methodology in conjunction with SSLG. Similar projects could be set up by the SSLG, resources permitting, using a regional footprint with the CHT's. This would give comparative information in support of the NHTG Report recommendations following the Scottish craft skills audit.*

6. CITB-ConstructionSkills should examine ways in which the approach taken by the Scottish Lime Centre Trust could be developed to provide high-quality apprenticeship training without becoming an economic drain on small businesses.

*Agreed. The SLCT pilot project has the potential of replication in a number of craft areas. The new masonry qualification being led by Historic Scotland will provide an additional route to training for operatives. This would be part enabled by the HLF Bursary scheme. New approaches to training for the traditional sector need to be developed but will require resources. The processes could be delivered through the existing TCRC/CITB Sector Skills Agreement.*

7. Historic Scotland should strengthen the conditions of grant-aid so that the use of accredited building craft workers becomes a requirement. Initially this might be by way of 'conservation endorsements' to the Construction Skills Certification Scheme (CSCS) but, should a National Certificate in Traditional Building and Conservation Skills be developed, then this could become the accepted benchmark.

*Accept the principle but not the detailed proposal. While grant conditions could be strengthened in this way, specialist standards need to be set as benchmarks. The new masonry qualification being developed by Historic Scotland, training providers, SQA and industry will provide the datum for this. There is strong industry support for grant giving bodies and procurement conditions to set such a requirement as condition of grant and a procurement requirement and this could be built upon. Edinburgh City Council are working with Historic Scotland on this at present. This will give the Agency a powerful lever to force training. CSCS is a potential mechanism to record the achieved training.*

8. CITB-ConstructionSkills and the Scottish Qualifications Authority should be asked to consider the creation of a National Certificate in Traditional Building and Building Conservation Skills.

*Agreed that there should be a National Certificate. Building on the experience we have gained in training design and associated issues, resources permitting, this issue can be addressed through the Historic Scotland-chaired Scottish Conservation Forum in Training and Education. Discussions on this will involve training providers and other parties to consider the training need; this would require a resourced Working Group to be set up within SCFTE.*

9. Historic Scotland should invite those involved in running training centres in traditional and building conservation skills to come together to consider how an integrated national network of training providers might be achieved. As a first step, Historic Scotland should consider amalgamating its currently dispersed commitment to training support.

*Noted. We will look first of all to Historic Scotland to consider how building craft training interests in the Agency could be more integrated, to add value.*

10. Professional bodies should participate in the continuing development of accreditation schemes and encourage members to become accredited.

*Agreed. This recommendation is presently being actioned via the Historic Scotland-chaired pan-professional Edinburgh and York Groups, where accreditation through the range of professional body schemes is being integrated in a consistent manner. This is supported by Historic Scotland helping with the development of CPD material for the professional bodies.*

11. Government departments and local authorities should set an example by using accredited practitioners on historic building projects.

*Agreed. At present Historic Scotland Grant Conditions require that lead members of the project team need to be accredited. It is accepted that the management of the accreditation schemes and the policing of such schemes is the responsibility of the professional bodies, but we will look to Historic Scotland to promote the benefits of accreditation to other potentially relevant parties involved in procurement and grant giving.*

12. Historic Scotland practitioners should be accredited.

*Noted as an issue for further consideration by Historic Scotland, taking account of the specific circumstances within which the agency operates.*

13. Scottish Ministers should maintain their commitment to conservation internship and fellowship programmes.

*Agreed. The existing programmes have been re-invigorated and, resources permitting, have potential for further development.*

14. Opportunities should be made wherever possible to provide training opportunities as part of conservation projects, particularly on Historic Scotland-funded projects or on projects promoted by the NTS.

*Agreed. We will look to Historic Scotland to consider how, where grant monies are awarded, a training requirement that ideally covers a variety of disciplines and craft skills could be specified in the grant conditions. The placement of Interns and Fellows has proved to be an effective capacity building tool, as recently illustrated by the Mansfield Place project. Historic Scotland are currently developing training links with the NTS through the HLF Bursary scheme, and they are partners in developing the new masonry qualification with the standard setting bodies.*

#### Demand for traditional materials and craft skills

15. Local authorities should be encouraged to explore the scope for playing an enhanced role in increasing awareness and appreciation amongst owners and managers of the need for sympathetic repair and maintenance.

*Agreed. We will look to Historic Scotland to continue to build upon existing outreach initiatives activities, targeting building owners via local authorities. Resources permitting the provision of educational material should be further developed to increase awareness of*



*conservation and maintenance processes. We look to Historic Scotland to continue with the Homeowners seminars, increase the range of the "INFORM" series and, resources permitting, develop additional research in related technical matters. Supporting materials would be distributed via the CHT's, THI's and others.*

16. Historic Scotland should partner local authorities in providing repair and maintenance grants for listed buildings and unlisted properties within conservation areas.

*Noted. Existing grant schemes already allow for partnership working with local government. The scope for extension of these is an issue for further consideration in SR2007.*

17. The major stakeholders should be brought together with a view to formulating a national strategy for maintenance.

*Noted for further consideration. This issue would need to have a wide involvement across government and beyond and may make most sense to pursue in the light of the Historic Environment Audit currently underway.*

18. A commitment to maintenance should become a condition of Historic Scotland grant-aided projects.

*Noted as an issue for further consideration.*

19. An investigation should be made to determine the benefits of a National Historic Environment Maintenance and Repairs Loan Fund and how it might be operated.

*Noted as an issue for further consideration as part of SR2007.*

20. Scottish Ministers should join with their counterparts in the home countries in calling for a government review of the impact of VAT on the repair and maintenance of historic buildings.

*We recognise that this is a significant issue and will continue to pursue this with UK counterparts.*

