

## **Forestry in Scotland**

**A statement on how the Scottish Government  
will manage and administer its forestry  
responsibilities**

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## INTRODUCTION

This statement sets out how the Scottish Government will manage and administer its forestry responsibilities when the powers and duties held by the Forestry Commissioners, in so far as they relate to Scotland, are transferred to the Scottish Ministers and forestry becomes fully accountable to Scottish Ministers and the Scottish Parliament. It refers to the new legal framework being put in place through the Forestry and Land Management (Scotland) Bill and, later, by Scotland Act Orders and secondary legislation; and provides further detail on the administrative arrangements which are being put in place.

The statement addresses specific points, raised so far during the Scottish Parliament's consideration of the Forestry and Land Management (Scotland) Bill, about the administrative arrangements to support forestry and woodlands in Scotland that are being put in place for April 2019. It includes further detail on the important rationale underpinning those arrangements.

A handwritten signature in black ink, reading 'Fergus Ewing'. The signature is fluid and cursive, with the first name 'Fergus' and the surname 'Ewing' clearly distinguishable.

**FERGUS EWING MSP**

Cabinet Secretary for the Rural Economy and Connectivity

5 February 2018

# FORESTRY IN SCOTLAND STATEMENT

## Completing the devolution of forestry

Forestry is important to Scotland. It is a vibrant and important sector in our economy and one that we want to expand. It also delivers a broad range of environmental outcomes, in particular climate change mitigation, and supports and enriches the health and wellbeing of those who live in and visit Scotland.

Our ambition is to lead the sustainable growth of forestry and to increase its already substantial economic, social and environmental contribution to Scotland. Completing the devolution of public forestry functions will help support this ambition.

There is a broad consensus that completing the devolution of forestry is appropriate. Effective democratic accountability and scrutiny of those responsible for delivering public forestry functions in Scotland is important and will be significantly enhanced by the changes being made through the Forestry and Land Management (Scotland) Bill and the associated Scotland Act Orders and secondary legislation.

When the devolution of forestry is completed, there will be a new legal framework replacing the Forestry Act 1967. Forestry in Scotland will be directly accountable to Scottish Ministers and to the Scottish Parliament.

These are historic changes. Yet there will also be substantial and important continuity, building and relying on the skills, professionalism, commitment and expertise of the civil servants currently working in Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES), who will transfer to the Scottish Government in April 2019. There will also be enhanced and strengthened cross-border collaboration with the Welsh and UK Governments as well as with the Forestry Commission, which will continue to manage forestry in England.

We will set out our ambition for forestry and how we will deliver it in the Scottish Forestry Strategy, which is required by the Forestry and Land Management (Scotland) Bill and which will be in place by April 2019. The preparation of the new Strategy will involve close engagement with a broad range of stakeholders (including the forestry industry, rural communities, environmental interests and many others) over the coming year and is an important element of the forestry devolution programme.<sup>1</sup>

## Future arrangements: overview

The future organisational arrangements are an essential element in helping to deliver our ambition for forestry. Once in place, forestry decisions will be taken at the heart of government. There will be enhanced opportunities for policy cohesion and collaboration: within the Environment & Forestry Directorate, forestry policy experts will work alongside the policy experts who deal with biodiversity, flood management, access, land management and deer management. Those with forestry expertise (which encompasses a broad range of skills and experience) will also be able to make a meaningful and vital contribution to integrated policy on various other

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<sup>1</sup> Further information on the forestry devolution programme is provided in the supplementary information section below.

matters, including the rural economy, climate change, recreation, tourism, community empowerment, renewable energy and biomass heating, housing and the landscape.

Under the arrangements, there will also be a focus on innovation and continuous improvement, building on the positive reputation of staff currently in FCS and FES and their track record of adapting and responding to new challenges and opportunities.

The organisational arrangements were announced in May 2017. FCS's regulatory, policy, support and grant-giving functions will transfer to a dedicated forestry division called Scottish Forestry within Scottish Government; management of the Scottish Ministers' National Forest Estate for multiple outcomes will transfer from FES, an agency of the Forestry Commissioners, to Forestry and Land Scotland, an agency of the Scottish Government.

FCS and FES currently are separate parts of the Forestry Commission, each with its own Accountable Officer and operating, in practice, as part of the Scottish Government's Directorate of Environment & Forestry. The Head of FCS and the Chief Executive of FES are financially accountable to Scottish Ministers and report to the Scottish Government's Director, Environment & Forestry but formal line management sits with the Forestry Commissioners.

The Rural Economy and Connectivity Committee heard evidence that this dual accountability and reporting is awkward and unclear and some stakeholders have commented that the current arrangements are unnecessarily convoluted.

The future organisational arrangements will bring improved and simplified governance. The Head of Scottish Forestry and the Chief Executive of Forestry and Land Scotland will report to, and be line managed by, the Scottish Government's Director, Environment & Forestry.

A diagram and table setting out the comparison between current and future organisational arrangements are included as part of the supplementary information to this statement. They demonstrate that future arrangements will bring clearer accountability and will retain the current distinction between the functions carried out by FCS and by FES. They also show that there is little practical change between current and future arrangements. Forestry decisions will continue to be made by forestry experts; the broad range of social and environmental work currently undertaken by FCS and FES, including supporting health and wellbeing, biodiversity and deer management, will continue.

### **Future arrangements: rationale**

As set out in the policy memorandum accompanying the Forestry and Land Management (Scotland) Bill, the option for a single agency, combining the currently separate functions delivered by FCS and FES, was considered carefully but discounted.<sup>2</sup> Establishing such an agency would diminish forestry in Scotland.

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<sup>2</sup>[http://www.parliament.scot/Forestry%20and%20Land%20Management%20\(Scotland\)%20Bill/SPBill11PMS052017.pdf](http://www.parliament.scot/Forestry%20and%20Land%20Management%20(Scotland)%20Bill/SPBill11PMS052017.pdf), p.13.

FCS and FES currently are both part of the Forestry Commission but there is no governance or accountability relationship between them. FCS functions are being kept together, as now, and will be delivered by a dedicated forestry division in the Scottish Government. FES functions are being kept together, as now, and will continue to be delivered by an agency, Forestry and Land Scotland.

A single agency would dilute the focus on forestry as, unlike the dedicated forestry division, it would need to cover FES's broader land management work as well as forestry. It would also have a serious impact on two of our policy objectives for completing the devolution of forestry, namely a stronger place for forestry in the heart of government and better policy cohesion. A single agency approach would also severely diminish the financial viability of our approach to forestry.

### ***Agency public corporation status***

The current Forestry Commission arrangements allow FES, as a separate agency, to be classified as a public corporation for the purposes of its accounts. The same arrangement applies to Forest Enterprise England, which manages the Public Forest Estate in England. This classification is vital for an organisation that relies heavily on trading timber for its income and which needs to be able to build reserves and have flexibility across financial years.<sup>3</sup>

The classification depends on the majority of FES's annual income being derived from commercial markets; it could not be retained if we included FCS functions (which are wholly funded by government) in the same agency, since that would dilute the agency's balance of income from trading.

The financial flexibility is essential for effective management of the National Forest Estate and has allowed FES to carry over a significant amount of money in previous years, as shown in the table below.

<b>Financial Year</b>	<b>Carry Over (£M)</b>
2016-17	31.5
2015-16	19.7
2014-15	7.5
2013-14	15.5
2012-13	2.2

Table: FES carry-over at financial year-end over the last five years

The impact of losing that flexibility on the agency's ability to manage the dynamic of commercial activity would be very significant. For example, utilisation of reserves allows the agency to:

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<sup>3</sup> Other examples of public corporations in Scotland, which have a similar reliance on trading activity, include Crown Estate Scotland (Interim Management) and Scottish Water.

- manage work programmes such as restocking and new planting that span the financial year-end and which can be disrupted by adverse weather conditions, such as a winter deep freeze in February;
- cope with any delays in concluding land deals around the end of the financial year that might result in significant amounts of spend or income being pushed into the next financial year; and
- build up a trading surplus when markets are strong, to ensure financial sustainability during periods of reduced income.

The loss of the financial flexibilities provided through public corporation status would have significant and profound consequences for forestry in Scotland, affecting our ambition in relation to planting and sectoral growth (including jobs and investment) and our ability to continue to support important economic, environmental and social outcomes. There is a risk that the loss of public corporation status arising from the creation of a single agency would have the very impact that those seeking such an agency are trying to avoid.

In summary, for all of these reasons, the loss of public corporation status for the agency, which would result from the unification of the currently separate functions of FES and FCS into a single agency, would mean a major reduction in financial resources to forestry in Scotland. The loss could run to tens of millions of pounds per annum, which would impact on the Scottish Government's overall funding for forestry and almost certainly prevent the achievement of our planting targets, which are so important for the future supply of timber and to contribute to climate change mitigation.

Accordingly, this is not a risk that could or should be countenanced, neither is it a risk that could be mitigated or eliminated.

### ***Separation of regulator and regulated***

It is also important to keep a clear administrative separation between regulatory functions and those being regulated. The Forestry and Land Management (Scotland) Bill binds the Crown. Felling and restocking on the public forest estate will be regulated under Part 4 of the Bill, as will the private forestry sector. The regulatory regime will be operated by Scottish Forestry. For reasons of propriety and transparency it is important that Scottish Forestry, as the regulator, is administratively separate from Forestry and Land Scotland, which will be regulated in its role as a forest manager. This would be less transparent if both parts were in one agency (which would have a sole Accountable Officer), with 'Chinese walls' between them.

## **Structures and legislation**

As the powers and responsibilities of forestry in Scotland are being vested in the name of the Scottish Ministers, and both the division and the agency come under the legal identity of the Scottish Ministers, it would not be appropriate to identify on the face of the Forestry and Land Management (Scotland) Bill these (or any other) constituent parts of the Scottish Government as being responsible for Scottish Ministers' forestry functions. In law, the Scottish Ministers will exercise the functions – the duties and responsibilities in respect of forestry – as set out in the Bill. In addition, the Civil Service is a reserved matter, which means that the Scottish Parliament cannot legislate on matters relating to the Civil Service, including its management, in Scotland.

Fundamentally, it is a legitimate decision for Scottish Ministers to determine the administrative arrangements they deem necessary to discharge their statutory and other duties - and it is for the Parliament to hold Ministers to account.

## **Changes to arrangements**

The Forestry Commissioners have had responsibility for the management of forestry for nearly one hundred years. The transfer of those forestry powers and duties in Scotland to Scottish Ministers, while not affecting day-to-day operations, does represent a significant change to a longstanding governance arrangement. While we do not envisage any further change to organisational arrangements being made either in the short or medium term, it is important for the Scottish Parliament to have an opportunity to scrutinise, consider and add its view to any such further changes in the future. We undertake to notify the Scottish Parliament in the event that any significant changes are made to the organisational arrangements set out in this statement.

## **Transfer of staff**

The transfer of staff from FCS and FES to the Scottish Government in April 2019 is being managed under the Cabinet Office Statement of Practice - Staff Transfers in the Public Sector (known as 'COSoP') and is the subject of discussion and negotiation with the Forestry Commission Trade Unions. Any changes to terms and conditions would be subject to negotiation with the relevant trade unions. Scottish Ministers have given a commitment that there will be no compulsory redundancies in FCS and FES as a result of completing the devolution of forestry.

From 1 April 2019, staff will be removed from UK Government Public Sector Pay Policy and will be brought under the remit of Scottish Ministers' Public Sector Pay Policy.

## **Scottish Forestry division**

The dedicated forestry division in the Scottish Government will be given a strong identity as 'Scottish Forestry'. This recognises the importance of the division being clearly identifiable, both within government and to stakeholders and the public, as the team responsible for delivering Scottish Ministers' forestry policy, regulatory, support and grant functions, which they will be doing with Ministers' full authority. This will also provide staff in the division with a clear 'forestry' identity as a key part



of the Directorate of Environment & Forestry. Decisions on the branding of Scottish Forestry, under the overall branding of the Scottish Government, are yet to be made as part of the forestry devolution programme.

Scottish Forestry will be one of the largest divisions in the Scottish Government, certainly the largest in the Directorate of Environment & Forestry. It will continue to have an Edinburgh-based main office (currently in Silvan House) for its centrally-managed functions. We will be retaining five regional offices as an important source of local knowledge, local decision-making and a connection with local communities, stakeholders and forests. Those regional offices will continue to be known as 'conservancies' and the senior manager of each office will continue to have the title of 'conservator'.

### **Chief Forester**

The head of Scottish Forestry will be designated as Chief Forester. It is intended that the Chief Forester will act as the Scottish Government's 'head of profession' for forestry, with responsibility for ensuring the development and maintenance of professional standards amongst staff employed as foresters in Scottish Forestry and in Forestry and Land Scotland.

It is anticipated that the Chief Forester will work closely with the Institute of Chartered Foresters and other stakeholders on professional standards.

### **Forestry and Land Scotland agency**

The functions delivered by FES will continue to be delivered by an agency. It will no longer be an agency of the Forestry Commissioners but will become an agency of the Scottish Government - Forestry and Land Scotland. The Chief Executive will continue to be responsible for day-to-day operational requirements.

FES has a strong record of practical delivery and partnership working across a broad range of skills and jobs, including foresters, land agents, civil and mechanical engineers, recreation specialists and wildlife managers. Forestry and Land Scotland will preserve and build on that approach. The land management provisions of the Forestry and Land Management (Scotland) Bill also provide the potential for the expertise within the agency to be used, by agreement, to manage forested and non-forested land owned by other people.

Details of the governance of Forestry and Land Scotland, including the setting up of a Strategic Board and the involvement of non-executive directors, is provided in the supplementary information following on from this statement. Like FES, Forestry and Land Scotland's head office will remain in Inverness, with hubs for central / support functions being maintained in Edinburgh and Dumfries. In addition, Forestry and Land Scotland will maintain the existing network of ten principal area offices and associated local satellite offices.

### **Skills and expertise**

The Scottish Government strongly values the ethos and spirit of the Forestry Commission and the commitment and professionalism of its people, and we recognise that, for many, their work in public forestry has a strong element of

vocation. These strengths will transfer with the staff when they move to Scottish Forestry and Forestry and Land Scotland. We are confident that the future arrangements supporting forestry in Scotland will continue to attract technically skilled staff - especially in the context of forestry's growing contribution to our economic, social and environmental imperatives.

Staff in Scottish Forestry and in Forestry and Land Scotland will continue, as now, to work closely together and some of the local offices will continue to house staff from both the division and the agency. The opportunities for staff movement and shared training between the division and the agency - and with the private sector and other parts of the Scottish Government - will continue to be available and will be actively encouraged.

The professional development of staff will be treated as a priority and we undertake to ensure that there will be sustained investment in developing and enhancing training opportunities under the future arrangements. Improvements are already being made in this respect: as a result of the winding down of the Forestry Commission's GB-wide provision, a Scottish learning & development service is being established and is being configured specifically to meet the future training and development needs of the specialists within the agency and the division. A modern apprenticeship scheme has recently been launched to develop a new generation of foresters, including specific action to increase the proportion of female forestry professionals.<sup>4</sup> In addition, following the Scottish Government-commissioned Mackinnon report on improving the approvals process for woodland creation, a full review of the training needs of Woodland Officers has been carried out and training plans are being developed, drawing on input from the wider forestry profession as well as staff themselves.

These and other initiatives will continue to be supported in the future arrangements, including promoting and encouraging membership of professional bodies for technical staff, and developing a mentoring scheme to support staff working towards gaining professional status through the Institute of Chartered Foresters.

### **Branding of Scottish Forestry and Forestry and Land Scotland**

Rebranding of FCS and FES assets is required, as it would not be appropriate after the powers and duties of the Forestry Commissioners have been transferred to Scottish Ministers, for the "Forestry Commission" brand and identity to continue to be used. Although it will be important to signal that there has been a change in responsibility, the extent of assets (signage, etc.), particularly on the National Forest Estate, means that a proportionate and common-sense approach will be taken to changing the brand and identity over a period of time. For example, full re-branding of vehicles and equipment will only be undertaken when those items are replaced. Letterheads will be changed from day one and we will take the opportunity of ensuring that any branding used by Scottish Forestry and Forestry and Land Scotland avoids the current confusion caused by branding all FCS and FES assets as 'FCS'.

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<sup>4</sup> <http://scotland.forestry.gov.uk/news/1905-modern-apprentice-opportunity-for-budding-foresters>

## National and local engagement

Good national and local engagement with stakeholders is one of the strengths of the existing arrangements on which we will build. Advisory groups which currently provide input to policy and delivery matters at regional and national level include the Industry Leadership Group; the Scottish Tree Health Advisory Group; Regional Forestry Forums; and Regional Timber Transport Groups.

The use of stakeholder groups to provide input on specific issues will continue to be a key feature of how forestry work is undertaken. Relevant projects within the forestry devolution programme are developing options about how stakeholder input at national and regional level should best be achieved under the future arrangements and details will be announced in due course.

A particular focus of the Forestry Strategy project will be the important role for a broad range of stakeholders, including rural communities, the forestry industry and environmental interests, in supporting the development of the new Scottish Forestry Strategy to be in place by April 2019.

Forestry and Land Scotland will establish a new Stakeholder Panel, which will support the agency's Strategic Board and will be representative of the economic, environmental and social aspects of forestry and land management.<sup>5</sup>

## National Committee for Scotland

The Forestry Commissioners delegate the normal exercise of their powers and duties in connection with Scotland to the National Committee for Scotland (under section 2(3) of the Forestry Act 1967), which includes the relevant Forestry Commissioners, certain designated FCS and FES staff and up to three non-executive members. As this delegation will no longer be required once the Forestry Commissioners cease to be responsible for the management and regulation of forestry in Scotland, the National Committee for Scotland's role will come to an end on the completion of devolution.

## Cross-border collaboration

Strong and effective cross-border arrangements on important matters such as plant health, science and research, and common codes, will be in place. As announced on 7 November 2017, the Scottish Government will take the lead, on behalf of Scotland, England and Wales, for co-ordinating:

- the UK Forestry Standard - the UK's agreed definition of sustainable forest management;
- the Woodland Carbon Code - a standard for private investment in the carbon benefits of afforestation; and
- economic advice on forestry.

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<sup>5</sup> Further details about the Stakeholder Panel are included in the Governance and accountability supplementary information below.

The UK Government will take the lead for co-ordinating international forestry policy support and the plant health functions primarily linked to trade (such as inspections at ports and airports); the Welsh Government will take the lead for commissioning, co-ordination and programme management of forestry research. The Forest Research agency will remain intact as an agency of the Forestry Commissioners.

There will be new financial and governance arrangements for the arrangements, underpinned by a Memorandum of Understanding, the contents of which will be agreed by the Scottish, Welsh and UK Governments and the Forestry Commissioners.

The Memorandum of Understanding will be agreed, and delivery arrangements in place, by April 2019. Ministers are committed to maintaining continuity of delivery as the transition to the new arrangements is made: to aid transition, interim arrangements may be put in place within the Forestry Commission before April 2019 where practicable.

As part of the work to draft the Memorandum, the host country for each function is preparing a schedule, to be agreed by the other two countries, which sets out the proposed method of delivery for those functions in the future. Scotland's contribution to this work and the arrangements for delivering the cross-border functions for which Scotland will be responsible (including maintenance of relevant skills and expertise) are being taken forward as part of the forestry devolution programme.

Further details of the Memorandum of Understanding will be announced in due course and stakeholders will be kept informed about how the new arrangements will operate in practice.<sup>6</sup>

## Conclusion

This statement outlines how the Scottish Government will manage and administer Scottish Ministers' forestry responsibilities on the completion of the devolution of forestry and within the context of our ambition for forestry. It explains the rationale for a dedicated forestry division and agency and sets out our intention to build on the skills and expertise of Forestry Commission staff when they transfer from FCS and FES to Scottish Forestry and Forestry and Land Scotland, respectively. The new legal framework and administrative arrangements being put in place will support forestry in Scotland for years ahead and will give forestry its rightful place at the heart of government.

As the forestry devolution programme has work to complete over the coming year, there are some aspects of the arrangements that need to be discussed and finalised. More details will be available in due course and we would be happy to provide further information on progress to the Scottish Parliament in the run up to April 2019. In the meantime, the following sections provide supplementary information on the forestry devolution programme and on some aspects of the future organisational arrangements.

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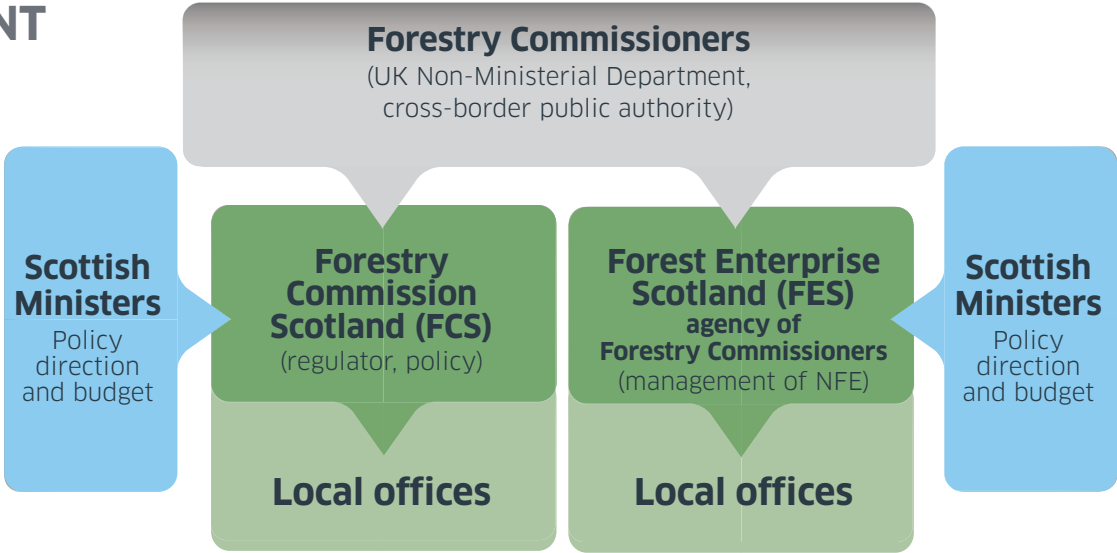
<sup>6</sup> Further information about the new arrangements for cross-border collaboration is provided in the supplementary information section below.

## **Forestry in Scotland**

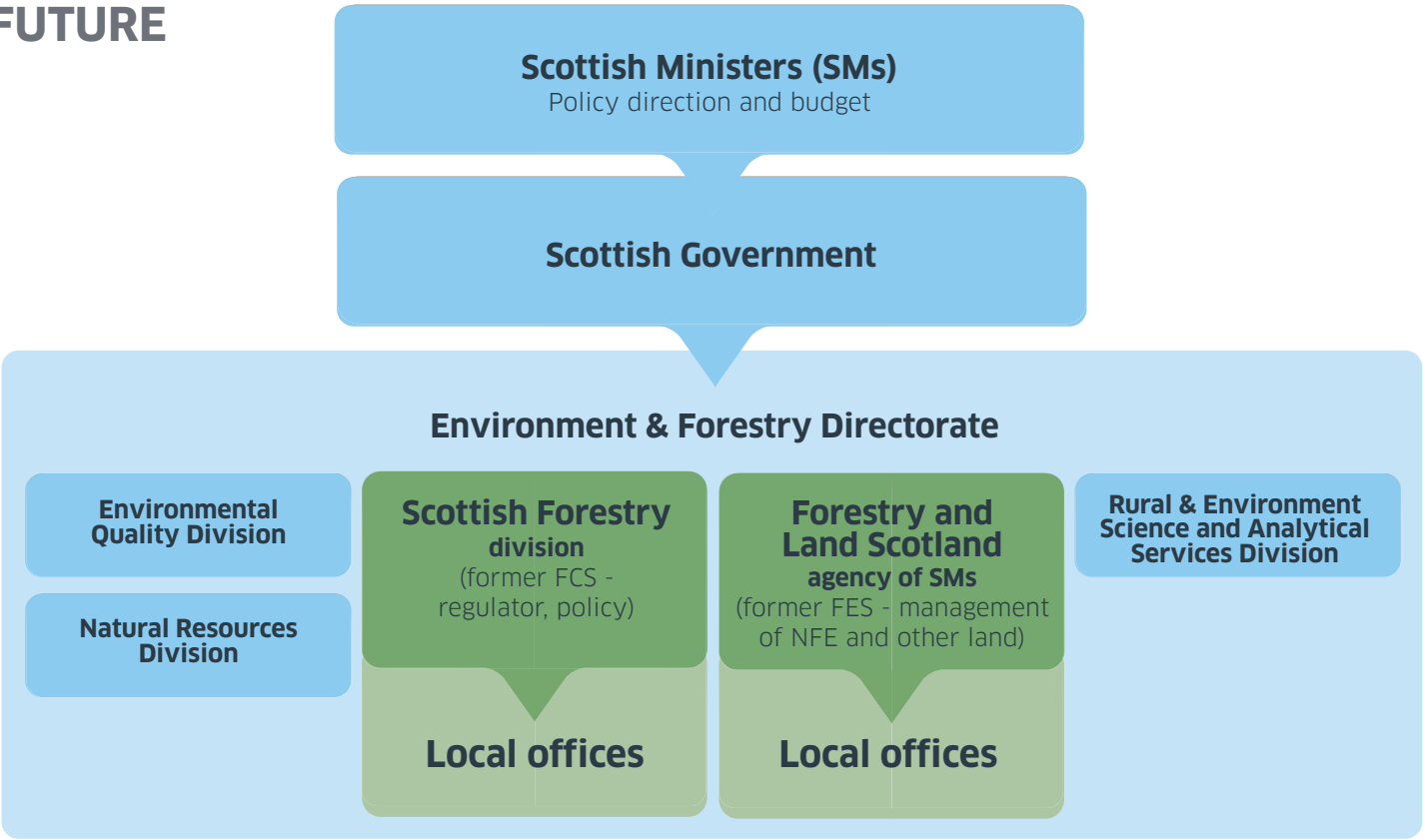
### **Supplementary Information**

# CURRENT AND FUTURE ARRANGEMENTS IN SCOTLAND: DIAGRAM

## CURRENT



## FUTURE



# CURRENT AND FUTURE ARRANGEMENTS IN SCOTLAND: COMPARISON

## Current arrangements

## Future arrangements announced May 2017

RESPONSIBILITY	<b>Confusing and complex</b> responsibilities: <ul style="list-style-type: none"> <li>Scottish Ministers set forestry policy and strategy and own National Forest Estate</li> <li>Forestry Commissioners (a Defra Non-Ministerial Department and a cross-border public authority) responsible for management of Scottish Minister's National Forest Estate and forestry regulation and support</li> </ul>	<b>Clear and straightforward</b> responsibilities: <ul style="list-style-type: none"> <li>Scottish Ministers responsible for all aspects of forestry policy, strategy, regulation and management of National Forest Estate</li> <li>Forestry Commissioners cease to be a cross-border public authority and no longer have responsibility for regulation and management of forestry in Scotland</li> </ul>
MANAGEMENT	<b>Confused line management:</b> <ul style="list-style-type: none"> <li>Head of Forestry Commission Scotland (FCS) and CEO of Forest Enterprise Scotland (FES) report to Scottish Government's Director, Environment &amp; Forestry, but</li> <li>formal line management is with Forestry Commissioners (via Chair of National Committee for Scotland)</li> </ul>	<b>Clear line management:</b> <ul style="list-style-type: none"> <li>Head of division (Scottish Forestry - SF) and CEO of the agency (Forestry and Land Scotland - FLS) report to, and are line managed by, Scottish Government's Director, Environment &amp; Forestry</li> </ul>
ACCOUNTABILITY	<b>Two distinct parts of Forestry Commission</b> , each: <ul style="list-style-type: none"> <li>With separate financial accountabilities – FES CEO and Head of FCS appointed as Accountable Officers by Scottish Government's Principal Accountable Officer, and publishes separate accounts</li> <li>Is financially accountable to Scottish Ministers and Scottish Parliament</li> </ul>	<b>Two distinct parts of Scottish Government</b> , each: <ul style="list-style-type: none"> <li>With separate financial accountabilities - FLS CEO will be an Accountable Officer appointed by Scottish Government's Principal Accountable Officer; head of SF will have equivalent financial accountability (for budget holders within core Scottish Government)</li> <li><b>Continues to be</b> financially accountable to Scottish Ministers and Scottish Parliament</li> </ul>
FUNDING	<b>Government funding</b> provided via Scottish Budget.	<b>Government funding continues</b> to be provided via the Scottish Budget.
REGULATOR	<b>Forestry Commission Scotland (FCS)</b> , part of the Forestry Commission: <ul style="list-style-type: none"> <li>Is responsible for regulatory, policy, support and grant functions</li> <li>Operates, in practice, as a division of Scottish Government's Environment &amp; Forestry Directorate</li> </ul>	<b>Scottish Forestry</b> , dedicated forestry division in Scottish Government. <ul style="list-style-type: none"> <li>Staff <b>continue to be</b> responsible for regulatory, policy, support and grant functions</li> <li>Largest division within the Directorate</li> </ul> <b>Improved policy cohesion and collaboration</b> with other parts of Scottish Government; <b>enhanced contribution</b> of forestry to range of relevant policy areas.
FORESTRY & LAND MANAGER	Agency of Forestry Commissioners, <b>Forest Enterprise Scotland (FES)</b> : <ul style="list-style-type: none"> <li>Manages the national forest estate for forestry and other purposes (including renewables, recreation, etc.)</li> <li>Operates on a commercial basis</li> <li>Relies on financial flexibilities to generate reserves with end-year carry over, stemming from public corporation status which hinges on majority of income being derived from trading</li> </ul>	Agency of Scottish Government, <b>Forestry and Land Scotland (FLS)</b> , <b>continues to</b> : <ul style="list-style-type: none"> <li>Manage the national forest estate for forestry and other purposes, including renewables, recreation, etc. (with greater freedom under the new legislation to take on wider land management role)</li> <li>Operate on a commercial basis</li> <li>Rely on financial flexibilities to generate reserves with end-year carry over, stemming from public corporation status which hinges on majority of income being derived from trading</li> </ul>
BRANDING	<b>FC branding:</b> Confusing and misleading. No differentiation between FCS and FES as distinct parts of FC with different functions, responsibilities, stakeholder relationships, etc.	<b>Distinct identities for SF and FLS</b> will provide clarity. <b>Rebranding</b> of FC assets over time is necessary as Forestry Commissioners are not responsible for managing forestry in Scotland.

## Current staffing and skills

FCS and FES staff are **civil servants**:

- Can be members of Civil Service pension schemes
- UK Government Public Sector Pay Policy applies

**Staff movement** encouraged between FCS and FES as part of Forestry Commission.

**Specialist roles**, including forestry, land managers, engineers, etc. and continuing professional development.

**Local office networks**, with some co-location of FCS and FES offices – important source of regional knowledge and community engagement.

## Future staffing and skills

SF and FLS staff **remain civil servants** when transferred to Scottish Government:

- **continued** access to Civil Service pension schemes
- Scottish Ministers' Public Sector Pay Policy applies

Additional commitment to **no compulsory redundancies** as a result of transferring staff as a result of completing the devolution of forestry.

Under Cabinet Office Statement of Practice for Staff Transfers in the Public Sector (COSoP), any change to terms and conditions will be negotiated with Trades Unions.

**Staff movement continues** to be encouraged between SF and FLS (and other parts of Scottish Government).

**Specialist roles continue**, including forestry, land managers, engineers, etc. (many specialist roles in Scottish Government) and sustained investment in continuing professional development.

There will be a **Chief Forester**.

**Maintain local office networks**, with continued opportunity for co-location – continued source of regional knowledge and community engagement.



## **GOVERNANCE AND ACCOUNTABILITY**

### **Current arrangements**

The current arrangements have been described as confusing and convoluted.

FCS and FES are two distinct parts of the Forestry Commission. FCS is wholly funded, and FES is partly funded, by the Scottish Government and Scottish Ministers set forestry strategy, policy and funding. The Head of FCS and the Chief Executive of FES respectively are designated as Accountable Officers by the Scottish Government's Principal Accountable Officer, under section 15 of the Public Finance and Accountability (Scotland) Act 2000 (appointment letters can be found at the end of this note). They are financially accountable to Scottish Ministers and the Scottish Parliament and both lay separate accounts before the Scottish Parliament. As Forestry Commission staff they have responsibilities to their employer, indeed the Head of FCS is also the Executive Forestry Commissioner for Scotland.

FCS operates as a division of the Scottish Government's Environment & Forestry Directorate and both the Head of FCS and the Chief Executive of FES report on a day-to-day basis to the Scottish Government's Director, Environment & Forestry. Formal line management, however, sits with the Forestry Commissioners and it is the UK Government's public sector pay policy which applies to FCS and FES staff.

The Forestry Commissioners is a UK Government Non Ministerial Department and, since 1998, it has been designated as a cross-border public authority. The Forestry Commissioners is not a Scottish public body and is not subject to Scottish Government policies and practices (e.g. the Scottish public sector equality duties) or to Scottish Parliament legislation such as the Freedom of Information (Scotland) Act 2002.

The Forestry Commissioners delegate the normal exercise of their powers and duties in Scotland to the National Committee for Scotland, which is chaired by a non-executive Forestry Commissioner and whose members include a further non-executive Commissioner, the Executive Commissioner for Scotland (Head of FCS), the Chief Executive of Forest Enterprise Scotland and up to three non-executives.

### **Future arrangements**

The outcome of completing the devolution of forestry and introducing the organisational arrangements announced in May 2017 will be significantly improved and simplified governance, and clearer accountability to Scottish Ministers and to the Scottish Parliament. The head of Scottish Forestry and the Chief Executive of Forestry and Land Scotland will report to, and be line managed by, the Scottish Government's Director, Environment & Forestry.

Public sector funding for Scottish Forestry and Forestry and Land Scotland will continue to be provided through the Scottish Government, with spending levels on forestry visible and scrutinised through the Scottish Government Budget process.

## ***Forestry and Land Scotland (FLS)***

The governance arrangements for Forestry and Land Scotland, as a Scottish Government agency, will be in accordance with established arrangements for such Scottish Government bodies and will ensure the direct, clear and unambiguous accountability of the Chief Executive. The Chief Executive will continue to be designated as an Accountable Officer by the Permanent Secretary, the Principal Accountable Officer for the Scottish Government, and will lay accounts before the Scottish Parliament.

FLS will have a Strategic Board and, as is required for all Scottish Government agencies, it will include non-executive directors with the business skills sets needed to support the governance of the agency. Agencies are also required to have an Audit & Risk Committee of at least three non-executive members.

It is proposed that new Regional Managers, recently announced by the Chief Executive of FES as part of internal FES reorganisation, will be part of an Operational Board of FLS that sits under a Strategic Board. This will form a strong link between national policy and local delivery.

A Stakeholder Panel is also proposed, which will provide a structured and consensual basis to engage with and seek advice and feedback from stakeholders and customers, and secure their insights into both strategic and operational decision making in the agency. The Panel will consist of representatives of the economic, environmental and social aspects of sustainable forestry and land management. The group will advise the FLS Chief Executive and Strategic Board on:

- Achieving a balance of economic, social and environmental aspects of delivery in accordance with the direction set by Scottish Ministers.
- Increasing the Estate's contribution to economic and rural development in accordance with Scottish Government priorities in its forestry and other land use related strategies.
- Increasing the profile of delivery of public benefits from the Estate, and engaging stakeholders in the agency's work.

A Corporate Plan will be developed for FLS and will involve a full public consultation. This will be accompanied by a Framework Document for FLS (similar to the current FES document<sup>7</sup>) which will define key roles and responsibilities and delegated authority to FLS that will underpin the new relationship between FLS and the Scottish Government, including with Scottish Forestry. The Framework Document will be based on an established model framework document for Scottish Government agencies.

## ***Scottish Forestry***

The governance and management of Scottish Forestry, similarly, will be in accordance with established arrangements for divisions within the Scottish Government. The head of Scottish Forestry, as a Deputy Director within the core

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<sup>7</sup> <http://scotland.forestry.gov.uk/images/corporate/pdf/FE-Framework-Document-2017.pdf>

Scottish Government, will have the equivalent financial accountability for budget holders within the core Scottish Government. This includes delegated financial authority and an annual process of providing a Certificate of Assurance to support the Principal Accountable Officer's annual report to the Scottish Parliament on the Scottish Administration budget.<sup>8</sup> Overall assurance on governance and risk within the core Scottish Government is provided by the Scottish Government's Assurance and Audit Committee.

The financial results of Scottish Forestry will be included in the Scottish Government's annual report and accounts and will be subject to the accompanying controls and governance.

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<sup>8</sup> The Scottish Public Finance Manual sets out accountability arrangements, including the annual certificate of assurance process (<http://www.gov.scot/Topics/Government/Finance/spfm/assurancececs>).

Permanent Secretary  
Leslie Evans

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Jo O'Hara  
Head of Forestry Commission Scotland  
Silvan House  
231 Corstorphine Road  
Edinburgh  
EH12 7AT



14 July 2015

Dear Jo

### **ACCOUNTABLE OFFICER FOR FORESTRY COMMISSION SCOTLAND**

As Principal Accountable Officer for the Scottish Administration, I hereby designate you, under section 15 of the Public Finance and Accountability (Scotland) Act 2000, as the Accountable Officer for Forestry Commission Scotland. The detailed responsibilities associated with your designation are set out in the [Memorandum to Accountable Officers for other public bodies](#), published in the Scottish Public Finance Manual as Annex 2 to the section on Accountability.

As Accountable Officer, you are personally answerable to the Scottish Parliament for the propriety and regularity of the public finances under your control and for the economical, efficient and effective use of associated resources. You are also responsible for signing the accounts of Forestry Commission Scotland and, in doing so, accept personal responsibility for their proper presentation as described in the relevant Account Direction issued by Scottish Ministers.

As Accountable Officer you may be called to give evidence before the Public Audit Committee of the Scottish Parliament. You will be expected to answer questions arising from the accounts of Forestry Commission Scotland or, more commonly, from reports made to the Parliament by the Auditor General for Scotland on examinations into the economy, efficiency and effectiveness with which Forestry Commission Scotland has used its resources in discharging its functions.

I am copying this minute to the Auditor General for Scotland and the Clerk to the Public Audit Committee of the Scottish Parliament.

**LESLIE EVANS**  
Permanent Secretary



Permanent Secretary  
Leslie Evans

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Simon Hodge FICFor  
Chief Executive  
Forest Enterprise Scotland  
1 Highlander Way  
Inverness Business Park  
Inverness  
IV2 7GB



14 July 2015

Dear Simon

#### ACCOUNTABLE OFFICER FOR FOREST ENTERPRISE SCOTLAND

As Principal Accountable Officer for the Scottish Administration, I hereby designate you, under section 15 of the Public Finance and Accountability (Scotland) Act 2000, as the Accountable Officer for Forest Enterprise Scotland. The detailed responsibilities associated with your designation are set out in the [Memorandum to Accountable Officers for other public bodies](#), published in the Scottish Public Finance Manual as Annex 2 to the section on Accountability.

As Accountable Officer you are personally answerable to the Scottish Parliament for the propriety and regularity of the public finances under your control and for the economical, efficient and effective use of associated resources. You are also responsible for signing the accounts of Forest Enterprise Scotland and in doing so accept personal responsibility for their proper presentation as described in the relevant Account Direction issued by Scottish Ministers.

As Accountable Officer you may be called to give evidence before the Public Audit Committee of the Scottish Parliament. You will be expected to answer questions arising from the accounts of Forest Enterprise Scotland or, more commonly, from reports made to the Parliament by the Auditor General for Scotland on examinations into the economy, efficiency and effectiveness with which Forest Enterprise Scotland has used its resources in discharging its functions.

I am copying this minute to the Auditor General for Scotland and the Clerk to the Public Audit Committee of the Scottish Parliament.

**LESLIE EVANS**  
Permanent Secretary

## CROSS-BORDER COLLABORATION

The Scottish Government recognises that close co-operation with our neighbours on a number of aspects of forestry is essential. This is particularly the case for dealing with tree pests and diseases and investing in forestry research across Great Britain.

The process of completing the devolution of forestry has provided an opportunity to review and strengthen the existing arrangements operating between Scotland, England and Wales, including in relation to their accountability and funding. As announced on 7 November 2017, an agreement reached with the UK and Welsh Governments and the Forestry Commissioners will ensure that relevant cross-border functions needed by Scotland, England and Wales and, in some cases Northern Ireland, will continue to operate on a cross-border basis in the future.

Key features of the agreement are:

- Shared responsibility for the new arrangements, with one Government co-ordinating delivery of each function on behalf of Scotland, England and Wales.
- The Forest Research agency will remain intact as an agency of the Forestry Commissioners, ensuring that expertise in forestry science, statistics and inventory is maintained. There will be new governance, commissioning and funding arrangements for the agency agreed between the UK Government, the Forestry Commissioners and the devolved administrations. Countries remain able to provide additional funding to Forest Research for dedicated research or other services to meet their individual needs.
- The Scottish Government will take the lead for co-ordinating the UK Forestry Standard, the Woodland Carbon Code, and for economic advice on forestry.
- The Welsh Government will take the lead for commissioning, co-ordination and programme management of forestry research, including the Science and Innovation Strategy for Forestry in Great Britain (most of which is delivered by Forest Research).
- The UK Government will take the lead for co-ordinating international forestry policy support and the plant health functions primarily linked to trade (such as inspections at ports and airports).
- An equitable division of the existing core funding currently held by Defra on behalf of Scotland, England and Wales and a commitment that each country will contribute its share of the budget to the costs of running the new arrangements, to ensure continuity of funding.
- Agreement to review the operation of the cross-border arrangements at appropriate intervals.

## FORESTRY DEVOLUTION PROGRAMME

A forestry devolution programme has been established to manage all activity required to complete the devolution of forestry in Scotland; ensuring appropriate continuity and a smooth transfer of staff to the Scottish Government, as well as enabling change and improvement in the delivery of forestry functions in Scotland.

The programme builds on an internal Forestry Commission change project, which is already in the process of splitting up the corporate services (e.g. HR, Finance and IT) previously provided centrally on a shared services basis to FCS, FES and their English counterparts.

The programme is being managed in accordance with the Managing Successful Programmes methodology, which represents best practice in successfully delivering transformational change and is drawn from experiences of both the public and private sector. The sponsor Director for the programme is the Director, Environment & Forestry and the Senior Responsible Owner is the Deputy Director, Natural Resources Division.

Informal discussions with the Forestry Commission Trade Unions are underway about establishing a Partnership Forum and arrangements for negotiating matters relating to the transfer (under COSoP) of staff from FCS and FES to the Scottish Government.

The aims of the programme are:

- To replace the Forestry Act 1967 (in Scotland) with a modern approach to the development, support and regulation of forestry.
  - To ensure that we have in place effective cross-border arrangements where those suit Scottish needs.
  - To introduce new organisational arrangements so that the management of forestry in Scotland is fully accountable to the Scottish Ministers and to the Scottish Parliament – a ‘Scottish Forestry’ division in the Environment & Forestry Directorate; and a Scottish Government agency, ‘Forestry and Land Scotland’.
- The programme has six projects, to be completed by April 2019:
    - **Legislation project.** Complete passage of the Forestry and Land Management (Scotland) Bill and secondary legislation in the Scottish Parliament and of consequential Scotland Act Orders at Westminster.
    - **New agency project.** Establish Forestry and Land Scotland as an agency of the Scottish Government, from FES.
    - **New division project.** Establish Scottish Forestry as a division in the Scottish Government’s Environment & Forestry Directorate, from FCS.

- **Cross-border project.** Establish the cross-border functions (economics, UK Forestry Standard and Woodland Carbon Code) that Scotland will have lead responsibility for delivering as part of the new agreement between Scottish, Welsh and UK Governments. Confirm Scotland's requirements for the cross-border functions being delivered by the UK and Wales.
- **Staff transfer project.** Transfer FCS and FES staff to the Scottish Government under the Cabinet Office Statement of Practice (COSO P).
- **Forestry Strategy project.** Prepare a new Scottish Forestry Strategy.