**Nourish Scotland Consultation Response:**

**Land Rights and Responsibilities Statement (March 2017)**

Nourish Scotland is a food justice civil society organisation advocating for a fairer, healthier and more sustainable food system.

**Overview**

In principle Nourish Scotland supports the concept of a Land Rights and Responsibilities Statement. We see it as a powerful tool to focus and frame the direction of travel in the governance of land ownership, management and use. It is clear from the elaboration of the vision and principles where the Statement is situated and how it aligns with the wider policy framework. We commend the Scottish Government for underpinning the Statement with a clear process for regular review – particularly the requirement for consultation in s2 of the Land Reform (Scotland) Act 2016.

We would however like to see the draft statement further refined and bolstered.

We believe more needs to be done to embed a **human rights based approach**, including explicit reference to human rights instruments, explicit reference to specific rights, and reference to the interrelated and interdependent nature of rights.

In the **vision**, we welcome explicit reference to economic, social and cultural rights, but are greatly concerned by the dropped reference to environmental sustainability and the absence of reference to climate justice.

In the **principles**, we would like to see the adoption of stronger modal verbs to more clearly direct the principles in to action. More specifically, we are concerned that throughout the Statement and the elaboration of principles there is a worrying lack of recognition of land as precondition to food production, as well as to the equity, sustainability, and resilience of Scotland’s food system. We suggest the relationship between land and food is embedded across the principles and the elaboration. We also recommend defining ‘a more diverse pattern of land ownership and tenure’, adopting a more purposive participatory model than community engagement, and including an explicit reference to accountability structures.

We more generally agree that the **structure** of the Statement – of a strategic vision followed by actionable principles within which clear policy can be formulated, is a sound approach. We would however like to see greater reference to what policy needs to be developed, as well as the inclusion of some clear targets and mechanisms for monitoring and accountability. It currently unclear what status the elaboration of principles has – if this is not part of the actionable Statement this brings in to question whether the short text of the Statement alone is enough to clearly position within the wider policy framework.

**Q2: A human rights based approach**

Nourish Scotland agrees with the Scottish Government’s proposition to take a human rights based approach in the Land Rights and Responsibilities Statement, but we do not feel this has yet been achieved.

To give fuller consideration to a human rights we feel it is essential that relevant human rights instruments, principles and standards are referenced explicitly in the text of the Statement. Notably, the European Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. The interrelated and interdependent nature of rights should be made explicit.

We acknowledge that there are many human rights instruments that intersect with land governance, however we feel that it is possible to adopt language which notes that the instruments referenced are not an exhaustive list, for example:

‘It is the intention of the Land Rights and Responsibilities Statement to promote and progress on international human rights obligations, including but not limited to the Convention Rights (within the meaning of the Human Rights Act 1998) and the International Covenant on Economic, Social and Cultural Rights, as well as internationally accepted principles and standard, including but not limited to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.’

We further note that it would be helpful to explicitly reference some of the specific rights in the text of the Statement, notably the right to an adequate standard of living – paying particular attention to the obligations contained within the right to food and the right to housing, the right to health, the right to work, and the right to own property.

**Q3: Vision**

Nourish Scotland is foremost concerned at the dropping of reference to environmental sustainability. We recognise that the text has changed significantly from previous iterations;

from: *‘promotes fairness, and social justice, environmental sustainability, and economic prosperity’,*

to: ‘*should deliver greater public benefits and promote economic, social and cultural rights’*.

We support the explicit reference of economic, social and cultural rights and are familiar with the application of these rights directly and indirectly engaging environmental and climate justice issues. However, we are concerned that without explicit reference in the vision to delivering environmental sustainability and mitigating and adapting to climate change that these crucial priorities may not be given the same weight as economic and social considerations in the application of the Statement.

We urge the Government to reinstate in the vision an explicit reference to promoting environmental sustainability, and to add explicit reference to promoting climate justice.

**Q4 – Q9: Principles**

All six principles are framed around what ‘should’ happen, Nourish Scotland feel that this is an optimistic but indistinct start. Saying something ‘should’ happen neither inspires or compels, and in the context of the principles being the route map for the achievement of the vision we feel this approach is unnecessarily cautious. We would prefer the use of stronger modal verbs – replacing ‘should’ with either ‘will’ or ‘must’ would instantly strengthen and direct the principles in to clearer action.

There is a worrying absence in acknowledgment of land as a precondition to food production, as well as to the equity, sustainability, and resilience of Scotland’s food system throughout the Statement.

More specifically there is no reference in the principles to the relationship between land ownership, management and use to:

the **financial and geographical accessibility** of food,

the promotion of **health and culture** through food,

**employment** through production, processing, distribution and marketing of food, and the **environmental sustainability** of Scotland’s food system.

Likewise, there is only one reference in the elaboration of the principles to the Good Food Nation policy, and this focuses only on promoting the ‘sustainable economic growth of the food and drink industry’ in Principle 4. There is some reference to rural economy in Principle 2, but no reference to urban food production other than to allotments in Principle 3 which overlooks the contribution of city farms and community gardens.

We suggest the relationship between food and land is embedded across the principles and elaboration. In addition, we would like to see:

A clearer definition of what a more diverse pattern of land ownership and tenure would look like, with particular attention paid to overcoming the barriers that young people, women, black and minority ethnic people, disabled people, and people with limited financial means face in Principle 2.

A shift of focus from community engagement to more purposive participatory models in Principle 6, including deliberation and co-production.

An explicit reference to the accountability structures in the body of the principles – noting the duty on Ministers to review the statement, and that consideration of the Statement is within the power of the Land Commission.

**Q11: Further Comments: Structure**

The structure of the Statement – of a strategic vision followed by actionable principles within which clear policy can be formulated, is a sound approach. However, it is unclear at present whether the elaboration of the vision and each of the principles, along with examples of current policy on pages 20-27 of the consultation should be read as part of the Statement or separate but parallel to the Statement as explanatory notes.

We further add that there is very limited reference to future policy in the elaboration. This is an important opportunity to clearly outline what policy needs to be developed, and what success will look like between the present and next Statement, including clear targets and mechanisms for monitoring and accountability. This has been adopted in the elaboration of some principles, for example in Principle 5 on information includes reference to registering the ownership of all Scotland’s land within 10 years, with all public land to be registered within 5 years. This approach should be rolled out across the principles.

Finally, we would expect that the Statement should have a positive impact both on equalities and environment, but as above this is dependent on the clear prioritisation of these areas through explicit inclusion in the operational text, as well as targets and mechanisms for monitoring and accountability.

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