

Scottish Government Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments



CONTENTS

MINISTERIAL FOREWORD	3	STRUCTURE OF INVESTMENT	26
EXECUTIVE SUMMARY	4	Commercially	26
OVERVIEW	9	Negotiating the commercial terms of the Shared Ownership investment	26
Rationale	9	Commercial models	27
Key Principles	10	Changing ownership of the project	28
Role and responsibilities	11		
Community	11	SUPPORT AVAILABLE	30
Renewables Industry	11	Scottish Enterprise deliver the Energy Investment Fund (EIF)	31
Local Authorities	12	Highlands and Islands Enterprise (HIE)	31
Additional Points to consider	12	Local Energy Scotland website	31
Key investment risks	13		
Extending shared ownership to a wider geographic area	13	GLOSSARY	33
Community capacity	13		
		ANNEX	35
SHARED OWNERSHIP JOURNEY	16		
Context	16		
Example of a Shared Ownership Journey	16		
Roles and Responsibilities	17		
Timing of the Investment offer	20		
PLANNING SYSTEM	22		
National Planning Policy	22		
What does this mean for communities?	23		
What does this mean for renewables industry?	23		
What does this mean for planning authorities?	38		

MINISTERIAL FOREWORD



Scotland's wealth of natural resources and commitment to a sustainable low carbon future present a significant opportunity for achieving our social, economic, and industrial growth ambitions.

2018 proved yet another record year for Scotland with renewable electricity generation in Scotland up 6.1% on 2017, with renewable sources capable of meeting 74.6% of Scotland's demand. The equivalent of powering all households in Scotland for more than 2.5 years. We want to ensure that Scotland's long and positive association with renewable energy continues to go from strength to strength.

Key to this is our people, and the communities in which we all live. Empowering communities to engage in the decisions affecting their future, making their voices heard is a priority for the Scottish Government, and we are committed to ensuring that they fully participate in, and benefit from Scotland's low carbon transition. Shared ownership of onshore renewable energy developments can play an important role in helping us achieve this aim. That is why we have set our ambition for at least half of newly consented schemes to have an element of shared ownership by 2020. We continue to facilitate and support community involvement in renewable energy through our Community and Renewable Energy Scheme (CARES) and Energy Investment Fund (EIF) programmes, and have set targets of 1 GW of community and locally owned energy by 2020 and 2 GW by 2030.

Shared ownership can help promote stronger relationships between local communities and the renewables sector, and deliver lasting economic and social benefits to communities across Scotland. It continues to be our view that successful renewable energy projects will be those which treat communities as active and positive partners, and we expect to see engagement for all scales of development above microgeneration.

There will also be scope in the future for community involvement in the repowering of existing renewable energy developments. The potential to repower sites provides an opportunity for Scotland to continue to work towards our renewable energy targets through maximising site availability and enhancing cost competitiveness. We would encourage renewable energy businesses to consider shared ownership opportunities in any early repowering plans.

I am grateful for the way in which Scotland's renewables industry is working with us to embed shared ownership as one of the key offers made by a renewable energy business developing a project in Scotland. It is important also that early discussions between the renewable energy business and the community are conducted in a positive manner, and that all sides are aware of their role and responsibilities. The Good Practice Principles provide a good starting point in helping to understand what's involved

Ultimately, the final decision on whether to accept any offer rests with the community, and the Good Practice Principles provide details on the key factors to consider, and where to assess additional information and support to help inform that decision.

This document supersedes the 2015 document and is intended to function as a valuable tool for renewable energy businesses, communities, local authorities, and other stakeholders involved in the development of renewable energy.

I would like to take this opportunity to thank the Steering Group who helped govern the Good Practice Principles Review process, and all those who input their views and experiences through workshops, and our public consultation during the winter of 2018/19.



Paul Wheelhouse MSP

Minister for Energy, Connectivity
and the Islands

EXECUTIVE SUMMARY

Context

Community – People who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. A community can be a neighbourhood, town, workplace, gathering place, public space, or any other geographically specific place that a number of people share, have in common, or visit frequently.

The Scottish Government want to see a Scotland in which everyone can play a full part in society, with empowered communities able to shape their individual and collective futures. We are committed to supporting our communities to do things for themselves, and to make their voices heard in the planning and delivery of services. Achieving our ambitions relies on stronger relationships between organisations, people and communities, drawing on our values in order to promote trust, collaboration and partnership.

As we transition to a low carbon future, the renewables industry will play a key role in helping the Scottish Government achieve our high-level ambitions. That is why we want to see a significant increase in shared ownership opportunities being made available across all renewable energy projects in Scotland, helping to deliver lasting economic and social benefits to host communities across the country.

Shared ownership - any structure which involves a community group as **a financial partner** over the lifetime of a renewable energy project.

To support our ambition in 2015, the Scottish Government published the *Good Practice Principles for Shared Ownership of Onshore Renewable Energy Developments*.

The aim was to provide guidance for the renewables industry, community members and groups, local authorities and other stakeholders involved in the development of renewable energy projects to deliver successful shared ownership schemes in Scotland.

The Scottish Government reiterated its commitment to shared ownership in our Energy Strategy and Onshore Wind Policy Statement published in December 2017.

“Our ambition remains to ensure that, by 2020, at least half of newly consented renewable energy projects will have an element of shared ownership.

Shared ownership will form a key part in helping to meet our targets of 1 GW of community and locally owned energy by 2020, and 2 GW by 2030. We expect community involvement in onshore wind development to continue to play a vital role in reaching these targets.”

We accept that the renewables industry is in a period of transition, following changes to the UK renewable support schemes in recent years. However we are encouraged by the support to date for shared ownership from both the renewables industry and communities, with a number of such projects successfully delivered, and many renewable energy businesses willing to consider an element of shared ownership for their renewable energy project.

¹ Progress toward these targets can be viewed in the Community and locally owned renewable energy in Scotland reports produced annually by the Energy Saving Trust on the Scottish Government's behalf: <https://www.energysavingtrust.org.uk/sites/default/files/Community%20and%20locally%20owned%20renewable%20energy%20report%202018.PDF>

While a shared ownership opportunity tends to be led by the renewables industry, a community can take the initiative, and invite renewable energy companies to participate with them. This can be of benefit to both parties.

However, there are risks associated with investing in a commercial venture and it is essential that a community takes its own professional commercial advice before making a decision.

Shared ownership opportunities tend to be offered to communities geographically adjacent to renewable developments, as per the practice adopted by the renewables industry, for identifying the geographical area to receive community benefits. This has resulted in strong partnerships and economic benefits and we would encourage all such activity to continue. However the renewable energy business or the community may wish to extend the opportunity to a wider geographic area and these options can be explored.

The Scottish Government made a commitment in the Onshore Wind Policy Statement published alongside the Scottish Energy Strategy in December 2017, to undertake a review of our suite of Good Practice Principles taking account of sector-wide developments over the last few years.

This document provides updated guidance on the process of a renewable energy business making an offer, and a community accepting that offer. It does not include guidance on creating a lasting legacy with the income. Guidance on developing a community action plan is included in the *Scottish Government's Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments* and we recommend that communities refer to Section 3 of this document for more information.

We encourage communities to develop an action plan at the earliest opportunity (ideally at the same time as considering shared ownership options) but, ultimately, that is a decision for a community to take.

The development of a community action plan is not a linear process; some communities may already have one in place, others may decide to wait until later in the process, or refresh an existing plan. What's important is that the community has ownership of the plan, identifies key priorities to maximise impact and has a process in place to update the plan on a regular basis. A plan should be viewed as a "live" document that can be adapted to meet the current and future priorities of the community.

More generally, we recommend that all parties make themselves familiar with the Good Practice Principles documents as each contains information that is relevant and transferable for both community benefits and shared ownership discussions.

Review Process

The aim of the review was to ensure that Scottish communities continue to benefit from local projects in a manner that is appropriate for the current and future context in which renewable energy projects are developed.

The document has been updated to reflect the information submitted in response to [Shared ownership of renewable energy developments – good practice principles: consultation](#), dedicated workshops held during the review process, and wider stakeholder engagement.

The Review process was overseen by a Steering Group, which included representatives from community groups, the renewables industry and public bodies, and chaired by the Scottish Government. Full membership is attached as an annex. It is the intention to amend the guidance on a regular basis to ensure it reflects changes to policy or other relevant issues.

Wind on remote islands

The UK Government's response to its Contract for Difference consultation refers explicitly to the Scottish Government Good Practice Principles:

Decisions on the details regarding how projects can deliver local benefits are best taken locally, but the (UK) government expects renewable energy business, and operators of remote island wind projects should seek to provide community benefits consistent with Scottish Government or other relevant guidance and Good Practice Principles. This includes providing an opportunity for communities or local people to invest in the project, with any offer additional to a community benefits fund. Community benefits are expected to last for the lifetime of a wind farm and it is our expectation that the operator, or subsequent owner if the project is sold on, will honour agreements with the local community.

The (UK) government also expects renewable energy business to register community benefits package on the relevant community benefits register (which for projects on the remote Scottish islands is on the Scottish Government's Register of Community Benefits), so that delivery can be monitored.

This example highlights wider recognition of the value associated with our approach and principles. We will monitor progress to ensure that the application of the above is consistent with the UK Government's intent.

Section Summaries

Overview

- Sets out the Scottish Government's ambition for shared ownership and how it fits within the overall Scottish Energy Strategy.
- Provides details on the rationale and key principles for engagement.
- Sets out roles and responsibilities for the renewables industry and communities.
- Sets out key investment risks.
- Provides details on extending shared ownership to a wider geographic area.
- Recognises that a community's capacity to take forward a shared ownership project will vary, and outlines that tailored support is available depending on a community's need.

Shared Ownership journey

- Identifies key milestones in a project's journey, including details of an example shared ownership journey".
- Identifies roles and responsibilities for industry and communities.
- Sets out key investment points.

Planning System

- National context.
- Decision making process.
- Implications for communities, renewables industry and planning authorities.

Structure of investment

- Outlines details of current commercial models but states there is no standard model.
- Provides details of the most current models offered by renewables industry.

Support available

- Provides details of the wide range of support and advice available from the Scottish Government's Community and Renewable Energy Scheme (CARES), which is delivered by Local Energy Scotland.
- Encourages communities and renewable energy businesses to make contact with Local Energy Scotland to find out how they might help.

Glossary

- Provides a meaning for the key terms used in the document.

A photograph of two large white wind turbines in a mountainous landscape. The turbines are the central focus, with their three blades extending outwards. The background shows rolling hills and a valley with a lake, under a blue sky with scattered white clouds. A green rounded rectangular overlay is positioned in the lower-left quadrant, containing the word 'OVERVIEW' in white capital letters.

OVERVIEW

OVERVIEW

This section sets out:

- Rationale
- Six key principles
- Role and responsibilities
- Key investment risks
- Extending shared ownership to a wider geographic area
- Community capacity

Rationale

The Scottish Government's Energy Strategy sets out a vision for a flourishing, competitive **local** and national energy sector, delivering secure affordable, clean energy for Scotland's households, communities and businesses.

Shared ownership projects support our ambition for increased levels of local ownership where all stakeholders stand to benefit from greater partnership working and other additional benefits, including creating a lasting legacy, building community capacity, and strengthening corporate social responsibility, as outlined in the diagram below.



Key Principles

The Scottish Government would like to see shared ownership projects being considered, explored, and offered as standard on all new renewable energy projects including, repowering and extensions to existing projects. We welcome the progress made since the Good Practice Principles were published in 2015.

The Scottish Government would encourage communities themselves to make a direct approach to a renewable energy business to discuss any potential for shared ownership opportunities.

Shared ownership projects are based on building successful working relationships, key to that is creating an environment of trust and respect from the start. Shared Ownership should support community development in the broader sense that is why we define Shared Ownership as “any structure involving a community group as a financial partner”,

not individuals (within the geographical area of the project) who are in a position to invest. There are likely to be differing views expressed as part of the process, as in all commercial negotiations, but if all parties agree high level principles of engagement then this can prevent misunderstandings and, help manage the expectations of all involved.

It is important for all sides to be aware that a shared ownership opportunity is not a proxy for community participation in the decision making process. Communities have the right to object to a development on basis of land use, but still participate in discussions about commercial arrangements to be pursued in the event that planning permission is granted.

In summary, the renewable energy businesses should make it clear to the **community that they can consider any shared ownership opportunity, and still take an independent view of the development in planning.**



We would encourage all parties to adopt the following six high level principles:



Roles and Responsibilities

At a quick glance, the roles and responsibilities of the community, renewable energy business and local authorities are as follows:

Community

- Engage constructively with renewable energy businesses.
- Recognise the complexity of energy projects.
- Appoint a lead organisation, which can be a community council or other representative group.
- Liaise with other communities who have started or completed a shared ownership project.

- Keep local people apprised.
- Utilise the support provided through Local Energy Scotland.
- Engage specialist, independent, professional commercial advice as required.
- Develop a community action plan (dependent on shared ownership model).
- Explore potential funding options, both Local Energy Scotland, and Scottish Enterprise can sign post as necessary.

Renewables Industry

- Establish geographical boundary(ies) and applicable community(ies).
- Recognise local level capacity.

- Engage in early discussion openly.
- Participate in effective local consultation.
- Appoint a single, key point of contact.
- Continue discussions post-consultation with community, as the project progresses through planning/consenting process.
- Provision of appropriate level of information at appropriate time to community as the project progresses through planning/consenting process.
- Utilise the support provided through Local Energy Scotland or other bodies, as necessary.
- Any offer of Shared Ownership should comply with Financial Conduct Authority (FCA) rules. There may be implications for renewable energy businesses in not ensuring this.
- After consent and ahead of financial close, more robust information on the opportunity should then be available within adequate timescale to enable the community to engage professional advisors, assess the investment offer and approach commercial funders.
- Investment offer to be agreed before financial close (to give comfort to community's funders that there is an offer on the table).

Local Authorities

- Local Authorities should look to support with identification of appropriate communities and relevant local contacts.
- It would be helpful to publicly provide a local authority contact name for renewable energy businesses to liaise with in the first instance.

Additional points to consider:

We encourage the renewables industry and communities to conduct their business in a friendly but professional manner, and would highlight in particular the following:

- The opportunity to set out the options for potential shared ownership should be raised as early as possible, likely to be the point at which the project is launched publicly.
- However, communities should be aware that much of the relevant detail is unlikely to be available pre-planning or consent. Discussions prior to this may therefore be relatively high-level.
- Each shared ownership project will be different and the renewable energy business should review likely timings and actions with the community.
- Ensure a note of public meetings is taken and circulate to those in attendance. Where possible, publish on a website in order that the wider community can access.

Alternatively a community may decide not to invest until the project is completed and has been constructed.

- However a community, on reviewing professional advice, may decide not to pursue the shared ownership option and should advise the renewable energy business of its decision.

There is no standard structure/model for shared ownership, it will vary by renewable energy business and community – and new models are also expected to develop in the future. See section 5 for more details.

Irrespective of the structure, the key issue for the renewable energy business and the community is to assess the offer on a commercial basis, and independent commercial advice should be taken before reaching a decision. Part of the decision making process will include:

- Evidence that return on investment will allow for project debt to be serviced but will also provide a future income stream for the community. Recognition that ownership comes with a level of risk, which can result in losses.
- Any surplus income will be used by the community to support its local economic and social projects as outlined in its community action plan.

As such, the level/structure of investment will be tailored, and can vary for each project. It should take into account a range of factors, such as:

- The costs involved with establishing the “arrangement”.
- The renewable energy business' own preference.
- The community's appetite for risk
- The community's capacity to support and deliver.
- The ability of the community to raise the necessary finance, and any terms associated with that finance (i.e. cost, security, diligence).

The above issues are explored further in this document.

Key investment risks

While the expectation is that an investment in a renewable energy project will provide a regular income for a community over the lifetime of the project, there are a number of investment risk factors which might result in losses or lower than expected profits. **It is essential that a community takes its own independent financial advice and any other relevant professional advice before making any decision to invest.**

Key investment risks can vary and factors may include:

- The return from the investment can go up as well as down which will have implications on the community's ability to service finance raised. In some cases it may be wholly or partially lost.
- There may be social or reputational risk for community organisations when communities have opposing views on the opportunity.
- The investment should not be regarded as a short term venture and the community must be prepared to take a long term view of their investment.
- Renewable energy generation projects can have significant construction risks including,

delayed operation and commissioning, and costs escalation during the construction period.

- Changes in economic conditions and legislation can adversely affect investment.
- The community will not have voting rights – therefore, will have no control over the direction or decision about the project.
- The project may be adversely impacted by unforeseen external events such as fire or floods.

Extending shared ownership to a wider geographic area

Shared ownership opportunities could be made available to communities geographically further than the immediate project area, particularly where a local community does not have the capacity to take up the offer or where there is strong appetite to co-invest from a wider area or other community interest group.

The scale of the project might also determine whether to widen out to a larger geographic area or, where the shared ownership package is limited in size, it would be good practice to give priority to the local community first.

The Scottish Government would encourage all options to be explored accepting that this may be different depending on the renewable energy business and should, therefore, not be seen as an obligation on the renewable industry to offer this.

Community capacity

Support is available through the Scottish Government's CARES programme, delivered by Local Energy Scotland, to discuss a potential shared ownership project at any stage of the process.

Developing a shared ownership proposal can take a considerable amount of time for both parties and it is important for a community to understand from the outset the level of commitment required to deliver a successful project.

A key issue for a community to consider is its capacity (skills and expertise) to support and manage the process. This will be different for each community – for example, some may have paid development staff, while others will be reliant solely on volunteers, community resource may be limited. In some instances, a community may be in receipt of multiple shared ownership opportunities, and giving each due consideration may prove challenging.

Irrespective of the number of opportunities potentially available or the level of capacity

within a community, Local Energy Scotland can assess a community's overall requirement and, in discussion with them, can outline what support will be available as well as signpost to other organisations who can help. Further information on the type of support available is at section 6.

Some renewable energy businesses may also offer support to the community at the early development stage. Communities should, therefore, seek to discuss with the renewable energy business what support they may offer to the process.

SHARED OWNERSHIP JOURNEY

SHARED OWNERSHIP JOURNEY

This section sets out:

- Example of a shared ownership journey
- Roles and responsibilities
- Timing of the investment

Context

This section aims to set out the key milestones, including roles and responsibilities for an “example of a shared ownership journey” as highlighted in the diagram below. Please note that each project will be different, the milestones and timings identified below are purely to give those involved a benchmark, and all parties should bear this in mind when reading the guidance.

Example of a Shared Ownership Journey

It is important that both communities and renewable energy businesses are able to understand key milestones in a project's journey, including when they will be required to make decisions.

The following key issues are worth highlighting:

- All parties should acknowledge the length of time it may take to conclude the process. Those provided are indicative and subject to variations from project to project.
- It may be some time before the community sees a financial return from any investment.
- Recognition from all parties that the complex nature of developing the project, may result in setbacks and delays.

4.3 Roles and Responsibilities

The main roles and responsibilities are summarised in the Executive Summary.

The following tables provide guidance on key project milestones: from the pre-planning stages of the development to the commissioning of the project (along with the roles and responsibilities of the renewable energy industry and community at each stage). As advised above this is only a guide.

Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Pre-planning application: Preparatory Community engagement</p>	<ul style="list-style-type: none"> ✓ Identify geographical boundary and applicable community, seeking support from local authorities where required. ✓ Present development proposal to community and potential shared ownership models, appoint a single, key point of contact to liaise with the community throughout the project duration. 	<ul style="list-style-type: none"> ✓ Establish a single community group with advice assistance from Local Energy Scotland. ✓ Consideration of widening the geographical area to include additional communities. ✓ Agree a willingness in principle amongst community members to pursue opportunity. ✓ Discuss shared ownership experiences with other communities who have been involved in process to gain a greater understanding of what shared ownership entails in practice. ✓ Identify a project team ready to engage with the renewable energy businesses post consent. Engage in discussions with the renewable energy business in an open and amicable manner.

Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Post-planning/ consent</p> <p>Seek independent professional advice</p>	<ul style="list-style-type: none"> ✓ Different models will suit different communities – use this time to explore options and determine a preference. ✓ Clearly convey the terms and conditions of the offer and any risks associated to the community. ✓ Must comply with all relevant Financial Conduct Authority (FCA) rules and regulations. ✓ Timescale, structure and financial proposal should be realistic and on a commercial basis. ✓ Timescales should be reasonable, while respecting commercial and/or regulatory restrictions and community groups should be given adequate time to consider and evaluate any potential offer (explored in Section 5). 	<ul style="list-style-type: none"> ✓ Open discussions with Local Energy Scotland to explore potential funding options through CARES and for signposting to other funders: <ul style="list-style-type: none"> ○ Scottish Enterprise (EIF) ○ Commercial lenders ○ Community shares. ✓ Seek professional, independent financial advice to determine whether the offer works on a commercial basis as well as advice to manage any liability risks. ✓ If the offer does not work on a commercial basis, end pursuit of the shared ownership agreement. ✓ Any commercially sensitive information given to communities by renewable energy businesses should be treated as such, and should not be publicised on any public platforms.

Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Pre-Financial Close:</p> <p>Source financial modelling</p> <p>Financial Agreements</p>	<ul style="list-style-type: none"> ✓ Seek professional advice to manage any liability risks. ✓ Agree investment offer with community ahead of financial close to enable them to give comfort to advise their funder/s. ✓ Facilitate engagement between their renewable funder/s, and community funder/s, so all parties can work closely during the diligence process to help maximise efficiency and minimise costs and ensure there is appropriate information flow. ✓ It is important to remember that opportunities are additional to community benefits provisions. (Community benefits should be provided in line with Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments.) It should be made clear if local communities can convert any existing or forthcoming community benefits payments into a carried equity stake where the recipient groups are also the proposed partner community group. 	<ul style="list-style-type: none"> ✓ Agree investment offer ahead of financial close and advise funder/s accordingly. ✓ Community can withdraw at any point from option to invest discussions up until investment is made.

Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Financial Close: Community Action Planning</p>	<ul style="list-style-type: none"> ✓ Financial agreements in place. ✓ Ensure all legal arrangements are in place. ✓ Establish way of working from financial close onwards that will facilitate flow of information to community and their funders on the project's progress. This will help the community to fulfil reporting obligations to funders. 	<ul style="list-style-type: none"> ✓ Financial agreements in place. ✓ Ensure all legal arrangements are in place. ✓ If a community action plan is not already in place, consider developing one over the longer term, to ensure income from the shared ownership proposal when it is available, can be spent accordingly: ✓ Establish a purpose statement, and identify resources required to achieve purpose. ✓ Seek professional support, if required (with assistance available through Local Energy Scotland). ✓ Consult with the wider community to establish the community's priorities. ✓ Analyse findings from the consultation, and produce the community action plan. ✓ Ensure that community has appropriate expertise, skills and capacity to fulfil funder's reporting requirements. ✓ Provide a point of contact to funders. ✓ Comply with covenants and obligations within finance agreements.

Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Commissioning: Investment Management (if applicable)</p>	<ul style="list-style-type: none"> ✓ Provision of regular information to community on project progress. 	<ul style="list-style-type: none"> ✓ Comply with covenants and obligations within finance agreements.

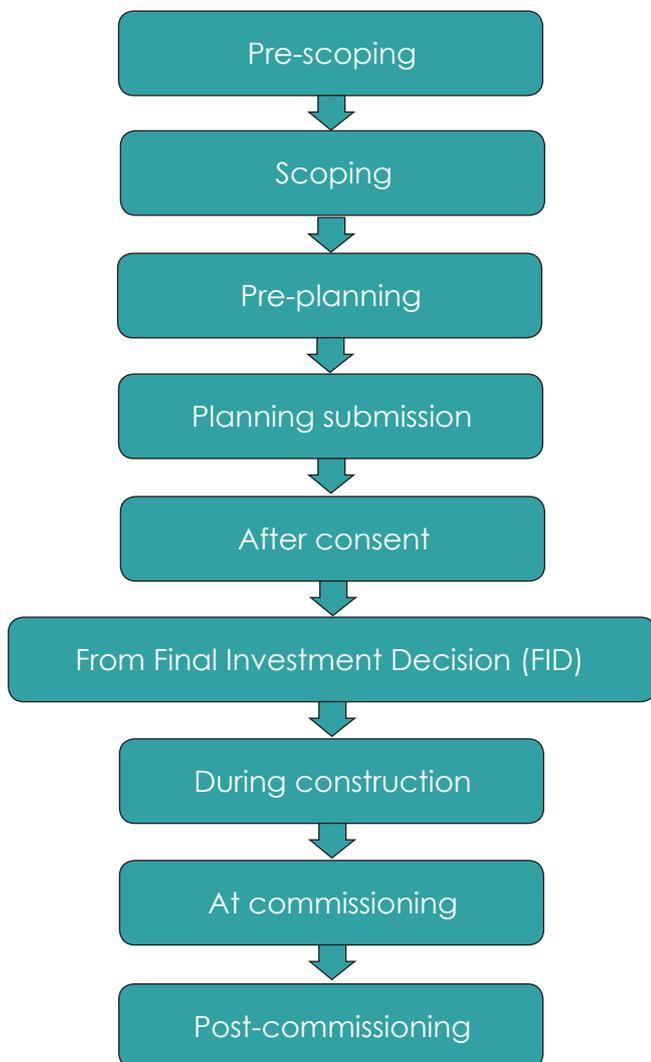
Stage	Roles, Responsibilities and Milestones	
	Renewable energy business	Community
<p>Post-Commissioning: Community Action Plan Implementation</p>	<ul style="list-style-type: none"> ✓ Provide a point of contact. ✓ Provision of regular information to community on project performance. 	<ul style="list-style-type: none"> ✓ Implement action plan in line with agreed governance arrangements. ✓ Comply with covenants and obligations within finance agreements. ✓ Provide annual updates. ✓ Review investment.

The role and responsibilities of Planning Authorities are explained further in Section 4.

Timing of the investment offer

Each renewable energy business will have its own policy on the timing of an investment offer to a community. For example, some investment opportunities may be available to communities pre-planning (these are higher risk), while others may enable the community to invest later in the development process, for example, after consent, financial close or post commissioning.

Project Development – Process:



If the community is interested in the investment opportunity, it should make this clear prior to consent wherever possible which may be followed up with an agreement of intent between both parties. Clear and transparent public meeting minutes may suffice where both parties are content. Early dialogue with all concerned to explore the timing of the investment is encouraged.

As advised previously, developing a renewable project is complex, and communities should seek independent professional advice as necessary. For example, where a community is considering a joint venture (private limited company), there are legislative restrictions on the detail of early discussions. Awareness of these restrictions and other issues should help to reduce unexpected issues delaying a project.

Local Energy Scotland can help support communities to explore opportunities, and appoint relevant professional advisors, as required. Further details at section 6.



THE PLANNING SYSTEM

THE PLANNING SYSTEM

This section sets out:

- National context
 - Decision making process
 - Implications for communities, renewables industry and planning authorities
-

National Planning Policy

National planning policy does not require developments to demonstrate economic benefit. However, it may be helpful to demonstrate net economic benefit, where the proposal is contrary to the development plan or the decision is likely to be finely balanced. Projects which do not offer a shared ownership opportunity can still be important to economic growth, jobs, environment (climate change mitigation) and renewable energy ambitions.

Paragraph 169 of Scottish Planning Policy sets out some development management considerations for proposals for energy infrastructure developments. It notes that relevant factors will vary relative to the scale of the proposal and area characteristics but are likely to include, among other things:

Net economic impact, which includes local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

[Scottish Planning Policy](#) paragraph 29 lists net economic benefit as one of a number of guiding principles supporting development that contribute to sustainable development.

Revisions to how planning is conducted in Scotland are outlined in the current planning bill being considered by the Scottish Parliament. Once the Parliament's process has finished the Scottish Government will review the [National Planning Framework](#) and Scottish Planning Policy. This guidance may be revised to take account of any amendments that are deemed relevant.

Decision Making

This section seeks to provide clarity on what a planning authority can legitimately take into account as a material consideration when determining planning applications.

Each planning authority has an adopted development plan for the area which is available from the authority's website.

Renewable energy projects are assessed on their merits against development plan policies and relevant 'material considerations' which may include environmental, economic and social effects of each project.

More guidance on material considerations is available from the Scottish Government's website: <https://www.gov.scot/publications/planning-series-circular-3-2013-development-management-procedures/>

For something to be taken into account as a material consideration it must have a planning purpose. This means that it must relate to the development or use of the land and it must fairly and reasonably relate to the development proposed by the particular application under consideration.

The financial benefits arising to owners from ownership of any development is not a material consideration in determining the acceptability of the development in planning terms. While financial considerations can be relevant to a planning decision something which is funded from the development or otherwise offered by the renewable energy business will not, by virtue only of that fact, be sufficiently connected to the proposed development to be a material consideration.

Commonly a planning decision is a question of balance, fulfilling the vision and policies of the development plan and accounting for relevant material considerations. No one aspect is given greater weight than another in national planning policy, it is the decision maker who decides what the most important considerations are. Locally, particularly important factors for areas may be identified in the development plan and would be expected to be dealt with in planning applications.

Renewable energy businesses must not request community support for (or indeed no objection to) the application as a condition of offering shared ownership.

A development should be essentially capable of achieving planning permission without the benefits accruing from a shared ownership offer. A poorly designed scheme in an unsuitable location, where the impacts cannot be appropriately resolved, cannot be made acceptable by matters which are not material to the consideration of the application.

A planning authority could not guarantee that a shared ownership option will ultimately be established as this is an arrangement between a renewable energy business and a community. Similarly, the planning process should not be used as an opportunity to seek to compel communities to take-up a shared ownership offer when in the end it is not right for their community and aspirations.

What does this mean for communities?

There are a number of points that communities may wish to consider:

- Renewable energy businesses are likely to approach communities to discuss shared ownership opportunities, in line with the Scottish Government's ambition to see host communities empowered to shape their individual and collective future, and in doing so capture economic and social benefits from developments.
- A legally binding shared ownership contract is not a requirement of the planning system. Communities should not enter into legally binding contracts for particular ownership options until, or unless they are satisfied with

the offer. Communities may want to enter into a less formal, but nonetheless agreed and written, understanding about the kind of shared ownership offer they would agree to, allow a renewable energy business to provide this information to the planning authority, if thought necessary.

- Communities should not sign documents (or make other commitments) which would prevent them from commenting on a planning application either in support or objection.
- Communities should not sign documents (or make other commitments) which require them to support a planning application.
- The presence of a shared ownership option or not, does not prevent factors associated with a development from being appropriately resolved. Communities should not see shared ownership as a 'payoff' by a renewable energy business to get around other standards or policies in a development plan.
- Where multiple communities are involved in discussions all should be open to the idea of creating a Special Purpose Vehicle (SPV) to take forward discussions.
- Communities should consider any adopted or proposed local development plans in the preparation of a community action plan or regeneration strategy.

What does this mean for renewables industry?

- A renewable energy business can legitimately approach communities to discuss shared ownership options.
- A net economic impact assessment is not required in all cases.
- A legally binding shared ownership contract is not a requirement of the planning system.
- A renewable energy business should not make shared ownership conditional on support for (or no objection to) a planning application.

What does this mean for planning authorities?

- It is not the role of planning authorities to 'approve' a shared ownership offer as good or correct. However, at the pre-application stage, planning authorities may be able to direct a renewable energy business towards sources of information about community priorities set out in the development plan, or an existing community action plan for example.
- A planning authority should not require a renewable energy business to enter into shared ownership through a condition of planning permission, or legal agreement associated with the planning permission.
- If the development is to receive planning permission, it should be acceptable in planning terms and without taking into consideration the shared ownership element.

STRUCTURE OF INVESTMENT

STRUCTURE OF INVESTMENT

This section sets out:

- Negotiating commercial terms
- Commercial models

Commerciality

Including an element of shared ownership in a renewable energy project should not reduce the overall economic viability of the project.

Flexibility of approach and open communication are key to ensure that the shared ownership structure works to support the aims of both the renewable energy business and the community.

This guidance is not intended to provide project-specific solutions, but rather to provide support for starting local level discussions.

Community organisations should seek early discussions with Local Energy Scotland or other relevant organisation, to help them take forward their involvement in the shared ownership opportunity.

Professional commercial advice sought at the appropriate time will also be vital in helping assess whether the investment makes commercial sense. However, communities should not expect to be given full commercial information from the outset as the renewable energy business may not be able to forecast the potential rate of return until late in the process, often after a planning application has been determined.

Negotiating the commercial terms of the Shared Ownership Investment

As well as considering the commercial models available to structure a shared ownership opportunity, a key first step is to consider the terms and conditions of the offer being made.

These will help the community group assess the opportunity at an early stage, in the absence of detailed financial information. Some of the considerations include:

- Timing of investment
- Clear guidance on the methodology for the valuation of the community offer

Good examples of offers by the renewables industry include:

- Community has bought in at cost i.e. paying their proportion of the development and construction costs
- Allowing the community to buy in later in the development phase i.e. at commissioning stage to allow more time to raise funds and reduce construction risk for purpose of a community raising finance

In recognition of the potential additional risk to the costs that a community borrowing may be subject to, there have been examples where renewable energy businesses have offered to de-risk the costs by offering:

- A minimum rate of return for the community to de-risk the investment
- The option to capitalise any community benefits payments toward investment should the community wish to do so

It is important for all parties to build up a level of trust. With shared ownership projects, issues can arise regarding sharing confidential financial information. In some cases, and for good reasons, a renewable energy business may be reluctant to share financial information with communities and their advisors. To help overcome confidential issues, Local Energy Scotland has developed a non-disclosure agreement template (NDAs) for use between both parties. This template is available from Local Energy Scotland on request. It may be, however, that the renewable energy business prefers their own NDA arrangements, which is also an option.

Commercial Models

Listed below are some of the common commercial models available to communities and renewable energy businesses. Different models may suit different communities and developments – therefore, the list is not exhaustive. It's important that options are flexible, and site-specific arrangements are encouraged.

The key point for communities is whether a proposal **irrespective of the investment structure, makes commercial sense.**

The three most commonly used commercial models options are:

(1) Joint Venture Model

A joint venture vehicle can be set up, which will be part owned by both the community group and the renewable energy business. This may be referred to as a Special Purpose Vehicle (SPV). The community group may have the right to vote on the company's activities.

This does not necessarily mean a 50/50 arrangement. In most cases, the community will be a minority shareholding – for example, having a 10% shareholding or potentially less in a larger scheme.

(2) Shared Revenue Model

The renewable energy business owns the development (and may set up a new private company for this purpose), with the community buying the right to a defined percentage of revenues or net revenues (after operating costs and other costs have been paid). The community does not own any shares, so is not able to vote on the company's activities.

(3) Split Ownership Model

The development is split into two and is owned discretely by the renewable energy business and the community group.

No single model is preferred by Scottish Government. An open discussion of the various available possibilities, challenges and benefits is strongly encouraged.

Changing ownership of the project

There are a number of scenarios that may arise involving a change of ownership, which might present a further opportunity for a community to “buy-in” to a project or might involve a community “selling on” its share. Below are two examples:

- The renewable energy business builds a project and subsequently sells the entire development to a community
- The renewable energy business sells its share of an existing project, where a community has a shared ownership investment

The terms offered by the renewable energy business may differ, depending on the stage at which money is required, and the value of the project as it progresses through the different stages to completion. It is important that communities have sought the appropriate commercial advice, and can be confident that, whatever the structure and terms agreed upon, the opportunity will be viable and provide a return on any investment made.

In some cases, in addition to commercial advice, a community may also wish to appoint a technical advisor to scrutinise an offer and conduct due diligence on the development and the assumptions on development output.

In the case where a renewable energy business sells its share, the community should seek to ensure that all legal agreements put in place from the outset include details on:

- How a future sale will be dealt with
- How they will be informed of such events
- The level of influence they will have over their share

In summary, it is important for communities to ensure that these arrangements are included as part of the initial agreement.

Local Energy Scotland support is available to community groups, to assess possible options, and signpost to other support as required. Support and advice regarding access to finance in the form of commercial loans may also be available through the Energy Investment Fund (EIF).

Guidance and resources have been developed to support these discussions can be found at: (www.localenergy.scot/shared-ownership). Further details on support available can be found at section 6 of this document.

**SUPPORT
AVAILABLE**



SUPPORT AVAILABLE

This section sets out:

- Support available to communities

Support available

Support is available through the Scottish Government's CARES programme, delivered by Local Energy Scotland, to discuss a potential shared ownership opportunity at any stage of the process.

Local Energy Scotland will guide both the renewable energy business and community through the process from beginning to end, including (if necessary) acting as an independent facilitator to help progress.

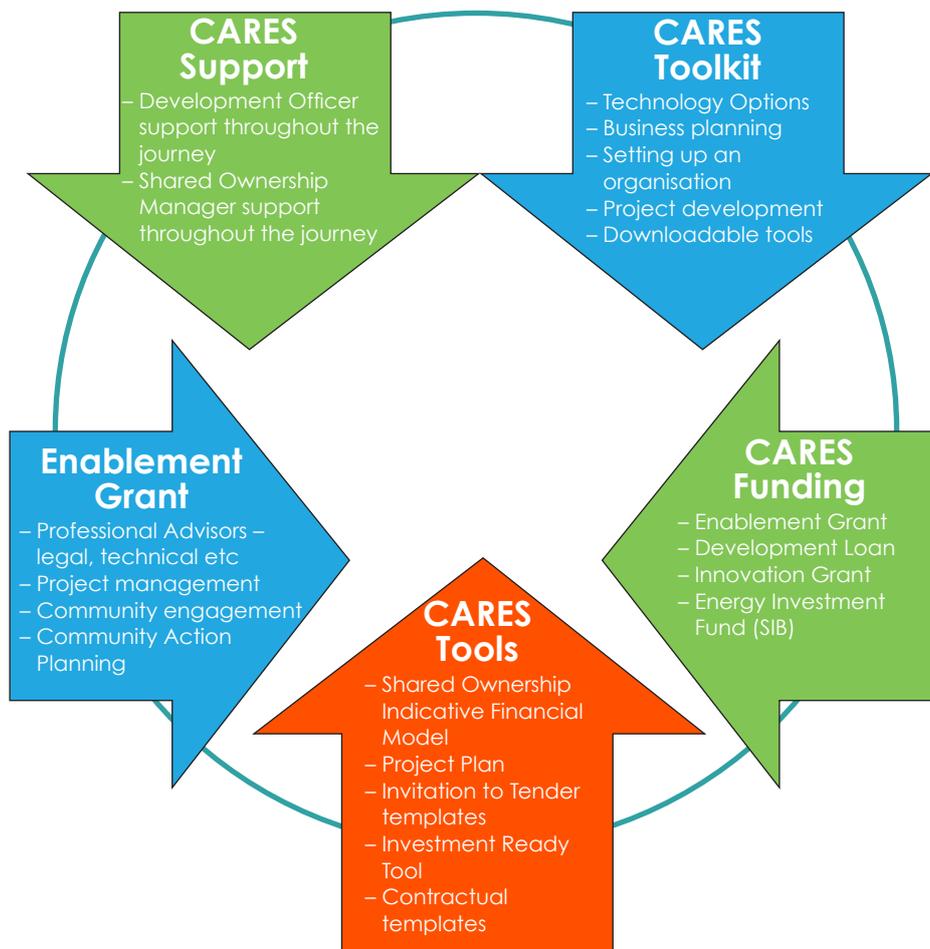
Referrals to other agencies and support mechanisms will be suggested as part of this service.

A key issue for a community to consider is its capacity (skills and expertise) to support and manage the process. This will be different for each community for example, some may have paid development staff, while others will be reliant solely on volunteers.

However, irrespective of the level of capacity within a community, Local Energy Scotland will assess a community's overall requirement, and in discussion with the community, outline CARES support available, as well as signpost to other organisations who may be able to assist.

Support available falls into the following broad categories, and the diagram below summarises the key elements:

- **Funding**
- **Professional Services**
- **Online Tools and Resources**
- **Signposting**



There are a number of other organisations, which can provide help and assistance. Contact details for the main ones are:

Scottish Enterprise deliver the Energy Investment Fund (EIF)

- The EIF team offers a range of financial solutions to facilitate communities' aspirations to secure stakes in shared ownership projects.
- EIF works closely with all stakeholders following planning approval to maintain open discussions to smooth the progress of the project through to successful completion.
- Find out more by contacting Scottish Investment Bank on 0845 607 8787

Highlands and Islands Enterprise (HIE)

- HIE also provide support specifically to local energy projects through their Energy Team and Strengthening Communities team as well as account management for communities in fragile areas.
- Further information on the support HIE can provide is available here: <http://www.hie.co.uk/community-support/community-energy/shared-ownership-of-renewables.html>

Other organisations supporting communities to move forward and understand investing in renewables and what to do with the income generated include:

Development Trusts Association Scotland
<http://www.dtascot.org.uk/>

Tel: 0131 220 2456

Email: info@dtascot.org.uk

Community Shares Scotland

<http://communitysharesscotland.org.uk/>

T: 0131 220 3777

Foundation Scotland

<https://www.foundationscotland.org.uk/>

Edinburgh –

Tel: 0131 524 0300

Email: edinburgh@foundationscotland.org.uk

Social Investment Scotland

<http://www.socialinvestmentscotland.com/>

0131 558 7706

hello@socialinvestmentscotland.com

There is also the South of Scotland Enterprise Agency under development which will provide economic support to communities and businesses operating in the Scottish Borders and Dumfries and Galloway. This document will be revised to include details when operational.

Local Energy Scotland website

More detailed information, material and relevant links are available at www.localenergyscotland.org/sharedownershipsupport

GLOSSARY

GLOSSARY

Community and Renewable Energy Scheme

Community and Renewable Energy Scheme (CARES) is delivered by Local Energy Scotland on behalf of the Scottish Government and provides support and advice to community groups.

People who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. A community can be a neighbourhood, town, work place, gathering place, public space or any other geographically specific place that a number of people share, have in common or visit frequently.

Community group

A “community group” may refer to any number of member-led organisation types, and may not always be formally constituted, however to be a partner in a shared ownership project, a community group will have to take on a formal structure.

The “community” is understood to include this range of views and opinions. The “community group” is used to refer to an organisation or entity which is actively engaged in discussions with a renewable energy business and exploring the opportunity for investment.

Community Action Plan

A Plan agreed with the wider community and including details of the local community priorities for maximising the impact from community benefits packages.

Community Benefits

Community Benefits are voluntary provisions made by a renewable energy business to the community(ies) located near a development.

Community Council

A voluntary organisation set up by statute and run by local residents to act on behalf of their area.

Community Vehicle

The legal structure set up by the community to become involved in the project. There are a number of different legal structure to consider including development trusts, co-operatives, and community interest companies.

Energy Investment Fund (EIF)

A Scottish Government Fund delivered by the Scottish Investment Bank. EIF focuses on:

- Increasing shared ownership of energy projects in Scotland (including community stakes in commercial developments).
- Accelerating the development of commercial low carbon energy projects in Scotland.

Final Investment Decision (FID)

The point at which everything is in place for the project to go ahead.

Financial Close

When all the project and financing agreements have been signed and all the required conditions contained in them have been met. It enables funds (e.g. loans, equity, grants) to start flowing so that project implementation can actually start.

Joint Venture

A model where the community and renewable energy business create an organisation to take forward a project together. The renewable energy business may own a larger share of the joint venture company.

Local Energy Scotland

A consortium made up of: Energy Saving Trust, Changeworks, The Energy Agency, and SCARF and, the Wise Group who administer and manage the Scottish Government’s Community and Renewable Energy Scheme (CARES).

Market Value

The price of a development, calculated by the value which it could achieve on a given market. For example, once a project has achieved planning permission, its market value will normally be considerably higher than its cost value.

Material Consideration

A factor which must be considered by the decision maker when assessing a planning application for development.

Memorandum of Understanding

Document describing an agreement between two or more parties. This document is not legally binding, but indicates an intended common line of action.

Non-disclosure agreement

A contract by which one or more parties agree not to disclose confidential information that they have shared with each other as a necessary part of doing business together.

Partnership Portal

Is an online tool – available at localenergyscotland.org/partnership portal – where you can post and browse investment opportunities in community renewable energy projects.

Post-Planning

Following approval of a planning application by the relevant planning authority.

Pre-Planning

In advance of submission of a planning application to the relevant planning authority.

Project Manager

An individual or organisation appointed to coordinate a community group's role and involvement in a project.

Shared Ownership

Any structure which involves a community group as a financial partner benefitting over the lifetime of a renewable energy project.

Special Purpose Vehicle (SPV)

A legal entity created for a limited purpose. SPVs are used for a number of purposes including the acquisition and/or financing of a project.

ANNEX

MEMBERSHIP EXTERNAL STAKEHOLDERS

Chaired by Sue Kearns, Deputy Director, Consumers and Low Carbon Scottish Government

Organisation	Contact
EDF Energy	David Cameron Head of Scottish Policy
Scottish Power Renewables	Gillian Arnot Community Liaison Officer
SSE	Morven Smith Head of Community Investment
Vattenfall	Berry Jordan Business and Community Investment Advisor
Scottish Renewables	Stephanie Conesa Policy Manager
Triodos	Norrie Cruickshank Relationship Manager (Scotland)
Heads of Planning	David Mudie Energy and Resources Chair
Foundation Scotland	Rachel Searle-Mbullu Head of Communities
Valley Renewables Group	Margaret Porter
Girvan Community Council & Falck's Assel Valley CFP	Kenneth Johnstone
Harthill, Eastfield and Greenrigg	Angela McLaren
Kyle of Sutherland Community Development Trust	Helen Houston
New Cumnock Community Council	Eric Bennett

SECRETARIAT: Local Energy Scotland



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2019

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78781-743-2

Published by The Scottish Government, April 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS57290 (04/19)

W W W . G O V . S C O T