



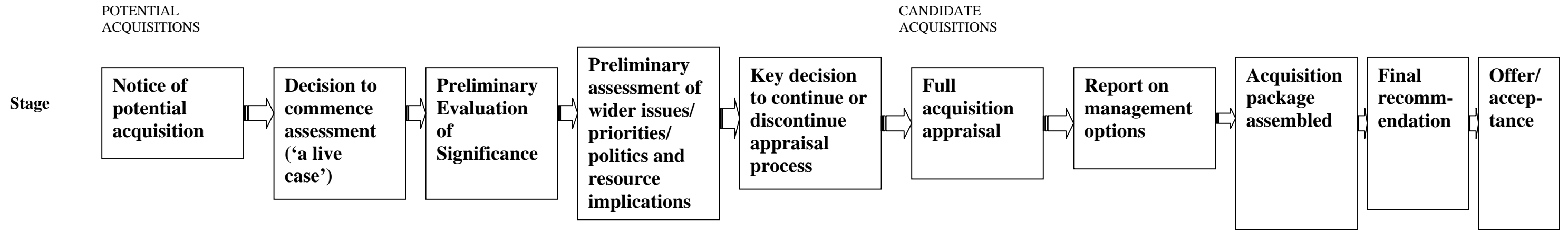
The National Trust for Scotland

ACQUISITION POLICY:

Statement of Policy on Taking Properties and Material into NTS Care

1. The Acquisition Policy applies to title and rights covering land, water, buildings and material of conservation importance.
2. The Trust will follow the clear and rigorous acquisition appraisal procedures outlined at Appendix 1.
3. The Trust will acquire places or material it has assessed to be of:
 - a) international or national significance in terms of their cultural and natural heritage; or
 - b) critical significance to a particular area or a key surviving or outstanding example of a particular type of heritage asset; or
 - c) lesser significance than a) or b) but where they protect or enhance the significance of an existing property or are acquired under Revolving Fund mechanisms such as the Little Houses Improvement Scheme (LHIS).
4. The Trust must demonstrate how acquisition will increase, or prevent the loss of, benefit to the nation in terms of a) conservation and b) access and enjoyment.
5. The Trust may acquire a degraded property because of its potential for improvement but only where it can be realistically stabilised, safeguarded or otherwise placed in favourable condition.
6. All acquisitions must be fully resourced for purchase and subsequent management and maintenance, and therefore the Trust will identify all the financial and human resource costs of acquisition, and show how these will be met, prior to any commitment being made.
7. Threat, particularly direct and immediate threat to a property, may be a significant but not the primary consideration in determining whether the Trust should proceed with acquisition.
8. An analysis of the types of properties the Trust manages will regularly be undertaken, and priority types identified for acquisition within the context of properties already managed by the Trust and others in Scotland.
9. Where all or part of a property's significance has been determined to be of sufficient quality the Trust will use its power to declare those parts inalienable.
10. The role of the local community and the impact of Trust ownership will be considered in the acquisition appraisal process.
11. The Trust will acquire a property only if an impartial analysis shows that it is the most appropriate owner, and will only dispose of a property where ownership no longer best serves the long-term purposes of conservation and access.
12. The Trust will pursue a variety of mechanisms to safeguard places of significance, whether acting alone or encouraging other bodies to act. Where the Trust enters into a partnership arrangement it will ensure all partners have clear roles and responsibilities. The Trust must also have an exit route when its role is no longer needed or it is unable to meet its objectives.

NTS Acquisition Appraisal Procedures



Authority level for Key Decisions.		Chairman, Chief Executive, Director of Conservation and Property Services, Director of Finance and Resources, Regional Director.			Management Board/Acquisitions and Disposals Committee ¹ .		Management Board Recommendation to Council through the Executive Committee.		Council to take final decision on acquisition.	
Actions	Share information with Chairman, Chief Executive, Deputy Chief Executive/Director of Finance and Resources, Director of Conservation and Property Services, Regional Director, Senior Land Agent. Inform Acquisitions and Disposals Committee ¹ . Confidentiality may require a smaller group is notified comprising the Chairman, Chief Executive and Deputy Chief Executive. Get details/particulars. At this stage information may have come from many sources. Add to database.	Identify Project Team if principle to pursue is agreed. Alert the Law Agent.	Conservation evaluation (including draft Statement of Significance). Preliminary evaluation of benefit to the nation. Legal/properties assessment/title search. Due regard should be taken of any particular threat or time pressure relating to the acquisition. Gather views of specialist/regional committees and external bodies where appropriate. Seek consent to visit, etc.	Assess wider implications including broad-brush financial picture. Is there pressure from partners or others to act in a particular way? Discussion with other potential acquirers may be appropriate subject to requirements for confidentiality. Preliminary contact with funding bodies will be co-ordinated through the Team. Where gifts are concerned, be particularly careful to ensure actions are understood. Prepare preliminary report for Management Board.	Management Board to consider Report and agree to <i>continue</i> or <i>discontinue</i> appraisal process. The Board will inform the Acquisitions and Disposals Committee ¹ which in turn has the right to review any Board decision. In the case of disagreement between these two bodies the decision on whether to commence with a full appraisal will be made by Council ² (though pressure of time may dictate that this process starts beforehand).	Following the acquisition policy, a full assessment will be needed, including determination of future management options. Project Team will co-ordinate the input from specialists, consultants and others. Formal exploration of grants and funding opportunities will be required. Seek clarification on place/contents/legal and other obligations. Determine any special requirements of owner/donor. Beginning of negotiations though Trust must guard against any creeping commitment to acquisition.	Prepare draft acquisition report for consideration by Management Board (to include management options and resource requirements). Assemble funding packages inc fundraising/marketing plan. First property statements, including Statement of Intent, identifying areas of risk/uncertainty.	Negotiations over price/conditions/ extent of acquisition rights/contents, etc. Plan any appeals.	Management Board Report and Executive Committee recommendation to Council.	Separate standing instruction on legal processes, adoption of funding and staffing plans.
Who	Deputy Chief Executive/Director of Finance and Resources to circulate information.	Deputy Chief Executive/Director of Finance and Resources will assign responsibility for project co-ordination to the Director of Conservation and Property Services or Regional Director and give an expected timescale for completion of project.	Director of Conservation and Property Services or Regional Director to lead. Members of Project Team will be assigned tasks based on Acquisition Policy.	Project Team & others. To be co-ordinated by Project Leader.	Management Board and Acquisitions and Disposals Committee ¹ .	Project team.	Project Leader.	Project Team, Law Agent and others as necessary.	Council may authorise the Acquisitions and Disposals Committee ¹ to act on its behalf at any time for a specific task during negotiations.	
Notes	Any obviously unsuitable places eliminated at this stage.	Project Team to consist of core members plus option to co-opt specialists etc.	Preliminary assessment will eliminate some places.	Implications if Trust chooses not to become involved should be understood.		Specialist input must be completed by this stage.	Authority for acquisitions under 1 ha or up to £50,000 lies with Management Board.			
Acq. Policies to be applied		Nos 1, 2	Nos 3, 4, 7	No 12		Nos 3, 4, 5, 6, 7, 8, 10, 11, 12		Nos 6, 11, 12		No 9

¹ The establishment of an Acquisition and Disposals Committee is subject to the Governance Review to be undertaken 2002.

² Potentially the Executive Committee.

APPENDIX 2**ACQUISITION POLICY***EXPLANATORY NOTES*INTRODUCTION

1. Since its inception The National Trust for Scotland has relied principally on ownership of land and buildings, together with their contents, as the mechanism by which to pursue its conservation aims. The public perception of the Trust, its relevance and authority are directly linked to its portfolio of properties which also act as a source of pleasure for countless numbers of visitors every year. Whilst it is acknowledged that other Trust activities are important, acquisition is likely to remain a key demonstration of the Trust's continued commitment to conservation in the 21st century. Any future acquisition will take place in the full recognition that the Trust's primary responsibility must be towards the properties already in its care and that the protection of Scotland's heritage involves numerous organisations of which the Trust is only one.
2. These notes set out a number of principles which have underpinned the development of an Acquisition Policy for the Trust and are split into nine sections: Scope of Policy; Procedures; Heritage Significance; Benefit to the Nation; Finance and Resources; Threat; Targeted Acquisitions; Inalienability; and Alternatives to Trust Ownership and Disposals.
3. When considering potential acquisitions a wide range of places may be relevant to Trust purposes. It is clear from the 1935 and 1938 Trust Order Confirmation Acts that places which are deemed worthy of Trust acquisition may be of:
 - Historic interest
 - National interest
 - Natural beauty
 - Interest for natural features/animal/plant life
 - Interest for architectural/artistic/contents reasons
 - Antiquarian interest³
4. Further examination of the Trust's statutory purposes, including the reasons behind Trust acquisition, is contained in Paras 25 to 29.
5. The Acquisition Policy is not intended to be a straitjacket on all future acquisitions. It is the responsibility of Council to make decisions in the best interests of the Trust, and by following the policy and procedures closely, Council will be able to consider all the implications of any acquisition decision. Any perceived breach of the Policy can therefore be revealed and considered fully before commitments are made.

³ Now normally referred to as archaeological interest

SCOPE OF POLICY

Principle 1: The Acquisition Policy should cover all land and buildings, including rights pertaining to land and buildings.

6. All land, buildings and bodies of water should be included within the scope of the policy, both in terms of procedures and principles. Even where an acquisition does not include physical land or buildings, but where for example access, minerals, grazing or sporting rights are acquired, these should be considered to be within the scope of the Acquisition Policy unless the implications of acquisition are not significant in conservation, management or financial terms.
7. New properties under Conservation Agreements (CAs) and those acquired under the Little Houses Improvement Scheme (LHIS) should, in future, be covered by the Acquisition Policy as they have been acquired or covered by a CA for conservation purposes.

Principle 2: The Acquisition Policy should extend to all material of conservation importance.

8. The acquisition of material and other items that are of inherent conservation importance or value is very different from the acquisition of goods, material and so on that are required to serve more prosaic functions or purposes. Material of conservation importance should be included within the scope of the policy, both in terms of procedures and principles.⁴ These include gifts and bequests and items such as works of art, collections and archaeological finds.⁵
9. In relation to *Principle 1* and *Principle 2*, the Acquisition Procedures set out at Appendix 1 outline the different levels of financial, conservation and management responsibilities and levels of authority.

Principle 3: Items falling outwith the scope of the Acquisition Policy should include:

- a. *Places acquired for a purely functional purpose*
 - b. *Investment properties*
 - c. *Consumables such as office machinery, vehicles, protective clothing, stationery, garden, estate, forestry and other chemicals and cleaners, fuel, etc.*
10. Where an acquisition serves both a conservation *and* functional purpose, it will be covered by the Acquisition Policy. Places which are acquired to serve a purely functional need in terms of office space, commercial premises or some other operational activity will not be covered by the Acquisition Policy but in the selection of such places any potential conservation benefit should not be ignored. However, such properties should be managed by the same robust procedures and thinking employed at other Trust properties (guided by the Trust's other strategic policies eg Conservation Principles). This recognises the fact that whenever the Trust acquires a place, be it land or building, its actions may well be judged against all aspects of its stewardship and care. Even when a place is acquired as an office, for residential purposes or a car park, the Trust will be judged on how it manages the fabric of that place and not simply how it manages the function that is performed there.

⁴ The Trust has an acquisition and disposal policy for the contents of Trust properties which was approved by Council in 1996. This will be a subsidiary policy to the Acquisition Policy.

⁵ Many anomalies exist – for example the Trust was given the propagating rights to the plant collection on Gigha. Such 'rights' should fall within the scope of the policy.

11. The result of gifts or bequests, Investment Properties are held by the Trust with a view to optimising income and assisting the General Fund. Such acquisitions will not be caught within the framework of the Policy *unless* they are of conservation significance. For example, farmland has been acquired as Investment Property where it formed part of an original endowment, but has been subsequently recognised as an integral part of many Trust properties and in some cases has been declared inalienable.
12. The procurement of materials, equipment, furniture and vehicles required solely to allow people to undertake their day-to-day work should not normally fall within the scope of an Acquisition Policy. They should instead be covered by procurement policy or procedures which should be considered separately from this Policy.

Policy 1: The Acquisition Policy applies to title and rights covering land, water, buildings and material of conservation importance.

PROCEDURES

Principle 4: The Trust should have clear appraisal procedures to ensure a consistent and robust approach to the implementation of its Acquisition Policy.

13. Clear appraisal procedures are required in order to ensure that the application of evaluation criteria is the first step in the appraisal process, that the roles of staff, committees and others (including authority levels for decision-making) are articulated, and that the consequences and opportunities of acquisition are fully understood and addressed by staff and Members. The Trust must guard against any creeping commitment to make an acquisition during negotiations or other involvement before a clear decision to acquire has been taken. Expectations must not be raised through informal channels in ways that subsequently influence the processes of negotiation. Normally, a recommended individual (typically the relevant Regional Director) will be appointed by the Management Board to lead discussions.

Policy 2: The Trust will follow the clear and rigorous acquisition appraisal procedures outlined at Appendix 1.

HERITAGE SIGNIFICANCE

Principle 5: Potential acquisitions must be of international or national significance in terms of their cultural and/or natural heritage, or be of critical significance to the understanding of a particular area, or be a key surviving or outstanding example of a particular type of heritage asset.

14. As stated in Para 3 of these notes, a wide range of places or material may be relevant to the Trust's purposes. In each instance the significance of a potential acquisition must be evaluated and clearly articulated by the Trust as part of the appraisal process (see *Principle 7*).
15. At international through to regional level, places may receive formal or informal recognition of their significance. Those of international significance may be of critical importance to world heritage, or may have acknowledged status in terms of their exemplar qualities or impact on world nature and culture (recognised by international designations

such as World Heritage Sites, Special Areas of Conservation, Special Protection Areas etc).

16. Places may be of very great national interest by virtue of their historic, scientific, natural or spiritual values or associations. Statutory designation through legislation is not currently available to all such places or material (eg battlefields or historic landscapes), but for many aspects of the natural and cultural heritage a wide range of statutory designations does exist (eg National Parks, National Nature Reserves, Listed Buildings and Scheduled Ancient Monuments). Such designations are a useful aid in establishing significance.
17. Non-statutory recognition of places of interest must also be considered in the acquisition appraisal process and be based on the best advice available at the time. Furthermore, not all places and objects of conservation significance have been identified nor ever could be. This should be acknowledged in the evaluation process.
18. Some of the wealth of Scotland's heritage is a result of regional variety and distinctiveness. Places or materials may be of critical significance to the understanding of a particular area or tradition or may be a key surviving or outstanding example of a particular type of heritage asset. As such they may meet the criteria for Trust acquisition if they play a defining role in a significant strand of the national heritage. Factors which would be used in the evaluation of such potential acquisitions may include geographical or ethnographical areas over which significance is recognised and measures of significance, which may include local designations such as Local Nature Reserves or Regional Parks.

Principle 6: Acquisitions of lesser significance than that stipulated under Principle 5 will be considered if they a) are acquired under a Revolving Fund mechanism such as the Little Houses Improvement Scheme (LHIS) or b) protect or enhance the significance of an existing property.

19. In the case of Revolving Fund schemes such as LHIS, properties *may* meet one or more of the conditions set out under *Principle 5*, but in many cases focus is directed towards evaluating the property's contribution to local distinctiveness, recognition being given to a building's ability and potential positively to enhance its *immediate* local environment such as its streetscape.
20. Acquisitions of lesser significance will be assessed using the same robust process of appraisal, though the level of heritage importance required to be demonstrated for acquisition will be lower. As for all acquisitions, criteria must not only cover heritage significance but must also address the requirement for financial viability (see *Principles 11* and *12*). In the case of LHIS revolving fund projects, the emphasis will be on the need to demonstrate short-term viability achieved in a turnaround sale. Additional factors to be considered may include local property market conditions, threat to the building, appropriate end uses, condition of the property, a good probability that it can be protected in the future and any specific conditions stipulated under the Revolving Fund being used.
21. Potential acquisitions of lesser significance will be also considered if they protect or enhance an existing Trust property. Each Trust region is likely to have a formal or informal list of the land, buildings or artefacts it would deem beneficial to acquire for such purposes (for example an adjoining piece of land).

Principle 7: The Trust must articulate the criteria it will use to evaluate potential acquisitions.

22. In order to implement *Principles 5 and 6*, the Trust will establish criteria for assessing significance in the context of acquisition. This should ensure a consistency of approach to evaluation and improve the quality of the decision-making process. Crucial to this will be the need to establish the necessary degree of significance required for a place to warrant Trust ownership. The process for establishing criteria will run in parallel with the review of the Conservation Principles and the Acquisition Policy if adopted. The Trust has already developed its own methodology for assessing the heritage significance of its existing properties.⁶ This must play a part in the acquisition appraisal process.
23. External designations and external opinion must be considered in acquisition appraisals, with the provisos that the criteria behind the designations must be well understood and that a comparison is made with the Trust's founding purposes and its own criteria of significance. Such designations (including non-statutory registers) can be extremely useful in bringing a measure of independent opinion to an acquisition appraisal and can often be critical to securing funding. External designations and indeed external opinion will be an extremely valuable tool in making comparisons with other places. This is vital in evaluating properties for acquisition so that the Trust is clear just how good an example of a particular type the place is, compared to "the rest". For disciplines where such designations do not exist, the Trust must obtain the best advice possible from acknowledged experts in the particular field. In cases where designations are very out of date they should be checked with the relevant 'authority' to see if today's criteria applied to a site would result in the same judgement.

Principle 8: Relevance to Scotland is the context within which the Trust will judge suitability for acquisition.

24. In the examination of what is considered significant for the nation, relevance to Scotland is taken as the baseline, though, where necessary, it will be looked at in its British, European and international contexts. However it must be recognised that a large number of interest groups and communities make up the Scottish nation. In practice this means the Trust aims to benefit a wide range of stakeholders including local communities, members, visitors, tenants, donors and people of Scottish ancestry worldwide.

Policy 3: The Trust will acquire places or material it has assessed to be of:

- a) international or national significance in terms of their cultural and/or natural heritage; or***
- b) critical significance to a particular area or a key surviving or outstanding example of a particular type of heritage asset; or***
- c) lesser significance than a) or b) but where they protect or enhance the significance of an existing property, or are acquired under Revolving Fund mechanisms such as the Little Houses Improvement Scheme (LHIS).***

⁶ Through the Management Plan and Property Statement process the Trust has established its own procedures for assessing significance, explored in evaluation seminars in 2000 and tested in the Statements of Significance process undertaken in 2001 with participation from all staff disciplines and Conservation Committees.

BENEFIT TO THE NATION

Principle 9: In order to fulfil its statutory purposes, any acquisition by the Trust should increase, or prevent the loss of, benefit to the nation in terms of:

- a) ***Conservation***
 - b) ***Access***
 - c) ***Enjoyment.***
25. From the 1935 and 1938 Order Confirmation Acts, the purposes of Trust ownership include:
- Permanent preservation for the benefit of the nation
 - Use and enjoyment by the public
 - Land – management as open space, places of public resort, scientific interest
 - Buildings (inc contents) – management as places of public recreation, resort or instruction
 - Any other national purpose whatsoever consistent with the general purposes of the Order
 - Protecting, improving and augmenting the amenities of such places for the use and enjoyment by the public
 - Facilitating access to such places
 - Reconditioning and carrying out improvements on any land held by the Trust
 - Restriction of access as necessary for the preservation of the natural (inc flora/fauna) or acquired features of the land (inc agriculture)
26. Outwith one specific reference to the restriction of access (see last bullet point above) the Acts do not rank any of the basic purposes of conservation or access and enjoyment above any other. However Principle 7 of the Trust's *Conservation Principles*, approved by Council in 2001, states that 'where irreconcilable differences between conservation aims and other aims arise, conservation will prevail'. The Trust's Corporate Plan 1999 – 2004 also states that where there may be conflict between these purposes the Trust will give priority to conservation (para 5.2).
27. In relation to conservation, Trust ownership can ensure permanent conservation of places of significance to the nation, prevent the loss of any conservation significance under threat (current or future) or restore a degraded property to a more favourable condition (*see Principle 10*).
28. In relation to public access, Trust ownership can allow access to a property where no or only partial access existed previously. Possibilities can include establishing provision for those with disabilities, opening up more access points/routes, extending opening times/seasons to the built properties, or augmenting existing access arrangements for a variety of user groups eg riders, canoeists or climbers.⁷ Access can be both physical and intellectual, the latter becoming increasingly important where permanent physical, public access has not been possible. Trust ownership can therefore encourage access and bring about benefit via a website, an exhibition, talks or lectures, scientific research or in many other ways.

⁷ Under the forthcoming implementation of Part 4 of the Disability Discrimination Act (1995), all service providers will be required to make reasonable adjustments to built properties to allow access for disabled people.

29. The use and enjoyment of heritage assets may be as a resource for education and interpretation. There may be great potential for the Trust to set up or develop further the educational and interpretation facilities at a new property eg events, courses, exhibitions, tours, talks, or guided walks. The Trust may wish to consider acquiring a property because of an outstanding educational benefit or its potential appeal to non-traditional Trust members and visitors. Although the Trust's Order Confirmation Acts do not explicitly mention education or interpretation, they are included under the term enjoyment in this context.
30. Any evaluation of the benefits to the nation will entail some degree of subjectivity, as the enjoyment and use of any property can encompass a whole range of experiences. However some way of measuring these benefits is essential for this recommendation to be implemented in a meaningful way. The Trust will need to develop a methodology to provide a means of assessing benefits such as access, enjoyment and understanding. The Visitor and Social and Economic Context sections of the Trust's Property Statements would require substantial reworking if they were to be adapted for this purpose.

Policy 4: The Trust must demonstrate how acquisition will increase, or prevent the loss of, benefit to the nation in terms of a) conservation and b) access and enjoyment.

Principle 10: The Trust should not acquire degraded properties it cannot realistically stabilise, safeguard or otherwise place in favourable condition.

31. There will be times when the Trust should consider acquisition of a property not because of its present state, but because of its potential for improvement. A property may be in a degraded state but through a process of conservation its significance can be maintained, revealed or enhanced. Consideration of the acquisition of any degraded site requires a realistic assessment of the feasibility of achieving this, which is vital if the Trust is to attain any consistency in its conservation management standards.

Policy 5: The Trust may acquire a degraded property because of its potential for improvement but only where it can be realistically stabilised, safeguarded or otherwise placed in favourable condition.

FINANCE AND RESOURCES

Principle 11: In the assessment of potential acquisitions the Trust's primary responsibility must be towards safeguarding properties already in its care.

32. Whilst it is acknowledged that ownership lies at the heart of the Trust's conservation activity, new acquisitions do not lessen its responsibilities towards its existing properties. The Trust's obligation to future generations requires that it recognises the consequences of any acquisition upon its statutory duty to conserve those properties already in its care permanently. Though new properties may bring benefits to the Trust and nation in a number of areas, it must be recognised that many past acquisitions have created twin deficits – an 'endowment deficit', in that the bulk of Trust properties have little or no financial endowment, which in turn has led to a 'conservation deficit' as a result of financial and human resources being diverted away from the maintenance and care of existing properties.

Principle 12: The Trust will acquire a property only when all the funds for acquisition and subsequent management have been quantified and secured, and when the impact upon staff resources, investments and Trust operations has been addressed.

33. Part of the impetus behind the development of an Acquisition Policy has been the need to respond to the Trust's long-term financial and management difficulties, which are in part the result of a large number of past acquisitions which were either under-endowed or not endowed at all. In future the Trust must only acquire properties where all the funds for acquisition and subsequent management (including acquisition cost, and initial and long-term capital and revenue costs) are identified and underwritten (ie fully funded). Trust assessments of endowments use the Chorley Formula to calculate the sum required. The formula originated with the National Trust and undergoes periodic review. All acquisitions carry financial risk and impacts, and these should be addressed openly and realistically, so that all involved understand the consequences of any proposed action and the risks involved. All staff and Members must be made fully aware of the implications of any failure to meet financial targets (eg of any appeal or anticipated grant), including which Trust sources would be used to complete the funding package shortfall and any effects this would have on the Trust's other activities. Such an analysis must be carried out *before* any fundraising begins. The Trust must also avoid being pressurised by shortage of time to short-circuit or omit this step.
34. In terms of human resources, cumulative acquisition by the Trust has resulted in increasing workloads and responsibilities for Trust staff at all levels. This issue has received insufficient recognition and action to date. Any future acquisition should be assessed in terms of its human resource impact in all relevant staffing areas (eg personnel, conservation, finance and education) and at every level (ie property, regional and head office).
35. Any assessment of a potential acquisition will require a detailed examination of the revenue-generating potential of the new property. If a potential acquisition is fully endowed, its marketing potential will be a bonus but not crucial, but where a place is under-endowed it must demonstrate significant income-generating potential to meet future costs. Any evaluation will cover all existing and potential revenue sources such as admissions, retailing, catering, corporate hospitality, functions, holiday cottages and any unique selling points (USPs) the property may possess. A Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis should be carried out.

Policy 6: All acquisitions must be fully resourced for purchase and subsequent management and maintenance, and therefore the Trust will identify all the financial and human resource costs of acquisition, and show how these will be met, prior to any commitment being made.

THREAT

Principle 13: Any existing or potential threat should be examined. This should not be used as the sole or principal reason for permanent acquisition, but should instead form part of a wider coherent assessment as to the significance of the property and why it should be acquired.

36. Threat can be defined as a situation in which a place, building or material is in danger of deterioration, demolition, alteration or development that would be harmful to its character or environment.

37. The Trust's Order Confirmation Acts do not refer to the issue of threat, so it is not a required material consideration in terms of the Trust's statutory purposes. Any threat to a potential acquisition should be regarded as an additional factor for consideration during the appraisal process, but cannot replace the need for a full and coherent argument as to why a property merits acquisition on the basis of its significance, and what benefits its management by the Trust would bring to the nation. Threat should not be overplayed to justify consideration of less worthy acquisitions. Everything is under some sort of threat or may become so, and therefore any acquisition by the Trust can be seen as a way of avoiding future threats.
38. Any consideration of threat is likely to remain a difficult matter of judgement. Whilst in some instances an immediate threat can be validated reasonably objectively (eg the demolition of an historic building), in many cases the identification of a threat can be a very subjective judgement. Threats may be specific to a property, non-property specific, or may be cumulative over various timescales (ie short, medium or long-term). Potential threats in the future may be predictable with varying degrees of certainty. Non-property-specific threats can include climate change, government policy (eg loosening of planning controls, transport or housing policy), pollution, land use changes and reduced sources of funding. Property-specific threats are usually more easily identified and can include the current management of the property, the known intentions of the owners or the possible dismantling of the property as a result of it being sold on the open market. Less tangible aspects of a place such as its spiritual associations or ambience may also be at risk. A number of factors, both non-property-specific and property-specific, not necessarily in themselves sufficiently damaging to fall within the definition of threat, might also have a cumulative impact which forms a significant threat.
39. LHis does not have a formal adopted policy, but since its inception has held threat to be a significant factor in selecting projects, and in recent years has acted primarily as an 'agency of last resort' specifically to counteract threats to historic buildings. Threat is therefore likely to remain a primary consideration specifically for LHis acquisitions, where factors such as low market value or high conservation requirement have made them unattractive to commercial developers and thus appropriate for LHis assistance.

Policy 7: Threat, particularly direct and immediate threat to a property, may be a significant but not the primary consideration in determining whether the Trust should proceed with acquisition.

TARGETED ACQUISITIONS

Principle 14: Any acquisition assessment must be based on a clear understanding of a) the Trust's existing portfolio and b) properties managed or owned by others, within the context of the natural and cultural heritage of Scotland.

40. Up to the present day the Trust's approach to acquisition has been largely reactive. A more strategic approach to acquisition would bring greater clarity to the process. At the very least the Acquisition Policy must be informed by a clear understanding of the Trust's existing portfolio. Such an analysis must therefore be conducted. This should reveal geographic spread, the types of heritage asset in Trust ownership, supporting infrastructure and areas where the existing portfolio is strong or weak.

41. Any acquisition assessment should explain how the proposed new property relates to the existing portfolio, ie whether it is complementary or breaking new ground. Any assessment should not only be concerned with what the Trust may wish to acquire, but with what would benefit the nation overall. There may be no national benefit from acquisition if other organisations own similar properties and are seen to be managing them well. Therefore the Trust should develop a ‘gaps’ approach, based on a nationwide assessment of what types of property are owned or managed by the state and non-governmental organisations in Scotland and consequently which types of property are under-represented. Such a strategy would allow focus on what would benefit the nation overall in terms of heritage protection.
42. Developing a more detailed list of target properties, ie named estates, gardens or buildings is not recommended, as it could be damaging and has many disadvantages. These include the potential for lengthy debate and disagreement over the content of the list, the likely loss of confidentiality, leading to antagonism from existing owners and other conservation bodies, and the possible artificial inflation of prices. The only exception to this would be where a potential acquisition has been targeted in order to protect or enhance an existing Trust property or collection (see *Principle 6*). Consideration of acquisitions which may increase the geographical spread of Trust properties is not without merit but can only be a secondary consideration in the evaluation process.
43. This more strategic approach to acquisition relates to the Trust’s permanent portfolio and not to the changing portfolio of LHis projects. In addition, some of the Revolving Funds available to LHis have a geographic bias and others an end use bias which constrict their operation.

Policy 8: An analysis of the types of properties the Trust manages will regularly be undertaken, and priority types identified for acquisition within the context of properties already managed by the Trust and others in Scotland.

INALIENABILITY

Principle 15: Whilst the Trust will normally acquire places it wishes to declare inalienable, this is an additional benefit of Trust ownership rather than a reason for acquisition.

44. Inalienability is frequently referred to as the unique strength which distinguishes the Trust from other organisations and yet it is often poorly understood. The Trust Order Confirmation Acts refer to it but do not give any definition of ‘inalienable’. The dictionary definition is ‘not to be removed or transferred to another’. The Acts therefore imply, but do not clearly state, that the Trust could not sell all or part of any property which has been declared inalienable, its general power to sell property being limited to that property which has not been declared inalienable.
45. It is widely believed that inalienable properties cannot be sold and that they are immune from compulsory purchase, but the reality is much more complicated. Since 1947 the Trust has used its power to feu inalienable property on several hundred occasions, mostly small areas for individual houses, but it has also feued eight areas of inalienable land of over 20 acres (the option of feuing will fall once the Abolition of Feudal Tenure

(Scotland) Act 2000 comes into force). The Trust has also sold alienable property on many occasions, mainly by means of feu disposition and in particular through the Little Houses Improvement Scheme. Inalienable land is not totally immune from compulsory purchase, though this has never been tested in practice (such a proposal requires to be considered by the Scottish Parliament if opposed by the Trust). It is more realistic to view inalienability as a statement of long-term commitment by the Trust coupled with substantial (rather than total) immunity from compulsory purchase.

46. In some cases potential donors of property may favour the Trust more than other bodies, in the belief that any property owned by the Trust and declared inalienable will never be sold. Indeed, it is sometimes a condition of a bequest that the property concerned should be declared inalienable. Whilst the Trust will normally acquire places it would wish to declare inalienable on the basis of their significance, it is in reality an *additional* benefit of Trust ownership rather than a criterion for acquisition. Any parts of a property not declared inalienable immediately after acquisition should be considered potentially inalienable until this decision is reviewed, normally within five years after acquisition. This reflects the fact that the real significance of some parts of a Trust property may only emerge through several years of post-acquisition research and familiarity with its various aspects. The option of determining that only part of a property should be inalienable should always be considered, particularly as it could be argued that to do so gives additional strength to the decision and allows for an honest assessment of those parts which are excluded.
47. As circumstances in relation to land ownership continue to change, the Trust must be mindful of the need to review and amend its position in relation to this issue in the future. The Abolition of Feudal Tenure (Scotland) Act 2000, the Title Conditions (Scotland) Bill, the Land Reform (Scotland) Bill and the review of special parliamentary procedure will all have impacts in this area when enacted.

Policy 9: Where all or part of a property's significance has been determined to be of sufficient quality, the Trust will use its power to declare those parts inalienable.

Principle 16: The role of the local community and the impact of Trust ownership on it should be considered in the appraisal process.

48. The Trust will take into account that every place it owns, however nationally or even internationally significant, is regarded as local by the community who reside in and around it. The Trust should not take on a new property without examining the needs of the community in question and the responsibilities ownership would bestow on the Trust. Such an analysis should be carried out as part of the acquisition appraisal process. Further involvement of the community in the management of a place after acquisition is not covered by this Policy.

Policy 10: The role of the local community and the impact of Trust ownership will be considered in the acquisition appraisal process.

ALTERNATIVES TO TRUST OWNERSHIP AND DISPOSALS

Principle 17: A property will not be acquired unless the Trust is the most appropriate owner and will only be disposed of where ownership no longer serves the best long-term purposes of conservation and access.

49. An acquisition appraisal should include an examination of what the Trust can bring in terms of benefit to the nation through acquisition. This must include an impartial analysis of whether the Trust is the most appropriate owner. An appropriate owner should have the skills, knowledge and experience for the particular needs of the property and the ability and resources to build on the opportunities afforded by ownership. Most importantly, such an owner must also be in a position to offer the required degree of protection. To justify acquisition, ownership by the Trust must be considered to be the most appropriate and beneficial option available. The Trust may on occasion acquire places for a limited period where this will enable conservation work to be undertaken, eg through LHis. Following this period the Trust may dispose of such places, with a Conservation Agreement as necessary.
50. The Trust has disposed of land and objects in the past for a wide variety of reasons. However there are clear examples of cases where this has been detrimental to the long-term interest of the properties concerned. The Trust will use the same criteria applied to acquisitions in evaluating when it is appropriate to dispose of heritage assets, bearing in mind that the history of the Trust's ownership may also be a relevant factor to consider.

Policy 11: The Trust will acquire a property only if an impartial analysis shows that it is the most appropriate owner, and will only dispose of property where ownership no longer best serves the long-term purposes of conservation and access.

Principle 18: Where it is not practical or desirable to act on its own, the Trust may seek to safeguard properties of significance through other means such as partnerships or encouraging other bodies to act.

51. There may be occasions when the Trust, by necessity or of its own volition, will look beyond ownership during an acquisition assessment. Other mechanisms at its disposal include encouraging others to act, influencing legislation, temporary acquisition, promoting ownership by another body (see *Principle 17* above), acting as a Trustee, drawing up a Conservation Agreement or entering into a partnership arrangement with one or more organisations.
52. The Trust may be approached to enter into some form of partnership or may instigate such action itself. Partnership types can include legal contracts, written memoranda and voluntary arrangements and may be entered into for a variety of reasons such as finance, site management and protection, education, marketing, influence and persuasion or the sharing of expertise. Partnership arrangements can exist between the Trust and donors during acquisition or where the donor continues to have a role in the management of a place.

Principle 19: In partnerships the Trust should always have clear roles and responsibilities and a practical route for disengaging should circumstances change unavoidably.

53. The Trust will actively engage with any partners, where appropriate, in order to realise the positive conservation benefits of partnership and dialogue. However, it should always ensure it has a clear role in any partnership, clear responsibilities, and where it becomes impractical to fulfil its responsibilities, a clear route for disengagement should be defined. Where any substantial partnership is being entered into, legal contracts should be drawn up, including some written explanation or clear interpretation of the intent and purpose of the legal clauses, agreed by all partners. The Trust, unlike some other bodies, takes a very long-term view of conservation management. Potential problems can arise where other partners have more short-term goals. This must be addressed if the Trust is to fulfil its long-term responsibilities within any partnership. Of course the Trust must take into account any political or moral difficulties in pulling out of any partnership arrangement (eg in terms of publicity or membership implications), hence the need for a clear *practical* exit. Mechanisms should be put in place to try to ensure any partnership-threatening problems are dealt with in advance of any such final action being taken, but the Trust must be aware of what it is tying itself into and of any limits to its control, and ensure that appropriate legal arrangements are in place.

Policy 12: The Trust will pursue a variety of mechanisms to safeguard places of significance, whether acting alone or encouraging other bodies to act. Where the Trust enters into a partnership arrangement it will ensure all partners have clear roles and responsibilities. The Trust must also have an exit route when its role is no longer needed or it is unable to meet its objectives.