

Business and Regulatory Impact Assessment

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Title of Proposal

Scotland's Strategy for the Historic Environment: Our Place In Time Review

Purpose and intended effect

Background

Our Place in Time ([OPiT](#)) was Scotland's first strategy for the historic environment, published in 2014. It set out a vision for how the historic environment can be understood, valued, cared for and enjoyed. The existing strategic priorities were:

- Ensuring the cultural, social, environmental and economic value of our heritage continue to contribute to Scotland's wellbeing.
- Investigating and recording our historic environment to continually develop our knowledge, understanding and interpretation of the past, and how best to conserve, sustain and protect it.
- Caring for and protecting the historic environment in order to both enjoy and benefit from it, and to conserve and enhance it for future generations.
- Sharing and celebrating the richness and significance of our historic environment.

OPiT presented a common set of objectives for all stakeholders involved in managing the historic environment and delivering associated activities, spanning public bodies, charities, trusts and private enterprises, giving transparency to users and the public.

A mid-term [Evaluation Report](#) in 2019 recognised the value that stakeholders continue to place on the strategy, while highlighting areas requiring new or additional emphasis including: climate change/net zero; equality and human rights; and community empowerment.

Recognising that the strategic context has changed since OPiT was published, in February 2022 Scottish Ministers commissioned Historic Environment Scotland (HES) to review OPiT and ensure it is fit for a post-COVID world. The intention was to publish a new national strategy in Spring 2023 that builds on the current OPiT strategy.

Objective

The new sector strategy will set out a shared five-year vision to 2028, outcomes, objectives and measurement framework to optimise the historic environment's contribution to Scotland's National Performance Framework. It will complement other Scottish Government strategies including those for Culture and Scotland's museums, the Historic Environment Policy Scotland (HEPS), the National Planning

Framework 4, Biodiversity, Climate Change, and the National Strategy for Economic Transformation.

Key themes and priorities

The strategy will revisit the existing priorities in OPiT and set new objectives which balance a range of stated Scottish Government and sector priorities including:

The 3 themes set out in the recent 5-year Resource Spending Review:

- Addressing Climate Change
 - Decarbonising homes and industries
 - Adaptation and climate resilience
- Securing a stronger, fairer, greener economy
 - Green recovery opportunities
 - Fair work
- Supporting progress towards meeting child poverty targets
 - Increasing household incomes
 - Reducing direct costs

The additional priorities set out in the Minister's commissioning note for the review, and identified in the mid-term OPiT review:

- Tackling inequality and promoting human rights
- Community empowerment
- Digital delivery
- Post-COVID economic recovery and renewal
- Creating a more sustainable and resilient sector.

Rationale for Government Intervention

A range of individuals, businesses, charities, industries and activities make use of and rely on Scotland's historic environment. In some cases, there are multiple and potentially competing uses of the same areas. Scotland's historic environment contains a wide variety of important, unique, and irreplaceable features, and provides a range of valuable goods and services.

However, ownership, decision-making, and funding in relation to Scotland's historic environment is diffuse, meaning that management of the historic environment is complex. There is a risk that decisions may be made in isolation from one another and that the historic environment may be mismanaged and damaged, with consequences for the goods and services it provides. This could also increase costs and uncertainty for businesses, developers, and other historic environment activities, undermining the efficient use of Scotland's historic environment. These adverse or sub-optimal effects are known as market failures, which justify government intervention.

The new strategy, and OPiT before it, therefore aims to provide strategic direction for the historic environment and make the priorities, outcomes and objectives clear to all key partners, stakeholders and historic environment decision-makers.

The rationale for the strategy are therefore 2-fold:

A) To ensure historic environment activities align with the National Performance Framework; and

B) To address possible market failures where, without intervention, free-functioning markets and organisations would fail to deliver efficient or optimal outcomes for the historic environment. Potential failures include: not maximising the public good from the historic environment; inconsistent regulatory decision making; inequality of access to the historic environment. Annex 1 includes more detail on each of these failures.

Consultation

On 16 February 2022, the Minister for Culture, Europe and International Development, Neil Gray, wrote to commission Historic Environment Scotland to conduct a review of OPiT, involving stakeholders, partners, and communities from within and outside the sector in its design. HES established a project team to coordinate the review process, including Scottish Government Officials. Built Environment Forum Scotland (BEFS), and National Lottery Heritage Fund, and carry out engagement with public, private and Third sector organisations, including equalities groups.

The consultation process was initiated at the June 2022 SHEF meeting (Scotland's Historic Environment Forum), opened by the Minister, and involving over 100 participants from across the sector in themed workshops. The full consultation programme included:

- Local authorities, including in connection with growth deals and local community planning;
- Delivery partners e.g. Skills Development Scotland, Scottish Funding Council, Volunteer Scotland, YoungScot, the enterprise agencies, the national collections, NatureScot, and various higher and further education institutions;
- Equalities groups, such as Coalition of Racial Equality and Rights
- Historic environment sector organisations and funders, including HES, NTS, BEFS members, Historic Houses Scotland, professional bodies (CiFA, RICS, RIAS etc), civic trusts, and other community-heritage organisations;
- Existing OPiT working groups

Public Consultation

The public consultation on the draft strategy ran from 28 November 2022 to 20-February 2023. A total of 137 formal written responses were received. HES and BEFS organised 8 consultation events in January-February (including 2 online events) that were attended by 147 in total. The consultation was also promoted via social media and articles in national and local press.

A programme was designed to engage the public through a series of open sessions and individual interviews. Key representative bodies were engaged to ensure the views of special interest and minority groups were fully captured in accordance with our commitment to and work on tackling inequality and championing equality,

diversity, and human rights-based approaches in our work. The public consultation also captured views from private businesses.

Business

The Scottish Firms Impact test was completed during the public consultation. Given the breadth of the strategy and the potential impact across multiple sectors, HES included industry bodies from the construction, travel and tourism, retail, conservation/archaeology, environmental management, digital media, and manufacturing sectors to better capture their members' interests. Given concerns around GDPR regulation when approaching multiple businesses directly, it was decided that a business impact section would be included in the public consultation, which industry bodies promoted to their members.

The consultation with industry bodies / businesses covered:

- The nature of their relationship with the sector
- Their views of the proposed strategic priorities and their consequences
- Specific opportunities for their business (both monetary and other)
- Perceived risks and costs (of engagement process, monetary or other)
- Perceived impacts on their supply chain and sustainability
- Suggestions for improvement

Options

The strategy does not seek to make changes to the overarching regulatory frameworks set out in Historic Environment Policy Scotland (HEPS) or wider Scottish Government Regulations such as Procurement or Tax and will operate within these wider legal parameters.

Provisionally, there are 3 options available:

1: Operate without a sector strategy

This implies that the sector will operate without a formal declaration of its approach and priorities. In practice, the Minister has already commissioned HES to develop a new strategy and the initial meeting of SHEF (Scotland's Historic Environment Forum), including representation from across the sector, has endorsed the idea. It is unlikely that the sector will not achieve consensus for at least the top-level principles for inclusion in a strategy.

2: Retain the existing sector strategy, OPiT

The existing strategy includes priorities that were agreed across the sector in 2014. The mid-term evaluation concluded that stakeholders still valued OPiT, but identified a number of areas for inclusion or expansion. If consensus can't be reached for new principles, the existing plan could continue to deliver some benefits and coordination for the sector.

3: Produce a new sector strategy

This is the required option, commissioned by the Scottish Government to aid delivery of the objectives set out in the Programme for Government and National Performance Framework.

In practice, there are a number of variables which will determine the sector's ability to commit to specific objectives and deliver them, including the disparate nature of funding across the sector stakeholders. The consultation and development process for the strategy therefore explored the specific content and level of detail the strategy can commit to, rather than considering operating without one.

Sectors and groups affected

A key theme for the strategy is securing a stronger, fairer economy, and will be designed to promote opportunities for Scottish businesses and avoid any negative impacts in line with the objectives of the National Performance Framework.

The strategy will not directly introduce new taxes or regulatory requirements which will immediately add costs or reduce competitiveness for Scottish businesses. However, choices about the management of the sector could influence demand in key markets such as construction and tourism, resulting in redistributive effects and/or a changed operating environment as the historic environment works towards Scottish Government priorities around sustainability, equality and Net Zero. The key sectors which will be influenced by the strategy include:

Construction sector

Scale: Traditionally built stock (with pre-1919 elements) is thought to account for around a fifth (20%) of Scotland's total. An estimated £1.3 billion was spent on repair & maintenance of this historic built environment in 2021/22, supporting c. 10,000 full time equivalent jobs. Including supply chain effects (as construction companies purchase materials from domestic suppliers) increases this total to £2.5 billion and over 20,000 FTE jobs.

Structure: Investment in built heritage is split across all sectors: the largest share is spent by private residential and business owners (around 55-60%); a further quarter (around 25-30%) is invested by Local Authorities and non-Culture government departments maintaining their estates, where the heritage aspect of the building is secondary to its core use e.g. as a hospital or swimming pool. Only around 15% of spend on traditional buildings is funded directly by the sector itself, maintaining historic attractions or via grants for historic building fabric.

Nature of change: The strategy should influence this market by working with the construction industry and contractors to encourage appropriate maintenance, develop and promote best practice guidance and standards, shape skills and training requirements, and endorse energy efficiency adaptation of existing stock to meet the Scottish Government's climate ambitions. The strategy will also encourage working in partnership with local areas and sectors to identify the best sustainable uses for existing buildings, which may require a change of use as part of a wider development or regeneration programme.

Possible costs: This approach could result in direct or indirect costs for construction industry businesses as they seek to meet these standards, potentially requiring additional training, recruitment of new or specialist skills, or sourcing of particular materials. Similarly, it could affect businesses across all sectors based in historic buildings as they work to meet new maintenance/adaptation standards themselves, or if local areas place pressure on existing occupiers to meet the area's wider aspirations

Possible benefits: The scale of investment in built heritage, and transparent commitment across the sector provided by the strategy, provides significant long-term opportunity for construction businesses to safeguard existing operations and grow into new opportunity areas around adaptation of traditional stock, with support and advice from the sector about how to transition. For example, the Scottish Government estimates £33Bn will be required to adapt Scotland's housing to zero emissions – a fifth of residential stock is traditionally constructed, implying c. £7 Bn of new investment on top of the existing repair & maintenance requirement.

Tourism sector

Scale: Visitor spend in Scotland was £12bn in the year before COVID. Sustainable Tourism is a priority sector in the Government's National Strategy for Economic Transformation: over 14,000 individual businesses classified in the sector had turnover of over £8.3 Bn in 2019 and supported 13% of Scotland's total employment. Heritage is a key driver of tourism in Scotland enabling these businesses:

- 50% of international visitors engage with heritage during their time here, including footfall of over 18 million at heritage attractions
- 34% of visitors report heritage as their main reason for visiting Scotland
- £3.2 billion was spent by visitors who included heritage as part of their trip in 2019. This fell by 80% in 2020 during COVID restrictions and closures.

Structure: heritage tourism expenditure supports businesses that operate heritage attractions and the wider tourism sector operators managing hotels, retailers, restaurants, and transport providers etc that would be lost without the draw of heritage bringing spend to the area.

Nature of change: the existing OPiT strategy targeted tourism expenditure growth. The new strategy will prioritise sustainable tourism, balancing the need for tourism employment and commercial income for the sector with the wider social and environmental priorities of local areas. The strategy will shape the sector's approach to opening/closure/promotion of heritage attractions, the facilities they offer and accessibility, and the resultant distribution of visitors and their spend.

Possible costs: international visitors account for 65% of the current net heritage economic impact. They have the highest average spend and are also far more likely to be in an area because of heritage attractions than domestic visitors, meaning that losing them would have a disproportionate effect on local businesses. Core heritage sector organisations (HES, NTS, HHA etc) also rely on international visitors for a significant share of their commercial income (and therefore total budget for reinvestment). International visitors also have the highest average carbon footprint

because of their travel. More generally, some communities report that over-tourism is damaging their local infrastructure or is disruptive. Any new measures introduced in the strategy which look to reduce the volume of visitors for environmental or social reasons will have an impact on tourism businesses.

Possible benefits: the absolute scale of heritage tourism is a major driver of Scotland's economy. Again, by presenting a clear statement about the sector's joint approach to transition towards sustainable tourism, the strategy will give a sound platform for businesses in the sector to plan around. Alongside existing businesses, new approaches will be required to tackle climate, transport, and social issues: the strategy will seek to support businesses in this transition through joint planning, training provision and skills development.

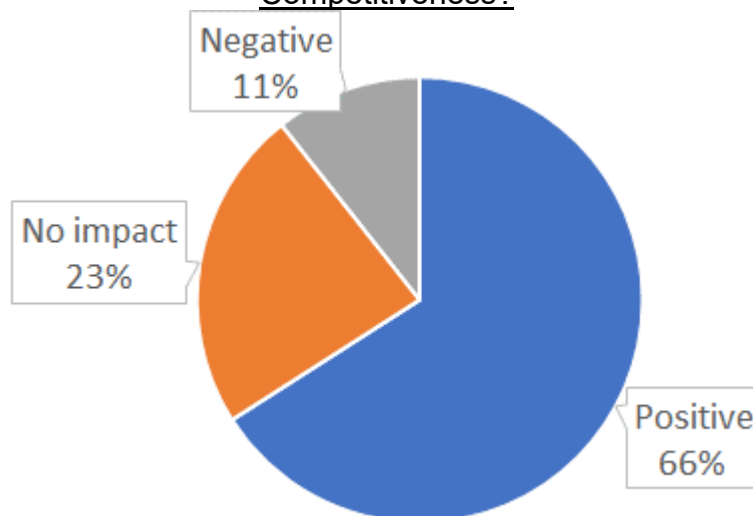
Scottish Firms Impact Test

The public consultation questionnaire included questions designed to meet the requirements of the Scottish Firms Impact Test, exploring the specific impacts the proposed strategic objectives would have on competitiveness. There were 80 responses to the section from businesses, trade bodies, economic development agencies or other parties which represent (or are related to) Scottish firms' interests.

Further discussions were held in open forums and with a small follow-up sample of individual businesses that agreed to more detailed interviews on top of their general return (in line with GDPR legislation). There was representation either from, or on behalf of, operators and suppliers in the construction, travel and tourism, retail, conservation/archaeology, environmental management, digital media and manufacturing sectors.

Two-thirds (66%) of respondents felt the draft consultation strategy would result in a positive impact for Scottish firms' competitiveness, and around a quarter (23%) felt that it would have no impact on their current competitiveness. Only 11% felt that there could be negative impacts, as illustrated in figure 1 below:

Figure 1: What Impact will the Strategy have on Scottish Businesses' Competitiveness?



The positive feedback received reflected the good intentions of the Strategy and endorsed the broad approach and objectives, including:

- **Tourism growth:** The coordination of heritage assets to attract back tourists lost through COVID restrictions/closures and encourage new markets will act as a wider economic catalyst for Scotland and local areas, driving new business opportunities.
- **Sustainable growth / Net Zero:** Inclusive, sustainable growth and heritage-led regeneration objectives offer a significant potential competitive advantage to Scottish firms. “Green business” is a strong basis for growth and the recognition that heritage plays a key role in shifting the “energy efficiency paradigm” is key.
- **Partnership and locality:** Partnership working reduces the risks of conflicts and delays which affect business competitiveness, and the emphasis on local supply chains and procurement offer significant opportunity.

Concerns raised by the respondents included:

- **Difficult economic conditions:** Firms’ competitiveness (and the sector’s) is going to be affected by the wider economic outlook, including the cost-of-living crisis and 4-year funding forecast and many will struggle. While the Strategy is taking the right approach, some respondents felt that truly positive (expansionary) effects are unlikely over this period. Instead, the Strategy will help to reduce the additional loss of competitiveness for Scottish firms that would result if no common approach were introduced.
- **Insufficient delivery detail to plan around / too high level:** The Strategy will not influence the market (and thus competitiveness) without more detailed activities and measures, and information about the value and location of specific investments to give firms more reassurance when planning/forecasting. The emphasis on “grandstanding” outcomes can overshadow the continued core heritage repairs and markets that firms engage with. Firms will not use this as a planning document.
- **Reduced priorities:** The reduction in the number of strategic priority areas could increase competition within the sector as organisations & grant applicants for heritage properties look to align with the streamlined priorities. This could narrow the volume and range of firms currently engaging directly with the sector and in the supply chain. This was particularly true for firms and operators related to the third sector and its supply chain, which is quite exposed to grants.
- **Sustainable tourism:** Further work is required to define sustainable tourism and understand where climate, community and commercial objectives could conflict, and how the sector will approach these decisions without detriment to firms servicing the current market. The commitment to a collaborative, local approach is not sufficient to suggest which direction these decisions will go.
- **Film industry:** New opportunities from the film industry are not adequately captured in the draft strategy, particularly around Scotland’s new studio / production capacity. Emphasising the importance of heritage assets to this wider offer would enhance competitiveness in this expanding, but competitive sector.

- **Net Zero detail:** The emphasis on the potential scale of net zero conversion for competitiveness is good, but there is no further detail on the approach.
- **Affordability:** The overall cost of the proposed objectives is not clear, nor whether they are affordable.

Overall, the firms impact test is positive and supports the priorities and approach. While there were criticisms and concerns raised about the high-level nature of the strategy and lack of sufficient detail for firms to formally plan around and commit resource to, and the difficult economic environment for firms in general, there was nothing identified as specifically and immediately damaging current interests and competitiveness.

The concerns are mainly seeking clarity around new, evolving policy areas (in common with the Scottish Government's evolving direction and higher-level policy documents). As such, HES and the sector will look to address these identified concerns through more detailed research, on-going engagement, and appropriate communications as and when sufficient detail becomes available and acknowledge the tone of feedback in the revised Strategy, rather than fundamentally shifting the level and principles set out in the consultation draft.

Competition Assessment

An effective market is one where businesses, large and small, are able to compete to deliver services and products to consumers. Competitive markets drive innovation, productivity, sustainable and inclusive economic growth along with providing consumers with a choice of goods and services. Government policies can often have unintended consequences for the market, which can then impact on businesses and consumers. Equally, competition can be used to improve the quality of goods and services. The Consumer and Competition Policy Unit (CCPU) aims to consider the possible consequences of policy and support policy teams in addressing these.

The four Competition and Markets Authority (CMA) competition assessment questions below were used to form an initial desk-based assessment in the partial BRIA which was published as part of the public consultation. Open feedback was then sought through the consultation process, which endorsed the initial assessment:

Will the new strategy directly or indirectly limit the number or range of suppliers?

- **Low risk.** Any new common guidance, standards or training requirements developed as a result of the strategy could influence procurement across the sector (where not bound to Scottish Government procurement policy) and exclude some existing suppliers who cannot meet them. However, this risk is low as the sector would also be looking to support the corresponding upskilling and transition in the sector to meet these requirements. During the consultation, respondents felt there were likely to be increased opportunities for local suppliers given the focus on communities and regional skills, though acknowledged further work is required on the specific delivery details.

Will the measure limit the ability of suppliers to compete?

- **Low risk.** As above, individual businesses may be expected to meet new guidance and standards, but this will not disadvantage Scottish suppliers compared with international suppliers as they will be subjected to the same expectation.

Will the strategy limit suppliers' incentives to compete vigorously?

- **Low risk.** The strategy will aim to address current under-capacity in certain skillsets and encourage engagement across all suppliers to meet new opportunities around building adaptation/conversion and sustainable tourism amongst others. The strategy is also unlikely to introduce new standards and measures which do not have precedent in higher level Government strategies and will therefore be consistent across all sectors e.g. around sustainability.

Will the measure limit the choices and information available to consumers?

- **No.** One of the key aims of the strategy is to provide increased transparency and clarity for consumers, providers and other users of Scotland's heritage through publication of a common vision and set of objectives for the sector.

There is a degree of competition within the sector itself, with providers of heritage attractions and non-heritage attractions competing for visitors' spend and for competitive funding pots / grants. The introduction of a common set of objectives in the strategy and agreement on a partnership approach should minimise any risks around this competition, albeit that the reduced group of priorities could ultimately lead to some redistribution away from firms that are not aligned with the latest national statutory requirement or policy objectives. In addition, SHEF (Scotland's Historic Environment Forum) is planned as an annual occurrence to bring together senior members of key organisations in the sector to ensure cohesive delivery and manage issues.

Based on the answers above, and evidence contained elsewhere in this assessment, a more extensive competition assessment is not required at this stage. HES will contact the Scottish Government's Consumer and Competition Policy Unit if concerns are raised by suppliers and businesses during the Strategy delivery period, or in relation to subsequent research/engagement around new research and any further detailed strategies (e.g. skills) that are developed under the umbrella of this over-arching sector strategy.

Consumer Assessment

For the purposes of the strategy, consumers are defined as anyone who uses the historic environment or buys related goods or digital content now or in the future.

While much of the historic environment is freely available to users, either in public spaces, through uncharged attractions or via open websites operated by Trusts and Charities, commercial income is central to survival of the sector so there are also charged attractions and services. There are a range of public, private and third sector providers, each of which will have different sourcing and pricing strategies. The strategy will not determine common charging policies, but will look to set wider

objectives around equal access with a particular focus on inclusion of vulnerable groups and groups not previously engaged with the historic environment.

Based on the Scottish Government's Consumer & Competition Policy Unit's screening questions outlined below, and the initial assessment published in the partial BRIA for consultation, it is unlikely that the strategy will introduce any new consumer pricing or quality issues which are not the result of wider economic circumstances. No specific concerns were raised during the wider consultation programme.

Does the policy affect the quality, availability or price of any goods or services in a market?

- The strategy is aiming to improve the quality and accessibility of the historic environment and will not introduce any direct pricing policy for the sector. However, as noted in the Options section, new guidance, advice, and standards could indirectly result in higher operating costs for provision of heritage goods and services, which may have to be passed to consumers given the sector's relative reliance on commercial income. While some goods and services may necessarily have to increase prices to deliver economic, social and environmental objectives, and some attractions may increase in price, the majority of the historic environment will not be subjected to direct charges. Support will also be explored to ensure full inclusion of vulnerable groups.

Does the policy affect the essential services market, such as energy or water?

- Very unlikely, although it is possible that environmental adaptation of some historic buildings/sites could result in surplus energy generation e.g. installation of heat pumps. It is highly unlikely that this would be delivered on a scale to influence market prices over the course of the strategy.

Does the policy involve storage or increased use of consumer data?

- Monitoring and performance reporting for the strategy will require collection of some consumer data, as will delivery of some services e.g. for online ticket or goods sales and in the design of services. HES will be responsible for OPiT reporting overall, which will be delivered in line with the Scottish Government's Management Information Strategy. The range of providers across the sector may require individual consumer data to inform service design, but it is unlikely this will exceed current levels. The strategy will seek to introduce improvements to consumer collection but cannot determine individual organisations' approaches.

Does the policy increase opportunities for unscrupulous suppliers to target consumers?

- Unlikely, although it is anecdotally known that some construction activity is delivered by unregistered suppliers, or is unrecorded, and the quality of work on traditional buildings delivered through them is virtually impossible to monitor. Introduction of new standards around climate adaptation, and the corresponding grants and funding available, could offer some increased incentive to unscrupulous suppliers to increase prices or sell services without

the full training or recommended materials. The strategy will seek to work with the wider industry to minimise any risks.

Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?

- The strategy will not set pricing strategies or provide direct information, but will provide a clear set of agreed principles for the sector to operate under, improving the quality and transparency of information available to consumers.

Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?

- The strategy should raise awareness of key bodies in the sector and existing routes for raising complaints, but is unlikely to introduce any formal new consumer bodies. HES will retain its leadership role for the sector in this respect, reporting to SHEF and the Minister as required.

Test run of business forms

No new business forms will be introduced as a result of the strategy.

Digital Impact Test

The strategy will introduce an increased focus on digital provision in the sector, intent on improving both accessibility to heritage materials and services, and promoting the overall sustainability of sector provision. The strategy cannot dictate specific requirements across the sector's partners but can make common objectives more transparent and encourage digital improvement.

Does the measure take account of changing digital technologies and markets?

- Yes, digital is a key theme for inclusion in the strategy design. It is likely to affect user engagement for online services, and in the design of on-site interpretation at attractions. During the consultation it was noted that, while endorsed, there is no comment on the overall affordability of digital adaptation for the sector.

Will the measure be applicable in a digital/online context?

- Yes, as above.

Is there a possibility the measures could be circumvented by digital / online transactions?

- Given the diverse range of providers across the sector, there will many digital interactions and transactions. The strategy will not be able to fully monitor and guarantee all provision.

Alternatively will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?

- Many offline heritage services will continue as they are not suited to online provision e.g. archaeological digs or site visits. The strategy will not be able

to define each service, but will set common improvement objectives where digital provision can complement or safely replace offline provision. In some cases e.g. the loss of existing physical heritage assets due to natural circumstances or planning decisions, online recording and presentation may replace the existing traditional asset. The strategy will set out the sector's approach to ensure this happens in a managed way.

Legal Aid Impact Test

The strategy will not be introducing any new legislation or amending existing legislation directly, focusing instead on partnership, good practice, sector improvement and support. The types of legal matter in relation to which individuals may be involved, and to which the strategy relates, include community asset transfers, guardianship agreements relating to properties, planning matters, actions relating to liability for advice being provided by organisations within the sector to individuals, and/or applications for judicial review relating to decisions taken by public sector organisations in line with the strategy. HES's understanding is that legal aid is unlikely to be available to individuals impacted by such matters (and of course legal aid is not available to organisations through the strategy). As such, HES considers that it is unlikely that the strategy will have an impact on legal aid requirements.

The public consultation did not raise any specific legal concerns relating to the draft Strategy. HES will engage with the Scottish Government's Justice Team and Legal Aid Board if any unforeseen concerns are raised during the delivery of the strategy, beyond the requirements of individual cases.

Enforcement, sanctions and monitoring

Historic Environment Scotland (HES) was tasked by the Scottish Government with producing the new Strategy through a collaborative approach across the sector. HES is responsible for monitoring and annual reporting of the current OPiT strategy and, following the public consultation and Ministerial agreement, will continue in this role for the new Strategy.

A set of agreed Outcomes have been developed for the Strategy and will be reported on annually to the Scottish Government, with reporting made publicly available.

Individual organisations within the sector will be responsible for enforcement of the strategy, following the agreed objectives. The need for stronger enforcement or sanctions during the delivery period will be explored on a case-by-case basis through the strategy's steering committee and with Scottish Government approval.

Implementation and delivery plan

The Scottish Government has commissioned the development of the new Strategy for publication in Spring 2023. The Strategy will set out the sector's 5-year vision to 2028 and include annual performance reporting against the agreed priorities and their associated outcomes. Mid-term evaluation will be considered.

All sector partners and stakeholders will play a role in the implementation of the strategy and there will be a strategy steering group with working, and task and finish groups underneath it. Some existing delivery mechanisms from OPiT will carry over.

HES is responsible for annual performance reporting for the current OPiT and will continue in this role for the new strategy.

Summary and recommendation

The recommended option is the publication of the new Strategy for the historic environment sector, following the commission from the Minister on 2022. While this BRIA process has highlighted concerns around the level of detail presented in the strategy to allow firms to formally plan around and commit resources to it with assurance, no specific risks have been identified that require a new approach or removal of key objectives presented in the consultation draft.

Following the public consultation and Scottish Firms Impact Test, the following approach is recommended:

- Publication of the Sector Strategy within the planned timeframe and following final approvals from the Minister and the strategy steering group.
- Formal acknowledgement on the concerns raised for (and on behalf of) Scottish firms during the consultation process through publication of this updated BRIA, and in making further edits to the draft, including:
 - Acknowledgement of the possible conflict between the heritage sector's reliance on visitor-driven commercial income and the need for a sustainable tourism approach which requires reduced visitor carbon footprints and accommodates local social requirements which may reduce the commerciality of sites and attractions.
 - Acknowledgement that the difficult wider economic conditions and reduction in the number of priorities in the Strategy could lead to some increased competitiveness between businesses, particularly those servicing markets which rely on grant-funding.
 - Acknowledge the ongoing risk of competition between providers within the heritage sector for common funding and for visitor expenditure.
 - Work with the construction industry to ensure that new guidance and training requirements will not exclude existing providers without corresponding support where viable. This can be picked up through the live review and refresh of the Historic Environment Sector Skills Investment Plan.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Alex Paterson

Date: 26.04.2023

Name: Alex Paterson

Title: Chief Executive

Organisation: Historic Environment Scotland

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Annex 1 – Further Details of Market Failures

Market failures occur when freely-functioning markets, operating without government intervention, fail to deliver an efficient or optimal allocation of resources. A consequence of market failure is that economic and social welfare may not be maximised. The HM-Treasury's Green Book describes a range of market failures which justify government intervention in the sector. A number of these market failures can apply to the protection and promotion of the historic environment, three of which are detailed below: public good, externalities and equity.

To maximise public good from the historic environment

The historic environment can be considered to be a (quasi) public good; some elements of the historic environment are public goods (i.e. they are owned and/or managed by public bodies). Some elements are also owned and/or managed by charitable or voluntary sector organisations for public benefit. Some of the public benefits derived from the historic environment are symbolic or aesthetic and cannot be restricted or captured through charging. Symbolic benefits (and aesthetic benefits) are non-rival and non-excludable. In other words, one person's pride in their historic environment does not diminish another person's ability to take pride in it as well (non-rival) and it is impossible to exclude anybody from benefitting from the pride and enjoyment given by the historic environment (non-excludable). Thus, there is incentive for some individuals to bear the full cost of maintaining the historic environment, when others who have not paid can still share in the benefits. Physical access is the only benefit that could be restricted by the private sector to make profit, so the sector could be incentivised to under-invest in maintaining the elements which are non-chargeable i.e. they would not have the incentive to maintain certain sites and collections and would therefore not adequately protect assets of historic importance and/or provide comprehensive historic coverage.

To support consistency in regulation and decision making

Externalities - decision-making around designation and planning permission lends itself to a centrally supervised regulatory framework to ensure consistency across Scotland. Without a common and transparent, accessible public standard, any owners or developers might take lower cost options which damage the heritage aesthetic of the building/site for the wider community. Private owners of monuments might also damage external public benefits through commercial choices e.g. selection of overseas suppliers to minimise cost, rather than supporting local businesses in the supply chain.

To promote equality of access

Equity – maintaining equality of access. Public bodies with charitable status (such as HES) and other charitable organisations (such as NTS) must deliver public benefit and are inherently not for profit – as such they have a key role to play in promoting equality of access. Private sector operating models rely on income, a significant proportion of which comes via non-Scottish visitors to the sites. Pricing to maximise profit and accommodate tourists would restrict (or even remove) access from many Scottish people, for whom the sites are predominantly being protected. However, the

requirements of external funders such as the National Lottery Heritage Fund may have a direct impact on access provisions. Private operators may also be less likely to promote sites to target groups for equality impact assessments, which are a specific requirement for public organisations (but again may be impacted by external funder's conditions). OPiT promotes the importance of promoting equality and diversity of access and participation, while recognising the need to generate income and the new strategy will do similar.