

## HESPS to HEPS – Frequently Asked Questions May 2019

### Historic Environment Policy for Scotland (HEPS)

#### 1. Do I need to refer to HEPS?

You can answer this by asking two questions –

- Am I making a decision that might affect the historic environment?  
This includes in plans and policies that deal with funding decisions or estate management, or other specific topics such as agriculture or energy.
- Is the date 1 May 2019 or later?

If the answer to both of these questions is ‘yes’, then you should be referring to HEPS.

#### 2. What is HEPS?

It replaces the Historic Environment Scotland Policy Statement (HESPS). It supports and enables good decision-making about changes in the historic environment. It does this by setting out a series of principles and policies for the recognition, care, and sustainable management in the historic environment.

The policies in HEPS are set out under three topic areas:

- **Understanding and recognition** – these policies promote an inclusive understanding of the historic environment.
- **Managing change** – these policies encourage consistent, integrated management and decision-making to support positive outcomes.
- **Working together** – these policies support everyone’s participation in decision that affect the historic environment.

It is a key consideration for planning proposals that might affect the historic environment, and in relation to listed building consent (LBC) and scheduled monument consent (SMC).

#### 3. How is HEPS different?

HEPS considers decision-making, and decision makers, in the widest sense. It does not focus on one type of change, or one type of decision. It doesn’t change the things we consider important, or alter the principles of caring for and about the historic

environment. However, it does spell these principles out clearly and simply for the first time. It also clearly identifies what we recognise as the challenges and opportunities for the historic environment in Scotland today.

The policy and guidance that sits under HEPS still follows the same key principles they always did. We just want to make them more explicit – so that anyone who cares about these decisions can understand, from first principles, how they are made, and how they can get involved.

#### **4. Where does HEPS sit in relation to wider national policy?**

HEPS is the national level policy for the historic environment, so it sits alongside policies like Scottish Planning Policy – and is in line with them. HEPS is a material consideration in the planning system, as is the policy and guidance that sits below it.

#### **5. Where did HEPS come from – and why now?**

The previous policy, HESPS, was an update of Scottish Historic Environment Policy (SHEP), which was published in 2011. It couldn't fully deliver the vision and aims set out in Scotland's strategy for the historic environment – [Our Place in Time](#), because this was published after it, in 2014.

When Historic Environment Scotland was created in 2015, our intention was always that we would fully review the policy and guidance contained in SHEP. This process started with the [What's Your Heritage](#) project and later consultation. Our stakeholders told us that we needed a more up to date approach. HEPS reflects this new approach. It aims to be more inclusive, and acknowledges the challenges facing us all as we make decisions on the historic environment.

We ran a first consultation on our approach to the review and replacement of HESPS in May 2018. More recently, we held a public consultation on a draft policy document between 10<sup>th</sup> September and 3<sup>rd</sup> December 2018. You can find the [consultation report](#) on our website.

As part of this process, we've also revised our operational information and guidance. All the documents are available via the [HEPS page](#) on our website.

#### **6. Who is HEPS for?**

HEPS is for everyone who cares about decisions that affect the historic environment. This includes the people who make the decisions, as well as the people affected by or interested in them.

**7. When will [HEPS, and the other new policy and guidance](#), come into force?**

May 1st 2019. All decisions taken then or after that which affect the historic environment should take it into account. This includes all topic areas, such as land use, funding, planning and policy.

HEPS will also apply to any appeal of decisions made under old policy. It doesn't matter how far through the procedure any decision is – HEPS will apply.

HEPS does not conflict with HESPS, or any other national level policy area. HEPS should help us all to understand these decisions, and to explain them clearly. At earlier stages in the process it should also influence how we approach issues when they arise, and work together to resolve them.

**8. What status does HEPS have?**

As a continuation of the principles set out in earlier documents, HEPS has the same status as HESPS.

HEPS is non-statutory. This means that there is no law that says that it must exist, or must be taken into account in decisions. This is similar to other national policy documents like Scottish Planning Policy. It sits alongside policies such as these, and should be used with them.

HEPS should be taken into account when decisions might affect the historic environment. This applies in the broadest sense, covering issues like funding, land use and policy development.

In the planning process, it is a material consideration. This means that decision-makers should take it into account, alongside statutory development plans, when coming to a decision. This applies for planning applications and listed building consent, and appeals on these. Depending on the specific decision type and subject area, specific [Managing Change guidance notes](#) may also be a material consideration.

In terms of the decisions that we make, it is a material consideration for the designation and SMC processes. We also have specific policy documents for [designation](#) and [SMC](#) online.

**9. How does HEPS affect other policies in preparation?**

HEPS, together with Scottish Planning Policy, should be taken into account during the preparation of development management policies within Local Development Plans.

HEPS does not include any policies that conflict with the previous content within HESPS, so any amendments or updates can be addressed at the next available opportunity in the plan making cycle.

#### **10. Have the functions and processes of HES changed?**

No. These are as set out in the [Historic Environment Scotland Circular: Regulations and Procedures](#). This new document is a technical update of the Historic Environment Circular 1. The circular will be updated as necessary as part of our regular review of policy and guidance.

### **DETAILED GUIDANCE**

#### **11. I can't find something that used to be in HESPS or SHEP – where should I look?**

The detail in HESPS is now split into more specific content areas. Aside from the policy and principles in HEPS, the key documents to look in will be:

- [Designation Policy and Selection Guidance](#)
- [Scheduled Monument Consents Policy](#)
- [Managing Change in the Historic Environment: Demolition of Listed Buildings](#)
- [Guidance on Conservation Areas](#) (interim)
- [Guidance on the Principles of Listed Building Consent](#) (interim)

#### **12. Why are 'Guidance on Conservation Areas' and 'Guidance on the Principles of Listed Building Consent' described as 'interim'?**

Because we haven't reviewed them fully yet, but we are working on it. At the moment they simply reflect the guidance that was set out in HESPS, so there is no change in these topic areas.

#### **13. Do the Managing Change guidance notes still apply? Is there any change to their status?**

Yes they still apply and there is no change to their status. The Managing Change series explains how to apply the policies in HEPS. Specific Managing Change notes are therefore material considerations for specific decisions and policy areas. They are referred to as key documents in the planning system in Scottish Planning Policy.

#### **14. Are you preparing new Managing Change notes, or updating any?**

The Managing Change series is on-going, and individual guidance notes are added, removed and reviewed over time. We concentrate our resources where need is greatest, and we welcome any suggestions for new guidance or updates.

As part of the new suite of documents, we are publishing two new notes:

- [Demolition of Listed Buildings](#)
- [Use and Adaptation of Listed Buildings](#)

To accompany these we have also published [five case studies](#), which we will be adding to over time.

### **15. Has policy and guidance for demolition of listed buildings changed?**

No. The policy for the protection of listed buildings is set out in Scottish Planning Policy. Policy HEP4 of HEPS is also a relevant consideration as it relates to any changes to a specific heritage asset.

We consider demolition of listed buildings to be a very specific type of change, and a significant loss. We therefore have specific guidance on how to apply the national level policies in this area. This is contained within a new Managing Change guidance note on [Demolition of Listed Buildings](#).

The guidance in this document reflects the guidance as previously set out in HESPS, and fulfils the same role in explaining how policy should be applied, and therefore has the same status. It clarifies some specific areas. These include how special interest is considered, and what is expected in the marketing process.

Our second new guidance note, [Use and Adaptation of Listed Buildings](#) will also always be relevant when any significant change is proposed for a listed building. This includes demolition. This new document supports, promotes and enables the continued use and adaptation of historic buildings. It should be used when considering the future of any listed building. The information in it is useful when considering whether reasonable efforts have been made to find a new use for a building.



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## DESIGNATION POLICY AND SELECTION GUIDANCE

### 1. How is this policy different from HESPS?

This new document set out our policy for designating sites and places at the national level. This policy area was previously contained in HESPS, and is now a standalone document which sits under HEPS.

The policy sets out how we undertake our designation work, including how we involve the public in our decision-making on designation. It also provides greater clarity in areas such as how development proposals affect the designation process.

There are some changes to the guidance that informs our work in selecting sites and places for designation. These are intended to reflect how our society values our most important sites and places.

### 2. What is the relationship between HEPS and Designation Policy and Selection Guidance?

The Designation Policy and Selection Guidance is a separate policy document that works alongside the HEPS, and is informed by it. HEPS covers the whole of the historic environment and is for all decision-makers. The designation policy covers a specific type of decision and work area. Its primary use is to guide our work in designation – and to explain this process to anyone who has an interest in it.

### 3. Have the criteria for designation changed?

No. The criteria set out in law for designating sites and places at the national level have not changed.

For listed buildings, the criterion is special architectural and historic interest. For all of the other designation work we undertake, the single criterion is national importance. This relates to scheduled monuments, gardens and designed landscapes and battlefields.

There have been some changes to the selection guidance that inform our decisions on which sites and places meet the criteria for each designation. For most designations, this means how we decide whether or not an asset is of 'national importance'.

The changes are intended to reflect how sites and places are valued today. The new selection guidance sets out clearly how we consider social interest, today and in the past.

An example of this is that for gardens and designed landscapes, the selection guidance gives us greater ability to reflect the artistic and historic interest that these landscapes can represent to individuals and communities today. The wording of previous selection guidance focusses on their value to previous generations.

#### **4. How does the policy support wider public participation in decision-making?**

One of the key principles in HEPS is to allow for greater involvement from individuals and communities in decision-making processes. The new Designations Policy reflects our commitment to improving the way we undertake our consultation on designation decisions.

Our aim is to ensure that in most cases anyone can comment on designations proposals before we make a decision. The new policy supports this. We will aim to:

- publish all designations cases on our online portal
- include a report of handling with assessment documents at the point of consultation

We are also introducing a mechanism for submitting comments at the consultation stage to HES.

#### **5. Does the new policy change the way that HES deals with designation where there are development proposals?**

No. Our approach has not changed. However, the policy sets out our approach to the assessment and designation of sites (or amending existing designations) where there are development proposals more clearly than before.

We will normally avoid intervening unnecessarily in the planning process or other regulatory processes where there are development proposals by adding a new designation.

#### **6. Will the new definitions for the categories of listing (A, B and C) affect existing listings?**

No. As before, designating a site or place as a listed building recognises its cultural significance at a national level. Categories of listing have no legal weight but affect how buildings are managed in the planning system.

#### **7. Where can I find the selection guidance for conservation areas?**

The current guidance for designating conservation areas is in a separate [interim document](#) on our website.



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Local authorities are responsible for designating areas of special architectural or historic interest as conservation areas. HES will only consider doing so in exceptional circumstances. To date HES has never designated a conservation area. We will be speaking to local authorities in the coming months about drafting a new policy and guidance for conservation areas.

**8. Where can I find the selection guidance for World Heritage Sites?**

UNESCO is responsible for designating World Heritage Sites and you can find the [selection criteria](#) on their website. Since we do not designate World Heritage Sites, we do not have a role in defining these criteria. You can find out more about roles and responsibilities in other designations on page 5 of the policy. There is more information about our role in relation to World Heritage in the [World Heritage Sites section of our website](#).

**9. How will the new policy be applied in designation appeals to DPEA?**

DPEA will apply the new designation policy when deciding appeals from 1 May 2019. This applies to all appeals on designation, regardless of when the designation took place, or when the appeal was submitted.



## **SCHEDULED MONUMENT CONSENTS POLICY**

### **1. How is this policy different from HESPS?**

This new document set out our policy for determining applications for consent at scheduled monuments and protected places. This policy area was previously contained in HESPS, and is now a standalone document, which sits under HEPS.

The Scheduled Monument Consents Policy does not represent a significant change to how we will consider applications for scheduled monument consent. The main changes have involved making the policy easier to understand by using clearer language.

We have also separated out the aims and principles in the policy into two categories – those which apply for all decisions, and those which apply to decisions we make for specific consents. Most importantly, we have distilled these aims and principles into specific policies. This will help us to explain our decision-making and make it easier for others to understand.

The policy contains two areas that were not covered in HESPS:

- **Carved Stones policy**  
This is a Scottish Government policy – we have now translated it directly into our own policy.
- **Metal and Mineral Detection Consent policy**  
This was previously known as Section 42 consent, and did not previously have a distinct policy. The new policy is set out in full on page 8 of the document.

### **2. What is the relationship between HEPS and The Scheduled Monument Consents Policy?**

The Scheduled Monuments Consents Policy is a separate policy document that works alongside the HEPS, and is informed by it. HEPS covers the whole of the historic environment and is for all decision-makers. The Policy covers a specific type of decision and work area. Its primary use is to guide our work in consents at scheduled monuments and protected places – and to explain this process to anyone who has an interest in it.

### **3. How will this affect the SMC application process?**

The process will involve a slightly different form, but other than that there will be no changes for applicants. The timescales are still the same, and we aim to make decisions on applications within eight weeks. As before, we encourage you to get in touch with us early on if you plan to apply for scheduled monument consent.



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The new policy will only affect our decision making. We will use this policy to determine any decision we make after 1 May 2019. This includes any applications to vary or discharge conditions attached to SMCs granted prior to this date and determined under HESPS.

**4. How will the new policy be applied in designation appeals to DPEA?**

DPEA will apply the new designation policy when deciding appeals from 1 May 2019. This applies to all appeals on designation, regardless of when the designation took place, or when the appeal was submitted.