



Guidance on Communities and the Carbon Codes

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This guide explains the principles of carbon credit trading and where this might be relevant to communities who own land and other assets.

The climate emergency has focussed attention on the capacity of land and land management activities to lock up carbon in the soil or in vegetation growing on the land. Government grants are used to encourage activities such as woodland creation and peatland restoration and the emergence of a market in carbon, and the ability to trade carbon credits, is providing another income to landowners. The potential impact of this income can be seen by the increasing interest in Scotland's rural land by major companies and investors. This guide seeks to explain some of the principles of carbon credit trading and how it might be used by community land and asset owners. It also aims to ask **a series of questions** that you should consider before making any decision on how to proceed.

The guide deals with the situation as it currently stands but further development of the carbon market and the voluntary standards for carbon credits is likely, and the guide will be updated to reflect that. In addition, new forms of carbon credits may be developed, for example for blue (water) carbon, soil carbon and hedgerows, as well as biodiversity credit schemes which are currently being developed in England.

A guide like this cannot, of course set out every detail of contract law, and users of this guide are advised to obtain **independent legal advice** relevant to their particular circumstances before acting upon any of the information contained in this guide. It is always recommended that legal advice is taken before any agreement is made to sell carbon credits of any type.

What are Carbon Credits

If a land manager carries out an activity such as peatland restoration or woodland creation that removes additional carbon from the atmosphere, credits can be attached to the activity in proportion to the amount of tonnes of carbon either removed (woodland) or reduced in emission (peatland.) The landowner may be able to sell those credits to another business that needs them to **offset emissions** from that business, that are difficult or impossible to avoid. This has created a **market in carbon credits** that are traded at a price that reflects current supply and demand and other market conditions. In some situations, the value attached to validated carbon credits can be significant. The market is changing all the time and advice should always be taken on both the

capacity of your assets to hold or reduce emissions, and what the market price at that time for your type of carbon credit might be.

Carbon sequestered by community assets has been called '**charismatic carbon**' as it offers multiple benefits beyond that of traditional woodland or peatland activities. These include community, biodiversity, economic, social and environmental benefits. These additional attributes, over and above the tonnes of carbon will be attractive to some purchasers and such sales should attract a higher price per tonne.

There are concerns around the whole concept of 'offsetting' and whether this approach facilitates 'business as usual' with offset purchasers using the offsets to **avoid** reducing carbon emissions. This could allow polluters to continue their activities whilst claiming the offsets produced reduce the impact of their activities. For this reason, some communities are reluctant to get involved with selling carbon offsets from their land. Others have been very specific as to who the eventual end purchasers can be – ie they look for guarantees that only purchasing businesses that have reduced all their emissions **as far as possible** can buy their carbon offsets. Considering this may help avoid any future potential reputational damage if opposition to offsetting grows'?

Carbon offsetting values are also driving an increase in land prices and reducing opportunity for communities to buy land. This has also made some people reluctant to get involved in this market.

What are the Carbon Codes?

Buyers of carbon credits need to be assured that they are being generated by a responsible scheme which has recognised standards and procedures and in which the carbon benefits claimed have been properly validated. This has led to the emergence of voluntary standards (codes) for peatland restoration and woodland creation. Other Codes are likely to emerge for other land and sea-based carbon sequestration activities as outlined above.

The Codes have common features. They provide eligibility rules, specify how additionality is to be demonstrated, provide the validation methodology and the timescales over which the project should exist, and specify how and when tradeable carbon credits are available. Compliance with the codes is not a simple matter and anyone considering entering a scheme should take time to study the Codes and the implications, particularly those relating to change of ownership of the land over the course of the project and the risk of natural events, such as storms, diminishing the expected benefits. It is a feature of both Codes that the projects are expected to have relatively long duration, perhaps several decades. Entering a scheme generally involves a long-term commitment and disengagement part way through may prove difficult or expensive so such schemes are not to be entered into without careful appraisal of all the implications.

It should be noted that the schemes do not enable carbon credits to be obtained for simply owning peatland or woodland. **Active peatland restoration or new woodland creation** is required to be undertaken in order to be eligible for credits. Not all woodland creation or peatland restoration projects will necessarily be eligible for schemes under the codes.

For more information on the Woodland Carbon Code and Peatland Carbon Code go to

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

<https://www.iucn-uk-peatlandprogramme.org/peatland-code>

Who is in the market to buy carbon credits?

There are a wide variety of potential purchasers of carbon credits. Communities can agree to sell their credits directly to end 'users' who want to buy credits to offset their own emissions. This can be companies or individuals. They can register their carbon through the Codes themselves or get support from a commercial company to do this for them.

There are also many intermediaries in the market who will help communities with estimating the amount of carbon they have, registering the carbon through the Codes and then act to sell the carbon to the end purchaser. These include private companies, land agents and environmental NGO's. This service can be offered for a fixed fee, a percentage of the final income or via a long term Management Agreement with a mix of upfront capital and long term revenue payments.

Community owners must also consider whether they might be involved in activities which, in the long term, they cannot completely reduce emissions from – and therefore need to retain some of their own carbon to offset this. This is called insetting.

Questions to consider?

1. Selling your carbon credits imposes a number of commitments on the community landowner. Are your members and community happy to sell their carbon credits? These are long term commitments that will bind future Boards and generations. In some ways they are equivalent to granting a very long term lease on land which restricts its use for many years to come. Given the long term nature of the commitment, you should always take legal advice on the Contract for Sale of carbon credits. Find a solicitor who understands community ownership and governance.
2. Selling your carbon credits requires long term management and maintenance of the woodland or peatland to ensure the carbon continues to be sequestered. These obligations will be part of both Woodland Creation or Peatland Restoration Grants. The two Codes may impose further obligations for maintenance and management. Make sure you know what these entail and that costs are built into your long term planning. You may need specialist insurance.
3. Some intermediaries also ask for Conservation Burdens over the land, the subject of the carbon credits. These are burdens on the title to your land. These bind the owner to various restrictions on use and can run for up to 100 years. These will bind all future Boards and the community for that period. Community need and land use can change in the relatively short term so take advice before entering into any long term burdens. They should be resisted wherever possible.
4. Some intermediaries may also ask for securities over your land. As with Conservation Burdens these restrict what you can do with the land in the future, without getting the consent of the Security Holder. They can also restrict sale, leasing or raising further finance for the land subject to the carbon, and possibly your other land if, in the future, you want to grant a floating security over all your assets. Again – they should be resisted wherever possible.
5. Is now the right time to think about selling your carbon credits? Do you need capital or revenue income now? Can you phase a sale – some now and some later when prices have improved? Do you want to take most of the income 'up front' or do you want a smaller amount of income over many years?

6. Do you have the skills and capacity inhouse to register your own carbon? Do you need external advice to help do this? Should this advice be on a one off fixed fee basis, or a percentage of eventual sales?
7. How concerned are you about the eventual purchaser of your carbon credits? Do you want to ensure any eventual purchaser has done everything they can to reduce their own emissions, before they use your carbon credits to offset the final non avoidable emissions? What sort of due diligence on eventual purchasers is the intermediary offering and what safeguards are in place for onward sale?
8. You should consider what local opposition may emerge over time to offsetting, and the effect that could have on your local reputation, if principled opposition to the policy of offsetting grows because it can allow the offsetters to continue emissions? This would be another reason to be very clear that any offset arrangement your entered in to was verified as being only after all steps necessary to reduce emissions had been taken.
9. You will be liable for long term costs of verification every 10 years. You should factor these costs into your long term plans.
10. Some intermediaries also ask for Management Plans. You will need some form of Management Plan for most peatland or woodland related grant funding and this might provide sufficient comfort to others as to your long term intentions. If additional obligations are requested, community engagement will be vital to ensure support. Community owners have asset locks in their governance and are charged with working in the best interests of the local community. This might be further sufficient comfort for an intermediary of your future intentions.
11. If land is tenanted, tenants would normally take the lead on managing carbon credits. Your lease with them may require your consent and you may be able to share some of the income. These are long term obligations to manage the land in a particular way so, as landlord, you need to be aware of this as tenancies or leases come to an end. For agricultural tenants the Tenant Farming Commissioner has produced some useful guidance [here](#)
12. Are you likely to need to offset your own emissions in the future? This is called 'insetting.' Should you retain some carbon credits to enable this?
13. Are you aware of neighbouring community landowners looking to sell their carbon credits? Aggregated schemes may secure a higher price and be easier to manage in the long term.

These are just some of the main issues to consider. We will update this guidance as the market and Codes develop.

Community Woodland Association (CWA) has produced more in depth guidance which you may find useful [CWA guidance](#). CWA can also provide some initial free advice if you are thinking about how to sell woodland carbon credits. For more information go to: <https://www.communitywoods.org/>