

CROSS-PARTY GROUP on CROFTING

Meeting 1 of Parliamentary Session 5

Scottish Parliament, room Q.1.03

Wednesday 29 June 2016 at 17.30

MINUTES

Present:

Rhoda Grant MSP ⁱ (Convener)	Donald Cameron MSP
Patrick Krause SCF (Secretary)	Kate Forbes MSP
Sandy Murray NFUS	Pam Rodway CCx
Lucy Sumsion NFUS	Andrew McCornick NFUS
Trudi Sharp SG	Rea Cris RSPB
Ian Davidson SG	Craig Smith SG
Brian Inkster CLG	Lucy Carmichael SG
Fiona Mandeville SCF	Gordon Jackson SG
Lorne MacLeod CLS	Rhona Elrick RoS
Uilleam Smith Observer	Al MacInnes Observer
William Neilson Observer	Neil Ross HIE
Russell Smith SCF	Siobhan MacDonald SAC
Catriona MacLean CC	Tavish Scott MSP
Murdo MacLennan CC	Stuart Bryan Office of Rhoda Grant MSP
Uisdean Robertson CnES	Michael Russel MSP (Co-convener)
Murdo MacKay CnES	Maree Todd MSP
Emma Harper MSP (PLO to Fergus Ewing)	Maria Scholten SCF (v ⁱⁱ)
Gail Ross MSP (RECC)	Robin Haig SCFYC (v)
Edward Mountain MSP	

1. Welcome and Apologies

The chair welcomed everyone and asked for introductions. Apologies were received from

Angus MacDonald MSP; Derek Flyn SCF; Jim McPherson SCF; Donald MacKinnon SCFYC; John Brownlee SG; Kevin Patrick LANTRA; Fiona MacKenzie UHI; Janette Sutherland SAC; Ross McLaren SCRG; Colin Kennedy CC; John Finnie MSP; Drew McFarlane-Slack SLE; Tom Edwards SPICe; Wendy Kenyan SPICe.

2. AGM

1. Nomination and election of group officials

Rhoda Grant MSP nominated as Convener - vote: **Agreed**

Michael Russell nominated as Co-convener - vote: **Agreed**

Patrick Krause nominated as Secretary - vote: **Agreed**

2. Business carried forward

It was **Agreed** that the group will carry the following items forward for future business:

- The Five Actions for Crofting
- New crofts
- Rural communications
- Croft registration fees for community landlords
- Management of predators and pests – geese in particular
- Ferry services
- Croft house loan
- Areas of Natural Constraint

The five actions, agreed by the SGCSF, in any order of priority, are:

Area of action	Recommendation
1. Simplify Crofting Legislation	Give this group the task of developing the bones of a new Act
2. New Entrants	Make crofts available
3. Increase Affordable Housing	Through a meaningful grant and loan system, do more to help new entrants / crofters get access to affordable housing in rural and island communities
4. Development of Crofting	Funded lead body on crofting development
5. Financial Incentives	Ensure current and future P1 and P2 policies have a positive impact on crofting

3. Crofting Law and Administration (*Standing item*)

1. Regulation – Common grazings: the position taken by the Crofting Commission on dispersal of funds and audited accounts. Murdo MacLennan, a commissioner, spoke to this item. Based in Lewis, where two grazing committees were removed from office, the commissioners felt it relevant that Mr MacLennan represents the CC on this issue.

Mr MacLennan said he could not comment on the specific cases save to say that the Mangersta case, which has been on-going for some six years, should be concluded this week with the forming of a new committee. The commission will look at the process undertaken to gather any lessons. Upper Coll is a very different situation. Complaints made against grazings committees have to be investigated by the CC. The CC followed the normal process; the Upper Coll grazing committee was given a list of five actions to carry out, which they failed to do one of to the satisfaction of the CC, even though given an extra four months.

Question: Was this the issue of them having not provided fully audited accounts?

CC: Grazings committees used to only deal with small amounts of money but now it can be large amounts. So it used to be ok for a shareholder outwith the grazings committee to over-see small amounts but larger amounts of income and expenditure need a proper audit. By 'proper' it is meant that the accounts need to be looked at by an accountant or at least someone external, like a retired bank manager, it doesn't mean a 'full audit' in the common use of the term. There are sometimes complaints regarding financial management.

To continue; Upper Coll then tried to get an interdict from the court to stop the Commission appointing a grazings constable, but this failed. The grazings clerk would not hand over the committee's books to the constable.

Question: Is the appointment of a grazings constable in these circumstances legal?

CC: The legality of the constable is with the Scottish Land Court so I can't go into detail. The constable was appointed in the interests of all the shareholders. The interdict tried to stop the Constable from talking to the stakeholders. So at this point the constable tabled a demand at the Upper Coll shareholders meeting, warning that he would get a court order. The previous clerk and others were present. The grazings minute book was handed over.

New grazings regulations were drawn up and discussed with NFUS.

Question: Did the Crofting Commission take legal advice in making these decisions?

CC: All decisions by the Commission were taken with the advice of in-house solicitors.

Question: What do you mean by the term 'audit'?

CC: Are you acting legally for any of the grazings Mr Inkster?

Question: I am asking as a general question, how you define 'audit'. The level of audit required is an essential issue.

CC: Roughly speaking there are three levels of accounting, examination by external person, examined by a qualified accountant and a full audit.

Question: Will there be new guidance written on this?

CC: Yes there will be. New guidelines will be written and put out to stakeholders. Can I add that the new draft guidelines were shared only with NFUS due to their interest in dyslexia.

Question: Guidelines are meaningless if the Crofting Commission's understanding of the law is inaccurate. The Commission is not answering questions on decisions made, using the reason that 'decisions made cannot be revisited'. What sort of response is that? Guidelines and decisions need to be appropriate to the law.

CC: It is not just a matter of law. Six members of the Commission are elected and make decisions in consultation with shareholders.

Question: £100,000 in a grazings bank is a lot. Is this normal? Is it widespread? Where does it come from? What is it for?

CC: It is mainly SRDP money. It is shareholder funds for maintenance and improvement of grazings.

Question: how many grazings have this amount of money?

CC: I don't know. I can think of four in my area that have over £90,000 in their banks from forestry, SRDP and more coming from wind turbines. There are 500 common grazings so we don't have a handle on that information.

Comment: The funds held by a common grazings should only be for active grazers. It makes no sense that inactive or absent shareholders get a share of money that should be used to

maintain and improve the grazings. New regulations ideally should reflect that. They should be for best practice.

Comment: I am involved in several common grazings and see both ends of the spectrum regarding amounts of money held. The money should be used for improvements, which can be very expensive. There are regulations already, which have to be approved by the CC and adopted by the grazing committee.

Comment: Money held by grazings committees should be used for common good, not divided up to benefit individuals. That is the first principle. The CC seem to be out of touch with how business finance works – it is normal for even large private and third sector businesses to not have a full audit. Clarity on the level of accounts scrutiny needed is essential.

Comment: Less than 50% of common grazings are regulated and have committees. It is not a job that people relish and even less so now. Absenteeism is particularly an issue.

Question: you said there are lessons learned – what lessons, for example from Mangersta?

CC: There are lessons to be learned.

Question: What would the level of audit be for different financial thresholds?

CC: It is with the SLC so I cannot comment.

Comment: This really questions the viability of current legislation. A radical overhaul of crofting legislation is on the cards for the session; we need to focus on this action.

2. Legislation

Comment: Improving crofting legislation is in the SNP manifesto. It takes time to develop good quality legislation. This crisis will contribute to improving legislation – as it is said 'never let a good crisis go to waste'.

Early work is needed. This group could contribute?

SG: Yes, this group needs to contribute. The Crofting Law Sump has gathered much material. A clear procedure for the development of this material, and further contributions from stakeholders, needs to be established.

Comment: it would be useful to have this as a topic in the next meeting and have a speaker on the subject. **Agreed.**

Action: Secretary to arrange a speaker on crofting legislation reform for next meeting.

4. Crofting Development (Standing item)

4.1. Report back on the Crofting Stakeholder Forum 'Action Plan'

Catriona MacLean gave an update: The five priorities of action for crofting that have been agreed by the SG Crofting Stakeholder Forum and presented in a letter to the minister for crofting are being developed. They are:

Area of action	Recommendation
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6. Simplify Crofting Legislation	Give this group the task of developing the bones of a new Act
7. New Entrants	Make crofts available
8. Increase Affordable Housing	Through a meaningful grant and loan system, do more to help new entrants / crofters get access to affordable housing in rural and island communities
9. Development of Crofting	Funded lead body on crofting development
10. Financial Incentives	Ensure current and future P1 and P2 policies have a positive impact on crofting

The SGCSF is working on putting more 'meat' on them. In addition a further priority of 'Common Grazings' has been identified and added to the agenda. It is intended to hold a Parliamentary reception later in the year to highlight these priorities.

4.2. Other updates from SG, agencies and NGOs.

Crofting Connections:

Pam Rodway, Project Manager, gave an update:

On June 20th I gave a talk to 125 pupils from S6 at the Nicolson Institute, at the start of a 2-day event in which the pupils went on to visit crofts, community estates, food businesses, heritage centres and cultural organisations, including Gaelic media. I spoke of how crofting has been the foundation of much of the economic, social and land use activity of the Western Isles, and will be an important part of the future of the islands. Since the end of last week, this future now looks very different. This makes the inclusion of crofting in the school curriculum more important than ever.

We are planning a Crofting Connections conference in the autumn and will welcome support for this.

Crofting Commission:

Catriona MacLean gave an update on Crofting Commission operations:

Commissioner elections are taking place next March. UHI could be involved with a study to look at how to get a wide diversity of nominations, including young folk and gender balance.

Comment: two commissioners are need for the Western Isles as they have the greatest number of crofters.

Comment: but other areas are bigger.

Adverts for registration have been reduced to a minimum; guidance will be issued.

The CC computer system went live in February and is working well.

60% of administrative functions are now delegated to officials, and more will follow soon. It makes process much faster.

A reorganisation has been carried out that created 11 new crofts.

Progress on Croft House Grant Scheme

Gordon Jackson gave an update:

Applications have been received for the new CHGS – there is a lot of interest.

Comment: Young people in Western Isles are finding it hard to access the scheme. CnES will talk to SG about reviewing the criteria.

Question: why would there be a review? There has been stakeholder engagement in the scheme.

SG: No one has been knocked out by the criteria. This has been designed to help young folk. If it is not working we are happy to discuss.

The SG will circulate summary of stakeholder responses on reintroduction of loans for croft houses.

Question: Has the mapping of common grazings stopped? Who is responsible?

CC: Funding for this project from SG has ended. There are options: Applicants can come to the CC with maps; the CC is obliged to help. However, realistically this is very resource-hungry so CC would only be able to help with 'easier' registrations. Or SG agree to fund more mapping but this takes money away from other things. We have to work with what we have.

Comment: would putting pressure on SG help? Should the group write? **Agreed.**

330 common grazings have been mapped and registered – about a third of them.

Action: Secretary to write to SG for update on mapping of common grazings.

5. CAP and Crofting (*Standing item*)

5.1. SG update on CAP payments and SRDP schemes

Ian Davidson gave an update:

The majority of payments have been made. It is complex cases that are still outstanding. The ewe hogg scheme will commence in July; payment rates have not been confirmed yet.

Comment: there seems to have been a recalculation of common grazings areas with eligible land having been taken out. This is of great concern. It needs bringing to the attention of the Cabinet Secretary.

Question: there must be some idea of ewe hogg payment rates?

No, no idea yet. It will be announced soon though.

6. AOB

It would be useful to discuss the wild geese situation at the next meeting. **Agreed.**

7. DONM

As early as possible after recess then every six weeks.

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Acronyms: AC Animate Consulting; AF Assynt Foundation; ASC Assist Social Capital; CAB Citizens Advice Bureau; CC Crofting Commission; CAGS Crofting Agricultural Grant Scheme; CCx Crofting Connections; CFS Care Farming Scotland; CGF Common Goof Food; CHGS Croft House Grant Scheme; CLG Crofting Law Group; CnES Comhairle nan Eilean Siar; CRSF Crofting Register Stakeholder Forum; DEFRA UK Gov Dept for Environment, Food and Rural Affairs; EC European Commission; EFNCP European Forum for Nature Conservation & Pastoralism; FCS Forestry Commission Scotland; HC Highland Council; HIE Highlands & Islands Enterprise; HSCHT Highland Small Communities Housing Trust; HWU Herriot-Watt University; JHI James Hutton Institute; JMT John Muir Trust; LANTRA Land-based & Environmental Industries Training; MSP Member of the Scottish Parliament; NFUS National Farmers Union Scotland; NS Nourish Scotland; NTS National Trust for Scotland; RACCE Scottish Parliamentary Committee on Rural Affairs Climate Change and Environment; RoS Register of Scotland; RSABI Royal Scottish Agricultural Benevolent Institution; RSPBS Royal Society for the Protection of Birds Scotland; SAC consulting arm of SRUC; SAS Soil Association Scotland; SCF Scottish Crofting Federation; SCFYC SCF Young Crofters; SCRG Scottish Churches Rural Group; SCVO Scottish Council for Voluntary Organisations; SG Scottish Government; SGCLSG Scottish Government Crofting Legislation Stakeholders Group; SGCSF Scottish Government Crofting Stakeholder Forum; SGRPID (RPID) Scottish Government Rural Payments and Inspections Directorate; SLE Scottish Land & Estates; SNH Scottish Natural Heritage; SPICe Scottish Parliament Information Centre; SRA Scottish Rural Action; SRN Scottish Rural Network; SRP Scottish Rural Parliament; SRUC Scottish Rural (University) College; RSPB Royal Society for the Protection of Birds; UHI University of Highlands and Islands; WCP Woodland Crofts Partnership; WTS Woodland Trust Scotland.

ii Participating via OdroVision video link