

CROSS-PARTY GROUP on CROFTING
Meeting 17 of Parliamentary Session 5
Scottish Parliament, room Q1.03
Wednesday 12 December 2018, 5.30pm

MINUTES

Present:

Alasdair Allan MSPⁱ (Convener)
Patrick Krause SCF (Secretary)
Michael Nugent SG
Gordon Jackson SG
Tracy Anderson SIC
Stephen Leask SIC
Sandy Murray NFUS
Katy Dickson SLE
Murdo MacKay CnES
Uisdean Robertson CnES
Richard Frew RoS

Russell Smith SCF
Jamie McIntyre WCP
Malcolm Mathieson CC
Bill Barron CC
Tavish Scott MSP
Anne Campbell CALLP
Ross McLaren SCRG
Siobhan MacDonald SAC;
Neil Ross HIE

1. Welcome and Apologies

The convener welcomed everyone and tendered apologies from his co-convener Rhoda Grant MSP.

Apologies were also received from:

Gail Ross MSP; Emma Harper MSP; Fiona Mandeville SCF; Brendan O'Hanrahan SCF; James McPherson SCF; Brian Inkster CLG; John Scott MSP; Rhona Elrick RoS; Michael O'Neil SG; Billy Neilson CC; Yvonne White SCF; Rod Mackenzie CC; Eleanor Garty WTS; Liz Barron-Majerik LANTRA Scotland; Donna Smith CC; Murray McCheyne SLE; Edward Mountain MSP; Janette Sutherland SAC; Donald Crichton CnES; Donald Meek crofter; Donald Cameron MSP; John Finnie MSP; Angus MacDonald MSP; Graeme Dey MSP; Donald MacKinnon SCFYC; Padruig Morrison SCFYC; Robin Haig SCFYC; Claudia Rowse SNH; Rosemary Champion SHS; Lucy Sumsion NFUS; Barney MacAskill NFUS.

2. Minutes of previous meeting

The minutes of the previous meeting held on 09 November were approved subject to some small amendments.

3. Matters Arising

There were no matters arising from the minutes.

4. Crofting Development

4.1 National Development Plan for Crofting

Michael Nugent, SG, gave an update on the National Development Plan for Crofting.

The approach proposed is to have a high level Plan that states outcomes both in the short and longer term and is accompanied with an Annex which details how it is planned to achieve those outcomes. The Annex will be a working document that can be modified as required.

A proposal and first draft went to the focus group in November and is awaiting comment.

Round-table discussion:

Question: does the development plan look at wider issues that affect crofting, for example predators and pests. The plan needs to look at environmental issues.

Answer: a good point, this will be discussed in the forum. This is something that clearly effects crofters and the wider community and can be looked at in more detail with stakeholders and SG colleagues that lead on such matters. All such matters will be under consideration.

Comment: I agree, and this should include geese. A delegation from the Western Isles met with the Cabinet Secretary and Minister today to discuss this issue.

Question: housing is another development issue. Will any comparison be made of different areas of crofting, how they cope with housing issues?

Answer: yes, that certainly can be there, but we need to not turn the development plan into a research document.

Question: will there be anything on collaborative working? Crofters are not working together now as they used to, for example on the common grazings. Individuals tend to be working by themselves now.

Comment: many new entrants don't realise, or want, collaborative working; they have to be told crofting is different from smallholding.

Comment: getting common grazings back into use will encourage collaboration.

Answer: Scottish government is very keen to get common grazings working and aims to have all croft land in use.

Comment: there also needs to be information and advice for new entrants.

Answer: Scottish Government is looking to provide a broad range of digestible accessible information for both new and existing crofters, and to encourage the sharing of good practices.

Comment: ultimately we need more money to go into croft housing as it is the most effective way of dealing with the housing shortages that we are experiencing in the Western Isles.

4.2 Bringing crofts back into use

Bill Barron, CC, gave an update on the CC approach to getting crofts back into use.

CC has a good team working on this issue. They tackle it in a number of ways.

1. When breaches of duty are reported the commission investigates; it has to do so. But there are not many of these.
2. There is now more substantial annual notice (census). If a respondent says they are not resident the commission writes to them offering options; the gentle approach. 100 or so letters have been sent so far. 150 letters have been sent to those who have said they are in breach in two annual returns.
3. The third approach is the commission working with landlords.

4. The commission and Scottish government crofting team are looking at bringing crofts on ministers estates into use, in collaboration with the FONE project.

On a small scale the commission are seeing casework connected to the duty to reside. On the larger scale, those who do not reply to the follow-up letter to the annual return will be followed up with a more direct approach. Legal process has to be followed, but we are on the case. Commissioners look at this issue every board meeting and take it very seriously; they recognise that the land must be worked and the communities upheld.

The main constraints are 1. The legislation makes it hard; 2. Resources are limited.

Round-table discussion:

Question: are legislation frustrations lead into the crofting bill group?

Answer: yes.

Question: is legislation hindering enforcement?

Answer: we have to comply with the law in a logical sequence, there is a prescribed process; the process is slow.

Question: why spend public money on a slow process if the annual return is clear that they are absent?

Answer: because the law says so.

Comment: if an absentee is told to give up the croft and they put it on the open market it may be unaffordable to new entrants.

Answer: controlling croft prices or leaving it with the open market is a political decision.

Comment: the emphasis is on absenteeism; some absentees work their crofts better than resident crofters; neglect is the real problem.

Answer: yes you are right; however absenteeism is more straightforward, neglect is very difficult to define. Sometimes neglect is due to the crofter being old, so reassurance, information, a helpful approach is needed.

Question: are there any consequences, a penalty for example, to not responding to the annual census?

Answer: yes, it is a criminal offence; however the PF is unlikely to prosecute.

Question: could the commission refused to deal with any administration to a croft if the crofter has not filled in the census?

Answer: penalties need legislation behind them. The commission wants to get a positive outcome and would rather concentrate on that than penalties.

4.3 Creation of new crofts

Jamie McIntyre, Coordinator for the Woodland Crofts Partnership (WCP), gave an update on the creation of woodland crofts (his slides have been circulated).

The partnership consists SCF, WTS, HSCHT and CWA, and is supported by FCS and SG.

A working definition of woodland crofts is:

"A woodland croft is a registered croft with sufficient tree cover overall to be considered a woodland under UK forestry policy".

This is not a legal definition; a woodland croft is simply a croft in law, though woodland crofters cannot access all grants that crofters are normally able to access – e.g. CAGS.

WCP is now a member of the SGCSF and have a good relationship with SG. WCP respond to SG consultations.

The main remit of WCP is to support communities who want to create woodland crofts, through advice and information. Half of the crofts created since the 2007 act are woodland crofts. There are 200 people on the register of interest held by WCP (people wanting a woodland croft). There are possibly 100 woodland crofts, existing and new. It was quite a slow onerous process creating new crofts but it has improved considerably.

The future depends on the availability of land; we need more land to be available for the creation of new crofts, whether woodland or otherwise, and not just community-owned estates but also public and private land-owners.

WCP exploring plans to offer woodland croft creation service to others and we are looking into developing woodland crofts directly.

Round-table discussion:

Question: What is the profile of a typical woodland crofter?

Answer: Most likely to have a single croft which, as with 'ordinary' crofts, can be varying in size from a few acres to quite large. You don't need much woodland to provide plenty of work and 'forest products'. Some new crofts are all woodland; some are clear-felled and replanted (a minority) and most are thinned for forestry products. Some existing crofts have woodland, some managed for out-take, some not (e.g. kept for shelter). Woodland crofts can produce high quality timber for building, furniture making and so on, can produce firewood and offer tourism opportunities.

Question: some agricultural land is being lost to tree planting; does this affect woodland crofts?

Answer: No, not if done properly, managing existing woodland well and planting bare-land crofts with low density woodland for agro-forestry (livestock and trees co-exist very well).

Comment: is woodland a good use of croft land? Some people avoid their duty to use their croft by planting them with trees – as they are low management.

Answer: management as woodland is included within the definition of cultivation in crofting law. Managing woodlands on crofts is just as valid (and legally supported) as management for livestock or anything else. It is putting land to purposeful use.

Comment: Income is low for crofters and woodland crofts may not be any better. But a woodland croft can provide a house and a foothold. Houses are in very short supply.

5. Crofting Administration

Bill Barron CC, update on commission business

Bill Barron highlighted 3 recent developments at the Commission:

- In November the Board had considered whether to update its Corporate Plan, which sets out 5-year priorities as agreed in early 2017. The Board had reaffirmed most of the objectives, but minor changes will be made to the plan, in particular to reflect the current Commissioners' emphasis on Residency & Land Use work, communication & information, and assessors.
- The public meetings in Shetland and Skye had been productive and positive, although fairly sparsely attended. In both cases the Commission had offered bookable surgeries, where crofters could discuss live or up-coming applications, and an evening meeting where Commissioners and managers had given information about policies on decrofting, Residency and Land Use work, and the factors that influence the timescale for a regulatory decision. Each

meeting had been followed by a healthy debate, and the Commission will be arranging further public meetings in other areas in 2019.

- The Commission has strengthened its grazing team and is now providing support to a number of grazings committees and encouraging other townships to elect a grazings committee. The team was working on guidance for grazings committees, to be published in spring 2019.

Round-table discussion:

Question: How is the mapping of common grazings going? SCF gets a bit of feedback from members that is of concern.

Answer: there are disproportionate challenges involved with keeping up-to-date records of grazings - three separate lists of shareholders, held by the Grazing Committee, the Commission, and the Registers of Scotland. The Commission are considering what more they should be doing under the current arrangements, and also plan to discuss with RoS what legislative changes might help in the longer term. In the meantime, the Commission are not taking forward any new grazings rectifications.

Question: would it help if Landlords or Grazings Committees could make these applications themselves?

Answer: (CC & RoS) this would not change the fundamental point, the amount of work required to assemble, and to check with all concerned, all available information about past decroftings and apportionments, maps and shareholder lists.

6. Crofting Support

There being no big changes to CAP schemes since the last meeting the report will be deferred until next meeting.

Round-table discussion:

Question: Is the loan element of the CHGS being looked at yet?

Answer: No not as a general loan, but self-build loans are being administered.

Comment: the self-build loan is a different concept – it is really a bridging loan to cover the initial period of build. The loan element of the croft house scheme was a long-term loan.

Question: will CAGS go forward?

Answer: 'Stability & Simplicity' process will look at this.

Question: was all CAGS budget committed? The NES has been expended – could any CAGS underspend be used for NES?

Answer: the CAGS budget is fully utilised.

Question: is there anywhere in SRDP where there is an underspend?

Answer: budgets are constantly assessed.

Crofting Law

Gordon Jackson, SG, gave a brief update on crofting law reform:

The crofting Bill Group met 28 November looking at Phase 1 work. The Bill Team would like to thank all those who have taken part in the meetings this year. The Group's contribution has been very much appreciated. Next meeting will be in early 2019.

Work has continued in examining the 25 or so issues that are being explored for inclusion in a Bill.

SGLD and Bill Group are working to ensure that any proposals are workable and checked for unintended consequences. Work has been undertaken on various impact assessments that are required; earlier today a number of Bill Group members met to discuss the Equalities Impact Assessment. Work is on-going in relation to other assessments such as Business and Regulatory Impact Assessment, Financial Memorandum and Strategic Environmental Assessment. Wider

Bill Group should have the chance to comment on the output of this work at the appropriate point.

The intention is to provide information notes on what is being worked on in the first part of 2019 to aid in understanding of what is likely to make up a Phase 1 Crofting Bill.

7. AOB

1. The 'Economic Condition of Crofting 2015-2018' report will be published next week.
2. The meetings in GGH (Inverness) worked very well. There was discussion on the best day and time; concluded that Fridays work well and having it at lunchtime as a good networking opportunity. And the video conferencing works in GGH.

7. DONM.

30 January 2019, Edinburgh

i **Acronyms:** AECS Agri-Environment Climate Scheme; AF Assynt Foundation; CAB Citizens Advice Bureau; CALLP Coigach & Assynt Living Landscape Partnership; CBS Community Broadband Scotland; CC Crofting Commission; CAGS Crofting Agricultural Grant Scheme; CCx Crofting Connections; CFS Care Farming Scotland; CHGS Croft House Grant Scheme; CLG Crofting Law Group; CLS Community Land Scotland; CnES Comhairle nan Eilean Siar; CRSF Crofting Register Stakeholder Forum; CWA Community Woodlands Association; DEFRA UK Gov Dept. for Environment, Food and Rural Affairs; EC European Commission; ECCLRC Scottish Parliament Environment, Climate Change and Land Reform Committee; EFNCP European Forum for Nature Conservation & Pastoralism; FCS Forestry Commission Scotland; FFRWG Freight Fares Review Working Group; GFN Good Food Nation; HIE Highlands & Islands Enterprise; HSCHT Highland Small Communities Housing Trust; JHI James Hutton Institute; LANTRA Land-based & Environmental Industries Training; MSP Member of the Scottish Parliament; NDPC National Development Plan for Crofting; NFUS National Farmers Union Scotland; NGMRG National Goose Management Review Group; NISR Newcastle Institute for Social Renewal; NRMHF National Rural Mental Health Forum; NS Nourish Scotland; NTS National Trust for Scotland; RECC Scottish Parliament Rural Economy and Connectivity Committee; RoS Registers of Scotland; RSABI Royal Scottish Agricultural Benevolent Institution; RSPBS Royal Society for the Protection of Birds Scotland; SAA Scottish Assessors Association; 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; SFT Sustainable Food Trust; 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; SHS Small-Holder Scotland; THC The Highland Council; UHI University of Highlands and Islands; WCP Woodland Crofts Partnership; WTS Woodland Trust Scotland.