



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Monday 8 June 2015

Session 4

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**Monday 8 June 2015**

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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**21<sup>st</sup> Meeting 2015, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Sarah Boyack (Lothian) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

Michael Russell (Argyll and Bute) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jan Falconer (Orkney Islands Council)

Fiona Grahame

Hugh Halcro-Johnston

Graeme Harrison (Highland and Islands Enterprise)

Georgette Herd

Mark Hull (Community Energy Scotland)

Andy McLaughlin

Bill Mowat

Paul Ross (NFU Scotland)

Kristin Scott (Scottish Natural Heritage)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

Kirkwall Grammar School Theatre, Kirkwall, Orkney



# Scottish Parliament

## Rural Affairs, Climate Change and Environment Committee

Monday 8 June 2015

*[The Convener opened the meeting at 18:05]*

### Land Reform (Scottish Government Consultation)

**The Convener (Rob Gibson):** Good evening and welcome to the 21st meeting in 2015 of the Rural Affairs, Climate Change and Environment Committee. I am the convener of the committee and the member of the Scottish Parliament for Caithness, Sutherland and Ross. I thank you all for coming and hope that you will enjoy the meeting. There has been one apology, which is from one of our members, Mike Russell. He had very much wanted to come to Orkney, but unfortunately he is ill and could not make it.

We are delighted to be in Kirkwall grammar school theatre this evening—it is a fantastic venue—and to be participating in Parliament day Orkney. Parliament days seek to bring the Scottish Parliament into communities and to engage local people directly in parliamentary business. The committee has had a fantastic day, and the weather has been kind to us, too. We have met stakeholders, communities and individuals around Orkney to discuss the Scottish Government's consultation on the future of land reform in Scotland. We look forward to continuing that discussion, both with those assembled here this evening, and into the autumn.

This session of the Scottish Parliament has seen a great deal of discussion on land reform and agricultural tenancy issues. The committee has scrutinised various pieces of legislation on the subject, most recently aspects of the Community Empowerment (Scotland) Bill that relate to our remit. The Local Government and Regeneration Committee dealt with the majority of the bill. Two major reviews of land reform and agricultural tenancy have taken place in the past two years, both of which resulted in a large number of recommendations. The committee has looked at the results of those reviews and has presented its findings to the Scottish Government, including recommendations on next steps.

From December 2014 to February 2015, the Scottish Government consulted on the future of land reform in Scotland. The responses, along with analysis, were published in May. It is anticipated that a bill on the subject will be

introduced in the Scottish Parliament before the end of June 2015. This meeting marks the start of the committee's consideration of the issues.

Tonight's meeting will be in two parts. We have been joined by a panel of invited witnesses for the first half of the meeting, in which the committee will pose questions to the panel. We will then have a short break, before resuming the meeting and offering members of the audience the opportunity to join in and ask committee members and the panel questions about issues raised by the land reform consultation.

I ask everyone present to switch off mobile phones and so on as they may affect the broadcasting system. However, you may notice some committee members consulting tablets during the meeting. That is because we provide meeting papers in digital format. We will have to wait until afterwards for the Orkney tablet.

We move to agenda item 1, which is evidence on the Scottish Government's consultation on the future of land reform in Scotland. We are joined by a panel of witnesses—I welcome you all to the meeting, and ask you to introduce yourselves.

**Jan Falconer (Orkney Islands Council):** Hello. I am the head of strategic development and regeneration for Orkney Islands Council.

**Sarah Boyack (Lothian) (Lab):** I am a Lothians list member and I am in the Labour shadow Cabinet, where I speak on rural affairs, food, environment and climate change.

**Mark Hull (Community Energy Scotland):** Hello. I co-ordinate and chair the community power Orkney projects and I am the innovation manager for Community Energy Scotland.

**Claudia Beamish (South Scotland) (Lab):** I am an MSP for South Scotland and shadow minister for environment and climate change.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** I am the MSP for Skye, Lochaber and Badenoch.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Good evening. It is nice to see so many of you here. I am the MSP for Galloway and West Dumfries, which is about as far away from Orkney as it is possible to be in Scotland. It is a great pleasure to be here.

**Paul Ross (NFU Scotland):** Good evening. I farm on the west mainland and I am chairman of the local National Farmers Union.

**Jim Hume (South Scotland) (LD):** I am the Liberal Democrat MSP for South Scotland, so I am also quite well travelled.

**Kristin Scott (Scottish Natural Heritage):** I am the area manager for the northern isles and north Highland for Scottish Natural Heritage.

**Angus MacDonald (Falkirk East) (SNP):** I am the MSP for Falkirk East. However, I hail from the Isle of Lewis, so I am aware of the challenges that face island communities.

**Graeme Harrison (Highland and Islands Enterprise):** I am the area manager for Orkney with Highlands and Islands Enterprise.

**Graeme Dey (Angus South) (SNP):** I am the MSP for Angus South and the deputy convener of the committee.

**The Convener:** I will kick off with a comment about the consultation on land reform before posing a question to members of the panel. You just need to indicate to me that you wish to speak, and we will bring you in in turn.

In responding to the consultation, the three items that most people said were the most pressing were, first, to have a fairer distribution of land in Scotland; secondly, to have access to information about who owns the land in Scotland; and, thirdly, to have an appropriate tax system for the land in Scotland. That issue will be viewed in different ways in different parts of the country. Since we are in Orkney, I start by asking panel members what they see as the main priorities for land reform in Scotland as it affects Orkney.

**Graeme Harrison:** Highlands and Islands Enterprise covers the whole territory of the Highlands and Islands, and the circumstances of land ownership are quite different in different parts of the region. In general, HIE is supportive of the vision and the principles that are set out in the consultation for greater community involvement in land ownership. Over the years, we have been behind a large part of the Government's drive to bring that about. I have colleagues from our community assets team, based in various parts of the Highlands and Islands, who have been heavily involved in supporting communities that wish to pursue that.

Orkney is not quite the same as the rest of the Highlands and Islands, as you know. Community land ownership works best where there is a disconnect between the community and land ownership. Nowhere in Scotland would you find a place where the people are closer to the land than in Orkney; community ownership is vested in a large number of individuals who, as well as running their own farming businesses, for instance, are very much part of the community. It is not a case of one size fits all. Hopefully we will bring out more of that Orkney flavour as we go through the discussion.

**Jan Falconer:** I echo some of the sentiments that have been very well expressed by Graeme Harrison. However, there are some real challenges for our community. Forty-eight per cent of our economic goods come from the primary industry of agriculture, which is a large and powerful part of our heritage and of our current economic value.

The type of supply chain that that work impacts on covers everything that you see here in Orkney. We are well renowned for our food and drink, which all derives from our land. If we do not have our land, and if our farmers do not have access to the land so as to utilise it, that presents us with a real challenge. Going into the future and understanding the opportunity that we have in trade, we appreciate how much the land helps us.

As a New Zealander observing Orkney, I can see similarities with New Zealand. People do not own the land; the land owns you. It is what you do with the land that is so important. We see that as part of the deriving and driving culture of Orkney, which has been here longer than the pyramids. That is so important.

The other part is community value and how communities have used the land that they have. A lot of community development trusts have evolved in order to use the land and the wind so that they can create economic value and economic good for the advancement of their communities. We see that strongly in the islands. The Community Empowerment (Scotland) Bill that is going through is important for that. That is yet again bringing profit and value back to the communities.

18:15

When we look forward and think about what we can do, farms often come back to people, but one of the big risks has to be the heritable land changes and the potential issues for families. Given how challenging farming is and how difficult it is to attract young farmers to a place such as Orkney, farmers should have the right to say who they leave the farms to. If farmers do not have that right, there are other instruments that they can use, but those instruments are very costly. Rather than use costly instruments, it would be much better if farmers could choose from among their family or extended family the right people to take the farm forward.

I am a New Zealand Maori, and in New Zealand we have the Maori Land Court, which has something similar in cases where a lot of people own a farm. There are situations where smallholders have a small part of a farm but are not even in the country and do not have a say, because someone else runs the farm. Are they truly stakeholders, or are the stakeholders the

people and the community who are there with the farmer who does the work? That is just a word of warning from experience in New Zealand.

**The Convener:** I will interrupt you there, because the forthcoming succession bill is separate from the land reform legislation that is coming this year. That will be a new bill in the next session of Parliament. We are happy to discuss the issues about succession, but the bill is not formed yet. There will be a proper consultation before that bill is produced. It is important to say that at this stage. However, your strictures are noted.

On the question of land reform as it is seen in Orkney, apart from succession law, does anyone else want to raise any issues?

**Paul Ross:** Most of the land in Scotland is used for agricultural production and it has been for many years. As has been said, 48 per cent of the income in Orkney comes from agriculture. There is a considerable food and drink business, which Richard Lochhead is trying hard to expand, and there is every opportunity to do so. We have quality products that can be sold around the world, and we have a name to do that. The land needs to be kept so that it can produce the raw material that is needed. Agriculture and food production need to be put first and foremost in land reform. Throughout all this discussion, there is little mention of what actually has to be done with the land—who owns it is seen as more important. It would seem that the public will have more say, as that is the Government's desire. Without funding that out of the public purse, I cannot see how that is going to happen. I do not see any advantage to Orkney or the economy of Scotland as a whole from reducing the agricultural potential.

**The Convener:** That is not necessarily an aim, but I am sure that we will explore that. That is a good point.

Does any of the other witnesses want to say something to start off?

**Kristin Scott:** Scottish Natural Heritage has engaged with the land reform discussions over the years. In the past, we have always emphasised the importance of positive land management that directly affects the natural heritage rather than land ownership per se. That is what is important for us.

**Mark Hull:** I do not want to be complacent but, from the community development trust point of view, Orkney is slightly unusual in Scotland. We were inspired by the early community land buyouts in places such as Eigg, Knoydart and north Harris. We had to adapt that for the model that we have used in Orkney, where we have a much more balanced and mixed land ownership. It is almost like managing our estate by proxy by inspiring

enterprise in a mixed community to deliver a wider estate. In some ways, we are already an example of area distribution.

However, we still have challenges, including fuel poverty. Orkney is particularly bad. Nationally, we vie with the Western Isles for who has the most headline fuel poverty, but in Orkney more than a third of all households are in extreme fuel poverty, which means that more than a fifth of the household's income is spent on energy to heat the house. We can deal with some of that on a community basis, but often there are clusters in more built-up areas. It is about how we can best use the land and our natural resources. The individual development trusts have helped to some extent by bringing in an independent income so that they can invest in their communities, but that does not reach all the way in to a lot of those areas.

**Dave Thompson:** I found the opening remarks interesting and helpful. Although we are at an early stage, it appears that Orkney is perhaps a good example of good land use in general terms.

I am a wee bit concerned that one or two of the contributors appear to think that the land reform legislation will be draconian and will take the land away from them. From where I am sitting, it is nothing of the kind. That is not what is being planned. It is all about making sure that we know who owns land across the whole of Scotland and about the best use of land.

If land is being badly used, would the panellists be in favour of something being done about that? I believe that there is no real issue with land that is being put to good use. If land is not being put to good use, do you believe that the Government should deal with that problem?

**Kristin Scott:** Yes, very much so. SNH sees land reform as an opportunity to deal with such situations. With regard to landowners, it would provide an opportunity to shift the balance of responsibility from the current situation, in which private rights are largely unconstrained, to a more modern framework. That would ensure that the land provided greater public benefits, so we would very much welcome such a framework being put in place to ensure that when land is not being managed well, there is a requirement for better land stewardship through land reform.

**The Convener:** If there is going to be a requirement, we will need some kind of body to allow that judgment to be made. The Government is talking about setting up a land commission and is intent on paving the way towards proper land reform. Perhaps the first thing to do will be to find out who owns much of the land. One example of bad land use is when people cannot get in touch with their landlord because they do not know who

they are. Other examples of bad land use include environmental degradation. Do you want to comment more specifically about that?

**Kristin Scott:** I will not speak specifically about the Orkney situation because, from what the other panellists have been saying, a high percentage of the land use here is agricultural, which is a positive and needed land use.

However, in other parts of Scotland, we have tracts of land where the land management is not necessarily in the public interest and the regulations and incentives that are available for us to try to bring that land into better management are pretty unwieldy and not always that effective. If there was some sort of shift, through land reform, to change that situation and to put more responsibility on the landowner to manage that land responsibly, that would be a better and quicker way of getting landowners to deliver positive public benefits.

**The Convener:** Indeed, that is true. I can think of one particular issue that does not affect Orkney.

**Jan Falconer:** We would be very supportive of that, because there are derelict buildings, absentee landlords—not necessarily here on Orkney—and empty homes. There are so many people who need homes and if the buildings on the land are not being used, there should be an opportunity for a review and, if required, a community right to buy. That would be of great value to the communities that want to do things in areas where particular stretches of land are not being used in the best way. We would be very supportive of any initiative or commission that would create such opportunities.

**The Convener:** Do you want to come back in, Paul?

**Paul Ross:** I have a slight concern about how the criteria for bad land use would be set. How wide a range of panel or commission would you have to have?

**The Convener:** The Community Empowerment (Scotland) Bill looks at “neglected and abandoned land” and a form of degradation that can be pinned down in law. It is not suggested that the provision will be that widely used, but it is clear that there is bad land use in some places. Of course, tenants and owners can be equally bad managers of land. However, you would expect it to apply to the kind of estates that are much more extensive and do not make a profit—most farms make a profit. To answer you directly, I think that that would be the focus.

**Jim Hume:** My supplementary question relates to the point that Paul Ross just raised. How would other members of the panel define the public interest criteria to be used by a land commission?

How could that commission be accountable to people in the communities?

**Mark Hull:** The principle of the development trust is that it is in the public interest if you are looking outside your own garden gate and doing something for social responsibility and you can organise that. That would apply throughout Scotland as well as in Orkney. There would be a qualifying organisation—based on criteria where someone is clearly doing something not for their own profit—that could be supported to make better use of land. That could be a key criterion, rather than a definition of the public good.

**Graeme Harrison:** Not only has land ownership in Orkney optimised over the decades, but land use has optimised over that period, too. Orkney is well suited to growing grass—although some might suggest rice after last month. We have developed pasture land; a lot of money has been spent over generations on draining the land and developing it.

The whole community benefits from that: our produce is the raw material that the council, HIE and various processing companies develop into value-added products, which adds to the whole Orkney tourism product. The stewardship of the land combined with nature interests and large tracts of land that are set aside for that use and for heritage purposes make Orkney what it is.

There are excellent examples of land management in Orkney—although where that dovetails with wider uses and other community benefits there is always room for improvement, because not everyone operates to the very highest of standards. I know from experience and from talking to my HIE colleagues based elsewhere that in other areas there are examples of large landowners who do not do enough for the communities who live on the land and can benefit more from it. We do not have a lot of urban experience in Orkney, but in such settings there are prime examples of where better, more equitable use can be made of land assets and buildings.

**Mark Hull:** I would bring together the comments made by Paul Ross and Graeme Harrison. It is true that in Orkney the landowners are part of the community. On the whole we want a consensual approach to what we do, because landowners are part of our community. I am slightly nervous about any further strong powers.

There is no doubt that the community development interests in Orkney were beneficiaries of the fact that the community right to buy was an option. It allowed us to negotiate with the landowner, who otherwise would not have negotiated, because we were taken seriously. We did not say that we would make a compulsory



purchase; it just meant that we could say that we would be able to put in a note of interest in the landowner's land if they did not take us seriously. We benefited from that but, when landowners are in our community, we have to work consensually with them. That is key to the matter.

18:30

**The Convener:** The idea of the land commission is to underpin land reform by providing an evidence base for further land reform measures and assessing the impact of existing policy. We need to have a rolling programme that assesses whether land reform works. That is the bit that has been missing from 2003 to now. Good things were done in 2003 but we must improve on them. How do we bridge that in future? It is not a threat but a means of providing an evidence base about what is needed.

**Dave Thompson:** I reinforce what you said, convener. If folk are concerned about the land reform legislation grabbing land from people willy-nilly, they can look at the committee's evidence-taking sessions on the Community Empowerment (Scotland) Bill, which we hope will become law in the next week or two. They will see in that evidence that there are already major safeguards in law for landowners' property rights.

The European convention on human rights protects people's property rights pretty massively and, if the Government is going to interfere with them in any way, it must have an extremely strong reason to do so. That was dealt with clearly through the process for the Community Empowerment (Scotland) Bill. Any interference must be in the common good and the public interest. Therefore, the proposed commission would have to jump through all sorts of hoops and over all sorts of hurdles before it would be able to take land from someone or show that it was not being used properly.

By considering the Community Empowerment (Scotland) Bill, people could be reassured about what will happen over the next year in relation to land reform in general. It might dispel some of the worries and concerns that some people have about it.

**The Convener:** Do the witnesses have any worries and concerns from what they have heard so far?

**Mark Hull:** I take some reassurance from what you both say in that the system mirrors what we have to do in our communities. Now that we have development trusts that have a resource, we have to have a clear line and policy on enterprise and ownership. We are not the first resort but the last resort, so there is a hierarchy. I am comforted to hear what you say.

**The Convener:** Sarah Boyack will start a new strand of questions.

**Sarah Boyack:** What does Orkney Islands Council consider its role to be and what issues does it think that the new land reform bill will need to address? Jan Falconer talked about access to vacant housing. The group that I was out with today certainly saw such housing, but it also saw land or property in which the council had a part share and where there was community or economic activity. What key new powers need to be in the land reform bill to allow the council to make the most of the opportunities for the communities in Orkney?

**Jan Falconer:** We need to ensure that the council can act as a broker between the community and the Government.

It is extremely important that the new powers and abilities that we could have allow us to be the enabler of the local content because, if we are not, it will be very difficult for communities to engage. It will also be difficult for the council effectively to undertake its role as a local authority, as a planning authority and in enabling economic development along with Highlands and Islands Enterprise. It will be very difficult for us to be able to support our communities.

As long as the council is an enabler and a partner with the communities and with the Government, we will be able to play those vital roles. There are other actors in this work; it is not just the council. If we think that it is just the council, we will be in trouble, because the council cannot be everything to everyone. That is the key message.

**The Convener:** Are there any more responses to Sarah Boyack's question?

**Graeme Harrison:** This is a plug for the Community Empowerment (Scotland) Bill and the provision within it that reinforces the role of community planning. It places a new emphasis on organisations such as HIE to work more closely with the council on a statutory basis.

On the community ownership of land, although there has not been a great drive from communities to own large chunks of land, whether for housing or otherwise, there are isolated instances where things have come to light. I was speaking to the health board recently through community planning about a particular issue on one island where there was no housing available for a doctor or a nurse. Community planning can bring agencies together on issues such as that to find a solution; that is very much the way to go forward.

**Mark Hull:** Following on from what Jan Falconer said, I commend Orkney Islands Council for being quite unique in actually owning part of a wind

turbine development. I support any community empowerment that allows the council to do that or to help a third sector organisation to do more of that. We can only do so much in our smaller communities. When there are region-wide issues such as fuel poverty, which we were touching on before, I support further expansion to allow councils to ally themselves to arm's-length trusts to have such ownership and make the most of the local resource that we have on the land.

My thoughts on the community planning partnership are maybe slightly more controversial. I saw that community planning was part of the Community Empowerment (Scotland) Bill. I welcome the changes that we have seen recently and how it is developing, and I understand the difference made by the statutory role, but I still feel that we need to engage more directly with active communities and community partners. I was saying, rather cheekily, to someone last week that I think of the community partnership as being like nine shepherds talking to a sheepdog about the way that the flock is going. That is sometimes how community planning partnership feels.

**Kristin Scott:** Scottish Natural Heritage is very supportive of community land ownership. We do not own any land in Orkney, but we do own land elsewhere in Scotland through our national nature reserves.

We have some experience of asset transfers, and over the last few years we have transferred a significant area of land and property to the Isle of Rum Community Trust. There is a lot of on-going work there to provide local economic benefits for Rum from the national nature reserve. We are also looking at a possible transfer of land at Loch Druidibeg; that is a former national nature reserve in South Uist.

Community ownership is important for us. We are very happy to support it, to see how the local community can benefit from that natural asset and to help them with that.

**Claudia Beamish:** I would like to come back to a comment that Paul Ross made earlier about agriculture—about land being there for production. Did the comments made by my committee colleague Dave Thompson and others during this discussion give you any reassurance? Does the fact that there will be very clear criteria for whether there would be even a consideration about whether to transfer land for public good reassure you in relation to agriculture?

**Paul Ross:** It gives a degree of comfort. I would have preferred for there to be a little more concrete evidence of what was going to happen, rather than just a woolly statement in the consultation. The question was asked and a statement was made, but we had no real idea

what it would mean. The consultation asked whether people were in favour, but we had no idea which criteria would be used or how they would operate. It is therefore a little difficult to make a proper decision on whether to agree with the proposals.

I can see good things in Orkney; it is a unique place compared with the rest of Scotland, because there are no tenanted farms. More or less all the farms are privately owned and some are rented privately to other farmers. Because of that, there is not the huge landlord-tenant problem that we hear about in the south.

There are a lot of good landlord-tenant situations as well. There are opportunities through the new rules for tenancies. It is impossible for someone to get the capital to buy land and start in farming unless they win the lottery. Until there is a freed-up and more vibrant tenanted sector, we are stifling young people and preventing them from getting into the industry.

**Claudia Beamish:** I agree that starter farms and tenancies for new entrants are really important. Can you, or anyone else on the panel, say more about a point that some people have put to me, which is that there may be an argument that smaller farms are less productive? I am not sure where that idea is coming from; it may relate to other places in the world where agriculture is not working and the land is neglected.

**Paul Ross:** I would not like to say that. There are small farms that are very productive and large farms that are not. There are large farms that are very productive. It all depends who is in charge and how efficient they are at running the business. It also depends how a small or large farm is defined.

**The Convener:** When the land reform bill is published, it will have a policy memorandum that will explain more about the questions the consultation asked, and there will be time to comment. There is a great opportunity for people not just at the consultation phase but very soon. The bill will be published in the next few days and people will have the chance to comment thereafter.

With the best will in the world, the committee will not have consultation sessions until September. During the summer recess, there will be a lot of time for people to get their thoughts to us so that we can regiment the kind of witnesses that will bring out the issues and bring to a head how we report on the bill. That is a point about the process, but it should help you to know that the consultation is not the last word.

**Graeme Dey:** We have heard a lot so far about the ownership and use of land in Orkney for agricultural purposes, but RSPB Scotland is also a

substantial non-agricultural landowner. How effectively does the RSPB engage with the communities of Orkney and how might the land reform agenda improve that relationship, if it needs improving?

**Paul Ross:** We have recently had a major problem with geese. There are migrating geese in the winter, which are part and parcel of nature, but quite a large flock has built up that is also here for the whole year.

We have a goose management group that the RSPB has recently removed itself from. Various bodies such as SNH would readily admit that the geese have been a major problem to other wildlife and have chased a lot of the native wildlife off their sites. The RSPB will not entertain that idea and is not really helping.

The geese do a major amount of damage, which has a huge financial impact on farmers. The wintering ones are bad, but the ones through the summer damage the crops when they are growing. The silage crops are filled with feathers and goose dirt and cannot be good for feeding to livestock, and the geese decimate the barley crops. The RSPB, which should be trying to help us, has removed itself from the management group.

18:45

**The Convener:** That is surprising. Why do you think that is?

**Paul Ross:** I have no idea.

**The Convener:** Okay. What does SNH think?

**Kristin Scott:** I do not know the answer to that, but it is disappointing that the RSPB has removed itself from the group. We will achieve the outcome that we all require—sustainable goose management on Orkney—only by working together. That is a fundamental of partnership working.

I would welcome RSPB coming back to the local group to work with us and to resolve the problems that Paul Ross has rightly outlined. There is a goose problem here and elsewhere in Scotland. SNH is tackling that through the national goose management group together with the NFUS, farmers, the RSPB and others. I am not sure—the RSPB may have withdrawn not just from the local group but from the national group as well.

We will never get consensus without all the key players being around the table. Yes, there are difficult issues to get through. There are sensitivities and we have to find a balance, which we are doing through our adaptive goose management schemes. We are making progress, but it is probably not as fast as farmers would like.

We must also take into account statutory obligations in the birds directive and biodiversity laws. Adaptive management is a progressive step towards resolving a pretty intractable problem, but we will resolve the problem only in partnership and with all parties on board.

**The Convener:** The committee has heard the goose petition from the Scottish Crofting Federation, and we have been involved in quite a dialogue on that in recent weeks and months. The intractability of the problem is something that, without doubt, we will need to break through. Does anyone else have any thoughts about geese? I was asking kids in the school today whether they had heard about goose burgers in Orkney and the pilot scheme, but I do not think any of them had, which is a great pity. *[Interruption.]* Mark has heard of them.

**Mark Hull:** I note, wearing a different hat as a community councillor, that that is what we did: we put recipes for goose in the local newsletter throughout the season. That is the best way to go.

**Graeme Dey:** We are conscious of the situation with the RSPB and geese, but as a major landowner in Orkney how well does it engage with communities?

**Mark Hull:** The RSPB has not been the best of the major landowners from that point of view, and we do not have any active links with it through our community groups. However, we have set up community rangers and have got funding for that, and when we have had a joint resource that has helped tourism and preserved the national heritage it has got engaged with that. My view may be slightly coloured because a lot of what we were doing concerned the wind turbine projects, which, at that time, the RSPB was strongly against. I would say that it is middling.

**Jan Falconer:** When assisting as a landowner in the local development plan, the RSPB has been extremely useful, and it is also useful when it comes to community rangers. The challenge from a local authority perspective is when it interferes with human habitation and where people live. Its area of expertise is birds, whereas a local authority tends to have expertise in looking after humans. There is sometimes a natural disconnect, but we work well with the RSPB on the local development plan in respect of its land.

**Alex Fergusson:** I spent the day with my colleague on Rousay, looking at the community wind turbine development. It became clear—I am trying to put this gently—that the RSPB had a major influence on that development.

Although I absolutely understand the desire to ensure, as far as possible, that a turbine does not have an impact on raptors, rare birds or whatever, I gather that the RSPB's criteria became so

restrictive that, in the end, there was only one place to put the turbine. It happens to be one of the better sites for it, but it was put to us gently that we should bear in mind that land reform leading to community benefit—which is what we are talking about—will mean give and take on all sides. It struck me that that example was one in which there was not a lot of give.

That is more of a comment than a question, convener.

**The Convener:** Indeed. Nevertheless, it adds to the picture. MSPs have been out listening to what people have been saying. We bring that expertise with us when we deal with issues of this sort.

**Graeme Harrison:** Earlier today, in a quiet moment, I read an RSPB publication that mentions that the RSPB owns 8,500 hectares over 13 sites in Orkney. Of course, a lot of that land is wetlands or what passes for mountains on these islands. The most likely conflict arises from the fact that some of those sites are the best sites for wind farms. The document said that roughly a third of that land is let out for grazing or for other agricultural use. I do not know what the relationship is between the tenants and the RSPB or how restricted their use of the land is, but there is a mix within that portfolio and the RSPB is one of the most significant landowners in Orkney.

**Kristin Scott:** As Graeme Harrison says, some of the RSPB land will be let to tenants, and grazing is often an important tool for nature conservation purposes.

We should not lose sight of the fact that a lot of natural habitats require some level of management. Through a framework agreement, we fund the RSPB to provide site management on its landholdings where that delivers our aims and objectives. Leverage against that grant is good for us, with a low intervention rate, and we maintain a positive relationship with the RSPB staff locally.

**Jim Hume:** I would like to explore the issue of who owns Scotland, which the convener mentioned in his opening remarks. There is a recommendation that there should be a process of land registration so that we could openly know who owned every plot of land. There is also a quite controversial recommendation that it would not be competent for any legal entity that was not registered in a member state of the European Union to register title to land. I would like to hear the panel's views on those points.

**Paul Ross:** That second recommendation would write off Donald Trump, who has put a bit of money into the north-east of Scotland. It sounds like a draconian measure. Should people who are not registered in the EU therefore also not be allowed to own industries here? What is the

difference between owning an industry and owning land? Anyone can use something badly.

**The Convener:** There is a big difference between industry and agriculture.

**Paul Ross:** I did not say agriculture; I said land. Land can be used for sporting estates. Some foreign owners might not be there for the whole year, but they will have staff who maintain the land, and when they come over with their very well-off colleagues and so on for shooting they can bring a lot of money into the local economy.

**The Convener:** That is contestable, for sure. It is a major part of the reason why people who own large amounts of land might well be able to contribute some taxes to the country. Sporting rates are being talked about, and the issue is likely to be in the bill, but the fact is that the commission on replacing the council tax is due to report at the end of the year. Any replacement must surely involve taking in tax from people who do not pay any tax at the moment if we are ever going to take a fundamental approach to the property issues.

**Paul Ross:** Are you thinking about Amazon, which does not pay tax?

**The Convener:** I am thinking about all sorts of entities.

**Paul Ross:** The Amazon issue is a huge one for Orkney. How can a local business in Orkney compete with Amazon, which does not pay tax, can buy in bulk, has a huge variety of goods and can deliver to someone's home? You are trying to tax people who bring money into the rural economy of the Highlands, where there is very little else to spend money on. A sporting estate might be the main source of income for an area.

**The Convener:** Well, I could have a debate with you about that. A recent survey by Scottish Land & Estates that looked at about 300 estates showed that more than a third of them made no profit at all and that they were mainly large estates on poorer ground.

**Jim Hume:** With respect, convener, rather than hear your views I would like to hear some answers from the panel.

**The Convener:** I felt that I was adding something. Jan Falconer would like to comment.

**Jan Falconer:** It is extremely important that people pay their fair share, whether we are talking about council tax or non-domestic rates, because those funds are needed to keep the local authority operating. At the moment, the system is such that it is difficult to get equitable taxation back. I am not talking about rates and the type of taxation that is found in Australasia; I am talking about people paying their fair share. It costs to keep things operating.

The issue is not who owns the land or ensuring that the people who own the land act in a proper way; fundamentally, the issue of how the land is used is more important. We are not talking about absentee landlords and bad landlords, because we hope that the land reform process will eradicate those or reduce the risk of them; we are talking about how the land is utilised for the benefit of Orkney—or whichever local authority area the land happens to be in—and Scotland as a whole.

I concur with Paul Ross that it is important to attract inward investment, but I would hope that the inward investors would pay their fair share of tax in this country.

**The Convener:** Does that answer your question, Jim?

**Jim Hume:** I think it does. The answers that we have received suggest that there might be resistance to allowing only entities that are registered in an EU member state to own land.

**The Convener:** Graeme Harrison might answer the question.

**Graeme Harrison:** Highlands and Islands Enterprise is very much concerned with inward investment in the Highlands and Islands, and patterns of foreign direct investment are changing. Money is coming in from the far east as well as from the States. Traditionally, a lot of the investment has come from Europe. Although it is easy to set up a European entity to make such investment, that is one extra hurdle that could make Scotland a less attractive place to invest in. We should remember that that investment is global and can go anywhere.

We have a number of examples of Norwegian investment. Although such investment can be made through a local subsidiary, it is important to remember that we are competing for it. The Trump situation is another one in which the jobs and the economic benefits are as important for the community as the tax revenue.

**Claudia Beamish:** With respect, I think that my friend and colleague Jim Hume has made a bit of a jump in what he has said about the European issue on the basis of what a few members of the panel have said. Surely, the important thing is that we are able to trace who owns the land. I am sorry—I am not here to give my opinion. I will ask the question: is the important thing knowing who owns the land?

If someone had to be registered through the EU—Dave Thompson has just jogged my memory on that—it would be much easier to see whether taxes should be paid and on what basis. That would depend on whether sporting estates were taxed, which is an issue that people have different views on. It is a question of people making a

contribution to the public good and the taxes of Scotland.

19:00

**Jan Falconer:** I agree that traceability is extremely important, because we need to know who owns what land where and how, and we need to know that they are traceable and that they are paying the right tax. I am sorry to go on about tax.

**The Convener:** Not at all.

**Paul Ross:** I agree that people have to pay tax, but I do not see that we need a land register. That would be of no help. I see no advantage in knowing who owns the land; what matters is what is done with it. There would also be a cost to setting up a register.

**The Convener:** Here is a question back to you. Do you agree that, if 423 people own half of the private land in Scotland and we do not know who half of them are, we should try to find out?

**Paul Ross:** What advantage is there in knowing who owns the land if it is being well managed?

**The Convener:** One of the reasons why land reform has generated some interest is that it is an attempt to find that out. We cannot in any way have a debate with landowners about whether they are using the land well if we do not know who they are. That point has been raised by quite a lot of people.

**Mark Hull:** On the proposed land register, I will speak from my personal experience. When we were putting up the Rousay turbine, the issue became important because there were two landowners who both thought that they owned the turbine site. We had to have a protracted legal discussion to decide where the boundary of their land was before we could know who the primary landowner was. Even in Orkney, where we think that we know about most of the land, there are quite a lot of small bits that are still not on any official register. I therefore welcome the proposed land register.

My view mirrors partly Paul Ross's and partly the other panelists'. The laws of land ownership have primacy and cascade down to what we have in place. We are looking at the level of trying to influence things. When I saw the question about how land is owned, I wrote down that I would say that, unless it is owned in our overriding national interests, it should be owned as locally as possible. If we could have a policy to encourage and incubate that approach, that is what I would do. That is at the third level, below ownership and statutory requirements.

**Graeme Harrison:** I agree entirely with Mark Hull. In addition, we should acknowledge that

there is a debate in Westminster at the moment, and the relevance of a landowner being an EU entity might be influenced by the result of an in/out referendum.

**The Convener:** That is a possibility. We will see the outcome of that debate in due course.

Do any other members have questions? As you think about that, I will pitch one to the panel. It is intended that land reform should have a human rights base. In that respect, there is an intention to create a land rights and responsibilities policy as a kind of overarching approach to land reform. The consultation on the future of land reform proposes a draft vision and a set of principles to guide the policy on the nature and character of land rights in Scotland. Would that policy allow debate at the local level to develop more openly? Would it establish that land reform should be human rights based?

**Jan Falconer:** From a local authorities and economic development point of view, land reform is about economic growth for people who work in an environment. It is needed for our society to be able to grow and create economic growth and wellbeing. Having human rights as part of that would support and articulate what we already do. The challenge for local authorities arises when other forces come in and place other things as more important than the human part.

We look after people. People are the centre of our world and what we do, so we would welcome a human rights-based approach. In all the activities that we undertake, we carry out human rights assessments to ensure that there is equity in the work that we do.

**The Convener:** I think that it will be argued over, but the set of principles is an attempt to put in place a guide to how we are thinking, which is new.

**Graeme Harrison:** Some kind of framework that underpins the vision and sets out the principles is definitely the way to develop policy in a considered and measured manner, rather than it being just an instrument that changes things. There must be an on-going debate, and having a set of principles as a starting point is probably the way in which to engage people in that debate.

**The Convener:** I agree.

**Mark Hull:** A mantra among community groups is that there are no rights without responsibilities. I make that point very strongly.

**The Convener:** The policy statement is called "A Draft Land Rights and Responsibilities Policy Statement" and it is included in the consultation paper. It is one of the things that people will raise, and it refers to many of the things that we have talked about.

As the committee has no further questions, I thank the panel for their contributions.

The second part of the evening will give members of the audience an opportunity to pose questions to the panel and committee members on the issues raised by the consultation on land reform. If you would like to ask a question and have not already submitted it to the clerks, please speak to Nick Hawthorne or Lynn Tullis during the break.

19:07

*Meeting suspended.*

19:29

*On resuming—*

**The Convener:** I welcome everyone back for the second half of our meeting. Following our discussion with the witnesses, we will now give members of the audience and those who are following proceedings online the opportunity to pose questions on the Scottish Government's consultation on land reform.

When your name is called, please raise your hand and wait for the roving microphone to come to you. Please state your name clearly before you ask your question, as our official reporters will attribute your remarks to you in the *Official Report* of proceedings. They may need to confirm your name and any other details at the end of the meeting.

To kick off the session, I have a question that was submitted online via Twitter by the forest policy group in advance of the meeting. The question for the panel and for members is: do you think that the Scottish Government should use its influence at Westminster to progress the fiscal recommendations of the Scottish Affairs Committee inquiry on land reform? Does anyone want to pick that one up?

**Dave Thompson:** I volunteer to go first, convener. I think that the Scottish Government should do that, and the Scottish Affairs Committee at Westminster should continue to pursue the issue. You can correct me if I am wrong, but I think that a Scottish National Party member of Parliament will be chairing that committee. It would be worth while for the Scottish Government to use its influence in that way because it can develop the work that the Scottish Affairs Committee has already done and—I hope—add greatly to the debate.

Responsibility for many of the issues to do with land reform—particularly those that relate to taxation, such as general taxation and so on—resides with Westminster, and that committee can

do some good work to help us to understand more about those issues.

**Claudia Beamish:** I agree with what Dave Thompson said. I have been to a meeting of the Scottish Affairs Committee in Peebles as a South Scotland MSP. That committee held meetings across Scotland, in Dumfries and elsewhere, to take evidence as part of the consultation before it presented its ideas and recommendations about tax. Those issues should be examined carefully, and I would welcome such a move.

**The Convener:** Do any members of the panel want to come in on the question?

**Jim Hume:** I am not going to answer the question, but I will focus briefly on the Scottish Affairs Committee's recommendation that we take a look at agricultural property relief from inheritance tax. It might be interesting to hear what members of the panel think about whether that relief should be retained or abolished, just to put some meat on the bones of the Scottish Affairs Committee's recommendation.

**The Convener:** Does anyone want to pick that up?

**Alex Fergusson:** On that point, I was struck by the view of Jan Falconer on the previous panel: "People do not own the land; the land owns you." I am very much of the view that that is the rule in the huge majority of land ownership situations that exist in Scotland, in all their various guises. I accept that there are exceptions to every rule, but that is the general rule.

I have no problems with the Scottish Affairs Committee's recommendations that some of those areas need to be examined and clarified, but in doing that, we need to ensure that whatever is introduced does not undermine that fundamental tenet of land ownership through the years. Most people who are involved in land ownership believe that they are trustees of the land for future generations, and we should not lose sight of that in the debate.

**The Convener:** If no one else wants to comment on that, we will go to our first questioner in the audience tonight: Fiona Grahame.

**Fiona Grahame:** Will there be a limit to how much land one person—or indeed one organisation—can own? Will members of the public be able to access easily information on who owns the land round about them?

**The Convener:** Thank you for that. Who would like to respond to that?

**Sarah Boyack:** I do not think that there are any proposals in the consultation on a maximum amount of land that someone may own. One of the questions in the consultation addresses how the

benefits of land ownership can be opened up to more people, which is a different matter.

Knowledge about who owns the land is fundamental. While the meeting was suspended, we were discussing who knows which plots of land are owned by whom. There are still large parts of the country where people do not know who owns the land, and we have been discussing that in relation to the Community Empowerment (Scotland) Bill. If a community is interested in using land that is being neglected, it needs to know who to offer to buy it from, so it is important that people can find out swiftly who owns land.

In the earlier part of the meeting, Mark Hull talked about trying to get access to land in order to develop it for renewables. There may be opportunities to register for land, but unless you are able to speak to the person who owns it, the process is difficult. Knowledge about land ownership is probably one of the most important issues here. It is less about the percentages of land that is owned and more about who owns the land and what responsibilities they have to the local community.

**Jim Hume:** There was talk at an earlier stage of the introduction of a limit on how much land people could own. I would be concerned about that. If it was 100,000-plus acres, it would not affect too many people, but the limit might be reduced to 1,000 acres or something. As an Opposition MSP, I would not support that.

**Graeme Dey:** The issue was mooted by the land reform review group—I think that it was an option in the group's report. I do not think that it is a good idea, and I will tell you why. The whole ethos of land reform is to better support and protect the interests of our communities. Someone who owns 10,000 acres in the north of Scotland that is essentially heather and rock might have little negative impact on communities, but someone who owns 1,000 acres in a constituency such as mine might cause mayhem. I do not think that a one-size-fits-all cap on the amount of land that someone can own is the answer.

**The Convener:** Would any panel members who are not MSPs like to comment?

**Graeme Harrison:** On the second part of the question, we are in favour of a single online register of ownership, even if it is fairly basic information to start with. A number of public bodies hold information at present, and as a starting point it is probably a good idea to combine that into one accessible database. We have sometimes found it difficult to find out where the boundaries are in relation to the ownership of land, and who owns what. That is particularly the case in Orkney, where we have ended up negotiating with different

people for land—and for the foreshore, which, as you know, is an anomaly here.

**Jan Falconer:** People might not understand that, when they want to do a development and they need to check the owners of land, there is a cost for the authority, which is passed on. It costs us to have an officer do that investigation. Instead, we could be putting our efforts into services for people, such as social care and wellbeing. It would be good for us not to waste time and taxpayers' money doing that investigation but, instead, to have a register that is available for everyone to share. That would mean that we could search the register and say, "Ah, that's who owns that land."

**The Convener:** Fiona Grahame, do you want to come back in on any of those points?

**Fiona Grahame:** My point was not just about a single person owning an unlimited amount of land—it was about organisations, too. Maybe the panel could address that.

**The Convener:** Does anybody on the panel wish to answer?

**Paul Ross:** The problem is that, if we tried to limit an organisation that owned a huge amount of land, it could just split itself into two separate organisations. That shows that there are ways round legislation. I think that trying to limit ownership of land in that way would be a pointless exercise. I am not saying that it is wrong to try to prevent people from owning too much land, but I agree with Graeme Harrison that it would be wrong to take a one-size-fits-all approach to land ownership and that the type of land, where it is and so on must be considered.

**Kristin Scott:** I do not disagree with anything that my colleagues have said about the issue. Land can be owned by the public sector, the private sector, communities, charitable organisations or non-governmental organisations—there are a variety of types of landowner. From our perspective, at the end of the day, it is not so much about who owns the land. We would like any requirements and empowerment to deliver public benefits to be spread equally across all types of ownership—private, public, community and NGO ownership.

**Alex Fergusson:** This comment might help to answer the question. We do not yet know what will be in the land reform bill, but we will know that fairly shortly. The committee has discussed the situation where the size and scale of land ownership is such that it is seen to be preventing sustainable development from the community's point of view. Measures might be taken to try to correct that situation, although we do not know what they might be—that is all still to come. However, I assume that they would apply equally

to individuals and organisations, because this is about whoever owns the land.

**The Convener:** We will move on to the next question.

**Georgette Herd:** Good evening, panel and convener, and thank you for the opportunity to put my question. In assessing the criteria for responsible land use, is there a view to taking into account Scotland's obligations to meet its renewable energy and climate change targets?

**The Convener:** Thank you. Who wants to comment on that? It seems that Mark Hull does. Do you know the questioner?

**Mark Hull:** No, but I am aware of her.

That would certainly be welcome from the community development point of view. Most of the communities that we are involved with are working towards the targets. They have a dual aim in that regard, because the energy that is generated provides both community good and revenue. That is probably more important to the community than the targets, because it creates an independent resource for investment in the community. Community ownership is much more about the content that it leaves in the community than about the targets.

**The Convener:** Who else wants to come in on this question?

**Sarah Boyack:** There are a number of different policy objectives that we might want to achieve with land. It comes back to the question of what the best use of land is. The land use planning system is one way in which we can debate the best use of land, and it enables local members of the public to give their views to councils when they are drawing up plans for land. There is also the land use strategy, which is required by the Climate Change (Scotland) Act 2009. One of the ideas behind that was to have a public document that tries to draw together the different objectives that we might have.

We will be debating in the Parliament tomorrow a statement from the Government about the fourth annual climate change target and whether it has been met. Meeting our climate change targets is a huge obligation for our country, but we can try to do it in different ways.

To an extent, it comes back to the previous question about development opportunities and who owns the land. We need to see more community ownership of renewables, whether through a co-operative or a development trust, so that we do not just tick a box for meeting our targets but create positive benefit for the community. One of the really important things that we need to do is to enable more community ownership that is directed by our land use



planning policy. I do not think that we have enough of that at the moment.

19:45

**Mark Hull:** Sarah Boyack has said a lot more eloquently some of what I was trying to say. Just last year, we carried out a study comparing community-owned and standard renewables across Scotland, and we are seeing an average 30 per cent uplift in local content and value.

**The Convener:** That is interesting.

**Jan Falconer:** Echoing what Sarah Boyack and Mark Hull have said, I should point out that the main issues report that Orkney Islands Council is putting together for the 2017 local development plan will cover how we address climate change in the LDP. It harks back to the Climate Change (Scotland) Act 2009, but it is also about the development that we have to carry out on land. I encourage everyone here to participate in putting that report together, as that is the way in which we undertake this type of work. We hope that the proposed legislation will be another enabler in that respect.

**The Convener:** Does anyone else wish to comment on this question?

**Jim Hume:** In direct response to the question whether not meeting climate change targets could be seen as irresponsible land use and therefore lead to land being taken away, I have to disagree. At this stage, we need to look more at carrots instead of great big sticks and someone saying, "We'll take your use of your land away if you don't meet climate change targets." We have a long way to go with climate change targets; indeed, we will be getting a statement from the Government tomorrow on whether it has met them. I do not think that it has done so, but I do not think that using that as a criterion, as I think was suggested by the questioner, would be very helpful.

**The Convener:** Does the questioner want to come back in on that?

**Georgette Herd:** Just briefly, convener. I found the comments really interesting. Going back to Sarah Boyack's remark about the national strategy, I wonder whether, if we are looking at land use not on the basis of local authorities' territorial areas but through a national strategy, there might be an opportunity to identify zoned areas for renewable energy development and thereby incentivise landowners to devote some of their land to such development.

**The Convener:** Does the panel wish to comment on that? Do we have any landowners in our midst who have renewable energy developments?

**Alex Fergusson:** Yes, and I do not need any more incentivisation, because the incentives are already quite reasonable. I am sorry—I do not mean to sound flippant, but I am just not sure that further incentivisation is needed. I do not know many landowners who, if approached with a renewable energy proposition, would immediately say no. I just do not think that they exist.

**The Convener:** That is an answer of sorts, and one point of view.

We will move on to our third question, which is from Hugh Halcro-Johnston.

**Hugh Halcro-Johnston:** Thank you, convener. I, too, welcome the committee to Orkney. It really is a pleasure to see so many MSPs so far away from Edinburgh and I am glad that you have had the opportunity to see how we operate here.

I want to reinforce Graeme Harrison's very good description of the pattern of land ownership and farming in Orkney. I should explain that I am both a landowner and a registered crofter, and my question is: what is the plan for crofting in Orkney when nearly all crofts are, in fact, owner-occupied?

**The Convener:** If none of our panel members wishes to take that one on, I will kick off.

Crofting law treats owners equally with regard to the subsidies that are available for tenants. As a result, owner-occupancy is no longer something that people have to do in order to avoid eviction when an estate wants to get rid of land, which is what often happened here, in Shetland and in Caithness. People who have bought their crofts are now treated equally—and quite rightly so—and the crofting policy with regard to owner-occupiers is no different in Orkney than in any other part of Scotland. As you said, many farmer owners might also be croft tenants or even croft owners.

I cannot see that crofting will have a major role in determining any changes in Orkney. However, the crofting right to buy is there for those who are only a tenant. It has been available since 1976, and it was not challenged under the human rights legislation at that time. That is the way I would see things. It is not a huge issue. Does Dave Thompson wish to add anything? Anybody else? Perhaps Hugh Halcro-Johnston can come back in on that, then.

**Hugh Halcro-Johnston:** What I am getting at is the fact that, in many cases, the crofting legislation can be extremely restrictive regarding how the land can be used. There are examples where development could not take place because of the crofting acts. The desire to maintain crofting in a place where it has no real role, in Orkney, is something that the committee should look at carefully. I see no point in perpetuating an out-of-

date system that can be detrimental to rural development.

**The Convener:** We take your point, and it is on the record. Thank you for that.

We will not be dealing with crofting reform under the land reform bill, but it is likely that some time will have to be spent on it in the near future. There are 100 aspects of crofting law that the crofting law sump has identified as needing reformed, and that might well be one of them—who knows? Some members of the sump certainly think that there should be one form of tenure throughout the Highlands and Islands, rather than three or four. That might well be an area of debate that is being entered now. A lot of people, as wide apart as James Hunter and Sir Crispin Agnew of Lochnew QC, are thinking about it.

The next question is from Andy McLaughlin. I ask him to identify himself. Ah—I recognise him from this afternoon.

**Andy McLaughlin:** The isle of Eigg has been back in the news in the past week, with many residents saying that they have been struggling with the costs involved in land management. What lessons can we learn from that?

**Dave Thompson:** I do not think that anybody has ever argued that community ownership of land, as opposed to private ownership or whatever, is easy. Community owners face the same challenges as everyone else; the key is to assist all owners of land to maximise the use of their land in order to generate an income. In a sense, the folk in Eigg are no different from many other businesses in the country.

Lots of community owners will go through various peaks and troughs. Wherever possible, we should assist them to develop, and we need to take into account the problems and issues as we do with land ownership generally—for all businesses and for agriculture in general. For instance, there is support for farming and crofting through the common agricultural policy, and a range of other support is available through the rural development programme. There are always major disputes and disagreements about where the money should go, because it is always limited, and I do not think that the people in Eigg are unique or different from any other community land ownership group.

**Graeme Harrison:** I echo what Dave Thompson says. Development trusts or community bodies that own large estates can have issues. For example, income can wax and wane with different markets, whether it be from forestry or from tourism. There are also capacity difficulties in communities and issues around having the right governance structure. Our colleagues in the community assets team are closely involved in

guiding community enterprises in several areas of the Highlands and Islands through some of those issues—there are no ready solutions for many of them.

Those issues are also apparent in Orkney, albeit that they are not based on large areas of land. Owning income-generating assets such as wind turbines raises issues with the management of expectations, governance and having the right structures in place to run what can be quite a substantial business. Mark Hull knows that from being at the coalface. However, assistance is available from public agencies to help groups with those issues.

**Paul Ross:** Dave Thompson nearly suggested that Eigg, as a community group, is not getting the subsidies that are available to farmers, but if Eigg is keeping agricultural land, it has the same opportunity to receive subsidies as all farmers. He suggested that the people of Eigg need help along the way, but I do not expect that I would get help if my business started to go under.

Part of the problem with community-type bodies such as the one in Eigg is that, if they are still a community group, it is difficult to get a focused direction—there are disagreements and there will always be problems. It is sometimes far better for one person to be more in control of the land—there may be a lot of tenants who can make up their own minds about what to do with it. It is more difficult when there is a community group that has joined together.

I am not involved in this, but I have a brother-in-law who is very involved in the community trust in Westray, where there is a wind turbine. The biggest problem that they have is in finding something on which to spend the money that they are making. The trust cannot agree where the money should go, and the EU legislation ties them in knots. The EU legislation means that they are limited in how they can spend the money, and because there are so many varying views in the group they go round in circles and the money does not get spent.

**Dave Thompson:** I am sorry, but I must not have explained myself very well. I was not suggesting that the Eigg folk do not get the same support as farmers and so on—that was not my point at all. I apologise if I was unclear.

All businesses across the country are supported by the Government in one way or another. For example, small businesses have the small business bonus scheme whereby they do not pay rates, and crofters and farmers benefit from CAP payments—whether they are in Eigg or anywhere else. In the past few weeks, the committee has held an inquiry into the dairy industry and the problem with the price of milk. As you will be aware, the Government also supports the dairy

industry in particular parts of Scotland. The Government supports businesses because part of its job is to ensure that businesses of all kinds are supported wherever possible.

I apologise if I was not clear. I was not differentiating and I was not having a go at farmers and crofters.

Paul Ross's other point was about a group not being able to agree what to spend the money on. That is democracy, whereas what he suggested—having one person in control—is a dictatorship. I prefer a democracy to a dictatorship.

**Sarah Boyack:** I visited the community in Eigg not long after the community buyout was approved. They had started to do work: the turbines were up, there were a series of community-owned hydro projects with money being reinvested in the community and there were a couple of seriously big battery kits to store the electricity once it had been produced and feed it out to the community when it was needed. However, what really struck me and the colleague who was with me was the fact that, although it was really challenging to put those things in place, they were not the most difficult issues to address. The most difficult issues involved wider public services that might not be in the control of the island and included GP access, access to broadband—they had a real issue about getting decent broadband on the island—the cost of transport and construction costs. You will be familiar with many of those issues. For a small island that is trying to control its destiny, there are always things that are outside its control. That is the challenge for community buyouts, whether they involve a small community on an island or a community on the mainland. There will always be challenges to be faced.

20:00

When I was in Eigg, I saw a huge amount of energy and commitment. There was also a lot of excitement because, although they were in the early days and knew that there would be a huge series of challenges, having control in their community and being able to vote on how they wanted to move forward, although it was not a quick fix, would take them to a better place than where they were before and would give them more opportunities and more responsibility.

Dave Thompson mentioned democracy. Having access to democracy does not mean that everybody who is in the democratic process will be happy. There is a community empowerment angle to that and a point about giving people the skills, knowledge and opportunity to play a full part in the democracy.

In a lot of communities, community ownership has been instrumental in improving people's daily lives and opportunities. I am interested in the report that the Scottish Government has commissioned on the experience of land reform and community land buyouts. I suspect that we should pause for breath and look at some of the issues so that we can see what that experience has been and think about what else needs to be put in place. For example, the proposed new land reform bill talks about a land commission and funding from central Government.

We need to look at the previous experience of land reform to see what lessons cut right across the community and what has been different in different places. We are a decade on from the last land reform bill. What lessons can we learn when the next one comes to the Parliament? It is important that we learn from experience.

**Mark Hull:** Some of my points have been covered. As part of Community Energy Scotland's day job, we supported Eigg with the energy side. The community is brave and ambitious in what it tries to do, but it could not get away from the fact that, in a social enterprise, the enterprise must be strong as much as anything else. We always say that social enterprise has two legs and the enterprise leg must be as strong as the social leg. We hope to get value for the community from social enterprise working within the community, and we hope that it provides the community with social value that can be recognised from outside—that is key.

The Westray question is slightly different, and the situation is the same in Orkney. Partly because of the support schemes, all the turbines that have gone up have had to be debt financed—they have not been grant assisted. As businesses, they stand on their own feet; the question is about what is to be done with the money.

We always thought that the hardest challenge would be in the spending of the money, but I am heartened. The Westray situation was particularly unusual in that the community felt that to protect its risk and reputation it had to get a large sum of money together before there could be real clarity about what it was going to go for. That was a challenge, but I would rather face that challenge than be without empowerment.

Westray has seen gross depopulation and demographic depopulation, with most people of working age not staying there or in similar communities. That is a challenge, and it is what I meant when I said earlier that there is no right without responsibility. These projects are hard. We will all look back at them and say that it is hard for a community to put up a turbine or to complete any kind of community buyout or takeover—there is no doubt about that. The community must really

want to do it and must stick at it, and, when it gets there, what it gets will be hard. That is why projects have come up where they have.

**Jan Falconer:** The lessons that we learn should be used to help other communities who want to set up projects and undertake activities using the land. They should learn those lessons so that they can put in place the best structure to move forward.

The community needs to be clear about what it wants to do, and that will impact on what it can and cannot do. One thing that communities must consider is the fact that there cannot be any state aid. That is what Paul Ross was referring to.

If a community wants to do something that is similar to the activities of a competitive group, it will have to consider the state aid aspect so that there is no undue distortion of competition. Most communities take that on, but it would be better if, before they started on the journey, they learned the lessons from others that there are challenges with competition, digital connectivity, access and getting staff. They might be able to consider a different type of model, and they should be able to de-risk the next project that they choose. In the end, the community must choose. If we can learn from different areas, that will certainly help when we consider land reform.

**Graeme Dey:** We need to recognise that circumstances can change. A couple of years ago, a number of committee members visited Gigha. The people of Gigha agreed a buyout and were pretty much on the same page. One thing that they agreed was that a refurbishment of property would be rolled out, starting at one end of the island and finishing at the other. Those who stayed at the wrong end of the island signed up to that, and it was well intentioned. However, there were then incomers to the island who were welcome but who mounted a legal challenge to that, because they wanted their property to be refurbished much earlier. With the benefit of hindsight, the community probably should have foreseen something like that but, until such things happen, we do not anticipate them. The key thing is for everybody else to learn that lesson when they consider a community buyout.

**Mark Hull:** I have a specific point about Westray, just for the record. To be honest, most of the challenges are to do with the Office of the Scottish Charity Regulator—that is our biggest source of difficulty, not EU rules. With the trust on Gigha and all development trusts, there needs to be a hard and soft mandate, with genuine support from the community. Judging from all that we have experienced, I believe that that will come out in the end. If a trust does something sensible with good intent, the majority of the community will support it.

**The Convener:** I do not think that Andy McLaughlin wants to come back on any of those points at the moment, but Alex Fergusson does.

**Alex Fergusson:** I will add a little point that suddenly came to me halfway through the discussion. This afternoon, we learned that one of the main constraints on the community development example that we saw was a literal constraint, in that its output is constrained by grid access. I think that that answers Georgette Herd's question. Access to the grid is becoming much more of an issue for further renewables development than the willingness of landowners to participate is.

**The Convener:** Bill Mowat has a question.

**Bill Mowat:** Hello everybody, and welcome. I am the chairman of Gills Harbour Ltd in Caithness, so I am an interloper in a sense, but I suppose that most of the Orcadians who are here are familiar to a degree with the harbour. They will have passed through it and will know how the service that is operated from land that is leased primarily from us has helped to cut the freight rates considerably to the islands.

We are a small—or croft-sized, if you want to put it that way—community land-owning body. Nobody is paid anything and the land belongs to the 600 people of Canisbay parish—it has done so for the best part of a century.

There has been talk today about various things. Canisbay parish, which is opposite the end of South Ronaldsay, is by and large a traditional crofting area although, as in Orkney, most people own their crofts these days. We are going through a registration process in which crofters have to register their land and have it measured and listed with Registers of Scotland. The register used to be called the register of sasines, but there is a different name now and a slightly different purpose. The same applies to the crofters' common grazings, although those might involve a few more problems.

However, that process does not seem to apply equally to lairds and landowners. In our case, we are interested only in the intertidal foreshore, but our neighbour on both sides is a US citizen who has two names. She has her own name—we are not quite sure whether part of her first name is a nickname—and she calls herself Baroness Canisbay. She has not responded to any letters from us as Gills Harbour Ltd, the community-owned company that was set up under an HIE remit—under its articles—and she has not replied to her lawyer or her estate management people in more than a decade. She does not do anything.

Should that situation continue? Does the committee think that action needs to be taken? Could that action perhaps involve an amendment

to the crofting community right to buy? We looked at that and we could not see how we could possibly make something stick.

**The Convener:** That is a pertinent point. If crofters have to register their crofts, what about landowners—in this case, an absentee landowner? Do panel members want to comment on any of that? If not, I will kick off.

The intention is that Registers of Scotland should have all private land registered. Public landowners should be registered within the next 10 years, and all private landowners should be registered as soon as possible after that. However, that might take quite a long time. There are constraints on the registers office because it has only a limited number of staff. It cannot get more as the civil service has been cut by about a fifth because of austerity and so on, so it will not be easy to get the registers office to do things more rapidly.

The question is whether an amendment should be made to the Community Empowerment (Scotland) Bill—we might be a bit late for that—or to the land reform legislation to set a time by which absentee or other landowners should register. We could debate that.

Only 24 per cent of Ross-shire and about 21 per cent of Caithness are on the map-based register for landowners. The average in Scotland is 27 per cent. We need to put on a spurt to make sure that owners of all sorts are on the map-based register, so that people who have a right to know who the landowner is and what they own can find that out easily. Perhaps the Gills Bay crofters should be in that position. However, that is where we are. I hope that that has explained the situation. Does anyone else want to comment?

**Sarah Boyack:** The convener is absolutely right. We discussed the point when considering stage 2 amendments to the Community Empowerment (Scotland) Bill. We discussed what happens when someone wants to buy a piece of land and they have done all that they can to find out who owns it but they still cannot find that out. In terms of priorities, I would think that, if a lack of knowledge about registration was frustrating community ambitions and frustrating people's rights to have a dialogue with whoever owns the land, that should drive the necessity to register.

Mr Mowat's point is well made. We are a committee in session in Orkney, so that point will be in the *Official Report*. We might also want to alert ministers to Mr Mowat's point, given that we have not just stage 3 of the Community Empowerment (Scotland) Bill but the land reform bill coming up at a rate of knots.

**The Convener:** Indeed.

20:15

**Dave Thompson:** Bill Mowat makes a good point. The crofters have a legal duty to register their crofts and get them mapped and so on. If they cannot get a response from an adjacent landowner, they will not be able to register, because they will not be able to show absolutely that the boundaries that they put to the register are the proper boundaries.

There is a problem here—perhaps another one to add to the hundred-odd other issues in crofting law. In the interim, perhaps a presumption is needed in favour of the boundaries that the crofter puts to the register, if the other landowner does not respond. That would mean that the crofter could at least register their land and would prevent a landowner who could not be bothered to respond from saying later, “Oh, no, you've got it wrong. You are 100m into my land.”

**Graeme Dey:** I have a point of information, just to bring some balance to the issue. Scottish Land & Estates, which represents many landowners, is quite positive about the creation of a register. I might be wrong, but I suspect that the person who has been referred to is unlikely to be a member of Scottish Land & Estates. We have talked a lot about landowners tonight in critical terms but, to be fair to Scottish Land & Estates, it is encouraging its members to take part in the process.

**Bill Mowat:** Can I name a company?

**The Convener:** Of course.

**Bill Mowat:** It is Bell Ingram. Its representative, very much off the record—

**The Convener:** No, this is on the record.

**Bill Mowat:** In that case, I will just refer to it as a land management company in Scotland that I have not mentioned. Its representative said to me that this is positively the worst case of absentee landlordism that we have ever come across.

**The Convener:** In 1883, the crofting commission went around the Highlands and, for the first time, people had immunity in saying the kind of things that you are saying now. We are in a long line of democracy. We have to speak out and have transparency, and I thank Bill Mowat for his contribution to that.

If anyone in the audience would like to ask the panel a question about crofting, we would be pleased to take any questions or points that people have, as long as we do not shorten the summer.

As there are no questions, I thank the panel for answering the questions in this session and earlier. I also thank our questioners from the floor,

who have raised interesting issues that will be our meat and drink in the future.

We come out of Edinburgh more often than Hugh Halcro-Johnston perhaps recognises. We are not bound to our desks in Edinburgh. We go out as groups to get people's views, which we very much value, and I thank everyone for sharing their views with us today.

At our next meeting, on 17 June, we will take evidence from the Crown Estate and the Cabinet Secretary for Rural Affairs, Food and Environment on the proposed devolution of Crown Estate assets. We will also consider further the Scottish Government's consultation on land reform, which has formed the focus of our meeting this evening.

*Meeting closed at 20:19.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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