



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 28 May 2014

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
16th Meeting 2014, Session 4

CONVENER

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

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)
*Nigel Don (Angus North and Mearns) (SNP)
*Alex Fergusson (Galloway and West Dumfries) (Con)
Cara Hilton (Dunfermline) (Lab)
*Jim Hume (South Scotland) (LD)
*Angus MacDonald (Falkirk East) (SNP)
*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Baker (Mid Scotland and Fife) (Lab) (Committee Substitute)
Ian Cooke (Land Reform Review Group)
Dr Alison Elliot (Land Reform Review Group)
Pip Tabor (Land Reform Review Group)
John Watt (Land Reform Review Group)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

Committee Room 3

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 28 May 2014

[The Convener *opened the meeting at 10:07*]

Land Reform Review Group

The Convener (Rob Gibson): Welcome to the 16th meeting in 2014 of the Rural Affairs, Climate Change and Environment Committee. I remind everybody to switch off their electronic gear—apart from tablets, which people increasingly use—as phones can interfere with the sound system.

We have received apologies from Cara Hilton. Her substitute is Claire Baker, whom I welcome to the committee.

Item 1 is the land reform review group's final report. I welcome the panel: Dr Alison Elliot, John Watt, Ian Cooke and Pip Tabor. I invite Alison Elliot to give us an introduction before we come to questions, which I suspect will be wide and various.

Dr Alison Elliot (Land Reform Review Group): Should I ask everyone to introduce themselves first of all?

The Convener: We can see your nameplates, but you can say what you do.

Dr Elliot: John, do you want to start?

John Watt (Land Reform Review Group): I have been involved in land ownership issues, mainly around community land ownership, for many years. I worked with Highlands and Islands Enterprise for several decades, latterly on community land ownership, and I currently chair the Scottish Land Fund committee.

Ian Cooke (Land Reform Review Group): I am director of the Development Trusts Association Scotland, which is a national organisation for community-led regeneration agencies, covering both rural and urban communities. My background has largely been in regeneration, particularly in urban areas and often with a community dimension.

Pip Tabor (Land Reform Review Group): I manage a small rural development charity called the Southern Uplands Partnership, which covers southern Scotland: Dumfries and Galloway, the Borders, South and East Ayrshire and sometimes South Lanarkshire, depending on what is going on there. My background is in ecology and natural resource management.

Dr Elliot: I am a former moderator of the Kirk and a former convener of the Scottish Council for Voluntary Organisations.

We have produced a serious, substantial and comprehensive report with a clear position running through it. We take the line that land is a finite resource that is crucial for the whole country and that decisions on how it is used and owned should therefore be taken in the public interest and for the common good. That is the straightforward democratic principle that underlies what we are saying. It is a simple principle, but it has several consequences—62 of them, in fact—and we look forward to exploring them with the committee.

The Convener: Thank you. I will start off with a general question about your work patterns.

There are differences from the interim report, such as the personnel change, and your new activities leading to the final report have obviously required a different way of going about things—for example, you have expanded the areas that you are looking at. Can you tell us a bit more about your interaction with stakeholders and why you chose to work in that way?

Dr Elliot: The original plan was that, in the first phase, we would look outward, be open and try to find out what was happening on the ground. That is what we did. There was a lot of engagement with people right across the country who had different interests in land reform, use and ownership.

It was always our intention that, in the second phase, we would start to develop an overarching framework for the report and develop in a bit more detail some of the topics arising from that. Although, as people have said, our work is a game of two halves, that was always intended to be the case.

Having different personnel meant that we had a second bite at the cherry. We had seven minds on the job instead of three, and we have benefited from that. In the second phase we were developing the framework and proposals across the subject, which is very large, so it was difficult for us to have a general open conversation with people. However, that does not mean that we did not consult people. We certainly went to various sources with targeted questions, and we continued to collect evidence during phase 2. We had our heads down in phase 2 instead of being more open.

Alex Fergusson (Galloway and West Dumfries) (Con): Good morning—it is nice to see you here again.

I want to follow up on the point about consultation. You rightly state that you are not an expert committee and have relied on expert advice

from others. However, concerns have been raised with me that the consultation that you have undertaken in phase 2 has not been as extensive as some people might have expected it to be. You say that you have consulted and put targeted questions to people. Can the committee find out who you consulted in phase 2?

Dr Elliot: I think that it would be possible. Do you mean just now?

Alex Fergusson: No, not just now, but if you could let us know at some stage, that would be helpful.

Dr Elliot: As you said, we tended to consult individuals who had expert information. You are quite right to highlight the fact that we had an advisory panel of experts. In phase 2 we engaged with some of them more than others, but they were very useful in giving their expertise and pointing us towards other people we could consult.

Alex Fergusson: Thank you. I am aware that a member of the expert panel saw fit to resign last April. Can you tell us why?

Dr Elliot: I think that it was for personal reasons. It is not for us to put words into his mouth.

Alex Fergusson: Okay.

If it was possible to furnish the committee with any further detail on who, outside the expert group, has been consulted since you entered phase 2, I would be very interested to see that.

Dr Elliot: Okay.

The Convener: I will just follow up on the technicalities. There are 484 documented submissions, some of which are anonymous. Can the committee read all those to see what they said?

Dr Elliot: I think that, when people said that submissions were confidential, they were confidential—but I am not certain as I have not asked that question.

John Watt: There were three categories of submission: those that were named and open to everybody; those that were anonymous but still available; and those that people wished to remain confidential.

The Convener: Where are the available submissions? Are they online?

John Watt: They are all online.

10:15

Claire Baker (Mid Scotland and Fife) (Lab): I welcome the report and thank the review group for the work that it has undertaken in the past few months. There was criticism of the interim report,

but the second report is certainly encouraging and lays out the wide range of issues that land reform encompasses.

On timescales, the letter to the committee from the Minister for Environment and Climate Change states:

“The report will inform the debate on land reform for the coming decade.”

Obviously, we need to get the balance right between wanting to see progress in some areas—perhaps in the current session of Parliament—and a recognition that the issues are complicated and that we need time to consider them. Have you made a judgment on where there might be opportunities for quicker progress and where a wee bit more consideration is needed?

Dr Elliot: John Watt produced a useful summary for the group that went through the recommendations, laying out those that could be done now, those that could be started now and those that could require research and so on. We have an aide-mémoire for ourselves on that.

Claire Baker: Do you intend to publish that or share it with the Government or the committee, as a steer on some of the timescales?

John Watt: It is really just an aide-mémoire for the group. We believe that there are things that the Government could start right away. In fact, it has made a couple of announcements even in the past two or three days. There are some things that could be started now and that might take a little time to do. Other things will need legislative change, which could mean amending existing legislation or drafting new legislation. There are some things on which we would admit that we do not have the final answers, so those will need further research and study before a final conclusion is reached.

I will give a couple of examples of things that could be done quickly. The report talks a lot about the issue of state aid. The Government could, almost now, give clear instructions to its departments and agencies to clarify how the interpretation of state aid might be made more flexible to assist communities to acquire land, for example. The Government could start to be more proactive about transferring crofting estates to communities, and it could make a clear policy statement that diversified land ownership is one of its key policy objectives. Those things could be done very quickly.

The Convener: We will explore that kind of issue as we take evidence from stakeholders and ministers in drawing up our views about timetables and other matters. It is obvious from the report that some things will take a lot longer. Obviously, the

workstreams will have to be laid out in detail, once we know what is being said.

Now that we have had the opening bout, we shall concentrate on some specific issues. The first is land registration, which the Government has already mentioned publicly. This is not the first time that I have seen the famous map, which is in figure 4 in the report, that shows that some of the largest estates are not registered. It should be possible for people to register. Are the timescales for registration that the Government has set of five years for public bodies and 10 years for private bodies appropriate, or should it be done faster?

Dr Elliot: When we discussed that as a group, we did not have a view on exactly what the timescales should be, but we agreed that a target should be set. The commitment is in the Land Registration etc (Scotland) Act 2012 anyway, but a target needs to be set. I understand that the practicalities are considerable, so timescales of five and 10 years seem okay.

The Convener: If estates were encouraged to get on with the job of making their maps, they could then take their turn in the queue to get the land registered. Therefore, there is in fact the potential, depending on how we put it and if the signals are sent out, to get the process going now. Did you take that into account at all?

Dr Elliot: We considered various triggers for registration. There are already triggers in the 2012 act, but there could be further ones relating to people applying for public funding and so on, which would presumably get registration moving a bit faster. However, we did not consider further ways of speeding it up.

The Convener: Okay. Thank you for that. We will look at owners of land next, and Claire Baker will lead on that.

Claire Baker: I was interested in your comments on registration of land and overseas registration. In the report, you state:

"the Review Group considered whether there might be scope in Scots law to exclude certain types of overseas bodies from owning land in Scotland",

identifying that that is

"in the interests of traceability and accountability."

What are the problems that you see with ownership outside the European Union? What difficulties does that present in relation to how Scotland's land is managed or used? You link it strongly to the public interest and suggest that it is not in the public interest for ownership to be difficult to trace. What problems do you see in a practical sense?

Dr Elliot: Tracing ownership is many times more complicated in the urban situation than in the

rural situation. There are places where there is derelict land in an urban context, and if we do not know who owns it, our capacity to do something about it is considerably lessened. Ian Cooke has the most understanding of the urban situation, but I can say that a lack of knowledge of who an owner is and a lack of ability to trace and get in touch with them slow down the process considerably. A process is starting in the EU to improve traceability, and the belief is that, if ownership is concentrated in the EU, we will be able to jump on the back of that.

Claire Baker: You mentioned urban land. Does it tend to be urban land that is affected or would it tend more to be rural land? Where is the incidence of overseas ownership highest? Is there a pattern there? Why would people choose overseas? What is the advantage for the owner in that?

Dr Elliot: Ian Cooke might want to comment.

Ian Cooke: Will you expand on the question? I am not quite sure what you are asking.

Claire Baker: What I asked first of all is what the advantages would be of ownership being in the EU. I am interested in what the advantage is for the land owner of being registered outside the EU. Is it to do with tax?

Ian Cooke: There can be a range of reasons. The Scottish Affairs Committee is going to look at the whole question of taxation and the impact that it has.

As Alison Elliot said, we have come at the issues from the point of view that a modern economy requires clear information about who owns land, both so that we can recycle and regenerate land and so that we have more influence over what happens on land in the public interest. We see that as a key part of the jigsaw that has to be addressed.

Claire Baker: When we considered the Land Registration etc (Scotland) Bill a couple of years ago, there were amendments from Rhoda Grant on beneficial ownership, but they were not agreed to. I think that she was trying to address the same problem as you. Why did you come to the solution that you came to, which involves a bar on registration outside the EU? Why was that the preferred option?

I am sorry to ask another question, but this is quite a complicated area. Does your preferred option present any issues with the European convention on human rights? That is another area that I wanted the committee to look at.

Dr Elliot: I think that we checked that out and it does not. We have to take the EU as being the basic scope and framework for any capacity to limit ownership, and within that we thought that our

proposal would be adequate and would pass the test.

Ian Cooke: We were keen to address the whole range of offshore ownership arrangements that exist. The proposal is a reflection of what we thought was practical for moving forward, to give us a bit more of a sense of who owns what and a bit more accountability and traceability, as you requested. It seems to be the best and most logical way to do that.

The Convener: We have four supplementaries on that point. It is obviously interesting to people, so perhaps the witnesses will be able to answer some more of the questions that Claire Baker has started on.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): Obviously, the issue is hugely complex and will not be solved overnight. The Government has said that it wants the register complete with 10 years and the public part of it within five years. Did you get any evidence on what it might cost to do it more quickly or on what constraints there would be in Registers of Scotland and how we could overcome the issues? It strikes me that the register is the foundation of the whole thing and that, until we get that sorted, we will not be able to move on quite a number of the other things. Ten years is quite a long time, so should Government prioritise reducing that timescale? If so, what would the cost be, and would it even be possible to get staff with the right qualifications into Registers of Scotland if there was a big surge in registrations? Could it be done in five years?

Dr Elliot: We had an indication of what it would cost without the target and therefore without reducing the timescale. It would obviously cost more if it had to be done more quickly. The costs would certainly increase, but I cannot say exactly what the increase would be.

Dave Thompson: I think that it is crucial.

Dr Elliot: We agree that it is crucial and we would certainly like the Government to make it a priority.

Dave Thompson: Let me put the question in a slightly different way. In principle, you want it to be done as soon as possible. The Government has said that its target is to complete the register within 10 years and within five for the public part. Do you think that that is adequate, or would you prefer the Government to speed it up?

Dr Elliot: We would obviously like the Government to speed it up. We would like to know tomorrow who owns Scotland—if we could do that, it would be great. On the question of priorities, there are lots of other opportunities for the Government to spend money, and exactly how it

prioritises the register is something that will take its place in a national land policy. One of our other recommendations is that we have some kind of overarching picture of what is going on. People have been complimentary about the report, as it pulls together a whole lot of stuff about land reform that has been in different areas, and they did not necessarily see the connections previously. It is crucial to have an overarching picture of what the Government is trying to do. You probably need to have that idea first, before prioritising the costings.

Dave Thompson: You recommend that a couple of organisations be created, and they will obviously take time to bed in. Do you see the registration and the development of those organisations running in parallel, so that something between five and 10 years would be reasonable in that respect? The issue probably should have been dealt with 50 or 100 years ago, but we are where we are and we are tackling it now. Your report is fantastic and there is an awful lot in there. I am not sure that I agree with everything in it, but you have given us a lot of stuff to get our teeth into.

Dr Elliot: Let me give an example. One of our recommendations is that the Government should consider land value taxation. To do that, we need to know who owns the land. Some proposals are dependent on the register being complete, but it will also take time to assess and research those proposals and to create a proper economic model for them. The sooner the registration is complete, the better, but other things need to be developed if we are to benefit from the completion of registration. I imagine that things will go on in parallel for some time. It might be that, as a result of other Government goals, extra pressure will be put on Registers of Scotland to speed up the process.

10:30

The Convener: Okay. We will try to make our questions slightly shorter.

Jim Hume (South Scotland) (LD): We will try, anyway.

The review group recommended that

“the Scottish Government should make it incompetent for any legal entity not registered in a member state of the European Union to register title to land in the Land Register of Scotland, to improve traceability and accountability in the public interest.”

Dr Elliot referred to the need for traceability and accountability, but I am not sure why not allowing legal entities to own land if they are registered outwith the EU would help in that regard.

I take it that “any legal entity” includes individuals. Americans own land in Scotland—all sorts of people who are not European own land

here. Would their land be taken off them? That is what your recommendation means to me. It would be useful to have clarification on those points.

Dr Elliot: I think that we had it in mind that new registrations would come under the rule.

Jim Hume: Land is probably already owned by people who are non-Europeans, although that might not be registered.

Dr Elliot: The purpose is really to consider companies and corporations, rather than—

Jim Hume: But “any legal entity” would include individuals.

Dr Elliot: I recognise that. However, I do not think that we were considering ownership of land in Scotland by new people from outside the EU as something that we would want to prohibit.

Jim Hume: You clearly said:

“the Scottish Government should make it incompetent for any legal entity not registered in a member state of the European Union to register title to land in the Land Register of Scotland”.

That covers any non-European. It is quite clear.

Dr Elliot: I take the point. Ian Cooke might want to comment on that.

Ian Cooke: We took the view that, if we want to improve traceability and accountability, we have to draw the line somewhere. There would be no problem, for example, for an American to set up a company in the EU to acquire land in Scotland. Our recommended approach is therefore not prohibitive and would increase traceability and accountability.

Jim Hume: How far do we boil it down? Would the rule cover the acquisition of building plots, for example? What if other countries reacted? Would it be fair if someone from Scotland could not buy land outside Europe?

Dr Elliot: I think that it would cover building plots.

John Watt: It was not in our remit to say anything about owning land elsewhere—

Jim Hume: Yes, but other countries could react to what we did.

John Watt: That is a potential implication but, because we were driven by a desire for greater openness and accountability and greater identification of beneficiaries—that is, who owns the land in Scotland—we reckoned that requiring a company to be registered under European designation was one potential restriction.

Jim Hume: Okay.

The Convener: Alex Fergusson wants to come in.

Alex Fergusson: I was going to ask the same question, so I can save you some time, convener.

The Convener: Thank you.

Angus MacDonald (Falkirk East) (SNP): If I recall correctly, the Parliament passed the Land Registration etc (Scotland) Bill in early 2012. At that time, the Scottish Government rejected the idea of disallowing the registration of title to land by any entity outside the EU, so I am glad to see the issue back on the agenda. Have you looked at other northern European countries and their stance on land registration as part of your deliberations?

Ian Cooke: We looked briefly at other European countries. Obviously, the pattern is mixed. In some Scandinavian countries, an individual has to be a national to own land. As I say, the pattern across Europe is mixed so, if we want a land reform programme, we have to come to a view about how we move that forward, and that was the view that we decided should be our recommendation.

Dr Elliot: We had research papers on many of those aspects in different European countries.

The Convener: When Denmark joined the European Union, there were derogations to prevent Germans from buying holiday homes on the west coast of Denmark. Restrictions on who can own land are quite common in the European Union. I guess you found that out.

Ian Cooke: Yes.

Dr Elliot: Yes, indeed.

The Convener: So the idea that Guernsey and the Cayman Islands are not in the European Union was one of the things that you were thinking about.

Ian Cooke: Absolutely.

The Convener: That is good. Claudia Beamish is next.

Claudia Beamish (South Scotland) (Lab): Convener, would you like me to ask about Crown property rights?

The Convener: I think I have got the order wrong. Graeme Dey is going to ask about Crown property rights.

Graeme Dey (Angus South) (SNP): I am glad that we got that cleared up, convener.

The report suggests that ending the involvement of the Crown Estate Commissioners in Scotland would deliver wide-ranging and important benefits. You also say that there should be further significant reductions in types of Crown property rights in Scotland. Will you expand on that and illustrate exactly what you mean?

Dr Elliot: The first bit about ending the involvement of the Crown Estate Commissioners is particularly about the situation in coastal communities and bringing into a Scottish context many of the decisions that are made about the management of the Crown Estate. That recommendation has been made by many committees that have looked at the issue, so it is not a new suggestion. The suggestion is that the Crown Estate's involvement should be devolved and redevolved to local authorities. We do not say that in our recommendations, but there is a view that it could be devolved right down to local authority level.

Crown property rights in Scotland tend to be archaic things about mussels, oysters, whales and things like that. Some of our recommendations are really about tidying up the relics of the feudal system that are still around. It takes a clear mind to spot them, but I think that we have spotted some of them. That is the main thrust of the recommendation.

Graeme Dey: You are right that a number of people have suggested that that should be done. From the evidence that you have taken, what are the wide-ranging and important benefits to Scotland? Could you give us some examples to show why you think that it would be a really good thing to do?

Dr Elliot: Ian Cooke might want to pick up that one.

Ian Cooke: Looking forward, if we are looking for opportunities, the marine environment is particularly important to Scotland. If the Scottish Government or other bodies are investing in technologies, for example, having some sort of democratic control over and accountability in that process makes sense and is fundamental.

Graeme Dey: Thank you—that is useful.

The Convener: Claire Baker will take us on to local community land rights.

Claire Baker: I am interested in the community land ownership proposals. There is a recognition that we want to extend opportunities for communities to own land. At the moment, the system that we have in place might be too slow and dependent on a willing seller being in place.

There have been different ideas about how we resolve that, and you will know that there has been a proposal that we should extend crofters' rights to communities. You seem to have decided on a compulsory purchase order method of making it easier for communities to have access to land. Why did you choose that particular model? As the report recognises, that model is not well used at the moment, mainly because it is seen to be quite cumbersome and difficult. Local authorities seem

to be reluctant to go down that route. Why did you choose that model as a solution to the issue that everyone is trying to address?

John Watt: This is an example of where several of our recommendations fit together—they are not stand-alone recommendations. We are not looking exclusively at compulsory purchase and have suggested a menu of community rights. We suggest a range of rights, some of which communities already have through part 2 of the Land Reform (Scotland) Act 2003.

As you know, we have suggested the creation of a community land agency, whose role would be to mediate in discussions between landowners and communities. That would avoid the necessity of using legislation at all. There may be an unwilling seller and an enthusiastic community, but they could be brought together rather than meet in court, as it were, through using legislation.

As I say, there is a range of rights that communities could have. We have suggested that, in extreme situations, where there is an impasse, with no willing seller and a community that is desperate to acquire land for specific purposes, a right to buy such as that in part 3 of the 2003 act would apply to communities. That would have to be in the public interest, and would have to be submitted to ministers for approval.

Compulsory purchase is only one of a range of ways in which communities could acquire land. In many ways, it is better than the situation that we have at the moment. Most of the community acquisitions in the past 10 years have not been through the legislation; they have been through negotiated purchases and sales, sometimes with mediation and sometimes just with the two parties sitting down and working it out. We think that that is probably the best solution, but there will be extreme situations in which communities ought to be given a stronger right, if that is in the public interest.

Dr Elliot: At various points in the report, we talk about compulsory sale orders and compulsory purchase orders and so on. One of the most interesting things about the process has been realising that, if we have a strong framework in place for when things break down completely, that facilitates negotiation and seldom needs to be used. We had an interesting conversation with the director of planning from one of the big cities in Scotland. When he came in to the post, he used his compulsory purchase orders clearly and people knew that he was prepared to use them. In the years since, he has seldom had to use them, because people recognise that they are available as a backstop.

One hopes that compulsory purchase orders will not have to be used. They are right at the very end

of the menu of rights, and we hope that they will not be used very often. There would have to be a strong case for them to win out, because it would have to be in the public interest.

Claire Baker: The report is very detailed, and we received it only on Friday, so clarification on some of those issues is helpful.

Near the start of the report, you discuss the definition of the public interest, using the example of the Pairc estate. That issue of how we define the public interest often comes up. Will you say a bit about it? Perhaps you could link that to your discussion of the ECHR. You talk about recent work by the Scottish Human Rights Commission. Are you confident about the ECHR position, or does more work need to be done on that? Is there a role for the Scottish Government in helping to provide clarity on how the ECHR relates to land reform issues?

10:45

Dr Elliot: There are many ways of approaching public interest. The way that we have done it is to believe that the guardian of the public interest is the elected member and, particularly, the minister. Therefore, the public interest is embedded in the understanding of the elected representatives of the time. In practical terms, it boils down to being a decision that he would make.

Claire Baker: Or she.

Dr Elliot: Or she, indeed.

Preferably, that decision would be made in the context of a national land policy but also in line with the Government's current thinking. For example, the current Government is keen to encourage community ownership, but there could well be a Government that is keen to encourage private ownership or to take other approaches. The public interest is variable in that way, whereas the common good is a goal that is beyond identification. It is something that the public interest serves, whatever the flavour of the current Administration.

On the ECHR, we have had conversations with Alan Miller and we had an adviser on the group who is an expert on the ECHR and its relationship with land reform. We understand that article 1 of protocol 1, which is the point at issue, allows individuals the right to enjoy their property but that the state has the right to intervene in the public interest, so there is a balance. We understand that much of the case law is moving towards taking the public interest more seriously. Basically, the balance is about treating land ownership as good citizenship and understanding that ownership should take account of the consequences for the rest of the community.

Nigel Don (Angus North and Mearns) (SNP): I would like to pursue that because I think that you have neatly taken us to a position that I want to ensure I understand.

You have talked about the process of compulsory purchase and, in the report, alluded to some of the difficulties with it. The process is not simple, so it is easy for local authorities, in particular, to decide that they will not bother because it is too difficult and too expensive, and they have other things to do. You suggest that we need to get round the difficulties and that it is up to us as legislators to sort out the process. However, you have also just articulated the difficulty of working out what is the public interest, what is the common good and what is the potentially quite fickle and flip-flopping political view at any point in time, which could easily change over five years in the Parliament and change back again five years later.

I guess that you will not be able to solve the conflict concerning public interest and common good, but I am interested to know whether I have interpreted that point correctly, whether I am right that you feel that the process of compulsory purchase and/or sale needs to be sorted out and whether you really want to leave that on our plate.

Ian Cooke: My understanding equates with your description of the situation.

From considering the evidence and speaking to various people, we found that local authorities and other public bodies have used compulsory purchase powers less and less over the past 10 or 15 years. As you suggest, there are a number of reasons for that.

We have overly complicated legislation that needs to be modernised. Modernisation would certainly help and is certainly within the scope of the Scottish Government's powers.

However, because of the lack of use, there is also a lack of confidence and a lack of capacity in local authorities, so we have suggested ways that we could help to rebuild that capacity through the creation of a housing corporation, which takes us on to the housing section of the report. We have to jump about a bit to see how the various bits fit together but, within the report, we address the fact that there are problems.

Cost is often overused by local authorities as a reason. There can be costs, but local authorities that are prepared to use compulsory purchase powers would say that the costs tend to even out over the balance of the projects that they take on. It comes back to lack of confidence in going down the compulsory purchase road in the first place. We must get back to the position in which public bodies have the confidence to do that.

Alex Fergusson: Originally, some quite controversial language was used. I think that I am right in saying that the phrase that came into the public domain was that you would be looking at the right of a community to buy even in the absence of a willing seller—I think that that was the sort of phraseology that was used originally. I seek clarification because I think that you have moved away from that slightly, in that you now say that a compulsory purchase order should be pursued only over vacant or derelict land. Am I right in my interpretation of that?

Dr Elliot: I am afraid not.

Alex Fergusson: I was rather afraid that I might not be.

The Convener: I am not afraid.

Dr Elliot: We use the idea of a compulsory sale order over derelict land, which is different from a compulsory purchase order. A compulsory purchase order is used when a local authority or other body knows what it wants to do with the land. A compulsory sale order is used when the body just wants someone to do something with the land. A compulsory purchase order is used when there is a purpose for acquiring the land in the first place, which is rather different.

Alex Fergusson: In that case, I will put a hypothetical situation to you. Say that someone has a smallholding on the edge of a community and the community believes that there is a public benefit in its taking over some of that land for public good—the aims might be totally laudable. However, the smallholding might be rendered completely inoperable as a result of the order being pursued. Do you envisage that sort of issue being taken into account in the process? It would surely be wrong for that order to be pursued if the business that is affected would become unsustainable as a result.

Ian Cooke: I would have thought that that would clearly be part of the public interest. The sort of situations that we come across and that a number of our members confront are in small rural communities in which there is a need for affordable houses to be built—in some cases as few as two or three or half a dozen—but they are completely landlocked by one landowner, who is not prepared to sell land. That therefore threatens the future sustainability of the community. The situations that we had in mind are those in which the purchase of land is clearly in the public interest. If we want to save rural communities, particularly fragile and isolated ones, we can begin to shift the equation a bit and address those issues.

John Watt: The report is long and a lot of bits fit together. I will say a couple of words of clarification. We make a recommendation about

modernising and bringing up to date the compulsory purchase legislation, mainly in relation to compulsory purchase by public bodies. In the menu of rights that we suggest for communities, one of the rights that we recommend is the right for communities to request a compulsory purchase by a local authority. We also recommend that communities should have the right to acquire land where there is no willing seller. All of that would have to be judged to be in the public interest, through due process.

Just to complicate things—although I hope that it will clarify—the concept of the compulsory sale order is at present restricted to vacant and derelict land. We recommend giving local authorities the power to force the sale of land—not solely to communities and usually by auction—that has lain derelict, potentially for many years.

Alex Fergusson: I am sorry to pursue this, but would it have to be vacant and derelict land, or vacant or derelict land?

John Watt: It would be vacant or derelict land.

Alex Fergusson: Thank you—I apologise for not having understood that difference. We have had very little time to consider the report, so I am grateful for your answers. You will be glad to know that I agree with half of it. [*Laughter.*]

Dr Elliot: Your example is an interesting one, as it points to the difference between the legal process, which happens when there is one owner and one community or other potential buyer and conflicting approaches, and the consideration of the public interest, which should be wide and should take into account the consequences of the decision not just for the two participants but for the wider community. We hope that the community land agency would provide space for those issues to be explored more effectively than is the case when the process is just done through the courts.

Alex Fergusson: Thank you for the clarification.

The Convener: We can slot in the housing issue now before we move on to acquisition costs.

Graeme Dey: Thank you for that, convener—I had been trying to find a way to raise the matter. I will go off at a slight tangent to begin with, but please bear with me because the question pertains to rural housing.

One of your recommendations says:

“to address housing need and the changing nature of the private rented sector, a change is required in the nature of tenancy arrangements within the sector. The Group recommends that the Scottish Government introduces longer and more secure tenancies in the private rented sector.”

What evidence did you come across in relation to estate houses? The relationship between

tenants and owners of estate houses is quite unique. In many cases, very low or no rent will be paid; at the same time, the occupants may have been there for 20 or 30 years, and may have invested heavily in their house, yet have no rights. Were you thinking about those issues when you made that recommendation?

Ian Cooke: We refer to tied housing, which, from what we can see, accounts for around 40 per cent of the private rented sector in rural Scotland. Despite having a very accomplished rural housing adviser on the group, we found a distinct lack of information on tied housing. Our greatest concern, particularly in the land reform context, was, as you suggest, the lack of tenancy agreements. It is very difficult to know how secure people's tenancies are—and, as you say, people have invested in those houses. It is an area for consideration. We have not made a specific recommendation, but we have flagged up the matter as one on which urgent further research is needed.

Graeme Dey: That is welcome information. Thank you.

The Convener: We move on to community acquisition costs, on which Dave Thompson will lead.

Dave Thompson: I am particularly interested in state aid. I am interested in your further views on the Government issuing guidance on state aid to ensure that public bodies take a more solution-focused and less risk-averse approach. I agree that bodies appear to have used the state aid rules as an excuse for not doing something, rather than those bodies looking for a way around the rules. Will you elaborate a wee bit on that? Do you have any examples that might help us to understand the situation?

John Watt: That topic came up a lot in our discussions with stakeholders; indeed, it characterised a lot of the evidence that we received in the early stages. Communities said that their aspirations were being stultified not by the regulations themselves but by the interpretation of the regulations. The Government is very aware of the matter, and work is going on to clarify the interpretation of state aid regulations, which has the potential to be extremely helpful.

Several communities, especially those that were interested in acquiring forestry land that they wanted to manage in different ways, made us aware of their feelings on the matter. They felt that they would be unable to acquire that land because they could not access public funding due to state aid rules. The interpretation was that, because there is an international timber market, any state assistance must be well within the limits defined by the state aid rules. That led to a reluctance by public bodies to fund on that basis. The question is

whether the scale of the activity that the communities wanted to be involved in would interrupt international markets. Judgments on whether state aid regulations would be breached appeared to us and to the stakeholders who told us about the issue always to err on the side of caution and being conservative rather than being risk aware.

Our recommendation is that the Government could, without changing any of the rules, take a more flexible approach, which we feel is being taken in other parts of the UK.

11:00

Dave Thompson: That leads us to the issue of market value and the insistence that state land—forestry or whatever—should be sold at market value. There is a related issue on which I would appreciate your views. It strikes me that one of the reasons for the reduction in the number of CPOs, which was mentioned just a minute ago, is that individual bodies such as the Forestry Commission Scotland or local authorities—especially smaller local authorities—may not have the expertise in their own legal departments to deal with CPOs. If they go down a particular road and there is a danger that the CPO will be appealed and that they will have to hire Queen's counsel, that could result in huge expense for them.

Have you thought of any way round that? In such circumstances, should there be some kind of national fund that can be tapped into, so that bodies are not frightened of tackling wealthy individuals or organisations in relation to CPOs? Such a fund could apply generally, to local authorities and to the Forestry Commission Scotland and so on. Alternatively, do you envisage that one of the national bodies could have a power to assist smaller bodies when it comes to such issues, especially when a matter of principle is involved, so that they have the wherewithal to tackle the powerful vested interests that they might be challenging?

Ian Cooke: Certainly, a housing corporation whose prime function would be to assemble land for housing development would require experience and capacity in relation to the use of compulsory purchase powers. Our report mentions the possibility of the body working alongside local authorities to share such expertise. We have not looked at having a separate fund, but we have looked at the question of building expertise and cascading it down to local authorities.

Part of the problem with asset transfer is that, when you ask a local authority or public body what the cost should be, there are often six answers because different local authority departments will

have different views depending on their thinking. We suggest that local authorities should be encouraged to take a much more strategic approach, so that they have a cross-departmental line on how to transfer assets and at what cost. Transferring at less than market value is quite often an investment, in that it can achieve some other aim that the council is trying to achieve. In the report, we try to encourage a more strategic approach.

John Watt: I would like to add a couple of points. The transfer of publicly owned land to communities does not involve compulsory purchase at all. Compulsory purchase is primarily for public bodies to acquire land from private owners. When we looked at asset transfer and the disposal of publicly owned land to communities, we identified two things through stakeholder discussion—the state aid issue and the rules under the Scottish public finance manual—that gave the impression that public bodies are unable to dispose of their assets at less than market value, although our research indicated that, in fact, public bodies can do that if various financial arrangements are put in place.

In the national forest land scheme, the issue of market value in relation to the transfer of public assets to communities is a major stumbling block. To give the Government credit, it is looking again at the Scottish public finance manual in relation to the issue of disposal. In the broader economic analysis, the Government could actually save money by transferring assets at less than market value. However, issues to do with departmental budgets, agency budgets and resource accounting have to be taken into consideration.

The integrated nature of some of these things has led us to make suggestions about state aid regulations and the public finance manual. We also make suggestions about local authorities, whose powers in relation to disposal are slightly different from those of other public agencies and make it easier for local authorities to transfer assets at less than market value. Some of them are currently doing that.

There is a complexity to the situation, as a lot of these things fit together.

Claudia Beamish: I have a particular interest in recommendation 14. I do not expect the group, even after all your hard work, to remember which one that is, so I will read it out:

“The Review Group concludes that communities embarking on land and property ownership and management require considerable support. The Group recommends that the types of support services provided in the Highlands and Islands should be made available to local communities in the rest of Scotland and that the Scottish Government should take a more integrated and

focused approach to encouraging and supporting the growth of local community land ownership.”

I do not have an interest in that recommendation only because I happen to represent the very large rural region of South Scotland; I am also interested in how it applies to the whole of Scotland. Will Pip Tabor comment on the recommendation, followed by any other members of the group who wish to do so?

Pip Tabor: I know from my 14 years of experience in southern Scotland that there is a difference between communities in the south and communities in the north in the interest in buying land. To date, we have had no large community buyout of land in the south even though a land fund has been offered several times to encourage communities to think about taking a different attitude towards the land on their doorsteps.

Part of the difference is that there has been a long-term support structure for communities in the Highlands to help them think through what the land means to them, to help them think about buying the land and to support them in doing that. We have never had that integrated, co-ordinated support for communities in southern Scotland—at least, not consistently. All sorts of systems are in place, but they are fragmented. We have said for a long time that we would love to have a body with a similar remit to that of HIE covering southern Scotland, because the difference is significant. We have never had a body that promotes an integrated approach to rural community development, which has existed in the north.

The recommendation comes very much from that background. The proposed community land agency could play that role by helping people to think through what the land means to them and what they could do with it. I am not thinking about huge-scale projects—we are talking about relatively small-scale ones—but that thinking-through process could bring about significant changes in community capacity and community dynamics and regeneration on the back of that.

Claudia Beamish: I also wish to ask about the proposed agencies to support communities and oversee governance. John Watt has already referred to the LRRG’s recommendation

“that the Scottish Government should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities”

—I believe that he mentioned the mediation issue within negotiation as well—

“to promote, support and deliver a significant increase in local community land ownership in Scotland.”

The group also considers that there is

“a need for a single body with responsibility for understanding and monitoring the system governing the

ownership and management of Scotland's land, and recommending changes in the public interest".

The group suggests that the Scottish Government could establish a Scottish land and property commission.

It would be helpful if you could give us some detail on the reasoning behind the proposed establishment of those two bodies. I am asking for details not to criticise the proposals but to open up the conversation.

John Watt: We see the community land agency very much as a hands-on, on-the-ground support structure that will do several things, which we have listed. The mediation role is one of the most important roles. Mediation currently happens in an informal and rather ad hoc way. Sometimes, independent individuals or bodies can carry out a mediation role. That is why many of the community acquisitions to date have been done through that process and not through use of the Land Reform (Scotland) Act 2003.

We believe that the approach should be formalised a bit more so that it is less ad hoc and more consistent across the country and that it provides small-scale financial support to communities that want to build capacity. It is very much a hands-on support network. In addition, existing resources would be used. We did not believe that we really needed to set up a completely new organisation. Support networks already work effectively across Scotland in different places and at different scales, and we felt that the proposed agency, either contractually or through secondments, could use some of the existing resources. We are very conscious of using more public money, and there can be a much more co-ordinated approach.

That was the view on the proposed agency. Perhaps Alison Elliot can talk about the Scottish land and property commission.

Dr Elliot: The commission and the agency are two very different kinds of animal. As John Watt said, the agency would be more hands-on. It would be a unit within Government and would have a day-to-day purpose. The Scottish land and property commission would be an external body appointed by the Government with a monitoring function over how circumstances change. It is in the nature of things that the need to keep an eye on land reform questions will change. The approach is not a hands-off one; rather, there is more of a monitoring function.

Two different bodies are proposed because there are two very different functions. We hope that, because the community land agency would be internal to the Government, it would be less expensive and less of an investment, in a sense,

than some models of a community land agency that have been proposed.

Claudia Beamish: I perhaps have concerns about Pip Tabor's comments. On resourcing and funding, there are strong models of support in some parts of Scotland but not in other parts, and I would have thought that that would have quite serious financial implications for the Scottish Government in respect of relationships with the land agency and supporting communities. Do you have a comment on that?

Dr Elliot: I think that one of the agency's purposes would be to try to iron that out, using experience and expertise from one part of the country and ensuring that other parts of the country benefit from that.

John Watt: Highlands and Islands Enterprise and the Big Lottery Fund already provide a nationwide support system for communities that wish to use the Scottish land fund to acquire land. That service already exists at a national level across Scotland. We see the land agency doing that plus, and equalising opportunities across the whole of Scotland.

Claudia Beamish: Thank you. Will you expand a little more on the role of the Scottish land and property commission? I do not want to put words into your mouth, but is the reason for wanting it to be at arm's length from Government that it could continue beyond any particular Government, have a monitoring role and keep things constantly under review? How might that process be taken forward?

11:15

Dr Elliot: We have not thought specifically about how the process would be taken forward—we have focused mainly on the commission's monitoring function. As has been the case for centuries, it is in the nature of land ownership that things get out of kilter for a variety of reasons. One can keep them in check at certain points by introducing reforms, but those will not necessarily stick for a long time. All sorts of different circumstances may arise that will change the picture and require such adjustments.

We would expect that, as an expert body, the commission should involve people who have particular expertise. In that sense, it would be at arm's length from Government. The body's composition matters more than its relationship with Government. It should contain independent people who are experts in the relevant areas, and the types of expertise that are required will change as the circumstances change.

The Convener: We move on to questions on urban renewal from Angus MacDonald.

Angus MacDonald: I was pleased to see that, in the section on urban renewal, the report states:

“bringing former vacant and derelict land back into productive use can immediately boost local confidence”.

I am sure that we would all welcome that.

The report also notes that, according to the 2013 annual Scottish vacant and derelict land survey,

“there are 11,114 ha. of urban vacant or derelict land in Scotland”

and that

“over 40 per cent of urban vacant or derelict land has been unused for at least 21 years.”

It goes on to state:

“At moderate development densities this could site more than half a million new homes.”

That helps to concentrate the mind a wee bit. I was also quite surprised to read in the report that

“there has only been a decrease of 265 ha. (2.3%) in the total amount of derelict and urban vacant land recorded ... since 2007.”

You make a number of recommendations relating to

“the persistent challenge of vacant and derelict land in urban areas”,

including recommendations that the Government

“explores the feasibility of introducing a Majority Land Assembly measure”

and

“investigates the potential of introducing an Urban Partnership Zone mechanism in Scotland.”

Will you elaborate on that and give a bit more detail on your recommendations of a majority land assembly measure and other measures and how they would bring vacant and derelict land back into play?

Ian Cooke: The figure that you quoted is right, but we have to look at the turnover. The Government's policy of monitoring and investing and the work that local authorities are doing have been fairly successful, but there is an underlying endemic problem that has not been challenged or properly addressed. We have tried to approach that in two ways. One is more individual-site specific: with a plot of land between two buildings, for example, we would look at a compulsory sale order as one mechanism that would encourage the recycling of land.

There have been criticisms that we have produced a statist report, so I want to stress that we are talking about transferring land from what we would regard as passive owners to active owners, whether those are private, public or

community owners. Our report is about the importance of land recycling.

I should acknowledge that the land assembly measures are two of the newer ideas in the report. Although we have looked into them and found some international experience on which we can draw, they require some further research and exploration. One of our advisers, Professor David Adams, is an expert in that area, and we drew a lot on his work and the work of some others down south to try to pull those areas together.

We are attempting to look at what the situation would be with regard to a large-scale land assembly, which could be immensely challenging, particularly for urban communities that are trying to move big infrastructure projects forward. Having said that, as Alison Elliot mentioned, Dundee has done some quite interesting work along the waterfront in the former dock area and it has managed to assemble some land. We feel that there is a need to give local authorities and other developers increased powers to try to make that a bit easier.

At present, from what we understand from the evidence, the major problem is that a site could involve nine or 10 different landowners. One would have to find out who they all are, if possible, and there is the whole issue of consensus. In Dundee, the person who held out the longest was in a very strong negotiating position. We looked at what happens in other countries and they have managed to flip that process around a bit; the relationship has changed and the opportunity to have sway over that discussion has switched to an earlier part of the process.

We think that both suggestions are fully practical solutions that might address the question and challenge of large-scale land assembly, but we acknowledge that they require further research and exploration.

Angus MacDonald: Thank you. It is good to know that you have looked at international examples. You have probably heard of the Nordic Horizons group, which has highlighted some situations with regard to majority land assembly in Helsinki, Finland, and Reykjavik, Iceland. Have you looked at those situations in any detail?

Ian Cooke: There is quite a lot of evidence from a whole range of countries over a period of time, so we have tried to pull together the key ideas that might fit within the Scottish context. In taking the ideas forward, we would certainly want to go back and draw on that international experience. Such methods are being used quite successfully not just in Scandinavia and parts of the far east but in a whole range of places, and they are worthy of further exploration.

The Convener: We move on to questions about rural land from Alex Fergusson.

Alex Fergusson: I suspect that we could spend two days on this issue, never mind the few minutes that we have available to us. It is a fascinating topic and I think that it is fair to say that the report has some very interesting and not uncontroversial proposals.

On the subject of rural land use—as opposed to ownership, which we will come on to—the report notes that the land use strategy process

“will lead to reductions in the current flexibility in rural land owners’ choices over how they use their land”.

Will you expand a little bit on the current flexibilities that concern you?

Dr Elliot: The flexibilities that exist—or the discretion that owners have—are considerable because ownership means that people have rights over how the land is used. At present, it is more a question of there not being many constraints on how that land should be used. The land use strategy will, for example, bring to bear on land use a lot of questions that derive from our knowledge of climate change and the importance of the ecosystem services approach to land use.

It is one of the cases where circumstances are changing because our understanding of good land use is becoming influenced by what we know about climate change. It is that sort of change that is likely to decrease the complete rights or the complete discretion that owners have over how they use their land. We give quite a lot of detail on the question of how the middle areas of land can be used and the decisions that have to be made in connection with whether the land is grouse moors or woodland, for example.

Alex Fergusson: Will you explain what you mean by middle areas of land?

Pip Tabor: We are referring to the squeezed middle that was defined in a report by the Macaulay Land Use Research Institute, which is now the James Hutton Institute.

Alex Fergusson: I understand.

Dr Elliot: Middle areas are the areas apart from the high uplands, which have one kind of use, and the rich agricultural land, which is different again. More decisions have to be made over what kind of use is appropriate for the areas in the middle.

Alex Fergusson: There is also considerable competition for use of that land from various sectors.

Dr Elliot: Indeed.

Alex Fergusson: Will you expand a little bit on the specific mechanisms that you are

recommending to ensure that land is used more in the public interest, as you would see it?

Pip Tabor: As I understand the land use strategy, the idea is to encourage an overview of all the possible uses and all the possible benefits that people are getting from land at the moment and where the opportunities are to get more benefits from it. That information will then be made quite widely available so that people can make more informed decisions about future land use.

I suspect, although as yet nobody has confirmed this, that as the resources that are available under the Scotland rural development programme and other grant schemes become tighter, it will become more obvious that it is appropriate to try to target the scarcer resources to encourage land use that will deliver maximum public benefit. The land use strategy therefore becomes a mechanism to guide land practice. I do not think that it will be prescriptive in any way, but it will guide future land use so that it delivers the maximum benefit to the people. We think that that is probably a good thing.

Alex Fergusson: So in this part of the report you are effectively endorsing the land use strategy—it is as simple as that.

John Watt: We have made a recommendation. We feel that land ownership patterns are quite an important part of the land use strategy, but they have not been included as part of the work of the pilot projects, so we are strongly encouraging that to happen.

Alex Fergusson: I will move on, convener, because that response very neatly leads me on to the next topic: land ownership. The recommendation from the group that has hit the headlines is for a cap on the amount of ground that—to put it simply—any individual or family interest can own. How much is enough?

Dr Elliot: That is for the Government to decide.

Alex Fergusson: To be honest, I find that an extraordinary thing to say. I find it incredible that you can come out with this recommendation and not have an idea of what you mean by it, although I can understand why you would not want to give an answer. The question is an interesting one. Is there not a danger of confusing the amount of land that is owned with the influence that the owner has? If I lived in a small village and owned the only single available building plot in it, it could be argued strongly that I had more influence over that community than somebody with 10,000 acres of moorland half a mile up the road.

Dr Elliot: Exactly.

Alex Fergusson: But is there not a danger of confusing the amount of land that is owned with influence? I should add that that land is often

really well managed, a lot of people are employed on it and it can give a lot of public benefit and all these other things that we all want. There are very good examples out there as well as some poor ones.

Dr Elliot: There certainly is such a danger. As we acknowledge in the report, some landowners can be in a monopoly position with only a very small area of land, and we are aware of areas in Scotland where one landowner has considerable power over the life of people in the community. However, that is as much a function of the social structure in that part of the country as anything else. In some parts of the country, the community has nowhere to move to other than to land owned by the existing landowner. There is therefore an issue about a local monopoly.

The report suggests putting a cap on the amount of land that can be owned as an answer to the two questions that need to be asked here. If there are other answers to these questions, that is okay. However, what is important is that the questions are asked.

First of all, the quality of ownership, the quality of the relationship between the owner and the local community and so on are not simply a function of size, but the moral hazard increases the greater the amount of land that someone has. At the heart of the issue of discretion is a democratic question about how much control an individual should have over decisions that affect a wider community. The more land that is involved, the greater the risk. How do you handle that? How do you deal with the undoubted local monopoly that some people have and which some people abuse? I would acknowledge all the time that not everybody does so, but the fact is that the more land that someone has, the greater the risk that such abuse will happen.

The other question that the cap is meant to address is that of investment by people with a lot of money who see land simply as an investment and do not necessarily intend to do anything with it. We see that kind of attitude to land ownership as being contrary to the thrust of the report and, we believe, contrary to the thrust of people's views in Scotland. In that sense, Scotland is laying itself open to abuse by people who have a lot of money. We give examples that illustrate the number of castles that can be owned in Scotland for the cost of a flat in Knightsbridge. There is a lot of money around, and there are a lot of people who will be seduced by headlines from land agents saying that a Highland estate is at the top of the Christmas wish list for the super-rich. We will be vulnerable to that kind of approach to land ownership unless we cap the amount of land that someone can use. Again, it is the question, not the answer, that is important.

11:30

Alex Fergusson: It is obvious that we are not going to agree on that. I just do not accept the premise of the argument.

Returning to the question of how much is too much and the question of influence, I think that we are in terrible danger of taking a general brush to an issue that you are right to highlight but which affects a minority of cases. Since the establishment of this Parliament, there have been tremendous changes in attitudes and in the relationship between landowners and tenants and landowners and communities right across the country. That change is gradual, but I believe that it is happening, and I think that you will acknowledge that there are good examples of improved relations and that there has also been a good attempt at partnership working, even though it has not worked in all cases. I am interested in your views on whether those relationships have improved a lot over the past 10 years.

What concerns me is that partnership working, persuasion and the gradual process of working together, which will continue to improve those relationships, are in danger of being slowed down—I will not say that they are in danger of being blown apart—by this fairly controversial, and certainly confrontational, recommendation in the report. At the end of the day, I think that, despite our differences, we are all after the same thing.

John Watt: I would like to offer one or two comments on that. We became aware, as everybody else is aware, that Scotland has a particularly highly concentrated land ownership pattern compared with other western European countries and other countries further afield. That is fairly well known. We were also aware of a probable trend towards increasing instead of decreasing concentration. Given our remit from the Government to look at potential solutions for encouraging the greater diversification of land ownership patterns in this country, we came up with some ideas.

One idea was to restrict those who can own land to companies based in Europe. Another was to put a cap on land ownership, and you are absolutely correct to note that we did not come up with a figure or percentage for that. It seemed to us that, if we wanted to tackle the issue of having a completely open and free market in which anyone with enough money could buy anything they liked in Scotland, we had to ask whether that was a trend that we wanted and which would be to the benefit of resilient rural communities. Our conclusion was that it was not, and we came up with some ideas for trying to restrict that free market in land.

Alex Fergusson: I used to indulge in sheep farming; remarkably, I made a living at it. When sheep quotas came in and we were limited in the number of ewes that we could have in order to obtain our quota, Scotland's biggest sheep farmer gave the following advice, which many of us who were in that position followed: "Go and see your lawyers." People became limited companies or partnerships, and they found a way around the restrictions with considerable ease. Is this report not a charter for lawyers? I cannot help but see a similarity here, and the lawyers will be rubbing their hands and saying, "We've got work here for years."

Dr Elliot: I heard a comment along those lines from a friend over the weekend. I am not a lawyer but I know that lawyers have a capacity to find a way around all kinds of things. That is their job. It is the job of Government to spot that and to find ways of restricting loopholes if people are perverting the purpose behind the introduction of a recommendation.

Alex Fergusson: We will leave the discussion at that for now, although I am sure that it will continue. Thank you for the points that you have made.

The Convener: We have some supplementaries, particularly on the pattern of rural land ownership. We will start with Graeme Dey.

Graeme Dey: I am probably much more sympathetic in principle to what you are trying to do than Alex Fergusson is, but I wonder whether there is an obvious flaw in the general concept of a one-size-fits-all cap on land ownership. If you own a 50,000-acre estate in the centre of Scotland, you have influence over many people's lives. I do not want to denigrate the far north of Scotland, but if you own 50,000 acres there you might have far less influence. I wonder whether it is too simplistic to talk about having an acreage cap, given that owning a certain amount of land has completely different impacts in different parts of Scotland.

Dr Elliot: That is why we have approached the issue by saying that the cap is an answer that we have proposed to particular questions, and it is another reason for leaving the question of what the cap should be up to the Government. If the Government were to go down that route, the cap would be geared to answering what it saw as the important political question as it articulated it; in other words, whether the cap was universal would partly be down to how the Government addressed that question. What we are saying is that the answer has flagged up two very important questions that we would like to be explored a bit further.

Graeme Dey: That is useful, although it sounds a little like you have lit the blue touchpaper and retired to a safe distance.

Dr Elliot: Not quite. We are still good. *[Laughter.]*

Pip Tabor: One issue that we would have liked to explore in full but which we did not get a chance to was the idea of a system that would allow the Government to assess people who wanted to buy large areas of land, see what they wanted to do with the land and determine whether they were worthy buyers of large tracts of Scotland. That might be another way of approaching the issue of a cap. There could be a screening process that would allow people who had the right motives and the right business plan to acquire land and which would screen out people whom you were worried about or who were coming from abroad simply to invest in land. As I have said, we would have liked to explore that fully.

Dave Thompson: I agree with the general principle that we need to curb the power and influence of certain folk in the country both in terms of what they own and in other ways. A problem that we have in the UK is that there are a small number of people with massive power and influence and an awful lot of others with very little. There are issues and problems with and potential dangers in whatever system we choose to try to deal with that, but that is not to say that we should not try to deal with it. We should—indeed, we must.

One example of how power and influence can distort things relates to an experience that my father had in Lossiemouth. A good chunk of Lossiemouth was a kind of new town, in which the burghers of Elgin, who owned it, created what were actually smallholdings that gave people enough ground to grow their own and all the rest of it. When the town council decided that it needed to build more council houses, it tackled the smallholders with compulsory purchase orders because they were easier meat than the people with the big houses that overlooked the west beach, who had money and could fight the council in court. The small people lost their bits of land and the big people got off with it.

As a general principle, we need to rebalance power and influence, which will include land ownership in Scotland, so I am very pleased that you are going down that road. I am sure that, as we go through this process, we will find a way to get the balance right.

The Convener: Do our witnesses have any comment on that?

Dr Elliot: Just to say thank you.

The Convener: Okay—we agree. That is great. Claire Baker, did you have a supplementary?

Claire Baker: Most of my points have been covered, convener, but on John Watt's comments about the trends that we are seeing in Scotland, I think that we are leaving ourselves vulnerable to having a greater concentration of land ownership. I am not going to suggest what the cap should be, but this proposal about how to restrict land ownership is certainly interesting. Did the witnesses look at any other areas? The report's aim and the Government's proposal were about increasing diversification of land ownership. If a trend is working quite strongly against that, how do we redress the balance? One of the examples that you used was that of the fairly well known Danish owner of much land in Scotland who pays taxes in Denmark on the Scottish land but pays nothing in Scotland to local authorities or the United Kingdom Government. Can you comment on issues around the concentration of land ownership?

Dr Elliot: There is a difference between increasing diversity, which can be done in a variety of ways—for example, by increasing the number of houses that are built—and reducing the concentration of ownership. However, we are certainly of the view that there is no silver bullet that will reduce the concentration of ownership. The issue must be addressed in a variety of ways. John Watt has a very good diagram that shows how a variety of proposals and recommendations in the report could have a cumulative effect on the figure for the concentration of ownership. The fact is that 0.008 per cent of the population owns half of all privately owned rural land in Scotland. As a measure of inequality, that is exceptional. When it is put in the context of other measures of inequality, it is obvious that we cannot just sit back and say “Oh well, that's okay.” First we have to understand why that is the case and then see whether there are ways in which it can be addressed.

John Watt: Claire Baker is right that we did look at one or two other ideas, but we did not develop them. For example, we looked at the possibility of landowners having to be resident and, as Pip Tabor explained, at the idea of incoming purchasers having to pass certain tests on land use and sustainability issues. Other possible interventions could be made in the open land market, but we did not develop all of those ideas. As Alison Elliott has said, there is no silver bullet solution, but we have made a range of suggestions that could all have some impact on the pattern of land ownership in Scotland. We would be happy to give you the polite version of that.

The Convener: That would be useful.

John Watt: It summarises our suggestions.

The Convener: Did you look at the situation in Denmark? At the beginning of the last century, the Danish decided that nobody could own more than 250 hectares of rural land, either forestry or agricultural land.

Dr Elliot: We did not look at that in particular, but we looked at a summary report of the current situation across the EU. Again, it comes back to the question, “What question is this the answer to?” A lot of the countries that have capped the size of land ownership are in eastern Europe, where there was a particular political question that they were trying to answer.

The Convener: I just thought that it would be useful to know about the situation in other countries. In Ireland, for example, the British Government took the view that it would split up the estates and make the tenants owners on 50-year mortgages to compensate the landowners. The issue was concentration of ownership. It is slightly different here because we are not talking about huge numbers of tenants who are starving because of the potato famine and all the rest of it. However, we are still talking about great influences. It would be helpful to see your diagram, Mr Watt. I hope that we can ask our other panels of witnesses a bit more about the issue, because I think that we need to expand the dialogue on this matter.

Thank you for that. Nigel Don has another supplementary question on this issue.

11:45

Nigel Don: I am conscious that we must be running out of time, but I note that the report includes a section on the law of succession with regard to moveable property, and I would like to get a feel for how important the review group feels the subject is. I do not want you to rehearse the words in the report; although the issue is extensively discussed, I did not pick up how far up your agenda it is and how important the people who have spoken to you about it think it is.

Alison Elliott: There were various submissions on the law of succession when we called for evidence. Generally, the angle that people took on succession law was that it was going to chop up estates and reduce their size. When we proposed the abolition of the distinction between moveable and immovable property, we were thinking along the lines of its being a question of justice rather than of its being a mechanism for changing the size of estates. Most of the big estates are owned by companies, anyway, so the law of succession does not apply to them.

In speaking to lawyers who have experience of dealing with such cases, if there is a division of assets between children, it is the agricultural

business that will be divided. That does not necessarily mean that one person will get two fields and another person will get three fields; it is more likely that the business will go to one of them, through that one buying out the other one. There are a lot of practical issues.

We made that proposal because we felt that the law of succession was elevating land to a position that was anomalous in the European context, and we felt that the law seemed to be unjust. It was not about having a tool for changing patterns of ownership.

Nigel Don: I understand that, but how vexed were people about the issue? I agree about succession law being unjust and the need for change. I am sure that, with regard to the laws of trust and the ways of holding land, there are plenty of ways of doing what is proposed. Lawyers will not be rubbing their hands with glee at your proposal, because the process is straightforward. It is actually not a problem. I am just trying to get a sense of how vexed people were about the fact that we had not managed to address the issue after centuries.

Alison Elliot: Some submissions, including one from a women's group, picked up on the justice question. Most of the comments concerned the breaking up of property but did not give examples of distress that had been caused. As you say, when lawyers get together on an issue, they will come up with various ways of solving it. However, when it comes to the crunch, at present people can be disinherited from owning land but not from owning other kinds of property. That is the distinction which is problematic and which results in a situation that is unjust.

The Convener: Appropriately, we will now move on to land taxation payments and markets. Jim Hume will lead on that.

Jim Hume: Yes. There is nothing too controversial here—he said, sarcastically.

We are always concerned about new entrants. Most of us think that the best way into agriculture for new entrants is through tenancies. I note that the group's intention is to retain the amount of tenant farmers. The report also states that

“changes to the current fiscal regime should include structuring ... to encourage an increase in the number of land owners in rural Scotland, in the public interest”.

However, that does not really balance out because, if you take land from estates and give it to private individuals, that land does not become land where someone can start cheaply, because new entrants to agriculture cannot afford to buy it. How can you balance that?

John Watt: Agricultural tenancies are not my immediate area of expertise, but we talked about

them a lot. We were very much aware that the agricultural right to buy was one of the most contentious issues, and we looked at it in some depth. I am also aware that there is a separate inquiry going on.

Again, we related that issue to the actual increase in the value and price of land, which is by any standards very high in Scotland, compared with other places, and we looked at the causes of that increase. That led us on to exemptions from certain taxes, and the whole regime of CAP payments, which all influence the price of land. A lot of the tax exemptions and payments have been capitalised into the value of land, which makes things very difficult for new entrants.

The issue is complicated. The conclusion that we reached on agricultural tenancies was that, although it was probably not in our remit to look at the impact of the situation on agriculture as a sector, we should consider the impact on the social and community aspects of rural communities. Again, our concern when we looked at trends such as a reduction in the number of tenants in rural areas and the amalgamation of farms was about the social impact and the impact on community resilience. That is what we focused on.

Jim Hume: I am sorry, but I find it quite incredible when you say that it was not in your remit to focus on agriculture, and that you focused on communities. The main rural land users in my area—I am from a farming background, so I declare an interest—are agricultural people working on agricultural land. I cannot see how you could have focused on changing the whole system of land ownership—and therefore tenancies—without taking into account agriculture, which is a very large community.

John Watt: We were aware that the agricultural holdings legislation review was going on at the same time, and we recommended that the review group should, in undertaking its work—which will, I am sure, focus on the agricultural sector—be aware of the social and community aspects of changing tenancy arrangements as well. That is the conclusion that we came to.

Jim Hume: Following on from that point—I am sure that other members will want to come in—I note that you refer to changes in taxation and to land value taxation. You also say that

“there is no clear public interest case in maintaining the current universal exemption of agriculture, forestry and other land based businesses from non-domestic rates”,

although those businesses are large payers of domestic rates, of course. Was an economic impact assessment of how such a change would affect the farming communities done?

Dr Elliot: No. From a policy point of view, the agricultural exemption is questioned in a lot of theoretical work on taxation. The question is why we should exempt a whole sector from taxes, rather than targeting the exemptions more carefully.

There is also the question of the relationship between the Government's policy of protecting agriculture in that way and its policies on encouraging greater rural diversity. There seems to be a disconnect these days with regard to exactly what vision people have of the kind of rural Scotland we need. We wanted to emphasise the importance of those parts of Government thinking and tie them together.

Jim Hume: I am sorry, but how does increasing taxation on one community increase diversity?

Dr Elliot: I am trying to think where that question comes from. If the tax burden on, or the tax take from, a particular sector is reduced, that gives favourable attention to that sector. There is, of course, also the knock-on effect of that being capitalised into the land values. Paradoxically, that makes it more difficult for people to get into agriculture. Encouraging greater agriculture while having another policy that says that you want greater diversity in rural businesses seems to be a strange position to take.

Pip Tabor: One of the points that was raised was that it seems to be very unfair that an agricultural business does not pay tax on land use when a neighbouring business in a rural location pays tax on its business. It is a matter of trying to ensure that we are fair and also that we encourage the right sort of businesses in the right sort of places. It is about openness and transparency. We were not saying that tax should necessarily be levied; we were saying that, if there are going to be exemptions and taxes, they need to be thought through and set at an appropriate level.

Jim Hume: You raised the point about an agricultural business's neighbour not paying tax. This is also about forestry, of course. What land-using businesses pay non-domestic rates while agriculture and forestry do not? You stated that that is unfair.

Dr Elliot: Shops and pubs pay them.

Jim Hume: I am sorry, but I am talking about land use.

Ian Cooke: There are other rural businesses—there are not just land businesses. That was the point that we made in the report.

The Convener: It is a narrow area of taxation. There are many wider ones, but it looks as though there are one or two more questions about that. If you are talking about taxation and taking those

things into account, I presume that you are looking for us to explore how tax—not just exemptions—on land is dealt with. The issue is not to be taken in isolation; land values and so on will have to be researched and gone through.

Dr Elliot: Absolutely.

The Convener: There may be concerns that, somehow or other, somebody will be penalised, but it is not about penalising; it is about balancing. Am I right?

Dr Elliot: Absolutely. It is important that, when a change is made to the taxation system, the impact on the whole system is looked at. A review of the whole system is being asked for.

The Convener: Indeed. That is interesting. The agricultural holdings review group is coming to see us. If we can avoid going through that twice, it would be helpful to committee members.

Alex Fergusson: I will avoid topics that might come up with the agricultural holdings review group, but I am surprised—to put it fairly mildly—that you have not looked at the impact on agriculture. I represent Galloway and West Dumfries. Over the next five years, we are to lose over £100 million from agriculture and therefore from the local economy. I believe that a vibrant agricultural community helps to sustain a rural community, and I do not think that anybody would argue with that. That is certainly the case in my part of the world.

There is huge concern that that amount of money being taken out of what is a very low economy will have a major impact on the communities of Dumfries and Galloway—not just the farmers. I therefore find it really worrying that there is a proposal to increase the fiscal burden on farmers, which there may be a perfectly good case for, without the potential impact on the community having been taken into account. I wanted to lay that on the table—your comments on it will be welcome. Certainly in my part of rural Scotland, there is such a tie-up between community activity, community vibrancy and a vibrant agricultural sector that looking at one without considering all the implications is not helpful.

12:00

Dr Elliot: I hope that our recommendation is put in the context of concern for the community as a whole rather than for the impact on a particular part of it. As in the rest of the report, we are trying to emphasise the wider context. We recommend the gradual introduction of business rates and we are aware that things cannot be done overnight.

I looked at the John McEwen memorial lectures that were produced in the 1990s when people were thinking about land reform. Donald Dewar

said at that time that the whole rural situation was changing and that a variety of rural businesses were coming along. However, there did not seem to be much indication of that in what we read—other than statements that it was a good thing—or whether it was being backed up by other policies.

The wider question is about what kind of rural Scotland we want and how that can be pulled together. We would welcome that work being done.

Dave Thompson: The issue of taxation raises the pretty major question of how we deal with it. The convener has said that that is important, as have the witnesses. However, the problem is that the Scottish Government has responsibility only for certain aspects of taxation; responsibility for the rest lies with the Westminster Government. I am not suggesting that any particular tax should be introduced or taken out. However, if we want to make real progress in changing taxation we must be able to reduce or increase one tax and reduce or increase another in order to keep the overall tax take in balance. You have looked at all that, so how easy do you think it will be for the Scottish Government to introduce meaningful and sensible change to the taxation system when it does not have access to all the tools in the toolbox?

Dr Elliot: One of the interesting features is that most recurrent taxation is in the gift of the Scottish Government, because it involves local taxes. Inheritance tax and capital gains tax are transactional taxes that happen only when something else happens. In the recurrent taxation system there is room for looking again at the council tax, which is 23 years out of date, and at business rates. Of course, there has been consultation on those, but they are still part of the mix. Land value taxation is also a recurrent tax. There is a clutch of taxes that are all within the purview of the Scottish Government, so there is an opportunity to look at that subgroup together and to come up with a different system. It is true that other taxes are, at present, reserved.

Dave Thompson: That is the point: there are a number of reserved taxes. I dare say that we can create new taxes, such as a land value tax, if we wish to. However, not having the other taxation powers will, by definition, restrict our ability to have the effect that we might want to have.

Dr Elliot: Obviously, it follows that if you could influence the other taxes, you would have more influence. However, as I said, the recurrent taxes are a sufficiently defined subset that you could explore with the powers that are presently available to Scotland. Of course, the Scottish Affairs Committee at Westminster is looking at the issue. Some kind of tie-up between the different taxes is worth exploring.

Dave Thompson: What we have at the moment is a taxation system that includes reserved powers. It will be extremely difficult for us to influence Westminster as we might wish because Westminster will say that the taxes are its responsibility and that it has to consider the whole UK. If Westminster were to alter one of the taxes that are under its remit to tie in with something that we wanted to do in Scotland, that would have a knock-on effect on England, Wales and Northern Ireland, so Westminster would not do it. Realistically, we have to restrict ourselves to the devolved areas, which will restrict our ability to deal with the overall problem. Do you agree?

Dr Elliot: A lot can be done within the devolved powers, and Ian Davidson MP and his team down in Westminster are powerful folks.

Claire Baker: I am sure that Dave Thompson welcomes the fact that the Scottish Affairs Committee is looking at many of those areas. We need to recognise that 58 of the 62 recommendations from the review group fall under devolved competence.

On taxation, it is right to highlight the exemption for land-based industries and to at least raise questions about why they continue to be exempt while other rural businesses are not. I am sure that Alex Fergusson finds it reassuring that the minister has already ruled out that proposal—

Alex Fergusson: Indeed.

Claire Baker: —even though, when the most recent act was passed, John Swinney said that there was an on-going review of and reflection on the issue. It is therefore possible that there is still some discussion to be had about the continuation of such exemptions. Has the review group made any kind of evaluation of the value of the exemptions and how that then reflects across the wider rural business community? Who is making the tax contribution in those areas? What is the loss of revenue? What is the exemption equivalent to?

Dr Elliot: That came up recently with the National Audit Office, which has started to explore exactly what exemptions mean in terms of revenue forgone and to try to get a more transparent account of how all the various taxes, payments and tax exemptions relate to one another. The NAO is concerned that there is not sufficient transparency, so there is likely to be movement in that direction, making the situation clearer at a later date. However, we did not carry out such an evaluation.

Claire Baker: But we can expect work on that area to come from the NAO.

Dr Elliot: Yes, I think so.

Graeme Dey: In its report, the review group

"recommends that the Government should review the current exemptions from sporting rates and introduce a reformed rates system as appropriate in the public interest."

The report also mentions the possibility of sporting rates being

"tailored to each of the species involved".

How deeply did you delve into that possibility? Can it be done legally? Is it practical to do it?

Dr Elliot: What do you mean by "legally"?

Graeme Dey: Is it permissible from a tax point of view to tailor sporting rates to species? My understanding is that it is not.

Dr Elliot: That is interesting. One thing that taxation does is provide incentives and disincentives, and there are different ones involved. For example, we want to conserve salmon but we want to cull deer, so it is likely that the balance of the purpose of the tax would be different in those two cases. That is as far as we got. We certainly did not look at whether it was possible to target rates on particular species.

Graeme Dey: I understand why you might want to do that, but my understanding is that there may be some difficulties with that and I wanted to follow that up.

Dr Elliot: We did not explore that area.

The Convener: We move on to crofting. Some crofting lawyers will be making recommendations to the Government about simplifying crofting law. Did you hear the argument that we should try to have one form of land tenure in areas that are crofting areas, which has been put forward by Sir Crispin Agnew and James Hunter? With crofting law, two neighbours can be on different forms of tenure. There is a question about whether two different types of laws can apply to the same piece of land use.

Dr Elliot: No, we did not pick up on that in our discussions.

John Watt: Given the Shucksmith review and the creation of new crofting legislation in recent years, we are aware that this is a big, complicated area. We did not get into the guts of making more suggestions about changing crofting legislation, but we got representations from crofting communities asking whether we could make it simpler and easier. That is probably as far as we dipped our toe into that.

The Convener: In that case, we will take that as read for now, because it leads into the next question.

One of the circumstances in which there are unwarranted challenges to communities in their attempts to buy has been highlighted by the Pairc case in particular. Would you like to expand on the

facilitation of more crofting rights to buy? As you know, the other side of the coin is that some communities do not want to buy. They would rather that the landlord is the Government and that it takes on the expense, as they see it, of running the estate. The two sides of crofting both have to be addressed. Do you have any suggestions about how that can be done?

John Watt: We looked in some depth at the transfer of the Government's crofting estates to communities. Looking back over many years, we are aware of efforts—the convener will be familiar with them—to do that in Skye and Raasay in previous times. There is a rationale for the community being perfectly happy with the benign landlord, which is the Government. We felt that perhaps renewed effort and proactive promotion of such transfers would be appropriate now.

When the Skye and Raasay experiment was attempted way back in the early 1990s, it was long before other community purchases. Now that there is 15 years of experience of communities owning and running estates of different types—some of those have crofting tenure on them—we feel that now is probably a time for a renewed, proactive effort by Government to dispose of the estates by making it more attractive for communities to acquire them. Of course, it comes down to previous discussions that we have had about state aid and transfer at what value if communities were to acquire the estates.

It was quite interesting to read back over some of the Arkleton research on Raasay and Skye. Crofters were concerned that they would lose their individual rights as crofters if the estate was owned by a crofting trust. Of course, crofters would lose no rights in the transfer. That level of misunderstanding suggests that it is time for us to look again at how such transfers might be facilitated and encouraged.

We are aware that there are communities who still look at the possibility of such transfers. Some communities were put off by the fact that they would have to raise a huge amount of money to acquire the estates. There would need to be better mechanisms to enable an easier transfer. We know the West Harris story quite vividly and know about the struggle that the West Harris community had to acquire land from the Government. We would have to make it easier for such a community to acquire land and the Government would have to take some proactive measures to ease the process.

The Convener: We understand the Government side of things, but how would we remove the unwarranted challenges in what was called a hostile buyout situation? Do you believe that some form of compulsory sale, as happens with derelict land, should take place? How would

you apply something that alters or simplifies part 3 of the Land Reform (Scotland) Act 2003?

Dr Elliot: I think that there are suggestions in the report about how that should be done. We went up to the Pairc estate in the first phase of our work and I can still see the frustration on the face of the person who was putting in the submissions. The postcode system was an amazingly complicated way of doing something that could be done much more simply. The fact that that system was complicated meant that endless appeals were coming in because there are always cases where you get the wrong side of the burn or something like that. The situation was set up for appeals to happen. There is no point in having legislation that does not deliver what it is meant to do. Therefore, the report makes suggestions about how the system can be simplified.

12:15

The Convener: I will bring in Dave Thompson. I do not want us to expand on crofting issues because we will have many such matters to review when we speak to the crofting representatives.

Dave Thompson: John Watt mentioned Raasay. The historical and more recent situation from last year is that the Raasay community turned down the option of buying the crofting estate from the Government and has instead opted to keep the Government as the landlord. There are a number of reasons for that but, at the same time, the people there were looking to purchase the forest, which would have been hugely costly, and I am sure that that would have weighed on their minds, too.

A lot of complex issues come into play when we start looking at such matters, but I do not disagree with your general recommendation that we should look at transferring the estates to communities. However, we need to make the process as easy and simple as possible. If communities are to go down that road, they need to be assured that they will have all the assistance they need not only on how to do that but on how to run things thereafter.

John Watt: We make suggestions in the report about how to simplify part 3 of the 2003 act, which would address some of your concerns about the challenges faced. There have been no successful acquisitions under part 3 since the act was introduced. The nearest that we have come to that is the Pairc estate, which eventually ended up in a negotiated agreed sale.

The proposed community land agency would have a role in helping with the acquisition of crofting as well as other community land, so support would be available. I would hope that that would include all the technical and legal elements that are required for such tenures.

The Convener: Thank you very much for your comments. We will probably come back to you with further questions. Once we have looked at the report in detail, we will ask stakeholders about your proposals.

I am sure that we will have many questions, but it would be useful to deal with a question about process now. You have referred to research papers that you have drawn on. Are those available in the public domain? Once we have read the *Official Report*, can we see the research on particular areas?

Dr Elliot: We are happy to share the research papers. A lot of them are in the public domain, but just get back to us on what you need.

The Convener: That would be useful.

I return to my question about the witnesses' submissions because, although I have found the word "anonymous" in the list of submissions that you have provided, I have not found the word "confidential" anywhere. Is it possible to get the anonymous evidence, with redaction if needs be, so that we can scrutinise that if we want to?

Dr Elliot: The confidential submissions will not be on the website, but the—

John Watt: You will notice that the submissions are numbered and that numbers are missing from the sequence.

Dr Elliot: Those are the confidential submissions. However, the submissions marked anonymous are on the website.

The Convener: Right. We have not got to the stage of interrogating the website in that depth.

We noticed that you say that this should be about what Michael Taylor calls "people centred land governance". That is an apt set of words. Given your experience over the past couple of years, is there the means to achieve people-centred land governance in the next five or 10 years? Can it be achieved through various workstreams at various times? Can it—just like devolution—be achieved in a reasonable timescale if there is the political will and the consensus to act?

Dr Elliot: I would hope that that is where we are heading. The way in and the speed at which we go will depend on the practicalities and people taking on the challenges that arise in dealing with land reform.

Consistent with the attitudes in other parts of Scottish public life, we are into asset-based approaches. People can, if they are given the tools, sometimes make a much better job when they are in control of their own lives and communities. Land reform is moving in that direction. As I have said, I would hope that our

general position that decisions about land ownership and use should be taken in the public interest and for the common good. If we believe that, we can get quite far down the line.

The Convener: We have been dipping our toes into the issue and you have provided us with, if I can extend the metaphor, an awful lot of interesting waters to wade about and perhaps eventually swim in.

The report is interesting; it is one of the biggest that we have received. We thank you for the time that you have taken to explain it to us. We may well want to bring you back to explain some other matters if necessary. Thank you.

12:21

Meeting suspended.

12:26

On resuming—

Public Bodies Act Consent Memorandum

Public Bodies (Abolition of Food from Britain) Order 2014 [Draft]

The Convener: Item 2 is consideration of a Scottish Government memorandum relating to the draft Public Bodies (Abolition of Food from Britain) Order 2014. It is a UK order and the Scottish Parliament must give its consent to it.

I refer members to the paper and invite comments. If there are no comments, do members agree to recommend to the Parliament that the draft motion that is set out in the memorandum be approved?

Members *indicated agreement.*

Annual Report

12:27

The Convener: Item 3 is the last item today and concerns the draft annual report. I refer members to the draft report with which the clerks have provided us. Note that the guidance is that the report should not exceed 1,500 words so, if members wish to put anything in, they must take something out.

Graeme Dey: It is like the budget.

The Convener: Exactly.

I will kick off the comments. Paragraph 12 says:

"The Committee asked all subject committees to include an assessment of how the budget in their portfolio areas had taken account of climate change issues in their reports."

We should add something about that being a continuing cross-committee activity that we want to encourage or something of that sort that encapsulates the more detailed discussions that we have had.

Claudia Beamish: I do not know what the rest of the committee's views are, but I was disappointed by the response of some of the committees and would like that to be marked in the section on the draft budget. I do not know how many words out of the 1,500 we have to play with, but we can add a little bit. I take your point that we want to encourage committees, but I would like a marker to be put down about the disappointing response, especially as we had to go back to some committees.

The Convener: Do members agree that we should try to reflect that sentiment?

Members indicated agreement.

The Convener: In that case, we will ask the clerks to draw up words that, I think, Claudia Beamish will find congenial to most people's interest on that.

Alex Fergusson: I absolutely agree. However, we should also highlight the fact that, despite our disappointment, there is on-going engagement with the other committees.

The Convener: That is important because we will be attempting to set up a more structured process in future. However, I am sure that we can reflect that in the form of words used by the clerks.

Do members wish to comment on any other parts of the report?

12:30

Claudia Beamish: I picked up on an issue relating to deer management. Paragraph 22 of the report says:

"the Committee published its letter to the Scottish Government summarising its views and setting out its recommendations on the future of deer management."

The committee agreed that it would revisit the issue. I would like that marker put down because of concerns about whether the voluntary code is appropriate or whether we need to move to a statutory one.

The Convener: I am sure that there will be quite a lot of issues in the report that we will revisit.

Claudia Beamish: I take the point that it may not be appropriate to put down a marker in a particular area.

The Convener: We could use a simple phrase such as "to which the committee will return" to link in with the sentence in the report. The clerks can handle that. Are you happy with that, folks?

Jim Hume: No offence, but is the report not more about what we have done than about our future work programme? Sorry, Claudia.

Alex Fergusson: It is a sort of record of what the committee has discussed. In a way, it is a minute of the year's proceedings.

The Convener: It is about reports in the previous year and not about our future work programme.

Graeme Dey: With respect, convener, I understand Claudia Beamish's point. I appreciate that there may not be scope, given the number of words, but perhaps we could highlight, in a paragraph, the items that the committee has indicated it will return to in future. However, if we do not have the scope to do that as an overarching thing, I do not think that we can do it for one item.

The Convener: It is difficult because of the timing and the limitation on the number of words. As I hinted earlier, there are a lot of issues to which we will be returning. If we were to list them all, it would be difficult to fit them in.

When we draft our future work programme, Claudia Beamish will have the opportunity, in public, to ensure that that issue is on it—not that anyone wants to keep it off. It would be easier if we did not mention it in the report. The sentiment is there, though.

Claudia Beamish: As long as it is possible to note—if that is what I am understanding you are suggesting—at some point in the report the general point that there are issues that we will need to revisit in relation to whether there need to

be either legislative changes or other changes that we would consider.

The Convener: That is an awfy long sentence, but yes.

Nigel Don: I sound a note of caution. Every committee does this. I think that we may be elevating the issue to a place that it does not deserve and making work for the future. I understand that this is a report card of what we have done in the previous year. The moment we expand it to include what we are going to return to later it becomes a different class of report. I do not disagree with a word of what Claudia Beamish is saying, but I do not think that it should be in the report.

The Convener: Other things are online already, including the work programme, to say that these are the kinds of things that we will be doing. On the one hand, we have the report of what we have done. On the other, we have the work programme, which we will decide in public. It will be there for all to read and will include deer management as an issue to which we will return. Can we separate the two, for logic's sake, as Nigel Don has put it?

Claudia Beamish: If that is the view of the committee, I will agree to it.

The Convener: Go with it. Your concern is on the record, which allows us to note the matter when we come to the work programme in future. We will keep the report to the simpler matter of the report card.

Paragraph 23 is about behaviour change, which is followed by a list of evidence sessions, so behaviour change is covered. Got that. Anything else? If not, we have first of all to sign off the report. Do we agree that I, as the convener, should finally sign it off, with the small changes that we have agreed?

Members indicated agreement.

The Convener: Like all other annual reports from committees, our annual report will be published next week. On 4 June, the committee will take evidence from a round table of stakeholders on the land reform review group final report, at a later starting time of 11 am.

Meeting closed at 12:35.

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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