

CROSS-PARTY GROUP on CROFTING
Meeting 13 of Parliamentary Session 4
Scottish Parliament, room Q.1.03
Wednesday 20 March 2013 at 17.30

MINUTES

Present:

Jamie McGrigor MSP¹ (Chair)
Patrick Krause SCF (Sec)
Lucy Sumsion NFUS
Sandy Murray NFUS
Billy Neilson NFUS
David Balharry CC
John Brownlee SG
Jean Urquhart MSP
Paul Wheelhouse MSP, Minister for Environment and Climate Change
Richard Frew SG
Brian Inkster SLE
Karen MacRae SCF
Seori Burnett SCF
Russell Smith SCF
Norman Leask SCF
Tavish Scott MSP
Douglas Pattullo Office of Jamie McGrigor MSP
Gary Cocker Office of Jean Urquhart MSP

1. Welcome and Apologies.

Jamie McGrigor welcomed everyone and introduced new faces. Apologies were received from:

Derek Flyn SCF; Pam Rodway SAS; Rhoda Grant MSP; Billy McKenzie SG; Dave Thompson MSP; Fiona Mackenzie UHI; Susan Walker CC; Hugh Donaldson HIE; Neil Ross HIE; Gordon Jackson SG; Gwyn Jones EFNCP; Vicki Swales RSPB; Amy Corrigan RSPB; Jean Balfour SLE; George Farlow HC; Angus MacDonald MSP; Rob Gibson MSP.

2. CPG business (AGM)

Election of office-bearers

It was proposed to keep the current office-bearers for another year i.e. Chair: Jamie McGrigor MSP; Vice: Rhoda Grant MSP; Vice Jean Urquhart MSP. Proposed by Tavish Scott MSP and seconded by Sandy Murray.

It was proposed to keep the current secretary for another year i.e. Patrick Krause. Proposed by Jamie McGrigor MSP and seconded by Billy Neilson.

¹ **Acronyms:** CC Crofting Commission; EFNCP European Forum for Nature Conservation & Pastoralism; HC Highland Council; HIE Highlands & Islands Enterprise; MSP Member of the Scottish Parliament; NFUS National Farmers Union Scotland; RoS Register of Scotland; SAS Soil Association Scotland; SCF Scottish Crofting Federation; SG Scottish Government; SLE Scottish Land & Estates; SPICe Scottish Parliament Information Centre; RSPB Royal Society for the Protection of Birds; UHI University of Highlands and Islands; WCP Woodland Crofts Partnership.

3. Minister for environment and climate control

Paul Wheelhouse MSP came to the CPG to participate in discussions regarding issues of interest to crofting, in particular the problem that has arisen whereby owner-occupier crofters are being advised by the Crofting Commission that applications to decroft land cannot be processed due to received legal advice that the 2010 Act does not authorise the CC to make directions regarding owner-occupier crofters applying to take land out of crofting control.

The Minister assured the group that the intention was that owner-occupier crofters would be treated exactly the same as tenant crofters. However, there was a glitch in the legislation that made it unsafe for the CC to grant decrofting to owner-occupier crofters and it would take primary legislation to fix this. Tenant crofters are unaffected by this. Tavish Scott MSP assured the minister he would support a bill to get the problem solved as rapidly as possible as it was affecting many Shetland crofters.

The Minister said that he would consider whether to direct the CC to continue to process the paperwork up to the point of authorising a decrofting. When asked whether it should go to the Scottish Land Court (SLC) his opinion was that it could delay matters and that he was trying to find the most suitable route to speedy resolution. When pressed regarding getting at least an opinion from the SLC he said that protocol would point to getting Scottish Government / Parliament opinion first.

The minister was asked how long it would take and answered that it depends on which route is used; emergency legislation would take days, but would need justification to use this; ordinary legislation could take weeks or months. Examples of real hardship would be needed to use emergency legislation. He also said he appreciated that people want to know as soon as possible. He would make a statement if it was appropriate.

When asked if past decroftings would be affected he said they would stand unless challenged. But what if a house is sold on decrofted land? Legal advice is that title would not be affected. Legal advice has been given and Scottish Government officials are also examining the legislation.

The minister was asked if the detail of the CC decision would be made public as clarity on the legal advice on which the decision had been made would be of use to the legal profession. He answered that anyone could ask the CC but that it was unlikely to be forthcoming as legal advice is privileged.

The minister summed up this topic by saying that support would be needed from all parties and that no other amendments could be entertained if the legislation is to be passed through as fast as possible.

A question was asked regarding crofting community development: it had passed from the CC to HIE but nothing seemed to be happening. The Minister said that he would pass on the concerns of the CPG to HIE. HIE are not actually within his remit, except for the fact that they have the remit for crofting development. Secretary reported that someone from HIE would attend the CPG meeting in June. Does HIE's remit tie in with the SRDP? The Minister reported that SRDP would be consulted on soon and urged crofting organisations and their members to participate, to make the case for crofting support under SRDP. It was pressed from the group that SRDP had not been supportive of crofting and had contributed to abandonment. The new SRDP needed to be more accessible to crofters. The Minister assured the group that his officials are working to make the SRDP much more accessible.

The Minister, when asked at what stage the Crofting Commission plan is, replied that Scottish Government had made its comments and it now lies with the CC. David Balharry of the CC said that SNH and Historic Scotland were being consulted as to whether a full Strategic Environmental Assessment was needed, which would take more time. If not, then it is ready.

The loss of shooting rights for Raasay crofters was discussed – the Minister assured the group that it had been a mistake and that the contract had been reversed. The Raasay crofters have

the contract again for the time being and the wider community will be consulted on what it wants; SG are happy if the Raasay Crofters Association get the contract but it is important to be able to demonstrate community support.

It was felt by the group that there is a lack of information about the Crofting Register and the Minister replied that a roadshow would be arranged to get information out – probably in the summer or earlier. It was pointed out that the voluntary phase would be over in November so sooner rather than later would be useful.

4. Minutes of the previous meeting

Minutes of 06 February 2013 agreed.

5. Matters arising

Croft House Grant Scheme. It was felt that someone from the CHGS should come to the CPG to speak at a future meeting. It would be arranged for June. It was agreed that getting a bank loan for self-build projects was nigh-on impossible now. Even though banks recognise that tenancies have value they won't lend against them. It was pointed out that crofters pressed for the proposal to have Standard Security in the crofting reform bill to be dropped.

Action: Ewen McPherson, who runs the CHGS, to be asked to attend the June meeting.

6. Crofting Commission occupancy initiative

David Balharry, Acting CEO of the Crofting Commission gave a presentation (circulated) on the occupancy Initiative (formerly the Absentee Initiative). It is difficult to establish how many crofts are technically vacant but there are 900 crofts of which the tenants or owners have been absent for over 10 years. 400 of these cases have been concluded and 500 are still outstanding.

There will also be a parallel initiative targeting geographically. It could be through community owned estates for example.

Will areas with the biggest problems be targeted first? Is there a protocol? No, no protocol yet. Will it tie in with HIE crofting community development? Yes, ideally – it isn't yet but that would be preferred.

There was discussion on abandonment (neglect) and absenteeism – sometimes the crofter may be absent but the croft is used by someone so is not neglected. Is there a regulatory tool to deal with abandonment and neglect? Yes, a crofter must be ordinarily resident and must put the croft to purposeful use. The CC need feedback though, hence the Duty to Report and the Annual Return. What if the AR indicates a breach? Then the CC have to follow it up – the question is when; it depends on the size of the problem.

Is there a definition of 'ordinarily resident'? Commissioners have to use their discretion. Is it right for an old person who can't cultivate their land to be hounded, for example? It is important to keep croft land used for the good of community development. If the community ask for help due to neglect or absenteeism it is only right that the CC give the help. There are ways in which an old person can be helped to give up the tenancy so that someone else can use the land. And "where good reason" to not take action allows the CC to use discretion. The CC have to look into cases – that's why it takes a long time. The CC don't want to "hound" – they need intelligence from the community on which to act.

7. Implementation of the 2010 Crofting Act

Richard Frew pointed out that consolidation of the Crofting Acts will not be the small job some seem to think it will be.

Secretary reported that an answer had been received to a PQ from the CPG Chair regarding consolidation:

"To ask the Scottish Government whether it plans to consolidate crofting legislation and, if so, within what timescale.

(S4W-12989)

Mr Paul Wheelhouse :

The Scottish Government will consider the consolidation of crofting legislation after it is satisfied that all the provisions of the Crofting Reform (Scotland) Act 2010 are working as intended."

8. Crofting community mapping

Siori Burnett gave a talk about the crofting community mapping he and his community did in Badralach with SCF help. Main points and discussion:

Seori volunteered his community for a pilot in the SCF Annual Gathering workshop on crofting community mapping. It can be used as a development tool, mapping boundaries and also history, aspirations. It puts power into the hands of the community.

They followed the procedures drawn up by SCF, which are sort of legal – this helps as they set out a clear course of action and accountability. All stakeholders are involved and all are informed all along the way. This is crucial to avoid resentment.

Using a trained facilitator was really good. Does the facilitator need crofting experience? No, it's not necessary – the role of the facilitator is to get people working together.

Not everyone turned up to the initial meeting; that's ok though, everyone was informed before and after. The first map was produced and sent around for comments. It was drawn from IACS maps where appropriate, historic maps and folk memory. It was a simple job on a paper base map provided by RoS. This is the low cost way to do it. It could be developed further, be multi-layered, showing boundaries on one, land use on another, communications, pathways and so on. It could be digitised to make it more flexible.

The map is owned by the community, it is an active part of community development in itself. It takes a lot of time and effort to do it all – it needs someone or people who are enthusiastic and willing to give. SCF's input was essential – they have the ability to take this forward.

The community is a crofting township but non-crofters were also included. The 2010 Act started this, with the Crofting Register, but it is much more than that and more useful. It would be good to get funding to try this out in a large number of pilots, gather information and experience.

Did you get the 'argumentative black sheep'? Yes, but having a good facilitator and mediation helps to alleviate this. You can't underestimate the facilitator role – it is essential. Did you get responses from everyone? No, but most.

Why is HIE not doing this or funding SCF? Exactly! - a 'visual development plan'. It builds social capital, cohesion in the community. Why is the SG not supporting this? SG does support community mapping. It provides a 24% reduction on registration fee for groups of 10 or more. The reduction is appreciated but it is a drop in the ocean.

Are SCF doing more pilots? No not yet. Badrallach was funded through our Crofting Resources Programme and we need funding to continue. We have been talking to the Skills Development Scheme (SRDP) about training communities in this mapping technique.

HIE have community agents that could help; we can't put everything on volunteers. And facilitators are essential – funding is needed.

9. Update on CAP reform

John Brownlee gave an update on the CAP reform; the European Parliament have voted and the Council of Ministers will tomorrow? So then the 3 (EP, CoM and EC) enter triologue to find consensus.

Meanwhile in Scotland the James Hutton Institute have been modelling different payment scenarios and this will be presented at a 'CAP – moving forward' conference on 17th April.

There may be coupled payments – this depends on the outcome of the triologue – as does nearly everything. Agreement is aimed for June – the Irish presidency finishes then and they want the negotiations finished in their term. We don't know the budget yet – when the UK gets its budget this will be divided up and Scotland will then get ours. So we have no idea how much we are going to get yet.

10. AOB

- Jean Urquhart has a case of someone having their LFASS payment stopped because they are in arrears on a CBGLS loan. She will look into it and report back. Other similar cases cited. The irony is that 'slipper farmers' can't default.
- Why is there less engagement of Assessors? David B will look into this. Assessors need more information.

11. DONM

01 May 2013 evening