

CROSS-PARTY GROUP on CROFTING
Meeting 17 of Parliamentary Session 4
Scottish Parliament, room Q.1.03
Wednesday 06 November 2013 at 17.30

MINUTES

Present:

Jamie McGrigor MSP¹ (Chair)
Patrick Krause SCF (Sec)
Lucy Sumsion NFUS
Rhona Elrick RoS
Martin Corbett RoS
Jean Urquhart MSP
Fiona Mackenzie UHI;
Richard Frew SG
John Brownlee SG
Neil Ross HIE
Jean Balfour SLE
Derek Flyn SCF
Douglas Pattullo office of Jamie McGrigor MSP

1. Welcome and Apologies.

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

Russell Smith SCF; Norman Leask SCF; Karen MacRae SCF; Tavish Scott MSP; Dave Thompson MSP; Rhoda Grant MSP; Rob Gibson MSP; Angus MacDonald MSP; George Farlow HC; James McPherson CAB; Gwyn Jones EFNCP; Pam Rodway SAS; Susan Walker CC; Colin Kennedy CC; Catriona MacLean CC; Brian Inkster SLE; Andrew Midgley SLE; Nigel Miller NFUS; Sandy Murray NFUS; William Neilson NFUS; Billy McKenzie SG; Gordon Jackson SG

2. Minutes of the previous meeting

Minutes of 26 September 2013 agreed subject to two amendments:

p.3 item 5. para 5 'is' replaced with 'can be';

p.4 item 6. *discussion* para 3 '€100,000' replaced with '€150,000'

It was agreed that draft minutes should be sent out within two weeks of the meeting and dates for future meetings to be set in advance as much as possible.

3. Matters arising

Item 3. Crofting Register. James McPherson asked for the following to be noted in his absence:

“Entering the access to a croft will not involve RoS in any expense if it is entered on the same map as submitted for the croft boundary. Neither the Crofting Commission nor RoS verify the croft boundary, this is left to objections under 'the nine month rule'.(2010 Act section 14(1). The same could apply to croft access.”

¹ **Acronyms:** CAB Citizens Advice Bureau; CC Crofting Commission; EFNCP European Forum for Nature Conservation & Pastoralism; HC Highland Council; HIE Highlands & Islands Enterprise; HSCHT Highland Small Communities Housing Trust; JHI James Hutton Institute; MSP Member of the Scottish Parliament; NFUS National Farmers Union Scotland; RoS Register of Scotland; SAS Soil Association Scotland (Crofting Connections); 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.

Derek Flynn's response regarding crofting law was that this would create major legal difficulties, not easily argued for in law. The applicant's map could have to extend over neighbours' land. More problems for the Crofting Register at this point would be wrong. Marking the boundaries is a big enough step. The more information on the register the more potential for objections. The register reflects what the act asks for. **Agreed.**

Item 5. Torridon planning. Susan Walker wanted the following noted in her absence:

"Investigations within the Commission indicate that it appears we were not asked to make comment on this case as part of the planning process.

It should also be pointed out that we recognise that there are a number of challenges – and opportunities – surrounding communication between the Crofting Commission and planning authorities on planning cases, and we are investigating how to bring all the stakeholders together to discuss these issues. As soon as we have more definite information on this, we will let you know."

Item 6. CAP reform: clarification needed: if a grazing committee is constituted can the committee claim single farm payment on behalf the shareholders? Yes, if they are legally constituted. The minimum that can be claimed on is 3 ha, which could have implications on claiming on in-by only for small crofts. An apportionment would still need to be claimed by the individual. Grazings committees would be a registered business and distribution would be up to the business. This could be money that at present is not claimed. Common grazings should attract full single farm payment, whereas at present where there are only a few shareholders active they only get a proportion of the full claim possible.

Chair read out a letter from the Minister regarding financing housing on crofts.

It was pointed out that crofters chose not to take the opportunity suggested in the bill to use crofts as standard security which would have meant that banks could lend for croft housing without the house plot having to be decrofted, which is what nobody wants. It was asked how the question had been presented to crofters. Through consultations on the bill. Perhaps it had never been made clear to consultees? As it appeared in the bill it was complicated, perhaps not put as clearly as it could have been, thus generating suspicion. As the act is going to have to be amended this is something that could be revisited.

It is important to not refer to "evictions", as taking back a croft is the very last resort when an absentee does not take any of the opportunities offered. The Crofting Commission are aiming to improve occupancy. Agreed.

Action: Letter regarding financing of croft housing to be distributed and defer item to next meeting.

4. Implementation of the Crofting Reform 2010 Act

The Crofting Register – Martin Corbett and Rhona Elrick of Registers of Scotland gave a presentation on the current state of the crofting register. So far registration has been voluntary and then triggers will be introduced after November. Crofters apply to the Crofting Commission, submit a map, and if all is satisfactory Registers of Scotland will then issue a certificate. Crofting commission will notify certain people including neighbours. It will be required that the applicant places a notice on the croft and puts 2 consecutive adverts in a local paper. There will then be a nine-month period for objection.

Rhona then gave a live demonstration of the crofting register via the Internet.

Discussion

Who is responsible for checking the boundaries? The Crofting Commission check against the information they have but as the Register of Crofts is not map-based they can't check the

boundaries as such, they look for clearly conflicting information. Crofters are encouraged to consult neighbours to verify where the boundaries are and this can have the benefit of limiting objections (appeals). The mapping is much better done as a community as the likelihood of appeal then is minimal.

The website for the Crofting Register contains links, information on registration, downloadable information leaflets, in both English and Gaelic.

Are common grazings shareholders listed? Crofts that are registered that are associated with common grazings are listed but this may not capture all of the shareholders. Is this an item for the 'sump'? If someone submits it.

The common grazings are being mapped by the Crofting Commission. The CC first consult with common grazings committee and landlord. Again, there is a nine-month objection period following all stakeholders having been notified by the Crofting Commission. During the preparation /consultation period the first contact regarding an objection should be made to the Crofting Commission. Once registered and into the nine-month period of appeal contact has to be made with the Scottish Land Court.

There is confusion over the terms "township" and "common grazing". A common grazing may have several townships using it. A township is a collection of crofts that relate to a common grazing.

There was £200,000 made available by the Scottish Government, £100,000 for the Crofting Commission to map the common grazings and £100,000 to provide a discount to applications of 10 or more crofters: this money is held by Registers of Scotland. There would therefore need to be 5000 crofts registered to use this discount money; it won't happen by November. Will the discount therefore end at the end of November? Yes at the moment it is due to end but it is under active consideration. The Cross Party Group on Crofting should ask for it to carry on. Groups of less than 10 may apply for the reduction if the township has less than 10 Crofts. £20 per application may not sound a big reduction but it equates to 22% discount.

Action: cross-party group to write to the Minister recommending that the £100,000 should be extended until spent. Richard Frew will report back on the Scottish Government intention regarding the £100,000.

There will be a further £100,000 per year for the Crofting Commission to map the common grazings. It would therefore be logical that money should be made available for community mapping on an on-going basis. Scottish Government's opinion was that there may need to be a change in legislation to extend the discounted fee for community registration. NFUS queried why this was necessary when the weather aid support was given without any legislation.

Registers of Scotland have an active stakeholder engagement programme. So far they have visited 17 different locations, sometimes by themselves, sometimes with the Crofting Commission and sometimes with the SCF. They have attended shows with the SCF and these have been very successful for both parties.

SCF think that the necessity to place adverts by the applicant in the local press seems to have no merit as no-one has so far put forward a good reason for this. The adverts will cost at least £100 and that therefore equates to £1.8 million being taken out of crofting. If all neighbours have to be told by the Crofting Commission what does an advert add?

Scottish Government pointed out that the advert provides an opportunity for those not identified in the initial application as having an interest in the land to be registered, which might result in the Commission not including them in their notification following registration, to be made aware of the land being registered. SG added that the advert is to ensure all angles are covered, that everyone, no matter where they are in the world, has every opportunity to know about the registration of a croft. SCF asked if the internet would not be better for this?

SLE and NFUS think that there should be at least one advert. SCF do not agree, they believe the necessity to advertise should be removed.

It was agreed that the availability of the Crofting Register is first rate, Registers of Scotland have made information available very well.

The 'sump' – Derek Flyn gave an update. The Crofting Commission has one for its own use and the crofting law group have one for public use. The CLG will collect information up to the end of the year, consideration being given to suggested amendments in early 2014, leading to recodification or consolidation. It is very useful that the CLG have volunteered to do this.

Scottish Government will consult with stakeholders later in 2013. This gives all stakeholders the opportunity to discuss directly with the Scottish Government on what they believe to be a way forward with crofting legislation.

The CLG actually know and understand crofting law so it makes sense to let them gather the information before any stakeholder consultation? Is this a crofting stakeholder forum? No it is the Scottish Government consulting stakeholders on their views regarding crofting legislation. It is the beginning of a process. A date will be sent around before Christmas.

5. Crofting Development Update

Chair read out a letter from the Minister regarding HIE role in development. Scottish Government officials will meet with HIE officials to discuss crofting development.

Action: Minister's letter to be circulated.

There is still confusion over crofting community development and crofting development (development of crofting). HIE are happy to attend the CPGoC regularly and are in discussions with Scottish Government and the Crofting Commission on how to progress development for crofting communities.

HIE talk of crofting community development, but who takes the lead on the development of crofting? HIE is clear, they lead on crofting community development. They do not provide grants for individuals; local authorities, SRDP, business Gateway provide assistance to individuals. Crofting development cannot be bundled up and put upon HIE.

To reiterate: who takes responsibility for the development of crofting? What SCF mean by this has been laid out in a paper presented to this group at the last meeting. This is why the Minister has been asked by the group to clarify and he has promised to follow up.

There are a number of organisations delivering development for crofting - HIE, SRDP, SNH, local authorities etc. The objective is to marshal these better so that crofters can see where they go for development initiatives. SCF is a crofting development organisation. Yes but there is no one developing crofting; SCF seem to be the only body promoting the creation of new crofts for example; there are new crofting areas but no one in government is pursuing this. In the SCF paper it is pointed out that the development of crofting (listed) was taken from the Crofters Commission; where is it now? There seems to be confusion over 'development of crofting'.

It is covered by a number of bodies. Is it? Who has the role of developing crofting? We need to get to the bottom of this. 'Developing' is going beyond existing crofting. SCF has this as a strategic objective. SCF runs training courses, but new entrants have nowhere to go.

Scottish Government and HIE will address this and Scottish Government will report back to the group. The intention is that all organisations should be working together on this.

The group gave thanks to Neil Ross for attending.

6. CAP Reform and SRDP update

There will be a consultation in December on direct payments. There will also be an SRDP stage 2 consultation at the end of November. Both of them will be 12 week consultations.

The Scottish allocation of the UK budget is as yet unknown.

7. AOB

The Scottish Government website is out of date. This will be attended to as soon as possible.

8. DONM

Wed 18 December 17.30