

CROSS-PARTY GROUP on CROFTING
Meeting 15 of Parliamentary Session 5
Great Glen House, Inverness
Friday 21 September 2018 at 11.00

MINUTES

Present:

Rhoda Grant MSP ⁱ (Convener)	Mairi MacKenzie CC commissioner
Patrick Krause SCF (Secretary)	Lorna Murray NRMHF
David Finlay CC	Murdo MacKay CnES
Siobhan MacDonald SAC	John Toal CC
Donna Smith CC	Alasdair Allan MSP
Claudia Rowse SNH	Murray McCheyne
Maria de laTorre SNH	David Campbell CC commissioner
Bill Barron CC	Lucy Sumsion NFUS
Anne Campbell CALLP	Barney MacAskill
Peter Martin crofter	Michael O'Neil SG (by AV)
Alistair Culbertson crofter	
Russell Smith SCF	
Billy Neilson CC commissioner	
Gwyn Jones EFNCP	
David Balharry SG	
Stephen MacKenzie CC assessor	
Eileen MacDonald BBC	

1. Welcome and Apologies

The convener welcomed everyone and tendered apologies from her co-convener Tavish Scott MSP. She also pointed out that the third co-convener, Kate Forbes MSP, has had to stand down as she is now a minister (ministers are not allowed to be members of CPGs). A letter of thanks from the group will be sent and a replacement will be sought.

Apologies were also received from:

Gail Ross MSP; Emma Harper MSP; Fiona Mandeville SCF; Brendan O'Hanrahan SCF; James McPherson SCF; Brian Inkster CLG; Neil Ross HIE; Eleanor Garty WTS; Sandy Murray NFUS; Laura Sinclair NFUS; Steven Thomson SRUC; John Scott MSP; Rosemary Champion SHS; Janette Sutherland SAC; Ross McLaren SCRG; Jamie McIntyre WCP; Donald Crichton CnES; Donald Meek crofter; Stephen Sandham SG; Rod Mackenzie CC; Fiona MacKenzie UHI; Donald Cameron MSP; John Finnie MSP; Angus MacDonald MSP; Graeme Dey MSP; Maree Todd MSP; Donald MacKinnon SCFYC; Padruig Morrison SCFYC; Robin Haig SCFYC; Gordon Jackson SG; Michael Nugent SG; Edward Mountain MSP; Rhona Elrick RoS; Richard Frew RoS.

The convener said that the intention is to hold more meetings out of Edinburgh (8 people were in attendance because the meeting being held in Inverness) and she invited all to suggest venues. Thanks were given to the CC for hosting this meeting.

2. Minutes of previous meeting

The minutes of the previous meeting held on 20 June were approved subject to a deletion.

3. Matters Arising

None

4. Crofting Support

4.1. Gwyn Jones, Consultant, **EFNCP**, presented the findings of his study and report 'Support for Crofting' prepared for the Crofting Commission. His slides have been circulated.

Gwyn's remit was to examine the extent to which the support payments currently available to crofters are sufficient to achieve the Scottish Government's objectives for crofting and the sustainability of the crofting system; and to identify alternative support systems that might achieve these objectives to a greater extent in future.

Main points included:

Crofters have specific duties – occupation, no neglect and put croft to use – yet these are not reflected in SRDP at all.

It is very difficult to get clear data on crofters and crofting – there are no croft identifiers in the usual data sources from SG. Used BPS, accepting that some crofters don't claim BPS; LFASS would have been better but payments are a complete mess.

Camus Cross report is a good example of gathering information on crofts – it is clear about numbers of absentees, neglected crofts and used crofts, but it doesn't say who use the crofts so we don't learn about use patterns (i.e. crofts may be used but not by the tenant / owner).

The bigger picture – the percentage of income households spend on food is decreasing so it follows that producers' income is decreasing in proportion to average incomes.

The average croft BPS is £1474; this is very small.

Average stocking on croft land claiming LFASS is <0.12 LU/Ha – crofters are mostly extensive.

Need to think how things work at the bottom end of the intensity scale and for small holdings. Currently lowest intensity producers have to do most for money, have the worst cash-flow, have the most bureaucracy, have the most perverse unintended consequences - depending on their system - and get less money. Why? This lack of thought needs to change.

AECS - Payments for public goods are not reaching most crofters or common grazings.

Summary of the proposed principles:

- Support the small crofter to undertake any agricultural activity
- Have minimum payments to reward something more than nothing
- Make claiming small amounts of CAGS easy and ease the cashflow
- Support doing a little bit more (especially 'good' things) a whole lot more
- Encourage the keeping of small cattle herds and putting them on grazings (but in a realistic way)
- Encourage at least small amounts of cropping to increase diversity ecologically and economically
- Make sure everything complements more advanced/complex programmes, but learn from their failures to penetrate so far
- Provide a basic level of easily-accessible advice, training and hopefully education to all who want them at reasonable cost
- Provide an easy way to obtain finance for a variety of land-related purposes
- Give special help to those who need it most, in a joined up way (advice, guidance, capacity-building, grants, loans...). This includes common grazings committees, the young and new entrants, the aged and possibly retiring, the inactive.

Should there be a completely separate all-encompassing set of crofting measures? Arguments for and against. If the 'main' system can be amended to reflect crofting needs sufficiently, then no. BUT – if it's clear that the objectives for crofting are so different from those for farming that a single set of measures makes no sense.....

Discussion:

Comment: there is a lot about crofting in the programming document for SRDP.

Answer: "farmers and crofters" is used a lot but not crofting per se and no mention of achieving crofting policy. Weaknesses in SRDP for crofts persist in the new phase even though they were known about; no discussion and no improvement, no reflection back; e.g. it is very difficult to know what crofts are active.

Comment: implementation of SG rules make it impossible to get a common grazings into AECS. We lost 90% of our payment on our common grazing with the change from SFP to BPS; we tried to enter AECS but the ask risk too high.

Question: has there been feedback from SG on this report?

Answer: not yet, no formal response.

Comment: SG refuse to let grazings committees know who claim on their grazings. Grazings committees should be the only body allowed to allocate unused shares yet RPID approve payments on 'borrowed' shares. We don't even know how many shares are being claimed on, let alone by whom. And RPID ask us how we dispose of funds; its none of their business. And they complain about unofficial sublets; they exist because it is very onerous getting an official sublet. If it was easier there would be more of them.

Answer: Grazings shares cannot be 'lent' without the permission of the shareholder. Yes, official sublets need to be made easier.

Question: could you identify who was on the Crofting Register?

Answer: no, I used the Register of Crofts.

Comment: the fact that there are two registers is very confusing. It has taken 5 years to get our common grazings mapped, and it's still inaccurate.

Answer: nearly 6000 crofts and 300 common grazings have been registered now. Only a very small number come before Ros and CC with issues; we must have a balanced view on this.

Question: In the current CAP regime we had tools to support smaller units but these hadn't been used; considering this may be an issue to revisit when we develop new policies. Did Gwyn's figures in the study compare whether in crofting parishes the level of support with the current Basic Payment had gone down compared to the Single Farm Payment?

Answer: Good question but I haven't got those figures.

Question: As you have witnessed many different types of agri-environment projects across Europe, what system would be quick and easy to implement in Scotland, to benefit crofters and to deliver outcomes?

Answer: Benefit and outcomes aren't necessarily the same. A simple tick box system, open to all up to a financial limit, applied through IACS with no competition, would do both. It wouldn't need extra cost. We need simple measures for small areas and common grazings.

Comment: there are common grazings not used or under-used. A restoration policy is needed.

Answer: common grazings are often under-used as there is little incentive; who actually gets the money needs to be thought of in the design of any scheme.

Comment: Barra is a good example of how it doesn't work, on a micro scale. The east side of the island is poorer land than the west and is less used. The east needs more help, you would think. But it is harder to get into a scheme as the land is poorer. So the west, with good land, and doesn't need the support as much, ironically gets in easily and gets more money.

4.2. David Balharry, SG, 'Stability and Simplicity' - proposals for a rural funding transition period. See attached slide '3 horizons'.

Main points included:

The 'Stability and Simplicity' consultation covers the period from March 2019, Brexit, to 2024. This period can be looked at as having 3 'horizons'.

Horizon 1: day one readiness. How long do we continue with CAP architecture? 2019-2020 stability is needed.

Horizon 2: 2020-2024 simplicity is needed.

Horizon 3: post-2024, a period of innovation, pilots, a better RDP bringing together elements from different ministerial portfolios.

There have been 130 responses from organisations and individuals to the 'Stability and Simplicity' consultation.

Discussion:

Question: How does 'stability' equate with an 80% cut in LFASS?

Answer: Only 20% cut is certain; an 80% cut is under discussion. No decision has been made at this time.

Question: There is a transition referred to in the consultation, 2019-2020 are shown as 'stability' on your slide. Mr Gove has said there will be a guaranteed income until 2020. Is SG guaranteeing this?

Answer: UK Gov has referred to "farm support" being guaranteed until 2020 but the definition of "farm support" is not clear. Pillar 1 is certain, Pillar 2 is not.

Question: Pillar 2 is very important. AECS has 5 year commitments. How will this work out? Will AECS continue after Brexit?

Answer: (provided after the meeting) For the SRDP, which includes AECS, the UK Government have guaranteed to replace the EU element of all contracts entered into by the end of 2020. This means that, where a contract is in place, the payments will not end in 2020 but be guaranteed for the lifetime of the project. This has allowed the Cabinet Secretary for the Rural Economy to announce this week that there will be a round of AECS in 2019.

<https://www.ruralpayments.org/publicsite/futures/news-events/environmentally-friendly-farming/>

Comment: in reference to the previous presentation, this transition and post-Brexit gives an opportunity to improve schemes for crofting.

4.3. SG, update on CAP payments and SRDP schemes: CAGS; CHGS, LFASS; AECS.

Achieving 95% payments target for Pillar 1 by 30 June.

Indicate that performance on Pillar 2 payments has improved relative to last year – payments for most schemes started earlier than last year, but acknowledge we aren't where we want to

be for all schemes yet, but aim to have completed the vast majority of payments for all P2 schemes by the end of the year.

Regret need to close the New Entrant Capital Grants scheme due to budget pressures – a victim of its own success in exceeding the budget allocated – but CAGS and Small Farms grant schemes remain open.

The Scottish Upland Sheep Support Scheme (SUSSS) opened for applications on Saturday 1st September.

Discussion:

Question: When does the loan offer for BPS come?

Answer: Loan offers are being made in batches once we have confirmed basic eligibility checks – this is the same approach as previous loan schemes. If you have received a loan offer and wish to accept it, an early response will enable us to make your loan payment as quickly as possible. Initial loan offer letters have carried a deadline of 28 September and responses received by then will enable loan payments to be made in early October. Loan offers will still be accepted after this date. The deadline relates only to a guarantee about receiving the loan payment in early October. Loan payments will continue to be made on a regular basis thereafter.

Question: In CAGS, is it necessary to provide Planning Permission and Building Warrant when applying to build a shed? Surely this could be seen as starting the work before approval?

Question: Glendale Common Grazings aren't eligible for CAGS - is there a way to make CG such as Glendale eligible, when they are the same as crofting CG, but aren't croft land due to a quirk of history?

Question: What is the definition of 'group' under CAGS? ie, is a 'group' 2 people, or 3 or more? Can the group be made up of crofters that are neighbours? Or a Common Grazing? Or crofters in a township? Or crofters from several townships? Does the work have to be on CG land or can it be on an individual croft, with an agreement drawn up?

The 3 questions on CAGS will be taken away and answered at the next meeting.

5. Crofting Law and Administration

5.1. Legislation

Michael O'Neill, SG Head of Crofting Bill Team, gave an update on crofting law reform, highlighting:

The Bill Group has met on 5 occasions to discuss issues that may be included on a Bill. Very helpful and informative discussion at these meetings. A wide range of issues being explored, ranging from quite substantive issues, such as how to deal with deemed crofts in the form of tenanted grazings shares, through to factual corrections identified in the Crofting Law Sump.

SG are in the process of examining the legal practicalities of the changes being explored. It may be that some of the issues that the CBG has been exploring involve quite complicated changes to legislation and are not appropriate for the sorts of change that might be envisaged in Phase 1.

The next Bill Group meeting is scheduled for next Tuesday. Papers relating to the Bill group meetings are posted on the crofting Bill webpage.

Phase 2. The Bill Group has discussed the approach it thinks would be most appropriate - that is to consider Phase 2 issues on a topic by topic basis. The first topic they wish to consider is Common grazings and a small working group will be considering strategic issues in relation to grazings and how current legislation fits with changes that may be required in the longer term.

The intention is to use this topic based approach to inform the potential approach to legislative change in future, that is whether a "clean-sheet" or further changes to current legislation would be the best way forward.

Discussion:

Question: who are you discussion common grazings with?

Answer: stakeholders, including representative organisations such as SCF and NFUS, legal representatives, Crofting Commission and so on.

5.2. Administration

Bill Barron, CEO of the CC, gave an update on Crofting Commission business highlighting:

Since the summer, there had been difficulties with a backlog of regulatory work, and consequent delays, caused initially by rapid turnover of regulatory staff. The Commission has taken action to recover the position, and timescales had begun to improve. Bill thanked crofters, agents, solicitors and stakeholders for their patience during this difficult period.

The Crofting Commission Board has agreed the way it will implement the role of 'promoting the interests of crofting' at its Board meeting on 28th June and in discussion with the Cabinet Secretary on 29th June. As part of this, the Cabinet Secretary has asked the Commission to work more closely with HIE, and he announced this formally on 2nd August, at the Commission's stall at the Black Isle Show.

The Commission are taking an active role in Phase 1 of the SG-led work to reform crofting legislation, and intend to play a strong role in the longer-term Phase 2 discussions as well.

The Commission has published Gwyn Jones's report on 'Support for Crofting' in July, which is hoped is a helpful contribution to that debate. The Commission has also submitted their own response to the SG consultation 'Stability and Simplicity'.

The CC Board are continuing to emphasise the importance of being accessible to the crofting public, and are looking forward to their upcoming visit to Caithness and Orkney, which will include evening public meetings in Thurso and in Kirkwall, as well as the Board meeting itself, in Kirkwall on 3rd October.

Discussion:

Question: are there specific issues clogging casework?

Answer: the backlog is across-the-board but the main ones that get stalled are decrofting and assignation; they need much more deliberation.

Question: when there are whole croft decrofting applications why is there not wider consultation? The commission are not allowing crofting communities to participate.

Answer: This is probably referring to a specific case, there are lots of letters. We have had a look at case law regarding township boundaries, and the act says who can contribute objections and who the crofting community is defined as. We have to operate within the law. However, the definition of crofting community is being looked at by the CBG.

Comment: comments on decroftings should be sought from a wider net of crofters.

Comment: trying to combine regulation of land under ownership with land under tenancy will always be difficult. The crofting commission are doing well, it has to be said.

Question: how has the commission staff and funding available to do more promotion work when there is a backlog in casework which would indicate a lack of resources?

Answer: we prioritise core processes, but need to balance with taking crofting forward.

6. AOB

1. SCF is holding an event 'The Spirit of Crofting' 5th/6th October in Rothes. There will be an awards ceremony for New Entrant Crofter of the Year and Young Crofter of the Year, plus talks, visits and demonstrations.
2. The derogation that allowed crofters to burn silage bale wrap has been stopped; this means that crofters can no longer burn it, but there has been no provision put in place to dispose of it. What are crofters supposed to do with it?

Action: a letter from the CPGoC to SEPA(?) asking for clarification on provision for disposal of silage bale wrap.

7. DONM.

09 November, GGH, Inverness

i **Acronyms:** AECS Agri-Environment Climate Scheme; AF Assynt Foundation; CAB Citizens Advice Bureau; CALLP Coigach Assynt Living Landscape Partnership; CBS Community Broadband Scotland; CC Crofting Commission; CAGS Crofting Agricultural Grant Scheme; CCx Crofting Connections; CFS Care Farming Scotland; CHGS Croft House Grant Scheme; CLG Crofting Law Group; CLS Community Land Scotland; CnES Comhairle nan Eilean Siar; CRSF Crofting Register Stakeholder Forum; CWA Community Woodlands Association; DEFRA UK Gov Dept. for Environment, Food and Rural Affairs; EC European Commission; ECCLRC Scottish Parliament Environment, Climate Change and Land Reform Committee; EFNCP European Forum for Nature Conservation & Pastoralism; FCS Forestry Commission Scotland; FFRWG Freight Fares Review Working Group; HIE Highlands & Islands Enterprise; HSCHT Highland Small Communities Housing Trust; JHI James Hutton Institute; LANTRA Land-based & Environmental Industries Training; MSP Member of the Scottish Parliament; NDPC National Development Plan for Crofting; NFUS National Farmers Union Scotland; NGMRG National Goose Management Review Group; NISR Newcastle Institute for Social Renewal; NRMHF National Rural Mental Health Forum; NS Nourish Scotland; NTS National Trust for Scotland; RECC Scottish Parliament Rural Economy and Connectivity Committee; RoS Registers of Scotland; RSABI Royal Scottish Agricultural Benevolent Institution; RSPBS Royal Society for the Protection of Birds Scotland; SAA Scottish Assessors Association; SAC consulting arm of SRUC; SAS Soil Association Scotland; SCF Scottish Crofting Federation; SCFYC SCF Young Crofters; SCRG Scottish Churches Rural Group; SCVO Scottish Council for Voluntary Organisations; SFT Sustainable Food Trust; SG Scottish Government; SGCLSG Scottish Government Crofting Legislation Stakeholders Group; SGCSF Scottish Government Crofting Stakeholder Forum; SGRPID (RPID) Scottish Government Rural Payments and Inspections Directorate; SLE Scottish Land & Estates; SNH Scottish Natural Heritage; SPICe Scottish Parliament Information Centre; SRA Scottish Rural Action; SRN Scottish Rural Network; SRP Scottish Rural Parliament; SRUC Scottish Rural (University) College; SHS Small-Holder Scotland; THC The Highland Council; UHI University of Highlands and Islands; WCP Woodland Crofts Partnership; WTS Woodland Trust Scotland.