

CROSS-PARTY GROUP on CROFTING
Meeting 16 of Parliamentary Session 5
Great Glen House, Inverness
Friday 09 November 2018 at 11.00

MINUTES

Present:

Rhoda Grant MSP ⁱ (Convener)	Liz Barron-Majerik LANTRA Scotland
Patrick Krause SCF (Secretary)	Anne Campbell CALLP
Maria de la Torre SNH	Arthur MacDonald SCF/NFUS crofting
Bill Barron CC	Donna Smith CC
Rhona Elrick RoS	David Campbell CC commissioner
Richard Frew RoS	Murray McCheyne SLE
Michael O'Neil SG	Rod Mackenzie CC
Gordon Jackson SG	John Toal CC
Neil Ross HIE	Alex Munro crofter
Billy Neilson CC commissioner	Uilleam Smith SCF
Yvonne White SCF	Joseph Kerr CC
Russell Smith SCF	Mairi MacKenzie CC commissioner
Lorna Murray NRMHF	Edward Mountain MSP
David Finlay CC	Murdo MacKay CnES (by VC)
Eleanor Garty WTS	
Eilidh MacLellan crofting law consultant	

1. Welcome and Apologies

The convener welcomed everyone and tendered apologies from her co-conveners Tavish Scott MSP and Alasdair Allan MSP.

Apologies were also received from:

Gail Ross MSP; Emma Harper MSP; Fiona Mandeville SCF; Brendan O'Hanrahan SCF; James McPherson SCF; Brian Inkster CLG; Siobhan MacDonald SAC; Sandy Murray NFUS; John Scott MSP; Rosemary Champion SHS; Janette Sutherland SAC; Ross McLaren SCRG; Jamie McIntyre WCP; Donald Crichton CnES; Donald Meek crofter; Stephen Sandham SG; 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; Michael Nugent SG; Claudia Rowse SNH; Lucy Sumsion NFUS.

Thanks were given to SNH for hosting this meeting.

2. Minutes of previous meeting

The minutes of the previous meeting held on 21 September were approved.

3. Matters Arising

None

4. Biodiversity Strategy

Maria delaTorre, Agriculture and Land Use Policy, SNH, gave a presentation on '**The Scottish biodiversity strategy and crofting**', highlighting:

An opportunity to understand how the work in Scotland on biodiversity contributes to international goals, and look at the contribution that crofting makes to the Scottish Biodiversity Strategy.

The international context: the current programme for government seeks to embed the United Nations' Sustainable Development Goals - environmental challenges are deeply connected to our economic and social wellbeing. The current Convention on Biological Diversity (CBD) from October 2010 sets 20 global targets, known as the Aichi Biodiversity Targets - 10 year cycle up to 2020. Aim of halting biodiversity loss and degradation of ecosystem services.

Strategic goals: (a) mainstreaming biodiversity across other policies, (b) addressing pressures on biodiversity and promoting sustainable land use, (c) safeguarding ecosystems and species, and (d) improving participation and protecting traditional knowledge. These goals cover 20 specific targets that have been translated at a Scottish level.

The Scottish Biodiversity Strategy: The current Scottish Biodiversity Strategy -*The 2020 Challenge for Scotland's Biodiversity* was published in 2013. The *Route Map to 2020* (2015) sets out six 'Big Steps for nature' and identifies the large-scale collaborative projects that are need to contribute to these targets. SNH is the lead agency for the SBS. The Strategy and Route Map have a wide relevance, delivered by a whole range of partners too across the public, private and third sector. The EU Natura Directives and our protected areas play an important in delivering the biodiversity strategy as they focus on the most threatened species and habitats across Europe.

SNH publishes annual reports on progress with the 20 targets. The last published report in 2017 was the *Scotland's Biodiversity: Progress to 2020 Aichi Targets Interim Report 2017*. The final report will be published in 2019.

Crofting's contribution to the SBS: There are a number of areas where crofting contributes towards the Aichi targets:

A - High Nature Value Farming – crofting's extensive practices are associated with the largest area of HNV farmland in the Highlands.

B - Conservation of priority species – crofting practices contributed to the conservation of priority species such as corncrakes.

D- Traditional Knowledge – traditional crofting land management practices recognised in the targets.

C - Key international habitats - include:

- Peatland - The Flow Country Peatland is the largest expanse of blanket bog in Europe. Peatlands are a key priority for carbon sequestration and nature benefits. Scotland leading in good practice in some of the peatland restoration work.
- Machair – is a rare habitat with a very restricted world distribution to about 25,000 ha, with 17,500ha in Scotland and the remainder in western Ireland. Machair is a living landscape.
- Dry and wet heath – a great proportion of the EU habitat is in the UK and associated with grazing systems.
- Semi-natural grasslands.

Challenges and opportunities: Overall decline in certain practices and pressures such as pollution play an important role in terms of agriculture. In the Route Map, one of the priorities identified is the 'Sustainable management of land and fresh water ('Big Step 5'). Worth noting

the Scotland Rural Development Programme (SRDP) - the Agri-environment and Climate Scheme, targeted to benefit priority species in greatest need of conservation action; and significant public funding to the Farm Advisory Service which includes conservation.

Looking ahead: a post 2020 global framework on biodiversity will be adopted in Beijing, China in 2020. In Scotland next year preparations towards the next Biodiversity Strategy will start. Important to maintain the momentum to deliver the current Strategy. A £2M Biodiversity Challenge Fund was announced in the Programme for Government to help meet key Aichi targets.

The main documents for further detail are the [2020 Challenge for Scotland's Biodiversity](#) and <https://www.gov.scot/publications/scotlands-biodiversity-route-map-2020/>

Round-table discussion:

Question: what are SNH ideas on support for agriculture in Highlands and Islands?

Answer: decisions on support for Agriculture is wider than just SNH, however agri-environment schemes and HNVF will need support for the future in these areas. SNH don't have a formal position but may do when the future framework is established.

Question: there are opportunities; are we as a nation transitioning to better systems for example organic, low intensity Agriculture...?

Answer: the EU recognition of HNV farming is important: in the past there was too much emphasis on intense Agriculture, on increased production at any cost. This has changed but we need incentives to move to a better way of producing food.

Question: in regards to common grazings and their condition, does SNH have specific information on croft land and on designated sites?

Answer: yes, on designated sites, but not so much on common grazings in general unless they are under a scheme. Livestock grazing pressure use to be more of an issue affecting condition of upland sides but this is improving now. Fire is becoming more of a problem with its associated loss of carbon.

Question: tourist income is very important to Highlands and Islands, people want to visit interesting landscapes. There are something like 1500 applications funded under AECS, around £148 million; what is the geographic distribution of this money, is it spread evenly or is it awarded to those who are more successful in form filling? Smaller units such as crofts can find it harder, more challenging to apply. Big units and businesses have consultants doing the applying for them.

Answer: the challenge of the schemes is that they cover all of Scotland, which has different needs and different agri-systems. Scottish government have figures on distribution. The schemes aim to target priority species, many of which are in crofting areas. The points system has been changed to try to be more inclusive and to help smaller applications.

Comment: it seems that less and less crofters are being successful in getting into schemes, the schemes seem to be set up to favour large businesses and consultants.

Answer: we will feed this back to Scottish Government.

Comment: there seems to be funding for diversification; there should be funding for traditional crofting as that seems to have the most environmental benefits.

Question: is it recognised that wild geese have a negative impact on biodiversity? If so, can recommendations be made?

Answer: there is no easy solution; yes there is a challenge between species and those impacted but there are international rules that have to be taken into account. We have to find the right balance.

Comment: the CAP pillar one is based all on land value and production; it needs to be used to pay for public goods, for ecosystem services.

Question: what is the take-up of the Farm Advisory Service by crofters and which part of it do they use?

Answer: the FAS is quite popular with crofters; Scottish Government will get figures.

Action: Gordon will get figures on crofter uptake of FAS.

[Post-meeting note: Crofters Using The Farm Advisory Service – 2018/19 year to date figures:

- 457 crofters (and others with an interest in crofting) have attended 22 discussion groups.
- Crofter subscription service - 1,567
- One to many workshops - 163 people have attended eight crofting and small farm events to date this year. Over and above this, crofters will have attended workshops on general topics but attendance is not recorded separately. Similarly, crofters accessing and using the national advice line are not recorded separately.
- Integrated Land Management Plans (ILMPs) - 15
- Specialist one-to-one advice - 24
- Carbon Audits - 10
- Mentoring - 9

Note: There is an opportunity for many more crofters to benefit in particular from the ILMPs' specialist advice, carbon audits and mentoring.]

Comment: crofting is contributing to better practice in food production; Scottish government produced a paper on Good Food Nation and there was the intention to produce a Good Food Nation bill in this parliamentary session.

We should get somebody to a future meeting to talk on Good Food Nation. *Agreed.*

Action: Sec to arrange a speaker on GFN.

Comment: people are recognising that land needs to be looked at differently.

Answer: the CAP is moving away from historic and production payments and moving towards environmental protection and payment for public goods.

Question: who is looking at this for Scotland?

Answer: James Hutton Institute.

Question: Could we get somebody from JHI to talk to the group? *Agreed.*

Action: Sec to invite JHI to meeting.

Comment: the valuation of land needs to be treated with caution. Agricultural land needs to be protected.

Comment : higher production land gets higher support payments! This can't be the best use of public money. Support should reflect public goods.

Comment: the valuation of agricultural land is based on the capacity to produce food; there is no target to include the value of the environment.

Comment: the system is skewed against lower producing land even if it is high nature value.

Comment: common grazings produce wages for people, they are keeping people on the land and in communities. Subsidies? This money is distributed in communities. Industrial agriculture

benefits less people. Small-scale agriculture encourages people, it brings skilled people working the land.

Question: there are less young active crofters, people are abandoning the land. Can the system help prevent land abandonment that affects biodiversity?

Answer: looking ahead the entitlement system is a not easily accessible to new entrants and LFASS could be replaced with a more appropriate Areas of Natural Constraint scheme.

5. Crofting Legislation Reform

Michael O'Neill, SG Head of Crofting Bill Team, gave a presentation on progress with crofting law reform, highlighting:

The Crofting Bill Group (CBG) has met 7 times and consists of representatives from SCF, NFUS, SLE, Crofting Commission, Crofting Law Group, SNH, SAC, Scottish Land Court, COSLA, Highlands and Islands Agricultural Support Group, Western Isles Council, HIE, Registers of Scotland and Community Land Scotland. Thanks to all participants, the significant draw on time and resources is appreciated.

Phase 1. 47 issues have been discussed, ranging from relatively simple to very complex. Papers can be found on the website:

<https://www2.gov.scot/Topics/farmingrural/Rural/crofting-policy/Crofting-legislation/CroftingBillGroup-papers>.

Issues are made up of those raised in Crofting Law Sump, Rural Economy and Connectivity Committee's Report, Consultation and items identified by stakeholders. Some issues can be dealt with administratively – rather than legislatively.

Some examples of straight-forward changes include Duty of Common Grazings Committees to Report; Requirement for annual notification, First registration of croft upon purchase following Right to Buy croft from landlord; Requirement to enter name, age and date of birth of the tenant and landlord of each croft on Register of crofts.

Some examples of more complex issues include Decrofting for a "reasonable purpose" vs "non-reasonable" purpose; Power for the Crofting Commission to grant owner-occupier crofter status in particular circumstances; Power for the Crofting Commission to undertake minor adjustment of a croft boundary.

Complex changes include Deemed Crofts, where the SLC interpretation causes difficulties and, it has been said, 'brings crofting law into disrepute'. The aim is to stop separation of grazings shares in Phase 1 and we will look at reattachment in Phase 2. Also the ability to enable croft lease/tenancy to be eligible for Standard Securities; a model has been developed and SG is talking to banks. Stakeholders are happy with the approach.

Phase 2. Issues on a topic by topic basis, looking at best approach to legislative change in future, i.e. "clean-sheet" or further changes to current legislation. Common Grazings Group met on 28 October, they considered the approach to legislative change in Phase 2 should be "simplicity, predictability, security". Paper being drafted following the meeting for presentation to the CBG.

Timetable: The decision on the timing of a Bill will be taken by Cabinet in the context of the Scottish Government's other legislative priorities. The bill team is continuing to work through legislative policy instructions with Scottish Government Legal colleagues. Phase 2 work will continue on Common Grazings and will begin exploring other topics.

Round-table discussion:

Question: can you clarify the timetable?

Answer: phase 1 will take place in this parliamentary session, phase 2 in a future parliamentary session. Administrative changes will be ongoing. About 25/47 will be in phase 1.

Question: will SG be publishing these?

Answer: we are looking at how best to get the information out but we will do this as soon as we can.

Question: can any of the more complex issues be dealt with in phase 1, for example deemed crofts?

Answer: we will make what changes we can in phase 1 but some will have to go into phase 2.

Question: in the common grazings group what do they mean by "predictability"?

Answer: they mean predictable outcomes from legislation.

Question: when will there be confirmation of what issues go into phase 2?

Answer: we are still working on the complex issues to see what can be resolved in phase 1 or what needs to go into phase 2. We will then form topic groups for the more complex issues.

Question: is the legislation reform working together with the National Development Plan for Crofting?

Answer: the NDPC is an ongoing development which will be delivered more in the short term. Legislation reform is more specifically timetabled to phase 1 and two. We will have an update on the NDPC at the next meeting.

Action:SG to update next meeting on NDPC.

Question: are you confident that this bill will get through this Parliamentary session?

Answer: there is no reason to not be confident.

Comment: I ask because the last bill was too compressed, it was hurried through.

Question: will the decision be made now on phase 2 whether it will be a clean sheet or amendment to legislation?

Answer: we will be looking at issues topic by topic, it will then become clearer whether a clean sheet or amendment approach is the most appropriate.

6. Crofting Administration

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

1. The Commission has continued to work to reduce the backlog and is monitoring the position closely. Management statistics continue to show steady improvement. In addition to this the backlog of non-assigned cases has gone.

2. CC recently held public meetings in Thurso and in Kirkwall. They were very valuable and gave a change of perspective to the CC. The things heard were exactly what the crofting bill team have highlighted. CC will next be going to Lerwick on 20th November, for surgeries on the 21st and Registers of Scotland meeting on the 22nd which the commissioners will join. We intend to visit Skye before the end of the year.

3. Cabinet Sec Fergus Ewing asked CC and HIE to work together on crofting development. A meeting was held which was very positive. Depopulation is top of both organisations' lists. HIE looks at all communities, CC at crofting. Four topics were considered that the two organisations can work on together:

1. Contributing to policy formation;
2. Space placed working (geopilots);
3. The economic question, how do crofters connect?;
- 4 community land ownership, the democratisation of land use.

Round-table discussion:

Question: how is the registration of common grazings going?

Answer: it is parked. There are complexities that were not thought through, plus a resource issue. Some of those that were mapped are now coming back with inaccuracies and queries. We want to think through again how to do it.

Question: can you establish where an acceptable level of outstanding casework is; the ideal of course would be zero, but what is acceptable?

Answer we are looking at the detail more now, of the system and the process, so that we can establish what an acceptable level is but more importantly that we bring it down as much as is practical.

7. Crofting Support

Gordon Jackson, Head of Agricultural Development and Crofting, SG, gave an update on agricultural and crofting support schemes, highlighting:

- 88% of RPID customers are now submitting their SAF on-line and able to view information on-line.
- 90% of all Pillar 2 payments have been made. RPID aims to complete the vast majority of the remaining Pillar 2 payments before 31 December.
- 2018 Basic Payment loan offers have been made to 17,439 customers providing up to 90% of their anticipated CAP payment.
- By 2 November over 13,056 farmers and crofters received their loan payments worth around £304 million. For those that have not yet responded to their loan offer letter, particularly crofters, they are encouraged to do so.
- For the relatively small number that have yet to be made an offer of a loan, officials are working hard to address issues, such as eligibility

CAGS

The target is to process all eligible claims for CAGS grant within 90 days. For the current calendar year, and as at 31/10/2018, 66.59% of claims have been paid within 90 days. This is recognised as an issue and steps are being taken to remedy the position. Firstly, arrangements are now in place to clear all the outstanding Manual Payments for CAGS by 30 November 2018. Once this exercise is completed, all payments will be made electronically through APEX (an IT system). APEX went live on 1 October 2018 and payments can now be made through the system instead of being paid manually. This is expected to improve efficiency.

Feedback on questions on CAGS from last meeting:

1. 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?

Answer: Yes, applicants do have to present evidence of a building warrant and planning permission, where planning permission is required. Where exempt from planning permission evidence of this needs to be provided, unless agricultural buildings are less than 465 m² - as these buildings have automatic permitted development rights. Undertaking work to secure a building warrant and planning permission does not invalidate applications for CAGS grants and such work is not eligible for CAGS funding.

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

Answer: North Glendale Common Grazing (465/0988) is understood to be owned by a number of townships and were eligible for funding until May this year. Indeed, the Grazings Committee received a CAGS grant in 2016. The reason for rejection of the application received in August 2018 was because the Grazings Committee was reported to have gone out of office on 27 May 2018 and no longer listed on the Register of Crofts. If the committee reconstitutes itself it will be eligible for grant once more.

[Post-meeting note: Further enquiries reveal that the owners of the "Glendale holdings" are not crofters. The Glendale estate was purchased by the Commissioners of the Congested District Board in the early part of the 20th century and then sold to the crofters, who as part of the sale accepted that they would lose their crofting rights.

In terms of eligibility for grants, Section 46 of the Crofters (Scotland) Act 1993 entitles the Scottish Ministers to make financial assistance available to owners of holdings such as the Glendale if their holdings meet the statutory limitations (rent value and extent) and they are "owned by a person who in the opinion of the Scottish Ministers uses his or her holding in a

way which is substantially the same as that of a crofter". The "like economic status" test referred to was repealed in 2007 and replaced with the above test.

The current CAGS secondary legislation excludes such people from financial assistance, but the underlying primary legislation empowers the Scottish Ministers to provide financial assistance to owners of holdings such as the Glendale holdings. It would be helpful to know whether there would be any appetite amongst crofters and/or crofting stakeholder organisations to any new scheme being opened up to non-crofters.]

3. What is the definition of 'group' under CAGS?

Answer: A group needs to consist of 2 or more parties who must be crofters. The group needs to be constituted. Furthermore, the group needs to have control of the land on which the capital investment is made.

Round-table discussion:

Comment: the term "loan" puts people off, especially older crofters.

Question: if a crofter doesn't sign up for a loan how much longer will it take to get payment?

Answer: it is in effect an advance payment, but we are not allowed to call it that; so if the advance is not taken I don't know how long it would take to get "the payment".

[Post-meeting note: RPID report:

In line with the previously published CAP payment schedule, we anticipate starting 2018 Basic Payment Scheme (BPS) payments in March 2019. Therefore crofters, like our other customers, can expect to see full BPS payments starting to arrive from March onwards. This will comprise the 10% balance payment for those taking out a BPS loan or 100% payment for those not taking the loan.

Again in line with the payment schedule, we anticipate that at least 95% of all BPS payments for farmers and crofters will be completed by the end of June 2019. Obviously we cannot give a precise indication of when individual payments will be paid.]

Question: the government consultation "stability and simplicity" closed a long time ago, when will we get the analysis and feedback on the Scottish government position?

Answer: I don't have the timetable but will find out.

[Post-meeting note: The consultation analysis is now available:

[\[Link - Stability and Simplicity Consultation Response Analyses\]](#)

Comment: even if manually processed, CAGS sometimes goes through very quickly.

Comment: crofters are put off by having to put money out then wait often many months to get their claim paid why not just pay the supplier?

Answer: assignation of the grant to a supplier is not allowed under EC rules and even if it was, it just transfers the problem to the supplier.

Question: why is it taking so long to pay claims?

Answer: partly because of it being a manual system, sometimes claims are complex sometimes dispersed. Bringing it all together on APEX, one automated place, will help a lot.

Question: the New Entrants Scheme has closed, will it reopen?

Answer: the scheme was oversubscribed and the budget used up. If there is a surplus anywhere else in SRDP it could be used.

Comment: despite its problems, CAGS is still very popular, it is a very good scheme, very important to crofting; without it crofters couldn't improve, we needed to go forward. *Agreed.*

8. AOB

1. Secretary was to write to SEPA regarding plastic bale wrap disposal.

Answer: sec will circulate the answer from SEPA. Rhoda Grant MSP has put a PQ in on this subject.

2. Anne Campbell, Crofting & Rural Projects Coordinator with Coigach and Assynt Living Landscape Partnership (CALLP), gave a short introduction to the CALLP crofting project, highlighting:

CALLP: 14 partners, including

- land managers,
- private/public landowners,
- conservation groups,
- development trusts
- heritage organisations

28 projects one of which is the Crofting Project. CALLP largely funded by Heritage Lottery Fund which supports natural, built and cultural heritage: crofting comes under all three.

It is agreed by government and its agencies that crofting is the way to manage land in the fragile communities of the Highlands & Islands. Crofting encourages:

- Population retention
- Entrepreneurship
- Healthy environment

The crofting coordinator post is to 'maximise the opportunities available to crofting'

- Facilitator, accessing advice and support from government agencies
- Bring training opportunities (LCD with SCF)
- Show what other people are doing in similar situations
- Set up two demonstration crofts in Coigach and Assynt
- Experiment with new ideas

Crofting is made up of tiny parcels of land that are as agricultural units

- Remote
- Difficult climate
- Poor soil
- Difficult topography

Crofting has in the past has been associated with poverty and poor quality of life and agriculture. Now it is seen as high quality and good for the environment and we should build on that.

7. DONM.

12 December, Edinburgh

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; GFN Good Food Nation; 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.