

## **CROSS-PARTY GROUP on CROFTING**

### **Meeting 27 of Parliamentary Session 5**

**Tuesday 16 March 2021 18.00 by Zoom**

#### **MINUTES**

##### **Present:**

Russell Smith (chair)	David Campbell CC
Rhoda Grant MSP <sup>i</sup> (Convener)	Sandy Murray NFUS
Beatrice Wishart MSP (Co-convener)	Stephen Varwell
Patrick Krause SCF (Secretary)	John Toal CC
Gwyn Jones EFNCP	Brian Inkster CLG
Alan Dron PS	Abigail Campbell CALL
Donald MacKinnon SCF	Maria de la Torre N-S
Gordon Jackson SG	Rosemary Champion
Bill Barron CC	Christina Noble JHI
Donald Murdie	Andrew Holt CC
Heather Mack CC	Donald Meek
Siobhan Macdonald SAC	Duncan Gray
James McPherson SCF	Mairi Mackenzie CC
Murray McCheyne SLE	Malcolm Mathieson CC
Zoe Meldrum NFUS	John N Macleod CnES
David Findlay CC	Kate Fry SP
Richard Frew RoS	Sandra Lindsay SCF
William Neilson CC	Fiona MacKenzie UHI
Darren Laing BBC	Fiona Mandeville SCF
Ross Lilley N-S	Murdo Mackay CnES
Rhona Elrick RoS	Liz Barron-Majerik LS
David Muir SCF	Jamie McIntyre WCP
Janette Sutherland SAC	Philip Coghill SP
Andrew Connon NFUS	Yvonne white

##### **1. Welcome and Apologies**

The chair welcomed everyone and explained that he was standing in for the conveners as they needed to be able to leave temporarily to vote. Apologies were received from:

Emma Harper MSP; John Scott MSP; John Finnie MSP; Graeme Dey MSP; Donald Cameron MSP; Alasdair Allan MSP; Edward Mountain MSP; Angus MacDonald MSP; Gail Ross MSP; Malcolm Burr CnES; Eleanor Arthur SCF; Michael Nugent SG; Aileen Rore SG; Maria Scholten SCF; Neil Ross HIE; Rod Mackenzie CC; Robin Haig SCF; Stephen Leask SIC; Eleanor Garty WTS; Leanne Townsend JHI; Roz Corbett LWA; Miranda Geelhoed LWA.

##### **2. Minutes of previous meeting**

The minutes of the previous meeting held on 26 January 2021 were approved.

##### **3. Matters Arising**

None

#### 4. Crofting Support

Gwyn Jones outlined how a results-based approach works for agri-environment support schemes. His slides have been distributed. The main points included:

The pilot has been funded by NatureScot and Outer Hebrides Leader.

- Payment is based on level of achievement of 'results' or 'outcomes', not just obeying/not breaking rules
- Usually based on a scorecard approach with criteria that are easy to understand and measure and replicable over a reasonable part of the year
- Results-based payments are not appropriate on their own if things are not amenable to change or change is likely to take a very long time
- RB payments work best as part of a toolbox, underpinned by basic rules and perhaps complemented by action-based elements and supported by 'capital works' payments - within a framework of affordable advice
- The current AE approach is sub-optimal - only delivering for some things - rules are everything. This is very un-empowering/disrespectful of participants
- Sense that a results-based/payments for outcomes approach might deliver better in some circumstances; it would change the participant/Government relationship and mobilise the participants' skills/experience and motivate/engage them better
- In the case of common grazings, free them up from difficult long-term consent issues
- Proven success in other places – many schemes in Ireland.
- Growing interest in EU; impetus to re-examine policy due to Brexit
- Obvious challenges/known unknowns
- If it will be one of the tools in the box, needs development, esp. for common grazings

*Roundtable discussion:*

Question: would this be in addition to BPS?

Answer: Yes

Comment (NS): the NS POBAS (piloting-outcomes-based-approach-scotland) project has come a long way and is testing widely – both geographically and systemically. The score cards will continue to be tested over the next couple of years. There will be a participants payment. This is being fed into the Hills, Uplands and Crofting Group (HUCG).

Question: This seems to be habitat-based; do we get marked down if, for example, corvids keep the wader population down?

Answer: There would be a habitat element but also the scheme has to be realistic – it focusses on results.

Question: If you are on a sub-let, you enter the scheme of say 5 years and the sub-let is terminated at 6 month notice, are you in breach?

Answer: this is an annual scheme – payment by result reassessed annually. It does need future commitment but termination of tenancy would presumably be *force majeure*. It works in Ireland.

Question: The pilot is great – it puts power into the hands of the land manager. Advice and support will be needed – will this be FAS?

Answer: the Irish have sort of created their own RDP which includes knowledge transfer, support etc. It is not just the measure itself it is the whole way of doing it – the Irish government is very open to this. In contrast, Scotland has limited subscription-based schemes and commercial companies giving the advice; this is not the right track – SG officials need to visit Ireland to see how to do it.

Question: some practical measures take capital investment by the land manager – for example peatland restoration. You are not necessarily sure of the end result. If it doesn't meet the criteria will you still get paid?

Answer: In the projects that exist it works well with – alongside - capital grants schemes. Peatland is a good example where a well-thought through package can work. The application process in Ireland is really simple.

Question: is this project being looked at by HUCG?

Answer: HUCG hasn't reported yet, but yes, it is being included.

Chair: it would be good to see this come back to future meetings. **Agreed.**

## **5. Crofting Development**

### **I. Public access to croft land**

Inspector Alan Dron, Police Scotland National Rural Crime Co-ordinator, gave the police perspective on issues caused by public access to croft land. The main points included:

Alan's team facilitate the Scottish Partnership Against Rural Crime (SPARC), which has 7 priorities, one being livestock attack and distress; are trying to raise awareness and understanding of this – we are the only place in UK that refers to livestock attack and distress rather than 'worrying'. SPARC has also been supportive of Emma Harper's bill, which should get final reading on 24<sup>th</sup> March and will be enacted around October.

There clearly are not enough deterrents to stop owners letting their dogs attack and distress livestock. It happens every day. Scotland has lowest reported rate in UK (NFU Mutual figures) but PS also do more to raise awareness than any other part of UK. Also under-reporting is an issue.

PS gets reports every day and are improving response, getting more prosecutions and raising awareness via media – this is something everyone needs to help with. SPARC introduced simplified guidance some years ago to make it easy to understand what can and cannot be done in the countryside.

There was a 13% drop in livestock attacks last year – against previous year – and breakdown changed; 'latch-key' dogs (dogs left alone all day) used to be the biggest culprit but last year this reversed – understandably due to more owners being at home due to covid. Expect a spike after easing of restrictions on 26 April. SPARC are planning a national campaign in the summer.

Access is not normally a police matter – local access officers deal with this – but last year PS inundated with reported confrontation issues – people taking access where they shouldn't, 'right to roam' bandied about rather than taking responsible access.

There is a lack of common sense on the National Access Forum (NAF) – biased towards taking access and not balanced with rights of landowners/managers. Need to redress the balance and raise awareness of what access actually is under the 2003 access act. The Scottish Outdoor Access Code book is very good but people need educating.

Going forward: SPARC is increasing influence; met with Cab Sec Environment regarding fly-tipping; making a presentation to Cab Sec Rural Economy Mr Ewing on Friday regarding visitor management. As restrictions lift how we manage visitors to Scotland this year and years to come is key. There was a first summit in September under Mr Ewing looking at fly-tipping, irresponsible access, unacceptable behaviour, 'dirty camping', parking – this is a big problem especially in hotspots such as NC500. Increase in funding to Rural Tourism Infrastructure Fund will help to improve facilities and infrastructure. PS are writing their own visitor management strategy.

Visitors offer opportunities, but need to get balance right, ensuring facilities for visitors and that they behave responsibly.

*Roundtable discussion:*

Comment: some days there are no police on duty in the county of Sutherland – it takes 2 hours to cross the county.

Comment: 'wild camping' is a problem in Argyll – left rubbish, including tents, toilet waste etc.  
Answer: this is gathering pace throughout Scotland – where people are pitching, lighting fires, leaving rubbish and so on. We need evidence – please photograph occurrences. There is a 'festival brigade' – they leave everything including tents and the 'pooh-tent'. Livestock are getting ill eating plastics. We really need photos.

Question: do we have the legal right to say "go"?

Answer: its your land ultimately so if they are acting irresponsibly then yes. But if there is an issue get the police.

Comment: this has been an issue a long time – dogs on leads near livestock has been the advice for years but people still flout it. There seems to be no progress.

Answer: many question whether the code should be changed; there is reluctance. New guidance will be to simply stay right away from areas where livestock are or may be. Crofters can put up relevant signage – change it at different times of the year so its fresh and relevant.

Comment: include SCF – crofting is more than 10% of the land area.

Answer: SCF will be invited to join SPARC.

Comment: NFUS having discussions with HSE about where cattle can go in regards to where people have access rights - we need to balance access rights with livestock management.

Comment (response): that sets of alarms – whether there can be cattle where there are rights of access? It is the other way – should there be access where there is the right to have cattle. Crofters have grazings rights – end of. These rights come first. Its up to folk to comply with grazing rights.

Comment (response): just meant that there have been fatalities in England.

Comment (response): totally different situation in Scotland.

Comment (NS): The new bill / act will help with this. Signage making clear rights and responsibilities. We are trying to balance the rights of access with rights of land managers.

Question: who is liable for damage to livestock? If I am liable if someone hurts themselves on my land – are they liable if their dog attacks my animals?

Answer: liability is about taking reasonable precautions – you are not liable if you have put up warning of livestock and folk chose to ignore it. Same if they chose to ignore and let dogs off lead near livestock – they will be responsible for damage. It's a common sense approach.

## **II. National Development Plan for Crofting**

Gordon Jackson reported that the NDPC will be published Thursday 18<sup>th</sup> at 0900. There will be a press release and the plan will be found on the SG website.

## **III. Access to Crofts**

Donald MacKinnon, SCF, reported on the SCF 'Access to Crofts' workshops that were held recently. The main points included:

Based on a key point made in the young crofters' gathering last year – access to crofts being a major issue; organised a workshop to look at solutions. Overwhelming response, so two sessions needed. The interest is very encouraging, but also shows the scale of the problem.

The key points coming from the workshops were:

- There is existing regulation but there seems to be a problem with implementing it? So resource the regulator adequately.
- A lot of enthusiasm for the crofting development function of the CC, and the potential of the WI roles.
- Need to create links between the ex-crofter and potential incoming crofter – a 'croft matching service'. It is important to make the relationships.
- Crofting law reform urgently needed – address the problems identified in 'The Sump'. Prepare a bill early in the next parliament. Look at how changes in the law can address access to crofts.
- Ease the process of creating new crofts on private, community, public estates.
- Address the need for finance – loans.
- Increase supply of crofts – can lead to lower prices. Should there be more control on the market?

*Roundtable discussion:*

Comment: who is selling the crofts at high prices? Crofters are benefitting. They can't have it both ways.

Comment: objection – assignments have to be approved by the CC. an incomer with lots of money and no background in crofting or intention to croft should not get a croft. The CC are letting this happen. The system is unregulated.

Comment (response): we don't approve assignments and owner-occupied crofts are not regulated.

Comment: You are confused. Assignment is controlled by the CC. Owner-occupied crofts are regulated, but the sale of an o/o croft is not.

Comment: I don't agree with these wild prices – the market is there though. Regarding finance, I wouldn't recommend anyone gets into debt to buy a croft. CC must be able to stop the rich people who don't intend to croft from buying crofts.

Comment (CC): CC don't have knowledge of sale of o/o crofts. Regarding creation of crofts, why restrict to H&I? Spread out crofting legislation across Scotland.

Question: we always encourage people to come into crofting – what incentive is there to give up a croft?

Answer: outgoing crofter is entitled to compensation for permanent improvements, by law.

Chair: this will have to be continued next time.

## **6. Crofting Administration**

Bill Barron gave an update on the work of the Crofting Commission.

Rod MacKenzie and Bill Barron gave a presentation to the Convention of Highlands and Islands recently. The CoHI core membership consists agencies such as the Crofting Commission, NatureScot, HIE, UHI, Scottish Forestry, H&I NHS trusts etc, and H&I Councils. Meeting twice a year, it seeks to strengthen alignment between the Scottish Government and member organisations and is a forum to enable the exchange of ideas on strategic issues affecting the people of the Highlands and Islands.

Four recurrent themes are:

Retaining population in rural areas;

Economic growth;

Infrastructure such as broadband, housing, public services;

Climate and biodiversity crisis.

Bill and Rod focused mainly on population retention and climate / biodiversity, for which crofting has been very good.

But emphasised that crofting is fragile - population retention is threatened by difficulties in getting into crofting for new entrants due to price of crofts and crofters' rights.

There are about 400 new entrants each year - it is unknown whether they have the experience and skills to croft or not. Also in the 18 months before lock-down (which slowed everything) the Residence and Land Use (RALU) team resolved 200 'breaches' - i.e. got 200 crofts back into use. Very few (5 or so) required termination, the rest fixed it themselves through sublet, assignation, permission for leave or crofting themselves etc.

The CC is very keen to maximise compliance of duties and have resourced the RALU team as much as possible to do this - and will expand it further; this will include more focus on owner/occupiers as well as tenants, getting vacant owned-crofts re-let, and following up on census non-responders.

Bill talked about crofting role in climate - common grazings, peatland restoration and tree planting; CC can help by increasing number of grazings committees, and getting practical projects working.

Rod emphasised disappointment of his and his colleagues, at lockdown restriction curtailing outward-facing work - shows, CC meetings, other peoples' meeting etc. Commitment to resume this as soon as possible.

They finished with saying how much there is going for crofting and how much crofting contributes. Their talk was very well received and the organisations agreed that turnover of crofts for new entrants is paramount. There will be some short-life working groups to follow up on this and climate issues. There is a wave of support from other organisations who see crofting as part of the solution for H&I in regards to population, climate, housing and so on.

On turnover, sublets can help but are not a long-term solution; the aspiration is assignation.

*Roundtable discussion:*

Question: Good to hear of action by CC - many years too late but better late than never. Very good article in WHFP by Murry MacLeod - worth reading. Donald MacKinnon has made many good points well. Hard to credit that CC pursue those who admit to being in breach rather than the 25% who fail to submit a census return at all. How many £200 fixed penalties have been issued to non-returners? Failure to submit tax return to HMRC incurs automatic £100 fine which doubles and doubles at intervals until compliance. It would be a remarkable body of law that allows someone to opt to comply and the enforcer to opt to enforce.

Answer: the CC board talked about the following up of non-returners but feel the PF would not be interested in supporting this, so there have been no fines levied.

We phone non-returners, which is usually quite successful. There are excuses but it usually gets action. We feel that badgering is probably a better approach than issuing fines. A letter can be sent saying we assume breach. Why chase those in breach instead of those who don't respond? If we want results we have to go for the easy ones - which we try to do in a supportive way. And will now expand into addressing the non-returners.

Comment: the system needs to be resourced - the CC needs to be resourced. We all want to see the CC do its job but there is a funding issue. This group needs to lobby SG in the new session to fund the CC properly.

Sub-tenancies, agreed, are not the long-term solution but they can help get people into the system and could perhaps be supported better.

We need more statistics gathered on croft use, new entrants, aspiring crofters, so that we have the evidence.

Answer: Resourcing is always important, and we do have extra money for 4 new posts – 2 in RALU and 2 in development in WI. We do need better stats – especially on new entrants, the emphasis on new – more details about background, ability, intentions etc. There is something in the NDPC.

Comment: People looking for crofts are often actually looking for a house. Therefore sort out housing and it will help alleviate the market for crofts.

## **7. Items to take into next session**

All items on this agenda have been considered worth continuing so they can all be revisited – **agreed.**

## **8. AOB**

Many crofters, especially older folk, don't use computers and can't do their SAF online. Next year it will be compulsory to do it online, no paper. This is unacceptable.

Comment: the tax return can still be done on paper.

Comment: this doesn't seem acceptable. **Agreed.**

**Action: Sec to take up with RPID.**

## **9. DONM**

TBC

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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; FLS Forest and Land 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; LS Lantra Scotland; LSS Law Society Scotland; LWA Land Workers Alliance; 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; N-S NatureScot; 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; SHS Small-Holder Scotland; SIM Support In Mind; SLE Scottish Land & Estates; SPICe Scottish Parliament Information Centre; PS Police Scotland; SRA Scottish Rural Action; SRN Scottish Rural Network; SRP Scottish Rural Parliament; SRUC Scottish Rural (University) College; THC The Highland Council; UHI University of Highlands and Islands; WCP Woodland Crofts Partnership; WTS Woodland Trust Scotland; ZWS Zero Waste Scotland.