

Cross-Party Group on Crofting

15th September 2021 19.00

Minutes

Present

MSPs

Rhoda Grant MSP (chair)
Beatrice Wishart MSP
Alasdair Allan MSP
Jenni Minto MSP

Invited guests

Bill Barron (Crofting Commission)
Gordon Jackson (Scottish Government)
Bill Dundas (Scottish Government)
Donald Fraser (NatureScot)
Morag Milne (NatureScot)

Non-MSP Group Members

Patrick Krause (secretary)
Eilidh Ross
Donald Murdie
Fiona Mackenzie
Lucy Sumsion
Alexander Murray
Jamie McIntyre
Murray McCheyne
Siobhan Macdonald
Lynne MacMillan
Richard Frew
Darren Laing
Andrew Connon
Pàdruig Morrison
David Muir
John Toal

Andrew Holt
Donald MacKinnon
Brian Inkster
Ian Wilson
Rosemary Champion
Russell Smith
Rebecca Knowles
Zoe Russell
Eleanor Arthur
John Macleod
Fiona Mandeville
Liz Barron-Majerik
Donald Meek
Murdo Mackay
Donald Crichton

Apologies

Fergus Ewing MSP
Edward Mountain MSP
Rhona Elrick
Malcolm Burr

Yvonne White
Christina Nobel
Barry McGaskill
Miranda Geelhoed

Agenda item 1

Welcome and apologies

Agenda item 2

AGM business – confirmation of group and roles

Rhoda Grant MSP, Beatrice Wishart MSP, Alasdair Allen MSP and Edward Mountain MSP were nominated and elected as co-conveners of the group.

Thanks to co-conveners for agreeing to take on the role.

Patrick Krause was nominated and elected as secretary of the group.

Agenda item 3

Access to crofts

Donald MacKinnon, SCF, gave an update on issue of croft prices and lack of regulation restricting access to crofts. The main points included:

- The issue of crofts and tenancies being sold for high prices has been around for a long time but has become more prominent in recent years – it is widely agreed that the market is out of control and crofting is in crisis.
- SCF held some very well attended workshops and set up a working group to discuss this with a focus on solutions.
- It culminated with an open letter being sent to the commissioners from the SCF board, to bring the issues out into the open. No blame. The letter asks the commissioners for their opinion on what the commission needs to regulate the system and for ideas on how to control the market.
- Amongst issues that come up repeatedly is that effective regulation could help to control the market – this may need increased resources and legislation reform.
- The creation of new crofts, on community and private estates, public land, within or outwith the current crofting areas, could help to satisfy demand and get new entrants in.
- Crofting has a lot to offer – population, good food, climate change, biodiversity.
- Very disappointed that Programme for Government for this year didn't even mention crofting reform, which had been promised. A letter to the Cabinet Secretary?

Discussion

Comment: I agree that a letter to the cabinet secretary – or better still, ask her to the next meeting to discuss this issue and to indicate the timetable for law reform.

Comment: Sellers claim that the price (e.g. £200,000) is simply for ‘improvements’. Interested to hear of others think this reasonable?

Comment: No its not reasonable, land cannot be ‘improved’ to that extent. Also, we are talking about sale of tenancies mostly – why don’t community landlords, SG and CC get together and cap the price of tenancies?

Comment: Yes goes back a long time – e.g. the Taynult fiasco that triggered a lot of the discussion leading to the 2010 Act, but the 2010 Act didn’t resolve the problem, even exacerbated them with many anomalies in law that had to be gathered in The Sump – that SG has not addressed yet. If £200,000 is being paid for a tenancy, as in the Luskentyre scandal, the commission needs to look at the motives of the purchaser, their qualifications, local demand, and if the applicant cannot show a viable crofting plan (not business plan) the application should be denied. The law is clear – it needs to be implements. The largest crofting landlord by far is SG – need to be far more proactive – crofts worked, not neglected, deal with absentees, create new crofts and so on – lead with example.

Comment: When looking at claimed improvements, grant-aid needs to be taken into consideration.

Comment: There are also cases of public money (eg forestry grants) going to crofters who are in breach of their duties - this shouldn't happen.

Comment: Legislation reform isn't in this year's PfG but not excluded from future programmes. There needs to be clarity on what law reform are needed.

Comment: Assignations are examined pretty thoroughly by CC, more the problem is owner-occupied crofts exchanging hands with no regulation and an even bigger problem with ‘landlords of vacant crofts’. Is there a danger that, if assignations were more scrutinised, some would buy their crofts to circumvent?

Comment: It is extraordinary – selling crofts for ridiculously high prices, selling tenancies? Is this just a problem in Lewis and Harris? I am astonished. What on earth is going on?

Comment: Tenancies on the mainland have been going for £100,000k+, in Argyll. Lochaber, Wester Ross. Currently one in Dundonnell at o/o £140k

Comment: The problem is the demand for crofts. They have been changing hands for money for decades, but the problems are being caused because the supply of crofts is hopelessly outstripped by the demand.

Comment: In the last session stakeholders worked on the National Development Plan for Crofting which is ready to go – this can inform the direction of legislation reform. We also had a Crofting Law Group which identified a lot of work needed in law reform. There is no ‘lack of clarity’ on law reform needed.

SG: We are in process of building a programme of checks to proactively manage tenants regarding residency duties. When done this can be shared with other landlords – especially of community-owned estates. On value of improvements, this tends to be around £2,000-3,000 on bare-land crofts on SG estates.

Comment: Cabinet Secretary commenting on lack of crofting law reform in the PfG seemed to say that there is a lack of consensus on what is wanted – this is strange as in this group and the Crofting Law Group there has been remarkable consensus; Cabinet Secretary needs to be disabused of this.

Question: Does Scot Gov have any plans to reconvene the Crofting Law Reform group so that work can continue during this year, with the anticipation of legislative reform in the future?

Question: Can we also have feedback from SG on the implementation plan for the National Development Plan for Crofting.

Comment: Woodland crofts, creating new crofts, tenancy agreement can restrict the right to buy or assign, or even the right to de-croft land, in order to protect the land. SG should do the same in re-letting tenancies on SG estates or in creating new tenancies on new crofts. The key line in the recent SCF letter is 'everything in crofting is regulated - except the market'.

Comment: It is important to recognise the speed this is happening at – loss of young people coming in to crofting, the impact on language, climate change, these are all imminent. It is a very urgent situation. Hence disappointment that it is not in PfG – ok, so that's for this year, but that is another year's delay in dealing with this urgent problem which needs swift action.

Question: Can CC give an idea of how many assignments it intervenes in?

CC: board met to discuss this – will not be replying to the letter publicly because the issues raised are much bigger than the remit of the CC, and legislation doesn't allow the CC to act – for example in the creation of new crofts or the price crofts exchange hands for. CC will continue to engage with SCF and other stakeholders over these issues. Next board meeting will look at whether there is anything more CC can do regarding assignments under the current legislation.

Comment: There are some 'yes' or 'no' answers but we need to get beyond the CC role under the current act and look at what the CC could be and could do, and about the future of the crofting system.

Chair: Invite Cabinet Secretary to next meeting seems a good idea – get a plan for crofting legislation reform – it was rushed in the last session, needs to be much earlier in the parliamentary term this time. Is everyone in agreement?

Agreed.

Comment: We want to see a commission dealing with these big issues, not spending their time only dealing with relatively trivial things – fully support SCF in this.

SG: Croft House Grant - for 2020/21 financial year 37 applications approved with a value of £1.24m.

Comment: We could have an item at a future meeting looking in more detail at the Croft House Grant Scheme.

SG: Yes, happy to do this.

Action: Invite Cabinet Secretary to next meeting and make crofting crisis and legislation the main item.

Agenda item 4

Crofting administration

Bill Barron, CC, gave an update on the work of the Commission. The main points included:

1. All four posts in the Western Isles are now filled. Karen MacRae and Lynn MacMillan in development roles, focusses mainly on Western Islea at the moment but developing methods that could be extended across the crofting counties; also Murry MacDonald in Lewis, bi-lingual phone receptionist, and Gillean Cunning in Benbecula, part of RALU team, following up breaches of duty.
2. Public meeting in Lairg on 19th October. Demo of on-line application system.
3. Backlog in regulatory casework. There was a backlog in 2018, team was increased and a lot of work got the situation improved, but it has slipped back since pandemic started. The connectivity issues are sorted but 4 main causes: Covid – not being able to go into the office etc; work on the on-line application system and the internal IT system has taken some staff off casework; staff turn-over; ‘process creep’ – ensuring that decisions are robust, but makes processes a bit longer. Not cutting back on the IT projects as they will ensure better running in future; putting more resources into regulatory team; dealing with bottle-necks; will try to reverse ‘process-creep’ by dealing with more cases at front-line rather than going back up the line; and asking customers to bear with us and be selective about what phoning about. The on-line application system should become live during this winter – this will speed things up – and there is an external review of staffing of the CC which should advise on effective use of the resource and whether more resource is needed.

Discussion

Question: Have you included on-line webinars to demonstrate the new on-line application process – they are very effective?

Answer: Yes, we will look into this.

Question: How many breaches of regulation do the RALU team have to deal with?

Answer: The duties team get their information from 3 places: 1. From those who 'confess' in the census – in a typical year about 500. Every one gets a 'soft' letter first and if it persists then a tougher letter. Last year the number doubled – nearly 1000, possibly an impact of Covid, people not able to visit the croft; 2. Referrals from crofting community or assessors – a small number; 3. From casework – apparent in application that applicant is in breach. Size of the team: was meant to be 4 but was often only 2 as the other 2 being borrowed for other things, but have expanded it to 6.

Comment: The landlord can also act on breaches of duty – they don't have to wait for the Commission to do something.

Agenda item 5

Control of greylag geese

Morag Milne, NatureScot, gave a presentation on control of wild geese. The main points included:

- Getting the balance between population of wildlife, economy, environment and people.
- Geese under Annex 1 of the Birds Directive are protected at all times, Annex 2 birds, included the greylag, may be hunted. SNH ran some pilots, delivered by local goose management groups, to test if populations of resident greylags could be controlled effectively to reduce impact on crofting agriculture. 'Adaptive Management' – counting goose population and numbers shot annually to set bag limit for following year. SNH paid for marksmen, ammunition, bag-counts etc, and also obtained a licence for the sale of goose meat. Total of about 25,000 birds shot in the five year programme 2012-17.
- Results showed that goose populations were robust and could absorb substantial losses without effecting conservation status; crofters can, with some funding and coordination, control goose populations whilst maintaining conservation interest. Pilots closed in 2017 and SNH gave limited 'transition' funding to 2021.
- Challenges for the future include establishment of local goose management groups in all areas with excessive greylag populations; volunteers needed to shoot, oil eggs, corral geese; money.
- NatureScot will continue to offer advice and provide licences but no funding. National policy obliges NS to direct resources to species of greatest conservation need, as well as minimise economic losses of crofters and farmers due to geese.. Local goose management groups not happy. NS in discussion with RPID over future support.
- From April 2020 greylags now under general licence – can be shot year-round. This may change next year.

Discussion

Question: When funding for the AM scheme was ceased did NS carry out an Island Community Impact Assessment as laid out in the Islands (Scotland) Act 2018? The act says any responsible body such as NS must 'island-proof' any actions.

Answer: No this was not done. Perhaps should have been, could be done. We will come back to the group on this.

Comment: Withdrawal of funding is a step back to square one – numbers will return to the past very high numbers, all the good work of the adaptive management scheme will be undone. In Lewis and Harris funds are needed for coordination and cartridges – volunteers will do the shooting.

The SCF petition in the Scottish Parliament calling for funding for goose management is still live.

Question: Crofting agriculture on the Uists machair is unique and extremely environmentally friendly and enhances biodiversity – many species benefit from the work of the crofters. But the battle with geese is being lost – geese increase as funding diminishes. The funding for the adaptive management scheme was essential – if there is no funding the geese will take over. What does NatureScot want? Crofters and cattle and the environmental benefits or do they want geese?

Comment: NFUS wrote to NS saying the decision to withdraw funding is wrong, objectives have not been met, expecting goose control to continue is unrealistic. If no funding all the work of the AM schemes will be lost and goose numbers will increase. NS need to reconsider.

Chair: Is this possible?

NS: We do not want to go back to square one. We want crofters and the way of life maintained. It's about the balance – impact of the geese and conservation. We have received the correspondence from NFUS and the local goose management groups and will take discussions forward. Funding will be discussed, also with RPID. Also the wider policy is coming up for review.

Most of the work is done in the spring so if SG direct funding for goose control there is time for this to happen.

Chair: I suggest we raise this with the Cabinet Secretary at the next meeting.

Comment: it will be interesting to see how NS broad aspirations pan out – local goose groups haven't even been officially told about any of this, and at the National Goose Forum community engagement was supposed to be discussed but wasn't.

Comment: community impact assessment is a central plank to the Islands Act so we need to ask the Cabinet Secretary what her thoughts are on this at the next meeting. We need clarity.

Chair: Is everyone happy with this approach?

Agreed.

Agenda item 6

AOB

None

Agenda item 7

DONM

Cannot hold in-person meetings in the parliament so continue with Zoom? Or blended?

Comment: Blended doesn't work. The people on Zoom get side-lined.

Comment: All for zoom meetings. It allows crofters in remote areas to attend. It takes me three days to attend a meeting in Edinburgh.

Chair: We will stay on-line for the immediate future. Frequency?

Sec: Was 8 weekly.

Chair: Some CPGs are quarterly, because there are many of them. So perhaps quarterly in future but because of the urgency of the matters at hand, have a meeting in 8 weeks time – depending on Cab Sec availability.

Agreed.

Thanks and close.