

Cross-Party Group on Crofting

13 December 2022

Minutes

Present

MSPs

Edward Mountain MSP (Chair)
Ariane Burgess MSP
Beatrice Wishart MSP
Alasdair Allan MSP
Rhoda Grant MSP
Jenni Minto MSP

Invited guests

John Kerr SG
Bill Barron CC

Non-MSP Group Members

Patrick Krause (Secretary)
Ewan Maclean
Rhona Elrick ROS
Donald MacDonald CC
John MacAskill NFUS
Karen Macrae CC
Fiona Mackenzie UHI
Murdo Mackay CNeS
David Cameron CLS
Russell Smith SCF
David Muir SCF
Ashley Atkins MSP office
Eleanor Garty
Janette Sutherland SAC
Andrew Thin CC
Brendan O'Hanrahan
Philip Coghill SCF
Gordon Jackson SG
Fiona Mandeville SCF
Lauren Worrell
Brian Inkster CLG

Sandra Lindsay SCF
John Maughan SCF
Donald Murdie SCF
Michael MacNeil SG
Jacqueline Kelly ROS
James McPherson SCF
Aileen Rore SG
Anna Brand SPICe
Miranda Geelhoed SCF
Beatrice Morrice NFUS
Claire Hardy JHI
Phil Knott NFFN
Jamie McIntyre WCP
Siobhan Macdonald SAC
Donald MacKinnon SCF
Malcolm Mathieson CC
Andrew Connon NFUS
Maria de la Torre NS
Gift Mlambo SG
Arthur Macdonald CC

Apologies

Michael Nugent SG crofting policy
Malcolm Burr CNeS
Murray McCheyne crofting solicitor
Marcus MacDonald SCF
Helen O'Keefe SCF
Yvonne White SCF

Christina Nobel JHI
Eleanor Arthur SCF
John Norman MacLeod crofter
Andy Holt crofter
Iona Hyde WTS

Agenda item 1

Welcome and apologies

The convener welcomed everyone to the meeting and apologies were noted.

Agenda item 2

Agreement of the minutes of the last meeting and matters arising

The minutes of 11 May were agreed

MA

Question: Powers to change primary legislation by Statutory Instrument. Is this something being considered for the Crofting Bill? It makes sense to have the power and not need to use it than not have the power and need it.

Answer: As long as any changes can be scrutinised by the Parliament. Michael Nugent can comment on this at the next meeting.

Agenda item 3

AGM

Nominations for co-conveners:

Rhoda Grant MSP

Beatrice Wishart MSP

Alasdair Allan MSP

Edward Mountain MSP

Agreed

Nominations for secretary:

Patrick Krause

Agreed

Agenda item 4

Agriculture Reform

John Kerr, Head of Agriculture Policy, Scottish Government, gave an update on the Agriculture Bill and agricultural support reform process (see slides which have been distributed). The main points included:

- The Cabinet Secretary gave a statement to Parliament on 8th November, laying out the approach the SG will take in the coming years to reform support for agriculture.
- It outlined timeframes for legislation, delivery and implementation.
- The statement offers 'clarity and certainty' through our reform journey and no cliff edge for farmers and crofters.
- There is no contradiction between high quality food production and producing it in a way that delivers climate adaptation and mitigation and that supports nature restoration.
- This builds on the SG Vision for Agriculture calling out the essential role of farmers and crofters in providing food whilst setting out commitment to ensuring Scotland meets climate and nature restoration outcomes.
- Currently undertaking the National Test Programme, which consists Track One 'Preparing for Sustainable Farming (PSF) which has soil tests and carbon audits available, these will be expanded next year, and Track Two: testing Actions for Sustainable Farming TSF) tests the actions that may form part of future conditionality, the first part of which has been a survey.
- Consultation laying out thoughts on a bill, now closed. The bill will be introduced to parliament next year.
- Secondary legislation will need to be in place to implement the powers of the bill. There are calls for more detail on this, which have been heard clearly, and more information will be brought forward.
- SG are using the ARIOB to help with policy thinking, engaging with stakeholders and farmers through the NTP.
- Timeline: 2025 New conditionality introduced and consideration will be given to where further conditions can be applied to existing schemes; 2026 New enhanced payment launched (Tier 2 of the new framework), considered to be the key mechanism to incentivise farmers and crofters to undertake actions to deliver positive outcomes for climate and for nature, allows for those pioneering best practice now to be recognised and rewarded; 2027 Additional future support framework elements added, of the Future Support Framework, including Elective and Complementary schemes such as agri environment and farm advisory services.
- Present payment regions will be kept as they are in the early part of the transition, but SG remains committed to reviewing to ensure the Tier One 'Base' payment is fit for purpose for the future.

Discussion

Question: Will the same IT system be used; and is every farmer and crofter going to be able to access Tier 3 and 4 conditionality payments?

Answer: We will use what we can of the existing IT as it is expensive to build. Tier 4 will be open to all and Tier 3 schemes have been difficult for some to access so we (and agencies) are trying different approaches to make more accessible (e.g. POBAS). However there are also budget constraints so we have to see what comes from UK Gov.

Question: We're not seeing many croft-scale measures here – many schemes have failed for crofting because they don't give an appropriate return for the effort of applying; so what will be done to have croft-scale measures? Also, to what extent can Scotland have an agriculture policy in light of the UK Single Market Act?

Answer: Yes we will work on giving crofters better access to Tier 3 funding and there have been calls to support smaller businesses (e.g. lobby to SP recently), so we will try to ensure this happens. On the second question, some UK legislation is giving SG concern, so Scottish officials and UK officials working together to see what implications there are.

Agriculture is a devolved issue so Scottish politicians will fight for that right.

Question: How do you ensure low-intensity agriculture still benefits – e.g. crofters grazing at 0.06 LU/Ha in less favoured areas, others will be lobbying to ensure that these crofters are excluded.

Answer: The intension is to maintain three region approach to start with, so those who think the regions don't work well can challenge SG to address that first; or we take the approach that the enhanced schemes reward those low-intensity systems for the benefits they bring. We try to get the balance between the argument that those producing most should get most support, and those delivering for climate and nature should get most support.

Comment: Glad to hear mention of detail – we do need to know what is coming. Also worried about bringing in conditionality before payments are changed – i.e. making current payments more conditional. There is risk of disproportionate burden on small producers. We need to look at front-loading, degressive payments and possibly a small producers' scheme.

Also support to less favoured areas is not getting the attention it needs – current system is grossly unfair so need to address this now. Perhaps if the enhanced schemes are good enough we won't need an LFASS scheme.

Answer: SG hear the concerns about disproportionate burdens. A small producers scheme may address that. Of course others will challenge things like degressive payments. And the same with LFASS, there was a lot of work done on an Areas of Natural Constraint approach, which is EU compliant, but it wasn't taken forward because of the challenges of the redistribution that would bring. But there is no reason why that work could not be brought forward again.

Comment: We used to work within the EU single market so it shouldn't be difficult to work within a UK single market, surely. Also, rather than having a separate scheme for smaller producers, which could side-line them, many smaller producers would like to see access to mainstream schemes improved for them. We need food production

in every community, so that they are more self-sufficient. A small producers scheme could see them getting the crumbs and most of the funding going to large producers, who shouldn't need public support – the public support should go to those delivering public goods.

Comment: Evidence taken by Constitution Committee showed concern about the Internal Market bill and this concern is shared in Wales.

Question: Regarding concern for conditionality in T2 or even T1, if based on carbon footprint and biodiversity, it is very difficult for crofts or small producers to improve carbon footprint due to external factors and scale; is it envisaged that conditionality for smaller units will take in biodiversity gains rather than carbon footprint?

Answer: We are actively looking at this now as different sectors will have different situations, partly through the NTP and through discussions and engagement on the suite of enhanced measures. Getting the balance between delivery for climate and nature as well as producing food is difficult which is why it will not be delivered on the ground until 2026/7. We have every intention to not disadvantage smaller producers. A small producer scheme would be specifically to add to what is available for small producers.

Comment: There is hope that SG will at last reform LFASS/ANC and make something fit for purpose.

Question: What is the current situation with POBAS and how is SG looking to deliver results-based schemes, if that is still the intention? Would it be beneficial to have a more crofter-led approach?

Answer: POBAS has produced very good feedback from those involved. Where we can it will be linked to delivery of outcomes for the enhanced measures, and officials from NS and SG are working on this.

Comment: Important that small producers benefit from front-loading schemes. The conditionality is worrying for crofters – could be disproportionate to income; crofters cannot afford consultants. Essential to have a scheme for less favoured areas to account for fragility, essential to keep livestock and people in these areas. But need to see a re-basing to stop farmers and crofters who are not active anymore from getting payments still.

Answer: We don't want a system that requires consultants to do the administration – however, they provide professional advice that is greatly valued. There is a lot of interest in reform of LFASS though how that would look is not agreed upon. There is no intention to make it a competitive scheme.

Question: We keep raising the question of redistributive payments and it is an area that all seem to agree on, redistribution of payments in favour of smaller producers, especially important if reform of the Regions is being pushed back. Rather than looking at who is going to be happy or unhappy, especially about redistribution, SG should look at what outcomes are desired – for example LFASS could contribute to rural development – something neglected so far in proposals. Widely agreed that small-producers need more support but a small-producers' scheme has the risk that holdings that are providing environmental and social benefits but are not quite small enough fall out of both either being in a small producers scheme or getting adequate support from

the main schemes. What is SG planning for small producers and will you meet with us to talk this through?

Answer: Certainly open to a meeting, and appreciate that producers slightly above threshold for small producers scheme could then face disproportionate conditions to get support from the main schemes. We are considering different ways of doing this. Rural development was under pillar 2 of the CAP but we have others ways that RD can be delivered in Scotland and keeping it with agriculture may not be the best mechanism. The SG Rural Stakeholders Group is a good forum for these discussions.

Question: At what stage will the conditions be tested on common grazings?

Answer: Common grazings are kept close to the top of deliberations by SG officials, not only in agriculture but also crofting support and peatland restoration discussions.

Comment: It could be a good topic for a future meeting of this group.

Agreed.

Question: There are derogations, for example for Greening, so why can't small producers simply have a derogation that makes them automatically qualify for the main schemes? Also how does SG intend to deal with drought?

Answer: proportionality is top theme, and derogation is a mechanism to achieve this so is in the mix. SG and SEPA are looking at ways to deal with drought; for example water extraction had to be controlled in some areas which affected soft fruit and vegetable growers. So yes, drought mitigation is part of SG thinking, as is flooding – adaptation to climate changes.

Question: How will improvements be monitored?

Answer: We have some quite good tools in place and will be improving and extending them – e.g. carbon auditing, measurement of carbon sequestration, POBAS etc. It is key recognising and rewarding good practice where it is already happening. A work in progress.

Thanks to John Kerr.

Agenda item 5

Crofting Law Reform

Unfortunately Michael Nugent, Crofting Policy & Legislation, Scottish Government, was unwell so this item will be on a future agenda.

Agenda item 6

Crofting administration

Crofting Commission's CEO Bill Barron updated on the work of the commission, The main points included:

- Governance – 2021 audit was unfavourable, making 41 recommendations for improvement; the report from Deloitte LLP last week was very favourable saying all recommendations have been fully implemented.

- Backlog – recruited extra staff to help with casework and backlog is reducing, expect to see significant improvement in 2023.
- Residency and land use – also expanded this team and expanded programme. Are now including owner-occupiers and non-cultivators in assessing non-use breaches. Also following up on those who don't respond to the 'census'.

Discussion

Question: There is a larger budget now so what are intentions for recruitment of staff and what are targets regarding keeping up with casework?

Answer: We requested budget increase for 14 new staff, so we will have 73/74 staff by about Easter. Targets; we get about 175 applications per month, and on average a case takes 4 months, so expect about 700 live cases at any given point. We aim to get back to that 'norm' and then possibly reduce it by cutting time per case – though more staff, improving processes and amending the Act to reduce processes set out in the Act. We have a 6 point productivity plan.

Thanks to Bill Barron

Agenda item 7

AOB

Question: Could we look at carbon trading again in a future meeting – soon.

Answer: We will need to look at how to deal with this very complex subject, but yes.

Question: Can CAGS be modified (updated) to comply with measures being advocated in other schemes e.g. application of fertiliser?

Answer: Yes, CAGS is being reviewed in line with the other agricultural grants schemes, so these points can be included.

SAC can advise on the areas of difficulty.

So, for future meetings: an update on law reform, common grazings, and carbon trading.

Agenda item 8

Date Of Next Meeting

17 March 2023