



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 29 November 2016

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
13th Meeting 2016, Session 5

CONVENER

*Graeme Dey (Angus South) (SNP)

DEPUTY CONVENER

*Maurice Golden (West Scotland) (Con)

COMMITTEE MEMBERS

Claudia Beamish (South Scotland) (Lab)
*Alexander Burnett (Aberdeenshire West) (Con)
*Finlay Carson (Galloway and West Dumfries) (Con)
*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)
*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)
*Emma Harper (South Scotland) (SNP)
*Angus MacDonald (Falkirk East) (SNP)
*Mark Ruskell (Mid Scotland and Fife) (Green)
*David Stewart (Highlands and Islands) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor David Adams (Scottish Land Commissioner Nominee)
Megan MacInnes (Scottish Land Commissioner Nominee)
Lorne MacLeod (Scottish Land Commissioner Nominee)
Dr Bob McIntosh (Tenant Farming Commissioner Nominee)
Edward Mountain (Highlands and Islands) (Con)
Dr Sally Reynolds (Scottish Land Commissioner Nominee)
Andrew Thin (Scottish Land Commissioner Nominee)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament
Environment, Climate Change
and Land Reform Committee

Tuesday 29 November 2016

[The Convener opened the meeting at 10:06]

Decision on Taking Business in
Private

The Convener (Graeme Dey): Good morning. Welcome to the 13th meeting in 2016 of the Environment, Climate Change and Land Reform Committee.

We have apologies from Claudia Beamish. I welcome Edward Mountain, the convener of the Rural Economy and Connectivity Committee, who is also that committee's reporter on the appointment of the tenant farming commissioner.

Before we move to the first item on the agenda, I remind everyone present to ensure that their mobile phones are on silent for the duration of the meeting.

Agenda item 1 is a decision on whether to take in private items 3 and 4. Do members agree to take those items in private?

Members *indicated agreement.*

Appointment of the Scottish
Land Commissioners and the
Tenant Farming Commissioner

10:07

The Convener: Agenda item 2 covers the appointment of the Scottish land commissioners and the tenant farming commissioner. The committee will hear first from the nominee for tenant farming commissioner, Bob McIntosh, who will then be joined by the five proposed Scottish land commissioners, to allow a discussion with the group as a whole.

Good morning, Bob.

Dr Bob McIntosh (Tenant Farming Commissioner Nominee): Good morning.

The Convener: Welcome to the committee. We will move to questions right away, and I will begin. What farming experience will you bring to the tenant farming commissioner role?

Dr McIntosh: I could answer that in several ways. For about 15 years, I was a hands-on—though part-time—farmer on a livestock farm in Northumberland. We had about 500 breeding ewes and 20 suckler cows. I was working full-time too, but I spent all my holidays and weekends as very much a hands-on farmer, so I had a real immersion in the farming system at that time. We spent the first two years as tenants of the farm and latterly we were the owners.

In my Forestry Commission career, I have had various land management roles. At one time, I was responsible for the Forestry Commission estate across Great Britain, which is about 1.3 million hectares. A lot of that land is not forest, so I had a lot of immersion in dealing with tenants and with tenancies of all types, including in the agriculture sector.

Another of my roles in the Forestry Commission was to encourage and promote the idea of starter farms, which have been quite a useful development, giving new entrants a start on the farming ladder on land with buildings that we would otherwise have sold.

Those are the three main areas where I have had involvement with the agriculture sector.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): Good morning, Dr McIntosh. Do you consider any of your existing roles to present a conflict of interest with the tenant farming commissioner role? For example, I know that you were a director of Forestry Commission Scotland and that you are a board member of Highlands and Islands Enterprise and a member of the

executive committee of the Association of Deer Management Groups.

Dr McIntosh: Yes, that is right. I do not think that they represent a conflict of interest, no. Highlands and Islands Enterprise obviously has a key interest in community development in the Highlands and Islands area and in promoting community ownership and community development. HIE is one of the levers that is pulled to deliver that—most of the policy stuff comes from outside HIE and it is really a delivery agent for community involvement and community ownership.

I do not think that there would be a conflict there. Obviously, if anything came up in either the Scottish Land Commission or the HIE board that was a conflict, I would have to declare that.

Jenny Gilruth: Are any of those roles remunerated?

Dr McIntosh: The HIE board role is, yes.

The Convener: What about moving forward? Will the fact that you are the tenant farming commissioner influence you in some other posts that you might take up? Will you feel that you have to be very careful about any roles that you take on in future?

Dr McIntosh: Absolutely—but I am supposed to be retired, so I do not intend to take on any more roles beyond this one, I can assure you.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): Will you expand on how you envisage the practical side of the role, particularly when it comes to building relationships with the numerous stakeholders, perhaps drawing on your past experience with those stakeholders?

Dr McIntosh: In taking forward the role, it will be vital that I work closely with the key stakeholder bodies—the Scottish Tenant Farmers Association, Scottish Land & Estates, the National Farmers Union and probably also the Royal Institution of Chartered Surveyors. What has happened to date on drawing up interim codes has very much been with the involvement of all those bodies, and that will certainly be how I would move forward. We have to take those bodies along with us as we develop policy and ideas and I would want to work very closely with them. I have dealt with most of them in the past in previous roles, in various different ways, so I know most of the individuals involved—and I think they know me.

The Convener: Do you think that your lack of experience of farming, other than in a practical sense, is a disadvantage in any way?

Dr McIntosh: I guess it might be, but I am supposed to come to this neutral so, in a way, where I come from helps with that. I am not a

dyed-in-the-wool tenant or landlord; I come from a reasonably neutral perspective. However, I have had a career with a lot of involvement in land use and land management issues. I am aware of and have had some experience of a lot of the issues around, I think.

Edward Mountain (Highlands and Islands) (Con): Before I ask Bob McIntosh any questions, I declare that I am a partner in a farming business. For information, I have worked as a surveyor over the past 15 years, looking after farms and estates. All of that is in the register of interests, if anyone would like to see it.

If I may, Bob, I will ask you a little bit about your experience. I believe that you said that you farmed in Northumberland.

Dr McIntosh: Yes.

Edward Mountain: Obviously, farming there comes under different legislation from farming in Scotland. Will you tell me about your experience of the agricultural holdings legislation? Have you done rent reviews? Have you done resumptions? Have you looked at end-of-tenancy things in Scotland?

Dr McIntosh: I have not been involved in them directly, but there was a lot of that going on for the land that we managed in the Forestry Commission, and some of that floated up to me, as chief executive, for me to deal with. We employed a lot of land agents who would have dealt with most of the nuts and bolts of that stuff.

Edward Mountain: Just to clarify, you had oversight but you have never actually immersed yourself, as you did in farming—by your admission—in the nuts and bolts of the legislation relating to agricultural holdings in Scotland.

Dr McIntosh: Not deeply, although I have been trying to immerse myself in the past few weeks. Having had a quick look at it, I doubt if anyone could be an expert in ag holdings legislation. However, I am getting up to speed. I do not pretend to be an expert in that area but, in the role, I will have access to expert advice in that area—that is pretty clear.

The technicalities of the legislation do not really come under my role. If there are technical or legal issues, those are really for the Land Court to resolve.

Edward Mountain: Having done it for 15 years, I certainly would not regard myself as an expert; I think I have dipped my toe in the water. Therefore, I agree with what you say.

What slightly worries me, however, is that, when you go to holdings, if you are not seen to be involved and to know what you are talking about, it can make things difficult. Do you perceive that that

will be a problem, or do you think that people will accept that your forestry experience gives you a view on agricultural holdings?

Dr McIntosh: I accept that I have to get up to speed pretty quickly in understanding the legislation in more depth than I do now. That is fair.

10:15

Mark Ruskell (Mid Scotland and Fife) (Green): Morning, Bob. You obviously have a huge amount of experience of working with different stakeholders in the civil service, the Forestry Commission and other bodies, but what about the lived experiences of tenant farmers in Scotland? You perhaps need to engage a bit more with individual farmers, so how do you plan to do that? Do you intend to continue working with representative bodies or will you be out there on the ground, meeting families?

Dr McIntosh: I very much hope that I will be out there on the ground. We still have to resolve how the complaints procedure will work, but I would hope that I could intervene in a lot of the issues by speaking to people on the ground and, thereby, avoid things coming to formal complaints. That means being out on the ground talking to people, understanding their issues and trying to reach some sort of middle ground.

Mark Ruskell: A number of high-profile eviction cases are happening now, including one in Arran. I would not expect you to comment on those at the moment but, in the role that you are coming into, how exactly will you engage with an issue such as that to understand the views of the parties involved?

Dr McIntosh: As I say, I think that I will do so by speaking to all sides. It is pretty vital that we understand all sides in these arguments. In my previous role in the Scottish Government, I seemed to spend most of my life sitting between people with conflicting objectives and management ideas, so I am not unfamiliar with that role and I am not starry eyed about how easy it will be.

I will have to get together with people. As I see it, most of the role is about relationship building; it is not so much about the technicalities as about trying to create a culture whereby landlords and tenants can work in an area of mutual respect and understanding in a fair and reasonable manner. Having read the report of the agriculture holdings review, there seem to be a lot of dysfunctional landlord-tenant relationships around. It is about building relationships as much as anything.

The Convener: In a wider sense, what challenges do you think that you will face in the role?

Dr McIntosh: In the TFC role?

The Convener: Yes.

Dr McIntosh: It is a really difficult area. There are inherent tensions between an understandable desire on the part of tenants for more security and on the part of landlords for more flexibility. It is not easy to find a compromise between those two things. There are in-built tensions and the evidence shows that the area of tenanted land is declining.

The Convener: Perhaps one area where there is greater consensus is around the code of conduct for land agents. How do you intend to take that forward?

Dr McIntosh: One of my duties under the Land Reform (Scotland) Act 2016 will be to produce codes of practice that apply not only to agents but to tenants and landlords, too. Andrew Thin has already done a lot of work on that in his role as the interim tenant farming adviser, so there is a lot of stuff to build on. The interim guides have to be turned into formal codes of practice in consultation with the bodies that I have mentioned before and those codes of practice have to be published and promoted. I hope that landlords, tenants and agencies will take them as their guide to what is reasonable and acceptable behaviour. We also have to produce a formal complaints system, which allows people to complain if they think that the other party has not abided by the codes of practice.

This is all at a very early stage and has to be put in place over the next few months. That will be one of the immediate priorities in the role.

The Convener: You have touched on the fact that Andrew Thin has been the interim tenant farming adviser. He is the appointee to become chairman of the Land Commission. Can you talk us through how you envisage the interaction between you in the TFC role and those in the wider Land Commission? How will that work in practice?

Dr McIntosh: I am very pleased to be on the commission as well as having the TFC role, because I think that there is a link between the two and I am interested in the Land Commission's wider duties, not just the TFC role. The commission will have areas of work that do not directly affect agricultural holdings, but areas of my work will have a knock-on effect on wider Land Commission duties. Since I am on the commission, I think that there should be no difficulty in marrying the two. I guess that, in my

role, there will be things that I will want to discuss with the whole Land Commission.

The Convener: Just to get this on the record, in practice will you take the lead and deliver on all aspects of the TFC role, or do you have to refer to the Land Commission in any way?

Dr McIntosh: By and large, the legislation gives me the role of doing things, but it talks in general terms about working with the rest of the Land Commission on relevant issues.

Alexander Burnett (Aberdeenshire West) (Con): Before I ask my question, I refer to my interests in agriculture and forestry holdings.

Good morning, Dr McIntosh. You touched on my question when you rightly said that the number of tenant farmers is dropping. Over the past 12 years, there has been a 20 per cent reduction in the farms available for tenancies. What do you see as the main cause of that?

Dr McIntosh: There are probably lots of reasons. I guess that the inherent tension between security and flexibility has caused some landlords not to want to rent land because of the fear that they may lose it. There is no getting away from that—it must be part of what prevents landowners from wanting to rent land. It is difficult to get a balance between the rights and responsibilities of the tenant and the rights and responsibilities of the landlord. As I said, there is an inherent tension, which is not easy to resolve.

Alexander Burnett: So you believe that it is the lack of flexibility that has caused the issue?

Dr McIntosh: I am sure that that is just one of the reasons. There are lots of other reasons.

Edward Mountain: I want to follow up on that, because it is disturbing that there is a drop-off in tenant farms and new entrants. You say that there is a tension, but what is your solution? Is it to have freedom of contract between landlord and tenant or is it to have a stricture in agricultural holdings legislation in relation to limited duration tenancies?

Dr McIntosh: I have no preconceived ideas on that. Clearly, the agricultural holdings review led to changes in the legislation—measures were introduced in the Land Reform (Scotland) Act 2016—and we will have to see how those bed in. We do not really know how successful or otherwise the new modern limited duration tenancy will be. We will have to wait and see how things develop. In the meantime, as I said, I want to sit down with the main bodies, get their ideas and thoughts on that and work with them to move things forward. At this stage, I have no preconceived ideas about what the best solutions might be.

The Convener: All too often, we hear about the tensions and disagreements that exist in the sector. However, there has been some fairly good collaborative working behind the scenes, notably led by David Johnstone at Scottish Land & Estates, on things such as rent reviews. Does that encourage you that it is possible to make progress in the role?

Dr McIntosh: Absolutely. Even the work that Andrew Thin has done so far on interim guides and so on is bringing about some culture change. As far as I can gather from speaking to SLE, the STFA and other bodies, they see that as positive, and they think that they are seeing changes in the way that their members operate. That gives hope that we can move forward.

Finlay Carson (Galloway and West Dumfries) (Con): Good morning. Earlier, you mentioned starter farms in relation to your role in forestry. How successful were you with starter farms in community woodlands? Is that a key objective in your new role?

Dr McIntosh: Starter farms are just one way in which people can get a start on the farming ladder. In previous years, when the Forestry Commission bought land, the house, the steading and the bit of good land round it would have been sold on. The idea is that, rather than selling it on, we equip it and put someone in on a 10-year tenancy, to give them a start in farming, on a part-time or maybe full-time basis. The hope was that they could build up expertise and capital so that, at the end of the 10 years, they could move on to something a bit bigger. That has a part to play in helping to get new entrants into the business.

Finlay Carson: How many starter farms were actually created?

Dr McIntosh: There are probably fewer than a dozen at the moment. I am out of the Forestry Commission now, but I think that it still plans to acquire more land in future. Therefore, I imagine that we will see more starter farms.

David Stewart (Highlands and Islands) (Lab): Good morning, Dr McIntosh. Could you outline for the committee your key objectives and priorities for the post?

Dr McIntosh: Some of my priorities are set down in the legislation, so I have to start with the codes of practice and the complaints procedure.

The Government has also asked the tenant farming commissioner to carry out a specific investigation into the role of agents who act for landlords and tenants. During the agricultural holdings review, some disquiet was expressed about agents sometimes not helping the landlord-tenant relationship—many are helpful in that role, but some clearly are not, so I have to carry out a

review of the agent role. That will mean a call for evidence, evidence gathering and publication of a result.

Therefore, a number of my initial priorities are already prescribed. However, the role is about relationship building and helping to build the culture of how landlords, agents and tenants interact with each other. I see a lot of that work happening through the codes of practice.

David Stewart: I will ask a question on the flip-side of that. What work will you not be carrying out? My experience of dealing with new organisations is that there can be boundary wars with other organisations that say, “No, that is my job.” There is potential for that. What are your thoughts about what you clearly will not be carrying out in your role?

Dr McIntosh: I certainly do not want to cut across the role of the Land Court, and I do not see it as my role to cut across what the Crofting Commission is doing in the whole area of crofting. I would want to work very closely with the Crofting Commission and the Land Court, but I need to be careful about not stepping on their toes.

David Stewart: It is not for you to comment on how the legislation is framed, but is there a potential for conflict between the role of the tenant farming commissioner and the role of the crofting commissioner in the legislation?

Dr McIntosh: I do not think so. The sort of work that I will be doing on codes of practice and how landlords and tenants should interact with each other over rent reviews will have relevance in the crofting sector, where, similarly, there are landlord-tenant relationships. However, I would not dare to tread into the technicalities of crofting.

The Convener: You probably would not want to either.

To wrap up with a general question, Dr McIntosh, what are your expectations of how time consuming the role will be? It strikes me that it will be extremely time consuming. Are you ready for that?

Dr McIntosh: I think that my contract will say something like six to eight days a month, but I fully expect that that will not be enough. On the other hand, the commission will be recruiting staff over the next few weeks, so there will be commission staff to support me in my role. What they might do and what I might do has not been clarified, but I will have support to make it easier. I think that there will be someone, for example, to deal with the complaints procedures. I hope that I can spend a lot of my time interacting with tenants, farmers, landlords and the various organisations rather than getting bogged down in the bureaucracy, as it were.

The Convener: Thank you very much for your time, Dr McIntosh. If all members are content, I will suspend the meeting briefly to allow for a change of witnesses.

10:27

Meeting suspended.

10:28

On resuming—

The Convener: Welcome back. We now have Bob McIntosh, who is joined by the five Scottish land commissioner nominees. They are Professor David Adams, Lorne MacLeod, Megan MacInnes, Dr Sally Reynolds and Andrew Thin. Welcome to all of you. We have a number of questions for you.

Mark Ruskell: I do not want to start with a negative—you all have considerable strengths as individuals and as an entire commission—but what do you see as your weaknesses, collectively, and how might you address them?

Andrew Thin (Scottish Land Commissioner Nominee): Do you want me to lead and then to pass the question on, convener?

The Convener: That would be fine.

Andrew Thin: I will give just an initial thought. I think that it is a very strong group: I hope that that shows on paper. The weakness at the moment is that most of us met each other only last night, so we have to build a team. There is an enormous difference between six well-qualified and well-experienced individuals and a really effective team. We will have to work hard over the next two or three months so that the team is fully functioning by 1 April.

Lorne MacLeod might want to offer a few thoughts, given his experience of such things in other walks of life.

10:30

Lorne MacLeod (Scottish Land Commissioner Nominee): In terms of the legislation, perhaps we do not have among us particularly strong legal expertise, but with the recruitment of staff and through support mechanisms to allow us to undertake our work, specialisms in law—obviously, a variety of specialisms in law will be needed—at the appropriate level of expertise can be brought in.

As Andrew Thin said, we met only last night. We have great breadth of experience, as required by section 11 of the Land Reform (Scotland) Act 2016, which lists that expertise.

Mark Ruskell: What are your early thoughts on how the commission will function? Do you

envisage having committees and sub-groups? How will you marshal the wider expertise, including legal expertise, that you will need to supplement your expertise?

Andrew Thin: We met only last night, so I hope that the committee will forgive us for not having fully thought through and crystallised that, as a team. It is clear that we will have the power and, we hope—subject to the spending statement on 15 December—some resources to employ people to help us. We will have to structure that around an extremely strategic approach. We could do an enormous number of different things. We will have to approach the work very systematically, so I am very reluctant to offer the committee half-baked thoughts now.

Mark Ruskell: Okay. Are there any other areas beyond legal expertise that you want to mention? What about planning and housing?

Professor David Adams (Scottish Land Commissioner Nominee): We are reasonably well covered in respect of basic expertise in planning and housing. I have been widely involved in debates with the professions and stakeholders. Obviously, we need to ensure that those debates continue and that the key bodies are involved in developing the work. It is very important that the commission be seen as a commission for Scotland as a whole and not just for the rural parts of Scotland. Planning and housing issues are very important to that.

The Convener: Let us tease that out a little bit and go round the panellists in turn. What expertise will you bring to the commission's areas of interest?

Megan MacInnes (Scottish Land Commissioner Nominee): Good morning, everyone. I am very excited about the chance to become a land commissioner. I met the others last night, and it looks like there will be an excellent team with a huge amount of expertise and many competences.

My contribution will be from the years that I have spent working on land reform, natural resource management and governance internationally, including in Asia, as well as from my background in and family connections to the Highlands: I grew up on Skye and currently live in Applecross. The international work, including in Asia, has allowed me to get involved in a range of elements of land reform and land management, from working with communities on titling and recognition of collective land titles and land governance systems, to working on legislative reforms with Governments and policy makers. I have worked with international agribusiness companies on how to balance the need for economic productivity with environmental and social protections.

I hope that, together, those things give me strong expertise to contribute to the commission's work.

Dr Sally Reynolds (Scottish Land Commissioner Nominee): I have a personal background in crofting, and professionally I work on a community-owned estate, so I have professional and personal experience of community land ownership. In addition, my PhD is in environmental biology, and I worked for a long time as an agricultural consultant. That gave me broad experience of land management, agriculture, and environmental issues including pollution and protected sites, which I hope that I can bring to bear. I have a lot of experience of working with communities—professionally through working on a community-owned estate and personally through working as a common grazings clerk and being involved in a number of local community organisations.

I have also worked with Scottish Natural Heritage on the local greylag goose management scheme, which has given me broad experience of working with volunteers and a Government agency, and of taking such work forward positively. Finally, I am a Gaelic speaker, so I will be able to add to the other benefits by communicating in Gaelic.

Professor Adams: My expertise is in real estate and planning. I have done a lot of research into urban land ownership, behaviours of landowners, and the house-building industry and development industry.

One of the commission's key tasks is to conduct and oversee research. I was deputy chair of the United Kingdom-wide panel that in 2014 assessed across all universities in the UK the quality of research on architectural planning and the built environment, so I have a lot of experience of research quality, ethics, methods and so on. I hope that it crosses over to go beyond my particular urban expertise.

Lorne MacLeod: I hope that I will bring expertise in business and finance, understanding of due diligence, financial analysis, putting financial structures together and funding mechanisms. I also have experience in private business and was for six years a co-opted director of the Isle of Gigha Heritage Trust, I also did six years in total with Storas Uibhist, which was responsible for one of the larger buy-outs at 93,000 acres, in which we were able to turn around a landed estate and make it viable with a financial structure and the ability create job opportunities in capital development, harbour development and renewable energy. In addition, my involvement with Community Land Scotland has given me experience of a wide range of

communities and how they get involved with land issues.

I would also like to mention the importance of collaboration. The protocol that we have developed with Scottish Land & Estates is important for collaboration. It offers opportunities to communities that wish to purchase land that is not on the market by using a step-by-step approach. Collaboration will be extremely important in the work of the commission.

The Convener: Dr McIntosh, at the risk of rehearsing what we went through earlier, do you have anything to add?

Dr McIntosh: I bring to the commission a lifetime's background, interest and involvement in land use and land management at practical and policy levels. For the past three years I was seconded into the Scottish Government as the environment and forestry director, so I was responsible for a lot of policy areas around land use, the environment, forestry and so on.

Andrew Thin: There is among us a wealth of experience from the international to the very specific. I hope that I will contribute by co-ordinating it, pulling it together and facilitating so that all that talent is expressed in a way that is useful to the Parliament and the Government. That is point number 1. We must effectively add value to the priorities of whatever is the elected Administration of the day.

Point number 2 is that I have a lot of experience of taking people and stakeholders—in the broader sense of the word—with me in various roles that I have played. I know an awful lot of the people, so I hope that that outward-facing contribution is my other main add-on.

The Convener: You have been the interim adviser on tenant farming. On interaction with the tenant farming commissioner, can you assist Dr McIntosh in that role or do you feel that you need to allow him to get on with it?

Andrew Thin: Both. I hope that I will be able to assist when that is wanted and be able to shut up if it is not. [*Laughter.*]

Maurice Golden (West Scotland) (Con): Lorne MacLeod is right that collaboration will be key, but complaints and disputes will need to be considered. I want to press the witnesses on something that I feel is, based on what you have said, still lacking—easy access to the requisite level of legal expertise. You could have a firm on a retainer or you could try to bring that expertise in-house. It will be quite difficult to square that circle, so I would like to know your thoughts on that.

Andrew Thin: I will offer a thought on that, then I might see what others think.

The breadth of the commission's scope is such that we are likely at different times to want specialised legal expertise, which we would never find all of in only one person; for example, my experience in tenant farming is that relatively few practising lawyers can provide advice on agricultural holdings. We should employ whatever we think we need by way of general advice, but we will need flexibility to buy specialist input whenever we need it. Even if we were to have five or six specialists on the commission, we would still not have all the specialists we would need, and we would not have any other talent.

Last night, I was delighted to pick up on the fact that all the nominees have in one way or another engaged in legal issues at a significant level of detail, which really encourages me. The best way to put it is probably that we know how to talk to lawyers.

Alexander Burnett: I have a question about agricultural experience. Although crofting is important, is it a concern that two of the proposed members of the commission are from crofting backgrounds, when crofting represents less than 3 per cent of Scotland's agriculture? Is membership of the commission too heavily focused on one sector?

Andrew Thin: I do not think that it is. No one is here to represent anything specific; they are here because they have a diverse range of experience that happens to include crofting. My experience includes crofting, but it also includes experience of agricultural holdings and of running an enterprise company. People bring diverse experience, and that diversity brings depth. I do not see that as a negative, at all.

Alexander Burnett: You do not feel that the absence of anybody with experience of beef, dairy, cereals or grain farming is an issue.

Andrew Thin: Among nominees we have good experience of the livestock sector, although I take your point about no one having direct experience of arable farming.

Finlay Carson: It concerns me that there appears to be overemphasis on the public sector. What practical experience do the proposed commissioners have of hands-on land management, other than in relation to crofting? With all due respect to Dr McIntosh, there is a huge difference between weekend farming and day-to-day land management in agriculture. I come from the south of Scotland, and I am worried that there is a lack of agricultural expertise or experience on the panel, other than crofting experience.

Andrew Thin: There is a lot of good and robust private sector experience. For several years I was director of an estate company that had a big

farming operation, so I have a very good handle on the realities of running a commercial operation. Lorne MacLeod has also been a company director.

Lorne MacLeod: I was involved in the Isle of Gigha Heritage Trust. There are four or five dairy farms on the island, so I have some understanding of dairy farming. I accept that I do not have practical hands-on experience, but I have experience of being on a board, which involved considering reconstitution of farms and helping them to become more viable.

Dr Reynolds: I come from a crofting background. Although my hands-on livestock experience is in crofting, in my work as an agricultural consultant I have worked with farmers and crofters—I did not deal only with crofting. The estates with which I have been involved are crofting estates, but I deal with all sorts of things, including commercial leases and so on.

Professor Adams: I have some concern about members relegating the commission to being a farming organisation. It could, equally, be asked why we do not have a house builder or someone from a financial institution on the commission. As the commission goes forward, it will be very important—as I mentioned earlier—that we think about land in all Scotland and not just in rural areas.

10:45

Edward Mountain: I have a general question, which each nominee could probably give me a bit of guidance on. There are always two sides to every argument. With land, views become polarised on each side, and I understand the need to come up with codes of practice. Whether it be on rural or housing issues, how will you sell yourself to the agents who are trying to act commercially—to commercial guidelines—and to make returns from their investment? The agents are a crucial part of the system, so will each of you explain how you will embed yourselves with them?

Andrew Thin: I will kick off. Scotland is a small place and we need to get out, talk to people and engage. Edward Mountain has seen me operate before; I envisage us all getting out and engaging with people. The real strength of Scotland is that you can get out and, if you get off your backside and put energy into it, in a relatively short time effectively build two-way understandings.

Lorne MacLeod: A year ago, I convened a meeting of land agents in Perth, because I felt that there was among land agents a level of expertise that had not been brought into the community landowning sector. It was a particularly positive meeting. In the intervening year, at least one firm of land agents has been looking to create a

specialism to support the community landowning sector. Working in collaboration with groups and bringing in all the expertise can be conducive to our working positively, going forward.

Megan MacInnes: I echo what Andrew Thin said about the importance of engagement with all stakeholders, including land agents and every other group across the various urban and rural communities that has concerns in the land sector. It is extremely important that we take the time to talk to them—that we get out of our offices and go and see what is happening on the ground in all those areas.

We also need to take the time to develop a strategic vision and a strategic plan for action over the three-year or five-year terms that we will be given. Only by doing that will we be able to allay everyone's concerns and show that we are fully independent and are not taking any group's side. We want to maintain that independence throughout the commission's remit as we do the ground work as it moves forward.

The Convener: I will pick up that point about independence. You are all here today because you bring expertise in certain areas, but some might say that there is the potential for conflicts of interest to arise. We touched on that issue with Dr McIntosh. I want each of you in turn to reflect on whether there are potential areas of conflict of interest between what you currently do and the role of land commissioner. If there are conflicts, how will you address them?

Professor Adams: There are no conflicts of interest with my academic role, because I am encouraged to be as controversial as possible in that role. My university is extremely happy to see me taking on the land commissioner role.

As is mentioned in committee paper 1, I have a role in convening a local community organisation. If there were any conflict of interest in that regard, it would be declared and I would absent myself from the discussion.

Dr Reynolds: I work for a community-owned estate. I have discussed the role with my employers at length and they have given their full support. Indeed, they are comfortable with me taking on the role. Like Professor Adams, if there were ever a conflict, I would abstain from discussing those matters.

I do not see any conflict of interest in other areas that I am involved in, unless we were to review something to do with crofting and common grazings, because I am a common grazings clerk. I do not envisage a conflict with that role, but if there were I would make sure that I absented myself from discussions.

Andrew Thin: I own a small amount of land, which will be fully declared—it is not tenanted or anything else. I am the chairman of Scottish Canals, which owns land, big metal horses and various other things. I do not think that there is any conflict there, but the interest will certainly be fully declared and I will be very alive to any conflicts.

Dr McIntosh: The only thing that I did not mention earlier was that I am a fellow of the Royal Institution of Chartered Surveyors. Given that tenant farming revolves around landlords, tenants and agents, I suppose that there might be a suggestion that, as a member of the RICS, I am particularly hefty towards agents, and I am considering whether to keep up my membership for that very reason.

Lorne MacLeod: I am the chairman of Community Land Scotland. If I am confirmed in post, my intention is to resign from that role and end my involvement with Community Land Scotland. The year end for that is 31 December, so that would take effect from then.

I am also a co-opted director of the community-owned estate in the islands of Eriskay, South Uist and Benbecula. I would resign that role from 31 December, too.

Megan MacInnes: On a professional basis, I am currently on maternity leave from the organisation Global Witness. In that role, I was involved in various elements of the Land Reform (Scotland) Bill, particularly parts 1 and 3. I have been involved in work on submissions for the consultation processes that are under way following the passing of the 2016 act. If I am confirmed in post, I will need to discuss any potential conflicts with Global Witness, Andrew Thin and Bridget Campbell's team.

On a personal basis, my partner and his family are crofters in Applecross. If there are potential conflicts, I will declare them and abstain as necessary.

The Convener: How, in practice, will advice be available to you on potential conflicts of interest?

Andrew Thin: It is my responsibility to ensure that conflicts are managed well and properly, and I have done that many times in many public bodies. That is the first line. The second line is that I will always, if necessary, seek advice from sponsoring civil servants—and, if necessary, lawyers, although I do not anticipate having to do that.

Finlay Carson: How many of the witnesses have or have had in the past any formal ties with Community Land Scotland?

Lorne MacLeod: Obviously, I am the chairman.

Professor Adams: The community group that I convene is a member of Community Land Scotland.

Dr Reynolds: The community group that I work for is also a member, and I am a personal member.

Megan MacInnes: I have done a small amount of work with Community Land Scotland. It was background research on the land rights and responsibilities statement. That contact has been completed for a number of months now.

Kate Forbes: As Professor Adams has identified, the commission is for the whole of Scotland. I would like to hear from each of you how you envisage conducting your work across Scotland geographically and sectorally, to engage all those who have a stake in Scottish land.

Megan MacInnes: As we first met only last night, we are only just beginning to think about exactly how we want to start doing that. We all recognise that conducting that kind of stakeholder engagement is one of the most important parts of the commission's work, in the initial process and as we move forward. It is extremely important that we get that right and that we reach out to all stakeholders. We must be able to demonstrate that we are willing to listen, we are open and we are available for conversation with anyone who wants to come and talk to us. That must be true as the commission's strategic vision is developed and then as we start implementing the work from the proposed date of 1 April.

As has been clearly demonstrated, we are not representative of particular geographical areas or particular sectoral groups. However, together, we have very good contacts and experience and knowledge of the different areas. It is about making sure that we have a plan that covers all the sectoral, geographical and interest groups across Scotland, so that we genuinely reflect land reform issues across the entire country.

Kate Forbes: You are to be based in Inverness. How will you ensure that you get out and about across the Highlands and elsewhere in Scotland?

Lorne MacLeod: In my involvement with Community Land Scotland, one of the exciting things at the moment is that the majority of inquiries are coming from outwith the Highlands and Islands, particularly Dumfries and Galloway and the Borders, and from urban areas. I have had involvement in Dumfries and Galloway. Last week, we had an awareness-raising event in Newton Stewart, which was filled to capacity. I believe that there is growing awareness of issues.

I am conscious of your point that it is important to bring the issue to urban areas. There have been successful projects in such areas, such as the

community buy-out of the Barmulloch boxing club, which is right in the heart of Glasgow. The issue of land and access to land is important for all the communities and individuals of Scotland. That needs to be at the forefront of the Scottish Land Commission's work.

Dr McIntosh: I totally agree. It is about everyone in Scotland, and land is for all of Scotland. We must not ignore the urban area. In my previous role, in the Forestry Commission, we started an urban forestry agenda, and we got involved in managing and creating woodlands in the heart of some of the most disadvantaged parts of Glasgow. That was a hugely rewarding experience, which had a very positive impact on communities and on the landscape in the urban area. It is certainly not our intention to ignore the urban dimension.

Andrew Thin: That is not unique to the Scottish Land Commission as a public organisation. The majority of public bodies need to serve all Scotland's people fully—that is what they are there for.

There are two key dimensions, in my experience. I apologise for talking about an in-principle approach, but we have not talked through the practice. First, we have to get the culture and core values right from day 1. We must establish the right culture and core values—transparency, accessibility and all those sorts of things—so that we can be there for everybody. Secondly, we have to get the management practice right. The board and the staff need to get out. Those who conduct a review need to have a systematic evidence-gathering process, which is properly inclusive and uses social media and so on. We have to think through those two dimensions, but we have not done so yet.

Dr Reynolds: I agree with everything that my colleagues have said. We met only yesterday, so we have not managed to start planning this yet, but I assume that we will have a strategic, methodical plan to get out and see everyone.

I am a big believer in community engagement and communication—in talking, in going out to meet people face to face and in speaking with as many stakeholders as possible, to ensure that we meet as many people as we can across the whole of Scotland and in every sector.

Professor Adams: I hope that the commission will have a strong focus on the huge extent of vacancy and dereliction, which have not been tackled for a long time. We are talking about 12,500 hectares in Scotland, which is more than twice the size of the city of Dundee. We have a long-standing problem there. It is concentrated in the cities, although it is not exclusively in cities, and it particularly affects the most deprived

communities. It is a scourge on the economic sustainability of Scotland that so much resource is wasted, because it is vacant and derelict. The commission has to begin to understand why that is the case. It has to understand why redevelopment and development projects take so long. It has to understand the role of land in housing and in urban areas. It must really tackle some of those issues, which are as core to the economic prosperity of Scotland as a whole as they are to environmental sustainability.

In some cases the problem is concentrated in urban areas, but some of the derelict sites are in peripheral rural locations. We need to get away from differentiating between urban and rural, and we need to consider themes. To me, the theme of trying to reduce and tackle that huge backlog of vacancy and dereliction is an important part of the land commission's work.

The Convener: At this stage it might be useful to tease out something else on the record. Can you each confirm the period of your appointments? As I understand it, they are staggered.

Andrew Thin: I am not sure that we can; because our appointments are not confirmed, we do not have formal offers.

The Convener: Nothing is determined at the moment.

Andrew Thin: I do not think that the Government can give us a formal offer until the committee has considered whether it wishes to confirm our appointments.

The Convener: The act provides for staggered appointments up to a maximum of five years. The idea was not to reach a point, five years from now, at which the entire Land Commission is up for change.

Andrew Thin: I have had a conversation with civil servants and I can confirm that it is the intention to ensure that there is stagger, yes.

The Convener: Right—so that will happen, but you do not know the details yet because of where we are in the process.

Andrew Thin: Yes.

Jenny Gilruth: I will ask about strategic planning. You have all spoken to some extent about the importance of relationship building, but the commission will obviously have limited time, because it is all meant to kick off on 1 April 2017. In the intervening months, how will you proceed? What are your plans? Andrew Thin, you said that the commissioners met for the first time only last night. How do you envisage doing strategic planning and how exactly will you—as Dr Reynolds said earlier—reach out to communities

and involve them in the strategic planning process?

11:00

Andrew Thin: I will offer to start. Over the next three to four months we need to get in place a strategic plan and a business plan for just the first year, 2017-18. We will not get everything clarified by 1 April.

The top priority in the first year, as is set out in the Land Reform (Scotland) Act 2016, will be to produce a three-year strategic plan—I am guessing that it will cover three years. I do not think that all that will happen between now and 31 March. To make it happen effectively, as I suggested earlier, there will have to be formal, structured ways of consulting and engaging.

However, I am also extremely anxious that, even in the pre-April period, we find ways, as a team, of engaging with the key players. That will be quite tough, as we have only three to four months and Christmas is in the way, but I think that it can be done with the key players, so that the human relationships start to build. For me, a lot of this work will be about taking advantage of being in a small country to build those human relationships pretty early.

Jenny Gilruth: Does anyone else have thoughts on how to engage the community with the work that you are doing more broadly in the strategic plan? I appreciate that there is a time limit and that perhaps it will not be ready to go by 1 April, but do you have any broader thoughts about how to engage different stakeholders in that process?

Megan MacInnes: One thing that we discussed last night was the importance of communication and of the commission establishing a communication plan and a strategy for listening, informing and being transparent. We have identified that as a key priority to start work on before 1 April, so that people get to know who we are, why we are excited and what we have to offer. We can start already on the means of initiating that dialogue with groups across Scotland. They will include not just visits to different stakeholder groups but also social media-based communications, which are extremely important, given how much Twitter now plays a role in online discussions.

Mark Ruskell: Professor Adams had some very interesting points about, in effect, place-making, not just within an urban context but an urban-rural context as well, and about the role of vacant and derelict land. It got me thinking about your remit as a commission and where you draw the line on what is within and outside of that remit. Professor Adams, will you explain where you see that line

and where you see the agenda of the commission relating to that of other bodies that might feel that they have more of a locus and a role in a given area?

The Convener: We will open that up to anyone else who wishes to make a comment after Professor Adams.

Professor Adams: I find that a very difficult question because I do not work in lines or boxes—I just make connections all over the place. I have talked about land reform to groups from the Scottish Property Federation to the RICS, community housing associations and so forth. Part of this is just seeing where we go. One key thing about land is that it is such an integrating resource. It pulls together a whole series of potentials.

I am not too sure how to answer the question, because it is not in my nature of thinking to draw too many lines and boxes. I realise that, as an organisation, we will have to not tread on people's toes, but no doubt we will find a way to deal with that.

Mark Ruskell: Could your work cross over into local government reform, for example?

Professor Adams: I had not thought that that would be a priority. It might cross over into planning reform, because one of the issues around planning reform is the extent to which it does not make enough connections with land. As to how we actually deal with that, no doubt we will find out. The beauty of being an independent commission, and of starting almost from scratch, is that you can try to think quite imaginatively. If you then find lines and boxes, you can deal with them then; I would not start with them.

Andrew Thin: If we think about our job as being to help the Parliament and the Government to achieve their priorities in relation to land policy and land legislation, that starts to put a frame around things. We have the national performance framework, which will be revised. Ultimately, it is about helping the Scottish people, through the Parliament, to achieve what they want to achieve, and that is delineated to some extent by legislation. We will build from that a corporate plan, a three-year strategy and all the rest of it, and consult very widely on them. They will ultimately be laid before Parliament as part of the process. All the mechanisms exist to ensure that the work is sensibly co-ordinated with the work of civil servants and other public bodies.

We have to be very careful not to be tempted or, indeed, perhaps pushed to go into things because they look interesting, fun and exciting. We need to be very systematic and constantly remind ourselves that our job is to help the elected representatives of the country in the Parliament to

deliver what they consider to be the priorities. At the moment, those include sustainable economic development and inclusion.

David Stewart: My questions are to Andrew Thin, who is the prospective chair of the commission. It is clear that there is a heavier responsibility on you, Andrew, and issues such as leadership and vision are obviously vital. Will you describe your leadership style? What is your overall vision for the organisation?

Andrew Thin: My leadership style is inclusive and team based, but it is from the front. Some people like that and some do not, but that is how I lead. I think that most people here have seen me lead in different roles, so they know how I do that.

I started to articulate my vision in response to Mr Ruskell. The organisation has the potential to help the Parliament and the Government of the day to deliver whatever their priorities are. Those priorities will change from time to time—with elections, for example—but the potential exists to have a specialist body that says, “Right. Your priority is a country that is more at ease with itself and that has a more inclusive economy or a growing economy. If you do this in relation to planning”—or derelict land or whatever—“that might help you to deliver your priorities.”

My vision is very much about an organisation that really adds value to what the Government is trying to do and, in the process of doing so, excites and energises the people of Scotland to think about issues and think the unthinkable. Perhaps that is a bit strong, but a lot of us do not think about land: we take our current approach to land as read. Part of our job will be to energise that thinking process, which should lead to a more effective democracy and a more effective Government.

David Stewart: Thank you. Earlier, my colleague Jenny Gilruth mentioned developing the strategic plan. I think that Napoleon talked about strategy disappearing with the first contact with the enemy. I am not suggesting that you will have any enemies, but you will take the point that it is fairly easy to produce a strategic document in an ivory tower and then find that it does not meet reality. How do you respond to that?

Andrew Thin: Absolutely. A strategy can disappear partly because things have not been properly thought through in consultation with other people. Moreover, lots of people will come in and tell us what we ought to do on this, that and the next thing. It is extremely easy to be blown by the wind rather than be strategic. Both risks exist.

I will not repeat all the things that have been said, but we were very clear in our conversation last night that we will not just jump in on the first thing that takes our fancy. We will work through

things systematically. By 31 March, we will produce a clear strategic approach to the first year and, during the course of that first year, we will produce a proper strategic plan for the next three years. We will do that very systematically.

David Stewart: My final question is about conflict. To use your earlier analogy about plain sailing, it is sometimes easy to manage when there is plain sailing, but when there is a tidal wave it is much more difficult. How would you deal with poor performance from commissioners? Would you be responsible for annual appraisals? How would you remedy poor performance?

Andrew Thin: In all the public bodies that I have chaired, I have introduced 360 degree appraisal for board members; in this instance it is commissioners, but it is the same thing. I have not asked these guys if they will agree to it, but I hope that they will. [*Laughter.*]

If members have not come across 360 degree appraisal, it is a system where employees, fellow board members and, possibly, outside stakeholders are invited to tell a person who they work around what he or she is doing well and what they could perhaps do better. I am anxious that we have a really robust system. At the risk of stretching the point, that system should be in all public bodies in Scotland.

David Stewart: I think I said “finally” earlier, but finally finally, do you see yourself as having a clear management role over the other commissioners or are you first among equals? As you know from other bodies—you have lots of experience—sometimes there has been some confusion over the role of the chair.

Andrew Thin: This is a team. I am not managing these people, but I hope that I can offer some sort of leadership, coordination and inspiration. I hope that members have heard that there is extraordinary talent sitting here. My job is to draw that talent out and to build synergy.

Edward Mountain: I have a small question for Andrew Thin. I know him from the past. Has he thought about—he will have done—the size of support team that he will need for the commission? There is provision for a chief executive. Has he any idea how lean the rest of the department will be?

Andrew Thin: It is early days, but we touched on this last night. We do not know what resource the Parliament will make available to us; I have to put that proviso in. We will be anxious to keep fixed costs as low as possible, because who knows what the next five, 10 or 15 years will bring for public expenditure. It will be a lean, tight team. We would like sufficient slack so that variable costs will allow us to bring in the kinds of specialisms that have been referred to, such as

specialist legal support for particular bits of work, so that we can handle it that way. That is how I see it.

Edward Mountain: We can expect a lean team with support bought in where required—is that what you are saying?

Andrew Thin: Yes: low fixed costs with enough slack to use as required.

Edward Mountain: I am glad that we have tied you down on that. [*Laughter.*]

The Convener: I think that we have covered most of the areas that we wanted to. Perhaps I can wrap the discussion up and ask each witness a question. They have obviously come to these roles with ideas and ambitions for what the Land Commission will deliver. I ask what success would look like for each of them, three or five years from now.

Megan MacInnes: I was asked that exact question during the interview. If a three-year strategic plan is developed within the first year, it is most important that the commission demonstrates within that timeframe that it is a legitimate organisation that is contributing successfully and effectively to thinking on land issues in Scotland across all the sectors, urban and rural. All sectors—whether agriculture, crofting, forestry or urban housing—need to be reflected within the commission's work. We need to demonstrate that we are communicating effectively: listening to all the different stakeholder groups, thinking about their ideas, responding and being transparent. For me, those are the most important elements of where we want to be in that first three-year plan.

Lorne MacLeod: In my experience, land and access to land are crucial for individuals and communities to maximise their potential. I would like us to consider all the levers that can help to facilitate that, across the whole of Scotland—particularly in those urban areas that may not have awareness of the potential that can come from land and access to land. That is my objective for success.

11:15

Dr McIntosh: In relation to the TFC role, success would consist of a number of things, one of which would be the landlord relationship being a lot more comfortable across Scotland than it sometimes is at the moment. Another measure of success would be that the amount of land that is available for tenancing would start to increase again instead of decreasing. In addition, if all the codes of practice and the culture change are working, the number of cases that go to the Scottish Land Court should diminish.

The Convener: You are not looking to achieve anything very ambitious.

Dr McIntosh: No. [*Laughter.*]

Dr Reynolds: I would like us to have a very clear and strategic plan that we could review after three years, to see where we had come from and where we were going. By that time, I would like us to feel that we had built up good relationships with stakeholders and that there was good stakeholder confidence in what the commission was doing. In that regard, the key for me is always communication—honest, clear communication.

Professor Adams: I think that we need a clear, rigorous and dispassionate understanding of what the land problems of Scotland are. We need to open up that debate with thorough analysis and thorough investigation. I hope that, by doing that, it will be possible to chart—within the commission or within Government—far more successful land policies in Scotland in the future than we have had in the past.

Andrew Thin: First, I would like the Scottish people to have a clear feeling that, through the Parliament, they had created in the Scottish Land Commission an exciting and dynamic organisation that really adds value to the leadership of this country. Secondly, I would like Scotland, the Scottish Government and the Scottish Parliament to be perceived—on a European stage, at least, if not internationally—as being right at the front of land reform.

The Convener: Thank you. I thank the witnesses for their attendance.

The committee's next meeting will be on 6 December, when it will take evidence from the chair and the chief executive of Scottish Water, and the chief executive of Scottish Water Business Stream, on Scottish Water's annual report for 2015-16. The committee will also consider its draft report on the appointment of the Scottish land commissioners and the tenant farming commissioner.

As agreed earlier, we will now move into private session. I ask that the public gallery be cleared, as the public part of the meeting is now closed.

11:17

Meeting continued in private until 12:30.

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