

# Cross-Party Group on Crofting

5 March 2024

## Minutes

### Present

#### MSPs

Rhoda Grant MSP (Chair)  
Alasdair Allan MSP  
Donald Cameron MSP  
Beatrice Wishart MSP  
Rachael Hamilton MSP

#### Invited guests

John Kerr  
Rae Mackenzie  
Bill Dundas

#### Non-MSP Group Members

Donna Smith (Secretariat)  
David Cameron  
Philip Coghill  
Maria de la Torre  
Bill Dundas  
Michael Foxley  
Miranda Geelhoed  
Claire Hardy  
Johnathan Hedges  
Lynne Hendry  
Anne Campbell  
Andrew Holt  
Iona Hyde  
Celia Compton  
Donald Mackinnon  
Fiona Mandeville  
Malcolm Mathieson  
Jackie McCreery  
Beatrice Morrice  
Rhona Elrick  
Rae McKenzie  
Karen MacRae

Andrew Holt  
David Muir  
Donald Murdie  
Aileen Rore  
Eilidh Ross  
Russell Smith  
Susi Stuehlinger  
Yvonne White  
John Macleod  
Helen O'Keefe  
Lena Horch  
Donald MacSween  
Donald Bruce  
Rosemary Champion  
Iain Maciver  
John Maughan  
Brendan O'Hanrahan  
Niall Evans  
Iain Laidlaw  
David Skene  
Alan Wyper  
Mairi MacKenzie

#### Apologies

Ariane Burgess MSP  
Rachael Hamilton MSP  
Edward Mountain MSP  
Bill Barron

Jamie McIntyre  
Jim MacPherson  
Michael Nugent  
Iain Liddle  
Eleanor Garty  
Andrew Thin

## **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**

Minutes of the meeting of January 10<sup>th</sup> 2024 were approved.

## **Agenda item 3**

**John Kerr** (Scottish Government) gave an update on the Agriculture & Rural Communities Bill

Main points included:

- The broad objectives that the bill seeks to provide as outlined in section 1 of the bill (sustainable and regenerative practices and farming; the production of high quality food; the facilitation of on farm nature restoration, climate mitigation and adaptation; and enabling rural communities to thrive).
- Issues that have raised discussions in stage 1 of the bill in the Rural Affairs and Islands Committee (RAIC) are the rural support plan and the code of practice for sustainable and regenerative agriculture, as well as the framework nature of the bill.
- The bill is an enabling mechanism to deliver the vision set out in Scottish Government's (SG) vision for agriculture and the route map for agricultural support reform. It provides SG with a set of powers to bring forward agricultural support in a 4-tiered structure with tier 1 being base payments, tier 2 being enhanced payments, tier 3 being bespoke payments similar to the current Agri-Environment Scheme and tier 4 being support around professional development for farmers and knowledge transfer.
- The detail which will inform the specific schemes or support mechanisms will flow from the secondary legislation which is being developed alongside the progressive implementation of the various tiers over the next years, beginning in 2025 with the introduction of conditions on the existing payment structure.

The advantage of a framework bill instead of a prescriptive set of instructions is that it can provide for flexibility in the future.

- Further reforms in the pipeline include changes to agricultural holdings legislation in the course of the land reform bill and later on also the crofting law reform. Hence, there are various legislative proposals directly relevant to crofting scheduled in this parliamentary term.

### ***Discussion***

Question: Will LFASS be continued?

Response: The route map sets out that SG intends to look at how Less Favoured Area Support (LFASS) will be delivered from 2027 onwards. While it is still unclear how exactly this will look like, there will likely be a role for tier 2 for LFASS payments in the future.

Comment: In the past, a fair amount of LFASS has been directed towards fairly well favoured areas.

Comment: Crofters need to know much earlier what's going to be in secondary legislation, rather than just the very wide framework bill which is crafted in Edinburgh, some 250 miles away. There needs to be more sense of situating things locally. Also, many crofters are doing things like greenhouse gas reduction already, yet they are not getting much credit for it and there is little in the mechanisms of the bill to actually acknowledge what people are doing already.

Question: How will common grazings fit into the various tiers of the new support system?

Response: Common grazings are going to be a tricky issue. At the moment, that land is eligible for income support with relatively low bars for compliance. If tier 2 aims at a bit more in terms of nature and climate outcomes, we need to reconcile what that means for active grazing committees versus situations where there is none, and we need to find a way to deal with situations where not everyone involved in the management of common grazings is working towards these ends. The thinking on that is at an early stage, SG is keen to hear views and also has the support of the Crofting Commission's team on this. The specifics of tier 2 is something we are working through at the moment.

Comment: In North Lewis we have two massive common grazings, about 14,000 hectares between the two. Previously, the clerk of every township had the competence to agree whether we should opt for an agri-environment scheme. Now we need a 50% plus 1 majority of the approx. 800 shareholders to agree to it which means that just nothing happens. So we're losing out, the environment is losing out and it just seems pointless: one size does not fit all.

Response: We do recognise the issues around common grazings and that the requirement to have a majority of shareholders or a sufficiently active grazings committee may be a barrier to implement tier 2 measures. While we are alive to the

need to do something in this respect, we have not got the answer yet. We also recognise that it's a multifaceted problem, which is wrapped up in in tenure issues and to an extent, depending what you want to do with the grazings, also around about the rights of the landlord versus the right of the common grazing shareholder. So that's quite a lot to do in that space and but we are very cognizant of that and it's on our list of things to try and sort out.

Comment: With regard to Continuing Professional Development (CPD), SG should bear in mind that crofters also have other jobs and may have large distances to travel. SG needs to be aware of the reality of part-time agriculture and the pressures on people's time.

Comment: Land Management Options (LMOs) should be brought back. They were good for the environment, good for public access and provided crofters and farmers with a good income stream. LMOs were a quick, easy way of accessing funds for the environmental side of things which is impossible for crofters through the Agri-Environment Climate Scheme (AECS) just now.

Response: I agree with the point you make in terms of LMOs and many stakeholders have reminded us of the usefulness of LMOs from the perspective of those delivering LMOs. However, we need to ensure that we achieve high value outcomes and in the past we perhaps had more footpaths and not as much biodiversity gain as we would have liked. We need to strike a balance between those two things. The accessibility of that approach is something we very much take into account and we want to have a flexible approach on how we deliver tier 2 support and how this is balanced against delivery requirements as well.

Comment: With LMOs we were trusted. Under Prepare for Sustainable Farming (PSF) grants this is less the case, there does not seem to be much for crofters under PSF and a lot of crofters do not seem to know much about PSF at all.

Comment: Tier 2 measures do not seem to be geared towards crofting at all, but rather towards arable farmers, the measures are mostly irrelevant to crofting. Also, common grazings are already high nature value and are already managed in a fairly sustainable way. If support is reliant on showing big improvements, common grazings are going to miss out because they are already at a very high level of biodiversity. Are there any options to reward existing good management rather than just incentivising changes?

Response: We want to make sure that the people who are already ahead of the curve in terms of sustainable and regenerative practices are rewarded for the action they are currently taking and have been taking. We do hear that people are waiting before they take action and that is not what we want. What we want is the good practice to start as soon as possible. So yes, we do want to reward high level outcomes where they're happening already, rather than just paying for new things. The corollary to that is making sure that we get best value for the public purse. So we have make sure that public money is funding something that wouldn't otherwise happen. We do acknowledge that the early list of tier 2 measures focuses on some big ticket items in terms of delivering sufficiently on emission reduction and on

nature where it is most strongly competing with production. And that means that we've got a bit more work to do in the more extensive systems, particularly crofting. On the point about high nature value: we should be able to recognize that. There are some issues for us in terms of expanding the list of measures and some of that might come through more clearly when we've got a draft of the code of practice on sustainable and regenerative practices to discuss with the sector.

Comment: Another point that emerged from our discussions at the parliament was about abattoirs. Apparently, in the European Union directive, there was a derogation allowed for remote areas with places to have local abattoirs without the whole raft of inappropriate heavy legislation. And apparently Britain never took up that derogation, even though we've got lots of places where it would be appropriate. Can we please have some way of addressing that issue so that we don't have abattoirs going out of business?

Answer: The bill is about having a framework for support for supporting and farmers and crofters. The regulations and rules around abattoirs are legislated for elsewhere. So this bill wouldn't be the vehicle for a change like that.

## **Agenda item 4**

### **Update on the National Goose Management review.**

**Rae Mackenzie** (NatureScot) and **Bill Dundas** (Scottish Government) gave an update on the National Goose Management review

Main points included:

- NatureScot was commissioned by SG to do the review in 2022. There's been a goose policy framework in place since 2000 which has been reviewed roughly every five years. The work began in 2022, but due to the outbreak of avian influenza and the work that needed to go in, there was a delay to the preparation of the of the review.
- A consultation was carried out over 3 rounds, involving local goose management groups and the National Goose Forum (NGF). The findings were developed into recommendations and there was a report written and submitted to SG in spring 2023, which finally has been published two weeks ago.
- One of the main things we want to do is to set out a delivery plan saying who is responsible for doing what, when and where. We're ready now to head back out to the stakeholder groups and to further discuss this delivery plan.
- From a crofting point of view, the feedback we got a lot, was around greylag geese and management of greylag geese. Since the last review, there is clear recommendations that we need to set out management plans. We need

to set out where management interventions take place, what they are, what level of public funding is required and that schemes operate in an equitable and transparent manner and we will continue to explore mechanisms to manage these populations.

### ***Discussion***

Comment: I am pleased that additional funding has been provided by SG to the local goose Group in Uist as well as in other areas such as Lewis and Harris, which is appreciated by crofters. It did come at the very last minute though, which was challenging. The money will be used to reduce greylag geese numbers and hopefully make a substantive dent in their population size. More local shooters than ever before have been recruited and hopefully we shall see a noticeable reduction in numbers. But this effort has to be sustained over coming years to bring the numbers down to a manageable level and we will continue to press for similar funding amounts over the next few years. There needs to be a concerted effort to come up with a long-term solution for this problem because it's not going away and it's going to continue to conflict with SG's wider objectives around agricultural policy that they want to deliver - in terms of food production as well as regarding environment and biodiversity. We're looking forward to taking part in the development of the delivery plan.

Response: We've laid out a recommendation that says commitment to goose management should aim to be medium to long term to allow farmers and crofters to plan management of their business. Greylag geese haven't had any form of long-term management for a number of years, hence our recommendation around the development of species management plans, including Icelandic greylags but also a national plan for resident greylags, providing the building block of a longer-term solution to greylag management and the conflict between agriculture and conservation. Stakeholders are called to nudge things forward because there is a substantial issue around the pressures in terms of staffing and resourcing across government. I think the plea we would put out to you all, is to let us know about what you think is important and what are the key things that you want to see funded. Because at the moment there isn't an obvious longer-term solution to funding around greylags or funding in terms of protected species.

## **Agenda item 5**

**Gary Campbell** (Crofting Commission) gave an update on the work of the Commission

Main points included:

- The Crofting Commission (CC) has welcomed the new minister for agriculture, Jim Fairlie, and hopes to build the good relationship previously existing with his predecessor.

- The CC has recently put out a press release on new entrants which was picked up by media far and wide including by the Sunday Times. Especially the number of female crofters was of interest and the CC is pleased how well the PR was received by media outlets across the country.
- The commission is working on solutions to make case work more efficient. If applications require more information, there is a time limit of 28 days to supply it or the case will be closed off which is working really well. Further, the process of objections is slightly curtailed which hopefully will lead to some efficiencies. Further, we are streamlining the process within the tiered system, so that only the most complex cases have to be referred to the board.
- Gary recently visited Lewis and gained interesting insights into some of the issues including the complexities of running really large common grazings. Next up is a visit to Shetland. Gary and the CC team will be out and about until September and are keen to get out and meet as many people as possible.
- Further, the CC development team is looking into succession planning cases and will attend a lot of shows as usual.
- In terms of annual census, about 13,500 census forms have been returned which is a reasonable return rate. However, there is a number of serial non-returners and some of them clearly do not meet the residency duties. The CC will be taking a sample of those and visit the respective crofts to see if they are used. However, it should be clarified that this is not a policing exercise but rather a primary check on land use. If the croft is being used, for example by an arrangement with the neighbour, we would look to formalise that so that we can properly run the crofting regulations across the country.

### ***Discussion***

Comment: The requirement for completing a census has been in place for over 10 years with a constant rate of 25% of non-compliance, however, I am sitting between two derelict crofts and I know that those people never have returned a census form, yet nothing ever happened. I'm fighting back bracken and weeds from both sides of me and I'm having the sole duty of maintaining fences, which should be a shared responsibility. At the same time we've got population crisis and a huge demand for crofts and those two things just don't seem add up on it. It's not time anymore for a soft approach reminding people and send them polite letters. It's time for a bit of action to take place. Coming from a crofting community himself, the CC CEO should know that it is not practical for people to report their neighbours. The CC knows about these cases and should be taking action without anyone needing to report them.

Response: The CC can only act upon someone reporting the situation. We are aware of the serial non-returners of the census and we are working on this. We do the best we can with the resources available.

Question: What happens if people do not reply to the letters of the CC?

Response: We will be picking samples and are going to visit them. If they do not respond we will try to speak to others in the area including local area officers, and our commissioners as well. If we have established that people are absent or neglecting the croft we will take action.

Question: If the CC visits a croft and establishes that it is basically a ruin and rushes, what are the next steps?

Response: The next steps are the same ones as if someone returned their census stating that they are in breach of their duties. We then try to work out what works best for people to do with their croft. They might want to assign it or they might want to find another solution. I have been in my post for two months now and we already have people's tenancies terminated because they were in breach of their duties.

Comment: The CC should not need to rely on people reporting their neighbours.

Comment (CC): It can take up to two years from the starting point of the process when there is a suspected breach of duty because of the individual stages that are prescribed by the law. It is part of the law and you cannot blame the CC for this since they are just applying the law they have to work with. The CC has to work within the confines of the crofting act and I am glad to say that the bill group are looking at some excellent ways to alleviate these problems.

Comment (CC): The CC are starting to work on serial non-returners, they are terminating tenancies and are starting to look at owner-occupiers, too. I wonder whether there really is a huge demand for crofts or whether it is merely house sites. We do have a serious problem with housing but I do not believe that there is a demand for crofts.

Response: According to the Scottish land matching service there is 125 people presently looking for a croft. I am sure that others may want a croft and are not aware of that but I cannot take anecdotal evidence on this. There are systems and ways of registering crofts and you will see that there's crofts being advertised in the Western Isles at the moment. The Scottish land matching service should encourage people to use that system if they are wanting a croft.

Comment: Maybe we from the Scottish Crofting Federation (SCF) could supply the commission with some figures because obviously the numbers of the land matching service do not adequately reflect the demand for crofts. Maybe it could tell us how many land matches were made in the last three years. I will tell you: 29.

Comment: SCF keeps a register of people who are looking for crofts. Those people are interested enough in crofting to become members, so those are people who genuinely are looking to get into crofting and at the moment there are about 400 people on this list which is significantly more than the land matching service is aware



about. Also, the land matching service has only recently started recording croft requests separately. The recent report on the land matching service covers the last 12 months and what is interesting to see is that there is a huge spike in people registering for crofts, actually outstripping the people who are registering an interest in farmland. On the other side, there are seemingly very few crofters interested in passing on their croft via the land matching service according to the figures. And if we see how the market for land and crofts develops it will always be difficult for this to happen. And despite SCF's push for the expansion of the crofting community and for a mechanism to reject applications – for example in case there is a strong suspicion that the application is about creating a speculative house site – most of the members of this group were not up for it.

Question: Will the bill find a mechanism around the shyness of people in reporting fellow members of their crofting community?

Comment (CC): There is no actual definition of a crofting community. It is basically a historical thing and if someone does not have a croft but they want to raise a complaint they cannot do this because they are not part of the community. One thing the bill group is looking at is whether you should have the right to raise a complaint regardless of whether you are a crofter or not if you live within the area. But while we share the frustration, this is not a matter for the commission at the moment. We only can operate within the realm of the crofting act and cannot deviate from that.

Comment: I am in Mull and was in SCF's working group for access to crofts in Mull a few years ago. The commission should be policing it even if it takes two years. I do see derelict crofts being rented out and used by people who do not need them. Those could go to new entrants and the neighbouring crofters could just carry on fine, they have enough land. This week there has been a 270-acre croft in Mull gone on the market for offers over £995,000. Something needs to be done about that.

Response: We are very frustrated with a lot of this but we do have to operate within the confines of the law. In many cases, especially in terms of owner-occupied crofts, we have got no laws to intervene. Once a croft is assigned or bought, as long as the people act within the law, for example subletting the croft to a neighbour, there is nothing that the CC can do at the moment. We do need the help of the crofting community to bring these things to the attention of the bill group and to ask the government to change the things that we can't.

Question: What power does the CC have if someone blatantly disregards the grazings regulations? It may not be the preferred option, but I think the CC can permanently split a share from the croft, this may not be ideal, so can they do it temporarily?

Response: If you could bring particular examples of common grazings to me or the staff that would be helpful. Common grazing rules and legislation are very complex, even to me, and this has to be looked at individually, each one at a time. So I would not want to make a general comment on this tonight but please bring any issues arising to our attention and we will have a look at it. At the moment, staff are looking

into three different common grazings with similar issues arising but they all need to be looked at individually.

Question: The fantastic figure of 500 new entrant crofters: Was this an annual figure? Did it spike because of any backlog?

Response: Those figures are showing that people actively come into crofting. It's people who are newly on the register of crofts and whose name was not on there previously. It is people who inherit crofts, or buy crofts, or newly rent crofts. There is a turnover in terms of crofts and it is not a bleak picture. The crofting communities are really vibrant and the comments those contributing tonight made show that people are really interested in crofting and want it to survive well into the future. We are doing a lot of work to help with this and believe me I would love to do all the things everyone is asking tonight but we simply do not have the resources and we do need to operate within the law as it stands.

Comment: There is a noticeable improvement in the last six weeks in terms of what is coming out from the CC in terms of processing times and also regarding the quality of responses received. On the question about demand for crofts: Gary is making the point that if they were many thousands of people looking for crofts why wouldn't they care to put their names on certain lists. Yet, I think this is mostly due to people being very realistic about getting a croft on the open market and for them there is very little point in putting their name on the commission list. People are not doing it because they know the chances are so low and my experience is there is a huge demand for croft land. Some of this may be driven by a demand for housing but there is a genuine desire amongst people of all ages for bits of land to actually work, not only to develop. Crofting landlords reporting breaches of duty would only mitigate the problem in the case of tenanted crofts and there is also the problem that the landlord would need to raise an order with the Scottish Land Court to take this anywhere so there is a factor of holding landlords back from doing that, such as the cost and the conflicts it may bring about. If there are absentees, that is a separate breach of duty and my understanding is that the CC can take unilateral action against the absentee because the information is there and presumably the CC have been told of somebody's address, in an application or whatever. So in that case, in my experience, the CC can and often does take unilateral action. I think, correct me if I am wrong, the real issues arise with the breach of the cultivation duty, where manpower is needed to go out there and check upon it.

Response: The first step is to make sure that the land is being used in accordance with the law which means it is required to formalise respective arrangements. In terms of reporting, people need to tell us. This is not on us and if the people are absentees they are not your neighbours, are they? So please tell us. We cannot do anything unless people tell us. All that needs to be done is drop me a quick email and explain what the problems are and we will take actions against it.

## **Agenda item 6**

**Any other business**

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**Agenda item 7**

**Date of next meeting**

17 May 2024 – hybrid: Online/Inverness