

Letter from Highlands and Islands MSPs Peter Peacock, Rhoda Grant and David Stewart

26 September 2008

Dear

Shucksmith Report

We wanted to keep you up to date with our thinking on what is emerging from the very lively debate about the Shucksmith Report.

We have been contacted by a lot of crofters and have been listening to the debate that is raging.

We have undertaken further analysis of all the detailed correspondence and the ideas emerging from crofters in the debate to date.

As you will have seen from the results of the survey we sent you recently, the issue of 'real burdens' and the abolition of the Crofters Commission in favour of creating local regulatory boards and a federation of boards is being widely and strongly opposed across the crofting counties.

We have made it clear to the Minister that he needs to listen to the views of crofters on this.

We have also noted that the Scottish Crofters Foundation, having consulted crofters, have come out pretty firmly against these recommendations as well.

That said, there are still legitimate concerns being expressed about how the market in crofts has been developing and, in particular when there is a demand for croft land for crofting and for new entrants, market conditions can be limiting opportunities locally.

The pressures and circumstances of course vary across the crofting counties.

It was to address these issues and those surrounding holiday homes that the Shucksmith Report recommended the introduction of real burdens.

So if it isn't to be real burdens, which the vast majority see as a step too far, what is it to be?

We have been considering the feedback we have been getting from crofters and using our legislative experience to think through what might be possible alternatives to assist deal with some unwanted consequences of the market for crofts.

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We set out below some preliminary thoughts and would be very grateful for your feedback on whether you believe they may be workable, more acceptable and, indeed, more effective, than the particular Shucksmith recommendations on real burdens and governance.

Before getting to that point however, there is another matter we wanted to explore briefly.

There is a real danger that the debate about the future of crofting arising from the Shucksmith Report could become totally consumed with the detail of administrative structures, new regulation and numerous legislative technicalities.

While these issues are undoubtedly important they are of little consequence if the economics of crofting continue to decline and crofters simply cannot make a living.

No amount of clever regulation will make crofting economic, that depends on market conditions and the various support mechanisms around crofting.

In this regard, we believe the Shucksmith Report had some very important and useful things to say, as does the recently published Royal Society of Edinburgh report on the future of Scotland's hills and islands.

Whatever the debates that must take place about structures and regulation, it is vital the aspects of the Shucksmith Report that dealt with agricultural support are not lost sight of.

For our part we will be pushing the Scottish Government hard to re-balance the LFAS payments in favour of the real less favoured areas, the areas largely worked by crofters.

In tandem with that we will be pushing for the improvements the Shucksmith Report sought in housing grants and loans.

We also want to see the retention of the bull scheme and indeed we see a case for a ram scheme and keeping the fox club funding intact too, and it is clear a way needs to be found to support local abattoirs.

It would be great to think, as the RSE report suggests, that we could get more EU support into agriculture at this time.

It is well known that making any kind of progress on EU funding issues is never easy, and certainly never quick, and while we will be happy to push the Scottish and UK Governments on this, waiting for EU changes should not be used as an excuse to delay any changes within Scotland now.

Returning to the more contentious Shucksmith recommendations.

We expect the Minister to make a statement on his response to Shucksmith in the early days of October.

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We will be pressing him to consult with crofters immediately thereafter on his response and not await the publication of a draft bill.

You will see in what follows below that we think many things can be achieved without the need for legislation in any event.

The Minister will make his own mind up about how to respond and we have tried to influence him on this, but we cannot know how far we have been successful at this stage.

On the question of the future of the Commission, having read and listened to the large number of responses we have had to earlier correspondence, it seems many share our view that there may be a relatively simple way of making the Commission more accountable and democratic and which could be done within existing powers and mechanisms.

As you will be aware the Commission and the SCF have brought an element of local participation to the appointment of Assessors.

This could be strengthened considerably and the Commission directed to prepare a scheme for doing this in consultation with crofters.

The network of Assessors could form local panels of Assessors, working closely with the area Commissioner and acting in an advisory capacity to Commissioners and the Commission.

The Minister could agree to draw his or her appointed Commissioners from among the Assessors network, and possibly from nominees of the Assessors.

That way the Minister may also be more able to meet the modern and strict public appointments rules.

The Commission could be Directed by the Minister, or put under a legal duty, to develop dynamic area based priorities and consult with crofters locally on draft area priorities to reflect the differing and needs of different parts of the Crofting Counties, but within a single body of law and regulation.

There could, of course, be direct elections to the Commission, but would that be necessary if the mechanism above could be adapted, thus keeping a strong network of Assessors fully integrated into the work of a reformed Commission.

We would be interested in your views on this.

Beyond this there are the questions of land for new entrants, issues around absenteeism and dereliction, and the market for holiday homes, etc.

The Minister has a great deal of land under his direct control or influence, Department land and forestry, for example.

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It would be simple for the Minister to agree, or be put under a legal duty, to consider the release of land under Ministerial or Agency control for the purpose of crofting.

The Minister could further agree, or be put under a duty to report to Parliament every three years or so on what has been done to release land for crofting, how much land had been released, etc.

This way, the pressure of having to report to Parliament and be scrutinised on any actions taken would help ensure this matter was taken seriously and acted on.

Beyond this it seems to us it would be worthwhile considering extending compulsory purchase of private land not in crofting tenure for the purposes of creating new crofts.

This is a power that could be given to a reformed Commission and possibly also to local authorities and HIE, who have existing compulsory purchase powers.

It is questionable whether the Commission should be long term holders of land, but their powers could be framed in a way that allowed them to use compulsory purchase on behalf of a community or, if they purchased directly, required them to make arrangements to pass control of the land to the local crofting community within a set period of years.

The purpose here would be to try and ensure, in extreme circumstances, that new land for crofting could be obtained.

It may be that examining adjustments to the community or crofting right to buy might offer some possibilities here too.

Of course, it may not be necessary to move to compulsory purchase if existing croft land which had not been worked for some time was brought back into use.

Absenteeism is a difficult issue, there are often good economic reasons for short and medium term absentees and that is why cases need to be looked at individually.

It cannot be acceptable, however, to have derelict crofts for prolonged periods, particularly when there are younger people wanting access to a croft and a house.

It is in this area that the Commission has come under much criticism for appearing to not use its existing powers.

We believe this can be dealt with fairly easily too.

The last Crofting Bill gave Ministers powers to direct the Commission to do particular things, and there were also provisions in relation to absenteeism and dereliction.

It would be a simple matter for the Minister to issue a direction to the Commission, backed up with a dedicated sum of money, to work through a target number of cases each year.

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Requiring the Minister and Commission to report to Parliament on their rate of activity and success would keep both under pressure to act and be scrutinised on their actions.

Beyond the availability of land, there is the question of support for new entrants.

The First Minister in the run up to the last Scottish election promised £10 million a year in support for new entrants to agriculture, but this has been scaled back to a small fraction of that sum.

If the Scottish Government were to deliver on their election pledge on this, that would give a tidy sum to help with a support package for new entrants.

An apprenticeship scheme could also be considered and developed as part of the package.

We will be pressing the Scottish Government to deliver on this as part of our approach to the follow up to the Shucksmith Report.

The question of speculative development in some areas has become a real concern.

The Taynuilt case is often quoted as the most stark illustration of this.

Many of the questions surrounding the legitimate use of land for local housing in crofting communities, as well as the issues of speculation, are essentially land use questions which the planning system deals with.

The problem is that there is a disconnection between the planning system and crofting.

The Commission has been told in Land Court judgements that it is not a planning authority and once planning consent has been granted the Commission has felt constrained to act.

Again we believe there is a fairly straightforward way of dealing with this.

It would be possible to make the Crofters Commission a statutory consultee in planning.

The Commission could plug in to its local advisory network of Assessors and Grazings Committees in arriving at its views about local land use questions.

Planning authorities could be put under a duty to have regard to the advice of the Commission in determining its local plans and in individual applications.

In such circumstances, where the Commission said there was a local demand for crofts, the planning officials would be bound to recommend the refusal of purely speculative development applications.

A common sense approach by a more responsive and reformed Commission would ensure applications for legitimate purposes like the diversification of croft businesses

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and affordable housing for local people would be able to deliver the right balance in protecting the interests of crofting.

There are other issues which the Shucksmith Report recommends like the keeping of a register of crofts by the registrar general and the registration of leases also seems a sensible measure and we will be happy to support the Government if it wanted to act on these.

There are other matters which arise like whether new sub-letting provisions are needed to assist have land managed and there will be time to think about that more as the debate continues to develop.

We hope you find the foregoing on interest and we would be delighted to have your feedback on the points raised.

None of them are firm proposals at this stage, simply a pulling together and development of ideas to feed into the debate.

We will copy this letter to the Minister to allow him to consider them too as a constructive contribution to the debate.

We stand ready to support the passage of sensible and measured legislation that will genuinely strengthen crofting, but we equally stand ready to move amendments to any legislation that comes forward that is unnecessary or not proportionate to meeting the requirements crofting has.

Best wishes.

Yours sincerely

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On behalf of RHODA GRANT MSP and DAVID STEWART MSP

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