

Summary of SCF members' response to the CoIoC recommendations September 2008

There is consensus that the CoIoC Final Report is a useful reference document that can be used to steer crofting reform, whilst recognising that not all of the recommendations are acceptable. There has been opinion at both ends of the spectrum from 'bin Shucksmith' to 'this is the best thing to have happened to crofting', with the majority recognising that crofting has problems and that change has to happen, but carefully. The whole Inquiry process has been very useful in stimulating discussion on crofting.

NB: One of the main rejections is the total abolition of the Crofters Commission (with associated replacement with a 'Federation of crofting boards'). However, there is consensus on the fact that the present Crofters Commission does not work anywhere near effectively. There is agreement that there needs to be a complete reformation of the commission and to denote this following points refer to the Crofting Commission as the new body.

Whilst creating an effective Crofting Commission and regulating properly will help to solve many of crofting's apparent failures, crofting will not work if it does not pay. "No matter what the regulations, crofters will only croft if there is a return on crofting" has been heard at every meeting held by the SCF. Another succinct quote is "Crofters have rights and responsibilities; a crofter's first responsibility is to provide a livelihood for his family". Put the other way around, if crofting paid well many of the apparent failings would disappear. It is essential that croft use is motivated by incentives such as fair payment for produce, fair payment for public goods and fair 'levelling' support for peripheral areas such as LFASS, CHGS etc.

The following comments are collected from discussions on the summary of recommendations from the CoIoC Final Report (thus the numbering refers):

1.6.1 *Revision of SFP rates ...use of extended national envelope provisions ... bull hire scheme ... SFP entitlement to newcomers.*

Yes, though reservations in Orkney about a flat rate. It should be about re-distribution from top end receivers and re-distribution from inactivity to activity. It is essential that active producers and land managers get a fair reward for work done and it is fair that public funds pay for public goods.

1.6.2, 1.6.3 and 1.6.4 *Review of LFASS ...*

Yes. This needs to be targeted to the really less favoured areas of Scotland.

1.6.5 *SRDP ... non-discretionary measure to crofters and other small businesses ...*

Yes. SRDP benefits need to be enhanced for the small producer. The proposed move of funds from T3 to support the hill producer is not the answer we feel when there is plenty of scope for further support to marginal, peripheral, hill and island producers and land managers from redistribution of SFP and LFASS as above.

1.6.6 *CCAGS should be retained and (a) support for land-based enterprises other than agriculture; and (b) a 10% uplift in support to young entrants.*

Yes, CCAGS is absolutely essential to crofting – it is considered probably the most important scheme at present.

1.6.7 *Development investment on building the potential of communities...LEADER and IATE*

Yes, but not happy with Township Development Committee suggestion.

1.6.8 *Integration of ... HIE's and local authorities' work – priority to microbusinesses ... targeting the remoter parts of crofting areas.*

Yes, but crofting development must not come under HIE. A stand-alone Crofting Community Development Body based on the Community Land Unit model is liked but it should come under the authority of a reformed Crofting Commission. The HIE strategy plan does not seem to favour small enterprise any longer so there is not a good argument to have crofting development under HIE. There is also the fear that if the crofting development budget comes under any body other than that dedicated to crofting it could be lost in the general pool.

1.6.9 *Strategic approach to ... population retention ... developing new enterprise ... communities.*

Yes

1.6.10 *Enhanced Croft House Grant Scheme ... to permit building or improvement without decrofting.*

Yes, but level of grant suggested needs to be increased as costs have risen. (Only 14% average building costs now supported by grant compared with 84% (CBGLS) twenty years ago)

1.6.11 *The enhanced CHGS should not be available to those who decroft.*

Yes, as long as there is a realistic mechanism to not have to decroft.

1.6.12 *The provision of affordable housing for non-crofters should be supported by the measures detailed at section 3.8.4.*

Yes

1.6.13 *Local crofting development plans should set out in what circumstances housing may be built on inbye land and good common grazings ... presumption against building on inbye.*

Yes, in principle but there needs to be greater integration between croft plans, Crofting Commission, the local plan and planning authorities. Planners need to have a much greater awareness of planning on croft land, have a presumption against multiple or serial developments on in-bye and the Crofting Commission should have an active participation in planning with the remit to protect croft land.

1.6.14 *Measures to assist new entrants to crofting should be emphasised in the allocation of future funding.*

Yes. However, whilst this is recognised as critical there has also been a fairly wide comment regarding the fact that existing crofters can not make crofting pay so why encourage new entrants into a non-viable enterprise. Make the enterprise viable first.

1.6.15 *Separation in the functions of crofting regulation, development and the maintenance of the Register of Crofts. ... local accountability and ownership in ... regulation*

Yes, separation of regulation and development is acceptable with development being undertaken by a specialist body but they must both come under the authority of the Crofting Commission in order to integrate. The register of crofts could come under the Scottish Registers if it is shown to be appropriate and it is adequately funded.

1.6.16 *The Crofters Commission would therefore be wound up*

No. A body dedicated to crofting is essential but it must be reformed and renamed Crofting Commission or suchlike to reflect the reformation. The commission could be enlarged (from 7 to say 12) it must be given a clear set of duties and responsibilities, it must be a majority elected and it must be able to respond to regional variation. Elected 'regional' boards ('Local' Crofting Boards not liked – misleading in scale) could work but should be based on the Area Assessor network i.e. the Assessors would form regional boards who would nominate members to the Commission Board. Assessors should be elected, adequately trained, remunerated, mandated and supported. Commission support staff are essential but must be 'fit for purpose'.

1.6.17 *Responsibility for development of crofting should be given to a powerful Crofting and Community Development body, ideally within HIE.*

Yes, but crofting development must not come under HIE. A stand-alone Crofting Community Development Body based on the Community Land Unit model is liked but it should come under a reformed Crofting Commission. The HIE strategy plan does not seem to favour small enterprise any longer so there is not a good argument to have crofting development under HIE.

1.6.18 *Grazings Committees should be modernised to become Crofting Township Development Committees with a broader remit and more inclusive membership. Their primary function will be to develop and agree strategic plans for local crofting development, with the support of the new Crofting and Community Development body.*

No. The term *Crofting Township Development Committees* is not liked. Grazings Committees already have the ability to be inclusive and to make development decisions regarding croft land. Grazings Committees should all be regulated, constituted, open and accountable. If the Crofting Commission works properly the Grazings Committees will work properly.

1.6.19 *An annual "State of Crofting" report should be submitted to the Scottish Parliament by the Federation of Crofting Boards ...*

Yes, but submitted by the Crofting Commission, having been contributed to by the regional assessor boards and the crofting development body.

1.6.20 *New legislation is needed to replace, simplify and clarify the accumulated laws which set the framework for crofting today.*

Yes

1.6.21 *No change should be made to those rights given to individual crofters in the 1886 Crofters Act, namely security of tenure, succession, fair rents and the value of their improvements. However these rights should only be enjoyed by those resident on or near their croft and using the land beneficially.*

Yes. This is already in legislation and hasn't been regulated by the Crofters Commission, giving a false understanding of the reality of crofting regulation and false expectations. Regulate properly and most things fall into place.

1.6.22 *All croft houses to be tied to residency through a real burden ... included when next assigned or purchased ... in perpetuity...*

No. This would potentially devalue croft houses and a two tier housing market would be created – croft houses with a burden and the rest in the community without a burden. The differential is unfair and unacceptable. Referring to the previous recommendation '*No change should be made to those rights ... the value of their improvements*' the croft house is a permanent improvement and should be valued fairly at market value. Whilst the sentiments of curbing 'speculation', of helping provide more affordable housing for local people and of stopping local houses being bought as holiday homes and lying empty most of the year, are appreciated the price for the failure of the Scottish rural housing strategy should not be borne by crofters. This is seen as discrimination and all discrimination should be opposed by the Scottish Government. If a burden is needed to address rural housing problems it should be across all housing.

An argument has been voiced that if any house was built with the support of public funding then a residency burden is justified (this already exists in some forms) and the higher the public funding the stronger the argument for a burden. This would apply to all houses built with public funding assistance, not just croft houses. Conversely if there is no public funding then there should be no burden.

1.6.23 *A crofter wishing to assign or transfer their croft, or forced to do so through failing to fulfil the residency burden or enhanced burden, should be given three options as set out in section 3.14.4 of this report.*

Yes in the most part, but rejection of the 'real burden' attached to the house.

1.6.24 *Owner-occupiers and tenants should be treated alike, simply as crofters, in all aspects of crofting. Each Local Crofting Board should have the power to suspend (or not) the 1976 Crofting Reform (Scotland) Act's right to buy.*

Yes to the former. **No** to the latter – the right to buy is needed to defend a tenant against an obstructive landlord. However stricter criteria for conditions of exercising this right could be acceptable and the principle that the land is still under crofting regulation even if owner-occupied must be enforced.

1.6.25 *All sub-lets and tenancies should require the consent of the Local Crofting Board ... power to limit number of crofts or the amount of land which can be held ...*

Yes. At present sub-lets and tenancies need approval of the CC so approval of the regional assessors board is acceptable.

Limiting the number of crofts assigned to one person would have to be very carefully scrutinised as many crofting businesses depend on multiple holdings so if a crofter wanted to pass their business on as a 'going concern' it may need to be kept intact. However multiple derelict, disused or absentee holdings should be redistributed.

1.6.26 *Responsibility for the Register of Crofts would be taken over by the Registers of Scotland.*

Yes if it shown to be appropriate and funding is made available.

1.6.27 *Boundaries of crofts which in practice have been accepted for twenty years or more will not be challengeable.*

Yes, if the boundary is clearly defined; unfortunately many are not.

1.6.28 *The Registration of Leases (Scotland) Act 1857 should be amended to make a crofting lease registrable and hence eligible for standard securities.*

Yes

1.6.29 *All holdings similar to crofts within defined crofting parishes should, if their owners or tenants wish, become subject to crofting regulation.*

Yes as long as support budgets reflect the increase in crofts.

1.6.30 *Government should consider back-dating the introduction of the real burden to all assignments and purchases made after May 12th 2008, so as to forestall any rush to avoid the provisions of the legislation.*

No. The 'real burden' concept is rejected.

Additional:

1. There is no mention of apportionments in the report. This is a very sensitive subject and has been referred to as 'land-grabbing' in some areas. It would probably be resolved by stricter regulation but needs to be dealt with urgently as common ground is disappearing.

2. There is widespread agreement that absenteeism is needed periodically for a croft business to survive and that it is far more important to ensure that crofts are worked, whether the tenant is there or not. "Don't use short-term absenteeism as a scapegoat". Appropriate regulation is needed to curb long-term absenteeism, neglect and dereliction.