



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Minutes of the meeting of the Scottish Land Commissioners held on Tuesday 29th May 2018, Barmulloch Community Development Company, Glasgow.

Present: Andrew Thin (Chair), Lorne MacLeod, Prof David Adams, Megan MacInnes, Dr Sally Reynolds (Land Commissioners), Bob McIntosh (Tenant Farming Commissioner), Hamish Trench, Posy MacRae, Caron Munro, Shona Glenn, James MacKessack-Leitch, Kathie Pollard, Kirsty Tait (Scottish Land Commission) David Findlay (Solicitor).

The Chair welcomed Kirsty to the meeting as she has recently started with the Land Commission as a Community Engagement Adviser. The Chair also welcomed David Findlay, solicitor, to the meeting.

Hamish provided the Commissioners with an update on the Community Engagement Code of Practice and advised that a draft version will be presented at the Commissioners' Meeting on 3 July 2018. The Chair requested that the Commissioners give consideration to any wider codes of practice or guidance notes that they feel should be produced by the Commission.

1. Minutes of meeting held on 1st May 2018

The Commissioners agreed the minutes as a true and accurate record. All actions have been completed or are in progress.

The Chair advised that he has been in contact with Changing the Chemistry in regards to action 27031810 but this is still in progress and should be added to the agenda for the next meeting.

Action 29051801	Caron to add an update on Changing the Chemistry to the next meeting agenda.
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2. Community Land Ownership – Strategic Discussion

The Commissioners discussed what the Land Commission's strategic priorities should be for community land ownership and where it should be in 10 years' time. The Chair asked the Commissioners to consider if there are significant urban and rural differences.

It was agreed that the main priorities for the Commission should be:

- Informing and shaping the narrative.
- Strengthening the opportunity, expectation and rights to buy, own or control land.

- Addressing the geographic diversity in community land ownership.

In particular the following points were drawn out in discussion:

- Community land ownership is a means to an end – the outcomes include resilient communities and economies, confidence and accountability;
- Community ownership is a significant means to deliver improved productivity, as well as diversity and accountability;
- There are many similarities between rural and urban community ownership opportunities, but also differences – particularly in relation to the wider policy and support context for community-led regeneration;
- There is an interplay with wider agendas of community-led service delivery and public service reform – we need to recognise these connections whilst defining the role land ownership plays (and therefore the SLC role);
- Community ownership should be seen in context of what it offers alongside and/or against delivery by state or market mechanisms;
- Normalising community ownership is about changing expectations within communities, within the land owning community and within public bodies, and also about transferring the lessons from community ownership to become normal practice in other sectors;
- The Commission should engage closely with Scottish Government in the development of the Community Right to Buy for Sustainable Development.

3. Trust status in Land Ownership

The Commissioners discussed trust status in land ownership including private, public and charitable trusts.

The particular issues considered including the implications of trust status on:

- Community acquisition of land (right to buy and negotiated)
- Community engagement
- Land use decision making and productivity
- Tax and public benefit

In particular the discussion highlighted the following points:

- The key distinction between public and private trusts;
- The central relevance of the fiduciary duty of trustees and whether this is sufficiently understood/interpreted in the context of land ownership;
- Whether different forms of trust status create real or perceived barriers to community acquisition of land;
- The tax benefits associated with trust status and correlating expectation of public benefit;
- The potential use of codes of practice;
- The need for greater public clarity and transparency about the operation of trusts.

It was agreed that the main priorities for the Land Commission in relation to trust status in land ownership are to:

- Open up discussion and greater transparency on the use of Trusts in land ownership, the duties of trustees and what can be expected of them;

- Produce guidance to trustees on their duties in the context of land ownership;
- Consider whether a case study approach to evidence collation is required to take forward further work on trusts.

Action 29051802	Hamish and Shona to consider best format for initial publication opening up discussion on trust status in land ownership
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4. Any Other Business

Programme of Commissioners' Meetings

Hamish advised that the meetings on 3rd and 31st July and 4th September would be held in Inverness and the meeting on 25th September would be held in central/southern Scotland followed by a meeting on 26th September with the Cabinet Secretary.

Human Rights discussion paper

It was suggested that following the publication of the discussion paper on human rights it may be beneficial to hold a conference or event to bring together Scottish Government lawyers and human rights lawyers to stimulate the debate.

Enterprise agency for south of Scotland

Lorne raised that he has been asked if the Land Commission will be making a submission on the consultation for the creation of a south of Scotland enterprise agency. Hamish advised that the Commission do not intend to submit a discussion on the consultation but they are in conversation with the Scottish Government about it. The Commissioners agreed that they feel the south of Scotland enterprise agency should be set up in a similar way to Highlands and Islands Enterprise to ensure it has social and community development within its remit.

Public Meetings

The Commissioners discussed the schedule of public meetings and the locations they are being held in. Hamish advised that the Commission is running a full programme of public meetings and would not advise increasing the frequency further due to the time they require from both staff and Commissioners. Posy advised that she will look into wider opportunities to ensure a presence in areas that the Commission hasn't yet visited.

Action 29051803	Posy to consider other opportunities for meetings and events in locations such as the south of Scotland
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Buccleuch casework update

Bob provided the Commissioners with an update on the review of Buccleuch Estates casework advising that he and Sarah have now interviewed all tenants who have requested a review and they have reviewed the case files. The review remains ongoing.

Date of next Meeting: Tuesday 3rd July 2018