



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

**Meeting of the Tenant Farming Advisory Forum held on
Tuesday 19th September 2017,
RICS Offices, Edinburgh**

Minute

Present:

Dr Bob McIntosh	Tenant Farming Commissioner (TFC)
Sarah Jane Laing	Scottish Land & Estates
David Johnstone	Scottish Land & Estates
Chris Nicholson	Scottish Tenant Farmers Association
Angus McCall	Scottish Tenant Farmers Association
Gemma Cooper	NFUS
Andrew McCornick	NFUS
Andrew Wood	Royal Institution of Chartered Surveyors
Heather Bruce	Agricultural Law Association
Rob Forrest	Scottish Agricultural Arbiters & Valuers Association
Jeremy Moody	Central Association of Agricultural Valuers
Jen Willoughby	Scottish Government
Hamish Trench	Scottish Land Commission
Sarah Allen	Scottish Land Commission

Guest speakers:

Jonnie Hall	NFUS
Graeme Beale	Head of Rural Communities Research, Scottish Government

1. Welcome, Apologies & Introductions

2. Remit & Membership

This was taken after the presentations. A paper describing the remit and membership had been circulated prior to the meeting. TFC will still be consulting with individual stakeholders on the codes, but the Forum provides an opportunity to discuss requirements of future codes.

The remit and membership was agreed.

3. Implications of Brexit for the tenant farming sector. Presentations and discussion

Graeme Beale presented slides that depicted the current variations in Total Income From Farming and differences in reliance on subsidy payments throughout different regions of Scotland. He also pointed out the variance in agricultural land use and outputs in the different regions of the UK. Information was presented on what would happen to commodity prices and outputs under different trading scenarios post-brexite. Graeme highlighted that most change will be seen in the livestock sector, of which Scotland has a relatively large proportion compared to the rest of the UK. Some of the factors affecting the different post-brexite scenarios were discussed, as was migrant labour.

Jonnie Hall described how £3.5bn comes to the UK in the form of agricultural support, with £0.5bn of this allocated to Scotland. He reiterated the importance of this to farm viability, yet highlighted that some sectors have been isolated from market reality due to the subsidy regime. He suggested that CAP had not encouraged innovation and we now had an opportunity to move towards a more market orientated, productive approach. The occupation of land has unlocked support payments in the past and Brexit presented an opportunity to move towards more focussed and action based support, which would also benefit the tenant farming sector.

Jonnie highlighted 2 objectives: to retain the £0.5bn support, and to spend it in new ways to reward innovation, production and environmental management. There was discussion around DEFRA's priorities and those of Scottish agriculture and the importance of highlighting the structural differences between the UK's regions.

4. Update from Tenant Farming Commissioner. Codes of Practice - progress to date, ideas for more and round table discussion

To date, two codes have been published and two more should be completed within the next few weeks: Management of relationships between agricultural tenants and the holder of sporting rights; and landlords and tenants obligations.

Main discussion points:

- Members thought the codes were user-friendly and understandable.
- Members are looking forward to the publication of the Code on Obligations – they thought it would be very useful.
- Members felt that the codes should broadly cover the same topics that Andrew Thin had covered as ITFC.
- Guidance notes were found to be useful where they summarised the legislation. It was suggested that a guide on Alternative Dispute Resolution would be useful.

Bob explained that he had received approximately 40 enquiries since April 2017 on a wide range of issues. Some were not technical or legal issues but simply people who couldn't get on with one another. Members felt that a report on enquiries received by the TFC would be useful; this report would need to be generic given that people contact the TFC in confidence.

The role of TFC was appreciated in providing a neutral focal point of contact, and was encouraging people to discuss issues that would previously have been bottled up. This is seen as one of the greatest benefits of the Land Reform Act.

There was a discussion around how the codes sit alongside legislation. There is no conflict between the law and the codes they are mainly about procedures and behaviours. The codes aim to articulate what is fair and reasonable way to do things.

If they are not working there is an opportunity to review the role of the TFC after 3 years.

5. Review of the conduct of agents

Scottish Land Commission has just completed a competitive tendering process to carry out surveys on the views and experiences of landlords and tenants with regard to the operation of agents. The contract has been awarded to a social and economic research agency based in Glasgow, Research Resource. The researchers are commissioned with delivering a robust factual report with information being collected and collated in an independent, open and fair manner.

It is important that a broad range of evidence is collected on the views and experiences of landlords and tenants regarding their satisfaction with the conduct of agents. To capture the views and experiences effectively, Research Resource will be carrying out a telephone survey of a sample of both agricultural tenants and landlords.

The telephone interviews will be carried out from the end of October and throughout November with calls made at various times to maximise the opportunity of contacting farmers and landlords. Interviews will take no longer than 20 minutes. Information will be recorded confidentially and following collation and analysis will not be traceable to the respondent.

The report will be completed in January 2018 and discussed with stakeholders who will be given the opportunity to make submissions to inform the review, before recommendations are made to Scottish Ministers.

Under the Land Reform (Scotland) Act 2016, the Tenant Farming Commissioner must complete the review and make recommendations to Ministers to improve the operation of agents of landlords and tenants by March 2018.

6. Update on commencement of legislation under Land Reform Act

The timing of legislation coming forward is dependent on resources and parliamentary time. Jen gave estimated timeframes for enactment:

- MLDT end November 2017
- Removal of pre-emptive right to buy. Beginning of 2018.
- Rent review – Savill's are due to produce final report in mid October. Options would then be put forward to the Cabinet Secretary.

- Repairing tenancies is linked to rent reviews and will commence after the rent provisions have been agreed
- Relinquishment & assignation will be the final legislation to be enacted.

7. List of modern improvements

Bob had circulated a paper for discussion.

The Amnesty had not brought forward any new additions

Use of a catch all was discussed as means of future-proofing the list. New technologies would be coming forward that couldn't be foreseen and the list should not deter innovation. The alternative would be to have a clear definitive list with regular reviews. If improvements are not on the list they could be captured via pre-notification requirements.

Other suggestions included:

- Housing would need clarification
- Installation of renewable heat generation *and storage* facilities should be included.
- Reed beds should be expanded to include any sewage disposal and water treatment works.
- Part 3 (29) – this should also apply to grassland that is to be cut for silage or hay. At the moment it only applies to arable land.

Members agreed to send comments to Bob in writing.

8. Priorities for research and data gathering

Scottish Land Commission is commissioning discussion papers on a range of land reform issues and members were invited to make suggestions for future research. There is a “sense of moment” about changes in Scottish agriculture and it was felt that opportunities to create a climate of opinion to bring about positive change to benefit the tenanted sector should be nurtured and developed.

The following topics were suggested:

- The implications of taxation and other fiscal measures.
- Barriers to investment in land in Scotland for long-term letting, and proposals for incentives.
- A measure and factual analysis of the change in the number of agricultural tenancies in Scotland. This would help in understanding the rate of decline and the real issues evolving.
- How changes in succession law could impact on the tenancy sector.

TFAF members also asked that the wider work that the Land Commission is doing specifically considers the impact on the agricultural holdings sector.

9. AOB

The Tenant Reform Industry Group (TRIG) has re-formed in England (driven by the Brexit agenda) and is looking at a range of factors influencing the tenanted sector. It

may include some modelling of implications for Scottish holdings, but there may be gaps. Jeremy is a member of TRIG and would keep TFAF/TFC informed.

There was a discussion on relinquishment and assignation with regard to the value of tenancies on transfer. A number of issues need to be resolved before the provision is brought forward under the new legislation.

10. Date of next meeting

It was agreed that meetings would normally be held every 6 months, but should be guided by the pace of legislation coming into force and issues arising. It was agreed that Forum should be meet again mid to late November to discuss the rent review. Andrew kindly offered the use of Bidwells office in Perth. Date and time tbc.

**Scottish Land Commission
October 2017**