

Written submission from Dr Iain MacKinnon on behalf of the Scottish Crofting Federation

How to create a consensus: the democratic process and support for crofting

In December 2013 the Scottish Government announced its proposals for reform of the Scottish Rural Development Programme [SRDP]. This is stage 2 of the reform process and develops on the public responses that came forward during the stage 1 consultation earlier in 2013.

Among the measures being put forward in the stage 2 proposals is to scrap the Crofting Counties Agricultural Grant Scheme [CCAGS – also known as ‘the crofting scheme’] and replace it with a Crofting and Small Farms Scheme that will be open to all farms and smallholdings in Scotland of under 50 hectares. The result of this proposal would be a new scheme which would be open to 73% of all holdings in Scotland. (Scottish Government 2013: Paras. 170, 172)

The following short report does not take a position in favour or against the proposed new scheme. It acknowledges, also, that during extensive legislative processes such as SRDP reform it is necessary for the Scottish Government to ‘shape’ the tremendous body of information gathered through consultation in order to achieve a set of legislative proposals. This is a routine part of the democratic process.

It is the purpose of this report to investigate whether the ‘shape’ of the new proposed Crofting and Small Farms Scheme accurately reflects the responses which the Government received on support for crofting, and whether the statement by which the Government has proposed to scrap the CCAGS scheme is well grounded in fact. Here is the statement – which for clarity will hereafter be called statement 169 – in full:

With respect to eligibility considerations, consultees were asked whether support for crofting currently provided under the CCAGS should extend to small land holders of like status. 60% of those responding to the question agreed and there was a strong consensus that support should extend to the whole of Scotland on the basis that small scale low-intensity farms play an important role in supporting rural employment and maintaining the social fabric of rural areas. (Scottish Government 2013: Para. 169)

Statement 169 asserts as fact that 60% of consultees responded positively to the idea that CCAGS be extended to non-crofters. However, it does not disclose that respondents were, in fact, giving their views to a question in the stage 1 consultation which asked:

Do you agree or disagree on whether support for crofting should extend to small land holders of like economic status who are situated *within crofting counties*? (Griesback et al. 2013: sect. 6.35 – my emphasis)

In the stage 1 process there was no question of CCAGS being extended throughout Scotland. However, it is impossible to discern this fact from the particular choice of words subsequently used in statement 169. Indeed, arguably the wording of this sentence in statement 169 strongly implies that this wider question was what was actually asked.

Statement 169's next sentence takes the argument for extension further. In it the Government claims that in the consultation on the Crofting Support Scheme [CSS] "*there was a strong consensus that support should extend to the whole of Scotland*".

'Consensus' is defined as a 'general or widespread agreement among all the members of a group'. Where, then, is the Government's evidence of 'strong consensus' for the extension of support beyond the crofting counties? It is likely to be derived from the following statement in the analysis of responses to the stage 1 consultation of SRDP reform:

A strong theme in the responses to Question 12 was that small landowners of like economic status should be eligible for funding under the CSS, *irrespective of whether they were situated in crofting counties*. As stated above, if smallscale, low-intensity farms can deliver the Government's priority outcomes, there is no reason to limit ring-fenced support to crofting counties only. (Griesback et al. 2013: sect. 6.53 – emphasis in original, interestingly)

In considering this statement, it is important to keep in mind that the Government appears to have used it to propose opening up the crofting scheme to the whole of Scotland on the basis of what it calls a 'strong consensus' in support of the idea. Critical, therefore, to the stage 2 proposal's validity is the existence at stage 1 of consensus – a 'general or widespread agreement among' consultees that this opening up should happen.

However, only 60 per cent of stage 1 respondents agreed with the proposal to include non-crofters *within* the crofting counties in a new crofting scheme. The other 40 per cent (including all the crofting representative organisations) did not state their agreement to this proposal. The stage 1 analysis states that 60 per cent agreed with the proposal to extend the scheme within the crofting counties while 27 per cent disagreed. The position of the other 13 per cent was not fully explained in the analysis.

If 27 per cent of respondents do not believe that non-crofters from inside the crofting counties should qualify for support then it follows logically from this fact that this 27 per cent also do not believe that non-crofters from outside the crofting counties should qualify for support.

Therefore, the analysis shows that at least 27 per cent of respondents are not part of the 'strong consensus' that the Government claims to have found in favour of extending CCAGS beyond the crofting counties, and also leaves open the possibility that up to 40 per cent of respondents may not agree with the proposal.

Further, in order to demonstrate that even 50 per cent of all stage 1 respondents supported the extension of the crofting scheme beyond the crofting counties, the stage 1 analysis would have had to provide evidence that around 85 per cent of all responses supporting the extension to non-crofters within the crofting counties also supported extension beyond the crofting counties. This evidence was not presented.

Even if this had been presented, it is still invalid to present it as evidence of 'a strong consensus' in favour of extension of the scheme throughout Scotland – as statement

169 asserts – because, as already indicated, at least 27 per cent and perhaps as many as 40 per cent of respondents may already be committed in principle to opposing extension of the scheme.

Therefore, it seems that the analysis presented in statement 169 as justification for a proposal to open up the crofting scheme to applicants in non-crofting areas is not only seriously misleading, it is also disrespectful of the democratic process – at least 40 per cent of respondents appear to have been made part of a ‘strong consensus’ for which there is, in reality, no evidence presented to show that that they agreed to, and which therefore does not, in fact, exist.

There are several other means of verifying the claim that a strong consensus exists for opening up the crofting scheme beyond the Crofting Counties. One means would be to examine the results of a working group set up in 2013 by the Scottish Parliament’s Cross-Party Group on Crofting [CPGoC]. This was made up of representatives of organisations that have an interest in crofting development. It produced a report recommending to the Scottish Government that a crofting and small unit¹ support scheme be set up. In the CPGoC report the National Farmers Union of Scotland [NFUS] suggested that CCAGS support should be open to all smallholdings in the crofting counties but this suggestion was not supported by the working group as a whole. (CPGoC working group 2013: 15)

Given the fact that a crofting support scheme is by definition one which is restricted to those counties in which crofting tenure exists, support for CCAGS to be limited to the crofting counties only is actually affirmed in the findings of the Government’s own stage 1 consultation. This found that 73 per cent of all respondents wanted to see a specific crofting support scheme. (Griesback et al. 2013: sect. 6.36) The analysis of the stage 1 responses then adds that all of the crofting and farming organisations who responded to the question supported a crofting specific scheme. In doing so, all of them (including, presumably, the NFUS) have, as a result, appear to have committed to Government that they wish for support to be restricted to the crofting counties as, of course, this is the only way in which a specifically crofting support scheme can be deployed.

This emphatic figure of 73 per cent of respondents indicates the level of support respondents were giving to a much wider crofting specific support system "that will fund all grants relevant to crofting" covering both CCAGS for capital development and a crofting agri-environment sub-programme to support agricultural activity. Only eight per cent of respondents disagreed with this proposal.

Despite the very high level of support this proposal for a comprehensive crofting specific programme attracted in the consultation, the Scottish Government dismissed

¹ The terminology that refers to the comprehensive crofting programme proposal is highly confusing. The Government’s stage 1 consultation asked whether a Crofting Support Scheme [CSS] should be set up. (Griesback et al. 2013: sect. 6.36). Following this, the CPGoC’s report on SRDP had proposed that CCAGS be expanded and renamed the Crofting Support Programme [CSP]. This CSP was to be separate from the agri-environment programme proposed by the CPGoC which it called the Rural Land Management Programme for Crofting and Small Units. (CPGoC 2013: 12) By its stage 2 proposals the Government was referring to the agri-environment sub-programme (which was to be part of what it had called CSS in stage 1) as the Crofting Support Programme [CSP]. (Scottish Government 2013: para 167)

it because the Government regards it as too complex, too costly to administer and because "a number of respondents... did not believe that a single scheme could fund all the requirements crofters might have, and did not think the Government should seek to create a scheme that would do this". (Scottish Government 2013: para. 175) It does not state who these respondents are and why their views are so important. Neither does it explain why a comprehensive crofting scheme was included as a possibility in the stage 1 consultation in the first place, given the Government's opposition to it in principle.

As previously noted, there was consensus among members of the CPGoC in support of a crofting specific agri-environment sub-programme and an enhanced CCAGS. The percentage of stage 1 respondents in favour of this comprehensive crofting specific programme is far higher than the percentage who were in favour of opening up CCAGS within the crofting counties – a response which the Government is now using in support of a proposal to open CCAGS up beyond the crofting counties.

Therefore, it may be in the interests of democracy for the Government to reconsider its refusal to countenance a comprehensive crofting programme as it appears that the Government's proposal to scrap the *crofting specific* CCAGS and replace it with a new scheme that extends to non-crofters beyond the crofting counties is, in fact, directly in opposition to the principle put forward by 73 per cent of respondents to the stage 1 consultation.

How is it, then, that the Government can have come to propose the opposite view? Why does statement 169 conceal the fact that the 60% of consultees who responded positively to the idea that CCAGS be extended to non-crofters were not answering a Scotland-wide question but were, in fact, responding to a question in the stage 1 consultation which was specific to the crofting counties? Why is it that the stage 1 responses have been used to claim a 'strong consensus' for extending the scheme which appears, in fact, to be quite fictional?

In a small way (but for the crofting community a very important way) the fact that these questions exist represents a predicament if not a crisis for Scottish democracy. On the face of it, it would appear that the democratic process is being manipulated to achieve policy outcomes that do not reflect the responses that the Government received during SRDP consultation and which do not, then, represent the will of the Scottish people.

There are clearly questions to be answered by the Scottish Government about the 'shape' of their proposal to scrap the CCAGS scheme. This proposal does not appear to fit the responses that were given during the consultation on the scheme's future which suggest that a comprehensive and specifically crofting support scheme is what is wanted.

There is no evidence to suggest that the stage 2 proposals regarding the scrapping of CCAGS have, in fact, been formed with an intention to deceive. However, those who have contributed to the SRDP consultation and had their responses misinterpreted by the Government's policy analysts to put forward legislative proposals they do not, in fact, agree with, have a right to know how and why such errors of representation have occurred.

REFERENCES

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