Scottish Affairs Committee

Oral evidence: Land Reform in Scotland, HC 877-I

Monday 2 December 2013

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Jim McGovern; Graeme Morrice; Sir James Paice; Mr Alan Reid; Lindsay Roy

Questions 1 - 136

Witnesses: **Peter Peacock**, Community Land Scotland, **Angus Robertson**, Community Land Scotland, and **Councillor Angus Campbell**, Comhairle nan Eilean Siar, Islands Councils.

Q401 Chair: Before we start, could I just mention to those members of the public who are here that, unlike previous sessions, this is not for audience participation. You will have to leave if you heckle. I should also mention that we also have the BBC coming in to film some setting up shots for us.

To start this meeting of the Scottish Affairs Committee, we are investigating a couple of things today: one is the follow up to the report that we produced on the Crown Estate and the other is the question of land reform.

I will start off by asking our witnesses to identify themselves and tell us their roles and what makes them relevant witnesses for us here today.

Cllr Angus Campbell: I am the leader of Comhairle nan Eilean Siar but I am also here representing three Island authorities today.

Angus Robertson: My name is Angus Robertson. I am the manager of Sleat Community Trust, a community organisation in the south-west corner of the Isle of Skye. I am also a director of Community Land Scotland—a fairly new one at that.

Peter Peacock: I am Peter Peacock. I work very part-time for Community Land Scotland as a policy advisor, and I should declare an interest, Chair, in that I was a co-writer of the report you published, "432:50", but I did that in a personal capacity and I am here strictly representing the policy position of Community Land Scotland.

Q402 Chair: Can I start off by asking you all to comment on how satisfied you are overall with the progress since 2012 by the Crown Estate Commissioners in making themselves more responsive to local communities? We have been told that there is a positive direction of travel, is there any real, meaningful evidence of that?

Cllr Angus Campbell: Speaking for ourselves, I would say that we haven't seen much evidence of that at all. In fact, many of the same issues that we brought up in evidence the first time are still there—in regards to leases and information to the community. Talking about moving forward with marine renewables is very important to the Islands. We are on the receiving end of decisions as to where things go and where they might happen. The one issue that seems to have been promoted as a change is the local area agreements. I actually visited the group that got the first one, Comann na Mara down in Lochmaddy, and I have to say it is much more in the nature of a commercial loan than what I would say is a local management agreement. I would expect a lot more for the community in any of these local management agreements than what I saw there last week.

Q403 Chair: Can I just clarify one point? You are here representing the three Island authorities, as I understand it, in regard to the issues that you have just raised are you speaking on behalf of the seven? There was a document that came forward from all of the Highlands and Islands authorities together, seven in total; is what you are saying an accurate representation of their views as a whole or just the Island authorities?

Cllr Angus Campbell: I would hope it is, but I hesitate to say that for sure because the seven authorities have not got together on that issue in the recent past, whereas the three Island authorities have taken a position on the Crown Estate as regards our islands, our future. That document states very clearly where we are, which is very much in line with the document the seven produced in the last period. There is continuity and agreement there. I would hope I speak for the seven local authorities still, but it is not something I discussed with them before coming to this meeting.

Peter Peacock: I think at a fundamental level we argued in our evidence to you about the Crown Estate that we thought that communities who own their land should have, by right, ownership of the foreshore adjacent to their land; it is part of the resource that they require to give themselves a long term sustainable future. We also argued that communities should have control of an inner zone of seabed for largely similar purposes. At a fundamental level the Crown Estate maintain the position that existed before your Committee reported, so in that kind of structural sense, I don't think it could be said that there has been significant movement. Having said that, I should in fairness say that we have had discussions with the Crown Estate, and the new chief executive—not new now, but new at the time—was clearly focused on trying to move things along. We understand they are in the process of devising a scheme to transfer foreshore to communities who already own the land adjacent to that foreshore. We have still to engage with them on that—that is partly our fault; we have had other priorities this year and have not been focused on that—but there is some indication of movement there. Angus Campbell talked about the local management agreements. One of our members has recently entered one of those agreements with the Crown Estate. We are planning to unpack that with them and see what is actually in there for local communities. So I detect some movement, but it is not at the more fundamental level that we argued for in principle with your Committee.

Angus Robertson: I am deferring to Peter on Crown Estate matters.

Q404 Mr Reid: I think it was Angus who referred to the fact that you would expect a lot more from the local management agreements. What would you like to see in these agreements?

Cllr Angus Campbell: I think a starting point, if you take the issues that are going on in Lochmaddy for instance, to do with putting pontoons down. The local management agreement was dressed up as being them coming in in partnership; what they are actually doing is giving a loan to the local community, which has to be paid back at an interest rate of about 4% above base, which is very similar to what you would get from a bank for a commercial operation. Fundamentally, I think we want to be able to see local communities having the right to do things on that land without having to ask for permission, or where the first contact they have is getting the bill through the door for the seabed rental, which is the case. There is a lot of work, for example, on the east coast of Uist to create a new harbour. A lot of people worked very hard to find extra money, but the only input from the Crown Estate was to send them a bill for the extra dues.

There are huge things in marine renewables going to be happening. We are getting told as a community where it is going to happen and who is going to do it, and absolutely no input as to what the communities could earn out of that and whether the infrastructure could be used to do more than one thing—for instance, help with fishing, help with marine tourism. To my mind, there is a whole new discussion that could be had if you are seriously talking about having joint management of areas.

Q405 Mr Reid: The Crown Estate is telling us they believe they were behaving a lot better than they used to be. One of the things they quoted was a new protocol on marine energy activities. I wondered if you were aware of that protocol and what you thought of it.

Cllr Angus Campbell: I have no evidence that a new protocol has made any difference, to my knowledge, to how it is affecting our area. In fact, when we went to London about six weeks ago, we were quoted how much they were investing in marine renewables, almost as if we should clap them on the back and say "Well done for spending that money." The other side of the conversation is that they are a business; they are investing that money because they know they will get returns in the future from that investment, like any business does. I would argue that part of that investment should be decided by the areas closest to where it's going to happen and also some of the return should come back as well.

Q406 Mr Reid: Have any steps been taken since we produced our report to allow local bodies, such as trust ports, community land ownership bodies, to take over the management of the foreshore and manage the revenue and profit?

Cllr Angus Campbell: In my area, the only issue I can refer to that is any different is the local management of Lochmaddy, and, for me, that is not a true partnership.

Q407 Mr Reid: Is that local management agreement purely a loan or is there anything more to it?

Cllr Angus Campbell: I think there is a small amount of grant to help with facilitating the setting up of the scheme.

Q408 Mr Reid: But are the local community allowed to take any decisions about how the scheme is operated or is it purely being consulted?

Cllr Angus Campbell: They were involved in the draw-up of the design of where the pontoons would go and things like that. The bottom line: is if they don't pay back the loan where does that scheme go?

Q409 Mr Reid: Right. What is the structure of the body that has to pay back the loan?

Cllr Angus Campbell: It is quite a unique local trust, Comann na Mara, which was set up by a Dr MacLeod to look at issues around the sea and the seabed, particularly around Lochmaddy. He started by recording the sea temperature and feeding it back to Marine Scotland for many years. The new committee there wanted to attract tourism and business and they felt they couldn’t raise the money themselves, so they made this partnership agreement because it was one way of accessing finance.

Q410 Mr Reid: So where are the funds going to come from to pay back the loan?

Cllr Angus Campbell: They are expected to make that out of dues for yachts using it, and any other activities they can do on the edge of that.

Q411 Mr Reid: What role does the local community body have in the management of the pontoons?

Cllr Angus Campbell: I suspect they will have to do all the management of the day-to-day operations of the pontoons.

Q412 Mr Reid: So they do the day-to-day work, but you feel the Crown Estate still make the big decisions?

Cllr Angus Campbell: I certainly do. To me, if you have a partnership, both sides give something. I just don’t feel that they have given as much as the community has given, or the community could actually end up giving a lot more at the end, if things don’t go quite right.

Q413 Chair: Can I just pick up one point? In the note that we had of an update from the Crown Estate, they say, “We recently announced a £380,000 investment in Comann na Mara’s development at Lochmaddy, North Uist.” Now “investment” implies that it is not just a loan. You are saying that in fact this investment is not provision of money; it is just simply a loan that they are handing over?

Cllr Angus Campbell: I was down there last Tuesday night speaking at a public meeting and members of the committee came up to and said did I realise that they had taken on a loan.

Q414 Chair: So were they under the impression initially that it was a grant?

Cllr Angus Campbell: I think some of them were.

Chair: They ken noo. *[Laughter.]*

Q415 Sir James Paice: If it had been a grant, how much of your view of the whole thing would have changed? Is your pretty negative view of it purely because this is a loan not a grant, or are there other factors?

Cllr Angus Campbell: There are other factors. I congratulate the group for putting together a scheme that allows them to develop pontoons in their own area—don’t get me wrong, I think they did very well to do that, we applaud any community group who have done it. For me, it goes back to the fundamental principle of who owns the seabed in the area and who should make the decisions. Things like that are, to me, I think the quote I made up in Orkney was “throwing baubles to the Indians”. They are saying, “Yes, we have changed,” but in the scheme of the whole of the Crown Estate in Scotland, that is no real change at all. It is peanuts.

Q416 Lindsay Roy: Given that it is a loan, would you have expected a preferential loan?

Cllr Angus Campbell: I think Stòras Uibhist got the same offer for doing pontoons down in their very ambitious scheme in South Uist, but they could actually get the finance cheaper elsewhere.

Q417 Lindsay Roy: So your initial optimism, is that all gone?

Cllr Angus Campbell: I'm not sure I had much optimism, to be honest. *[Laughter.]*

Q418 Mr Reid: Is it your view then that if the local community did own the foreshore, they would be able to get a better deal by going to a commercial bank?

Cllr Angus Campbell: I think if you could put together a business plan that makes sense, you could get the 4% above base rate. I know as a businessman I could get it, so I can't see why they couldn't have a business case that stacked up. I think the whole ethos of how they have to go about going to get the money from an absentee landlord, to me, is wrong.

Q419 Mr Reid: So you feel that if the community owned the foreshore, they would have a business plan that they could take to a commercial bank. Is the Crown Estate contributing anything beneficial to the process at all?

Cllr Angus Campbell: To be fair to them, they are giving technical advice and they have a man on the ground there—he has visited three times to give them some help in setting up the scheme. I concede that. When you are talking about the whole entirety of the Crown Estate, though, that sort of intervention is the very least they deserve.

Q420 Mr Reid: Would a local community group, without that technical input from the Crown Estate, be able to obtain that technical input from elsewhere?

Cllr Angus Campbell: Absolutely. I think there are plenty of examples of pontoons going down—plenty of examples certainly in the Western Isles. Stornaway Port Authority are doing a big one at the moment: the council port down in Lochboisdale is not going to have pontoons so they are going to do them themselves.

Q421 Mr Reid: If we maybe move now from looking at the foreshore to looking at the seabed, is it your view that local communities should have control over the seabed off their coasts, or would you limit it to the foreshore?

Cllr Angus Campbell: The seabed is something that would have to be done in conjunction with Marine Scotland, for instance, in terms of having an overall strategic plan for where things go. I think you would have to involve the local communities in terms of the usual planning processes that we do on land, but I would also expect some greater community benefit to come out of schemes as they go ahead. Marine renewables is at a very tender stage at the moment, a very early stage, and you cannot predict the costs. As that matures and starts to produce profit, I would hope that local communities could get the benefit of that themselves. It is a very similar argument to fish farming: we have had fish farming right down the west coast for years, and you now see a very mechanised form of industry that has taken a lot of the jobs out of the rural areas. These companies are reporting big profits. Why shouldn't some of that go back into the local communities? In other countries that is a right—it is not even an ask; it is a right. Our three Islands could do that as part of their asks of their campaign of community benefit. When industries have that maturity and support, it becomes a right.

Q422 Mr Reid: You are referring to the three Island authorities. What are your views on other islands that are part of mainland authorities—Ayrshire, for example—and how they would benefit from schemes similar to the schemes that you are proposing for the Island authorities?

Cllr Angus Campbell: To be honest, when the principle is established, it will apply to all the islands and all the areas, I would imagine. I can't imagine any legislation on the Crown

Estate is going to have a different take on the Western Isles for instance than for the other west coast islands. I would hope it would apply to all islands equally.

Q423 Mr Reid: When we took advice in our last inquiry, it was suggested that the foreshore and the seabed were devolved to local authorities. There was some concern expressed by community groups that local authorities—because they were strapped for cash for their services—would behave a bit like the Crown Estate and try to maximise their revenue. What is your response to that?

Cllr Angus Campbell: Western Isles has 26,000 people, we are a very close community. I believe fundamentally, and I think my council believes fundamentally, in passing community benefit on down. There is a structure here in the plan that the seven have put forward where you have the tiers of benefit that include Highlands and Islands, Scottish Highlands and Islands, local authorities, and down to community groups. I think it is very important that that doesn't stop. Even if there is a perception that it stops in somewhere like Stornaway or Kirkwall, that is passed on down. I wouldn't see that as money that would replace core funding; it has be something that is used to stimulate economic development for jobs and for helping communities to manage a way forward. That is what we are crying out for—to give some force to these communities. It is a bit like community buyout of land: it gives people the tools to go and create jobs, to give opportunity and to use the assets that are there and lying unused.

Q424 Mr Reid: Are you aware of any other Crown Estate local management agreements other than the one at Lochmaddy?

Cllr Angus Campbell: I think there is one in Portree, but I have no details of it.

Peter Peacock: There is one in Portree, I understand, but Gigha have also recently entered one, I am not aware of the detail of that but in principle that has been announced, I know.

Q425 Mr Reid: So there appears to be a sum total of three local management agreements, is that correct?

Peter Peacock: There may be more, but I am not aware.

Q426 Mr Reid: These are the ones that you are aware of.

Now, another issue that the Crown Estate gave us in their defence was that they had varied the standard terms for submarine cables to allow broadband cables to be laid between islands. Are you aware of that as a positive development?

Cllr Angus Campbell: I am aware of the occasion they did do that, but I would ask a question back. We are crying out for connectivity to the Western Isles, both in terms of a link for renewable energy but also for broadband to come to the islands, we need new fibre optic. Why do the people staying there have to pay any rental to the Crown Estate? why should that be another barrier for achieving connectivity to the mainland? I do know what you are talking about: they reduced it a bit to make it a bit easier to Orkney, I think. I would ask the question why should they have it in the first place?

Mr Reid: So it was a reduction in the rent rather than—

Cllr Angus Campbell: A reduction of the rent. I don't know the details—

Chair: We should ask them to clarify whether it was a reduction in the rent, or simply a deferral, whereby they get the same amount of money just at a later date.

Q427 Mr Reid: The Crown Estate claim they are doing a lot better. What are your own views?

Cllr Angus Campbell: I've a pretty emphatic view.

Peter Peacock: There are some indications they want to do better in some areas, and we want to test the boundaries of that with them, but on the fundamentals—which are really small-c constitutional questions in the sense of who actually owns the assets, who has the control over, for example, inner shore of water, which is fundamentally caught up with how the economy of the land also works; it's about the pontoons, the jetties, the mussel farms, the potential for energy generation between small islands immediately offshore—on those, things have not changed. I think there is a lot further to go, from our point of view, in trying to fundamentally change that.

This is a question, as Angus Campbell touched on, from a community landowner's point of view of control of your assets that allow you to try to build a sustainable future. It is not just about being consulted better; it is about actual control and where that control lies. Where does the incentive lie for optimising the opportunities that are there? We firmly believe that lies in community hands, not by some distant owner, as many communities would perceive the Crown Estate to be. If you get the right conditions there, as we've shown on the land, we think the same benefits can be brought from the foreshore and the inner shore zone. I think we also recognise as community landowners that the further offshore you go, the more complex this becomes. Other interests come into play—fishing interests, bigger energy interests, with pipelines and local authority interests and so on. It is not without its complications. On the fundamentals of all these things, the ground is not moving at all.

Q428 Mr Reid: Have you given any thought to how you would structure ownership of the seabed and once you go further out?

Peter Peacock: We have, to the extent of recognising that we think the foreshore should belong to the community that already owns the land adjacent to it. Where that isn't the case, we think the foreshore should go to the local authority in the local community interest. We think there is a zone beyond that, and it will vary in different communities how far out that goes. We believe there should be a negotiation between the owner, the state in the form of the Crown Estate currently, and the community as to what extent that should be and whether there might be profit sharing arrangements in any extra revenues that are generated—a whole range of things could be negotiated. Beyond that, the state in the form of the Crown Estate would still have ownership—in fact they would have ownership of the inner zone potentially as well. However, the control, the decision-making, would fall to the community. Then it is a question of how you share the benefits of further offshore developments. It is a very complex mix, but that is the basic logic we have applied to it.

Q429 Chair: Can I just clarify on that, that you would argue that you would want it clearer than this, that basically we should stick with our original set of recommendations and not field the view that the Crown Estate have made sufficient progress to justify us abandoning any of them?

Peter Peacock: I think that our fundamental position remains exactly as it was before your Committee reported the last time. We support what the Committee said, and we think the Committee should continue to say the same things as were in its report on these fundamental issues. In the interim before big change takes place, any encouragement you can give to keep moving on practicalities, that is fine, that is different to the fundamental change we are seeking.

Q430 Jim McGovern: When we visited the Islands and the mainland conducting our inquiry, which was published in 2012, the main complaint from the councils—not only from the councils; if I remember correctly, it came from fishermen's organisations, voluntary organisations, harbour trusts, and so on—was lack of communication with the Crown Estate Commission. Has that improved since then? They are saying that they have extensive and structured regular stakeholder engagements—that is a quote. Has there been some sort of improvement since 2012?

Peter Peacock: I am certainly aware of more determined efforts to appear to be, and actually to be more open to hear people and so on. That is very different from a community actually being involved in decisions that may be being taken at a Scottish or a London level about lease of assets that affect the community, where the community may still continue to hear nothing about that until the deal was done. I think too that the stakeholder engagement you refer to would refer to a Scottish advisory committee—I forget the exact term—that the Crown Estate established. That came about after criticism in the Scottish Parliament about lack of communication, and that goes back a couple of years prior to your report. I think that kind of stakeholder engagement—if I am interpreting that correctly— is that body that has been established; it does not have any impact on local communities and their dealings day by day with the Crown Estate, which can be very hit and miss to say the least. The way we get round that, of course, is to change fundamentally the dynamics. You would not require that communication if that community were in control of these matters to begin with. It is simply a function of the way it is currently owned, that improving communication is even required. I wouldn't have said that fundamentally, at day-by-day level in communities, things have greatly changed.

Q431 Jim McGovern: Angus Robertson, I understand in your introductions you said that you are quite new at the job, so maybe you would not be able to make the comparison I'm asking about, but, Angus Campbell, I'm sure we met you during the inquiry into the Crown Estate Commission, so you might be able to tell us if have you noticed any difference in terms of communication.

Cllr Angus Campbell: Very little difference. I think shortly after your visit we had two gentlemen come up and sit with me and go through some of it, but there was nothing that we didn't know already. Since then the only connection I have had with them is with a request from ourselves to go down to London to meet the chief executive, which we did. Speaking to officers on the ground, there is very little day-to-day communication. I have seen no evidence of any real change.

Q432 Jim McGovern: Angus, I am not excluding you from that conversation, if you have a point to make, please go ahead.

Angus Robertson: We are surrounded by coastline in Sleat, but we've had no reason to engage with the Crown authority as yet. In fact, most of our foreshore is owned by a private individual—a private estate owns our foreshore. We haven't had any development of that yet.

Q433 Lindsay Roy: Would you describe it as top down, or token, and they are not really listening?

Chair: I hope you are not seeking to lead the witness.

Peter Peacock: I will be absolutely straightforward with this. There is no doubt that since new chief executive has arrived, it is comparatively easy to get a meeting at a very senior level if you want, and that is different from the past experience, so I think there is willingness to engage in that sense. Having said that, when it comes down to your individual community and knowing what is going on with the foreshore, which is not in your ownership, or the bit of seabed and who it is being leased to, there is no real change in our experience of what has been happening before or what is happening since your report.

Q434 Lindsay Roy: Is that your experience, too?

Peter Peacock: I think you can interpret that from what I have said.

Chair: I don't like interpreting things, I would much rather people said things.

Peter Peacock: What I'm saying is that at a local community level, we detect virtually no difference in approach, but at a senior level the organisation has become more open.

Q435 Chair: These meetings with senior people, do they actually tell you anything new, or do they have any results? Meeting people is all very well, and sometimes quite enjoyable, but do things actually come out of that? Have you seen any evidence of change?

Peter Peacock: Only to the extent that I have already indicated that, following a meeting with the chief executive, where we talked to the Crown Estate about the benefits of the national forest land scheme—the scheme to transfer forest land to communities—it would appear that they are moving on the question of transferring foreshore to communities. So to that extent, at a policy level, you can engage. I have to say to you that one of the reasons why we have not spent so much time on the Crown Estate this last year than we did the year before, is because we made a decision after asking whether it was worth our while spending a lot of time on this if we were not going to make the progress that we had hoped to make; we have lots of other things we need to pursue too. So part of the reason we have focused on other things was in part a judgment by our organisation that we could invest a lot of time in this and not get very far, and we had other things that we could do. I think that probably answers your question.

Q436 Chair: Without wishing to lead the witness, would it be fair to say you did not spend so much time with the Crown Estate because you thought it was a waste of time?

Peter Peacock: We thought we were not making the progress that we would want to make.

Mike Crockart: That is a politician's answer.

Q437 Jim McGovern: On the question of accountability, since 2012 have the Crown Estate Commission become any more accountable? Although it is a UK body, do you get enough information about the Scottish activities?

Peter Peacock: The Crown Estate do publish an annual report on Scotland. They have done that for some time—that has not changed from when you reported. As to other accountability, when you reported—

Q438 Jim McGovern: Does it publish separate accounts for Scotland?

Peter Peacock: No, it is simply an annual report where they isolate Scottish activity within the Crown Estate and say what in particular has been happening in Scotland. If I remember rightly, they can isolate some costs—they can tell you what the income in Scotland was compared to the expenditure on Scotland and so on, so to that extent that is there. But that has been there for—

Q439 Jim McGovern: Is that by request?

Peter Peacock: No, that has been there for a number of years now. They moved on that, as I recall, following the Scottish Parliament Rural Affairs Committee of the time criticising them for not having a clear enough Scottish dimension to all that. More widely, the UK Government responded to your report in part by seeking to establish a new liaison mechanism between the Scottish Ministers, UK Ministers and I think COSLA, if I remember correctly, at which the Crown Estate would be present. I noticed the other day that a parliamentary question had been asked about when that last met and what had happened at it. It turns out that has not yet met. In fact, two meetings were cancelled that had been planned for I think June and November. I presume that at one level that was about that greater accountability you are talking about, at least at a ministerial and other stakeholder level, but so far it has not delivered anything on that that I am aware of.

Q440 Jim McGovern: When you say a parliamentary question, is that Holyrood or Westminster?

Peter Peacock: That is Holyrood.

Q441 Mike Crockart: I am going to come back to an area that I think Councillor Campbell touched on a little bit: the willingness of the Crown Estate to reinvest its fees. You talked about a willingness to invest in a business sense, rather than directly investing and promoting the benefits to communities. Is that the only change that you have seen in Crown Estate's views towards investment, that it is much more an active business rather than any other sort of thing?

Cllr Angus Campbell: I think Crown Estate always said to us that they were a business and they had to make returns. That was very, very clear and they were upfront about that. I have no argument with that. You have other businesses wanting to come to invest in marine renewables, for instance, in the Outer Hebrides, which is probably recognised as potentially one of the best places for it. We cannot have that conversation as a local authority with any potential investor, because we do not know—it is in the gift of the Crown Estate—where or if permission will be given to go and develop something. When it is given, what I am saying is we are missing the opportunity to do something for the greater good by bringing other issues into the mix as well.

The example I used last time was is you are putting a marine situation off the west coast of Lewis, for instance. There is a crying need for a fishing harbour, there is a crying need for marine, and you are having to provide back up for these, why cannot we work together to make these things achievable and get more than one hit out of the mix? I have no issue with the fact that their remit is to make money, but I think that we have put more and more pressure on commercial companies of all types to get community benefit out of what they do. Why should a Crown Estate be totally immune to that discussion, that effect, given where they have come from?

Q442 Mike Crockart: Is that effectively down to the fact that they are also the monopoly supplier of that resource, therefore they are in too strong a position?

Cllr Angus Campbell: They obviously are in too strong a position and I think that, for them, Scotland is a very small percentage of what they do. For instance, a very important part of our future is what happens with our seabed and the marine resources that would come from it. Can we reverse that balance?

Peter Peacock: I think the Crown Estate have become clearer that they are prepared to invest. It has become one of the ways in which they feel they can communicate with communities and say, "We are prepared to support you by investing." The problem is the one that Angus has alluded to—that the rate of return they are looking for is far greater than you would get from other commercial sources. That is partly a function of perhaps being a monopoly and there not being competition in that market at all so to speak. I think they have always been clear about that.

We have one member who, in a very fragile community with significant declining population over the last decades—generations in fact—is making a very, very major investment in a harbour development. They were offered an investment by the Crown Estate to help the finance of that, but the community could get money cheaper elsewhere and therefore went elsewhere. But the Crown Estate were seeking a rental from that same community, for the work they were doing on the seabed for the causeways that were being built between islands, of £2,500 a year for 99 years, I think. Over the period of that 99 years, £2.5 million would go to the Crown Estate from that community. This is a community wind project designed to help to try to reverse that decline in very, very challenging economic circumstances.

That is where I would have a slight disagreement with Angus in that I think one of the fundamental questions about the Crown Estate is its business model in that sense and what is the balance between that business model? That might be fine in Regent Street, but it looks very different if you are in the kind of circumstances that I am describing. What is the balance between the commercial and the community interest? I do not think that balance is right. The way we would tackle it, of course, is to fundamentally restructure that and hand the asset to the communities to control and therefore these questions do not arise. The community then is in command of the asset. That is fundamentally what we think needs to change.

Q443 Mike Crockart: I have been involved with setting up the Green Investment Bank. What they talk about a lot is having a double bottom line: they are in it to make money, because otherwise it is not an enduring institution, but the double bottom line talks about the benefits—the climate change benefits. Is that what is missing in the Crown Estate—a double bottom line, where community benefit should be given a value as well?

Peter Peacock: That is a very interesting idea, and I think that one of the ways of mitigating the impact of the approach they do take would be to take that approach where you factor in other considerations. That might be a way forward, but more fundamentally the Crown Estate has such a commercial model that they do demand among the higher rates of return. Of course that runs smack bang into conflict where you have other objectives at work.

Cllr Angus Campbell: I slightly disagree with what Peter said there. I do not believe they are investing in our communities. I believe they are investing in their business plan. When you ask, "What is in it for us?" you will be told, "You might get a job or two out of it if it happens to come along." That is a huge difference from where we see commercial companies coming and we are asking them, for instance, to give 20% ownership of renewable things as they go along, so that gets benefits back. That is a huge difference. Even if you accept the commerciality, why should they be different from other companies? Why do they have that right? We are trying to strengthen planning law. We are trying to make sure that more of that will come back to where these communities get jobs and employment, and help support the local schools and everything else out of anything that happens in their waters, or on their land for that matter. I can see what they are saying about investing, but it is investing in their own business plan, and they are quite open about that.

Q444 Chair: Can I just clarify one point arising from that? You mentioned communities borrowing money. We had the suggestion, in the informal discussions that we had earlier on today, that in these circumstances local groups should be able to borrow from the Public Works Loan Board at a much lower rate. Do you have a view on that? Should that be part of the recommendations we make about this?

Peter Peacock: I heard that comment in the informal session you held this morning. I was rather intrigued by it. I think it was a very interesting idea indeed. There is something that was linked to that, which was effectively saying that community ownership, because it has to be by democratic mandate, becomes another form of public ownership. The problem in a sense is that it is not a public body in legislative or other terms. A public body possibly could borrow from the Public Works Loan Board, but it is a very interesting idea.

It is the case, too, that there are forms of banking. I perhaps shudder to mention it, but the Co-op Bank, for example, did take very particular approaches, and there are other banks that take community groups that have reasonably good borrowing rates. So the Public Works Loan Board would certainly be one avenue worth looking at, and I would hope the Committee could look at that. It is perhaps not the only avenue.

There is one other point and that comes back to the power of ownership of the ground. If I go back to that South Uist example, the community owners there bought the estate a few years ago in a very run down condition, and barely washing its face financially, for about £4 million or thereabouts. That estate is now worth £24 million, just a few years later, partly because of the assets and the investment the community has been making. But on the basis of the rising value of the asset, communities are much more able to go to the market and borrow commercially. So underpinning their ability to do other developments is the ownership of the ground or potentially the sea now.

Q445 Chair: We have heard that in many cases the only thing the Crown Estate does for a development is take money out, and that it is almost entirely a parasitic relationship. Does that seem a fair way of looking at it—without wishing to suggest anything?

Peter Peacock: The experience of our communities and the reason that we are interested in changing the way this operates is precisely because the Crown Estate is seen to take money from communities and not to put it back in the same volume. I should say, too, that the further development that has taken place since your Committee reported, if I remember correctly, was the creation of the Coastal Communities Fund, and that in part—

Chair: No, no, that's okay.

Q446 Graeme Morrice: When we reported on the Crown Estate, we were told that it was a major difficulty for the Crown Estate Commissioners in reconciling its duties to maximise income and act "in the public interest". Do you think that remains a problem? Do you detect any signs that these two objectives are now better reconciled than they were previously or have they not even reconciled them at all?

Peter Peacock: I do not detect any difference in approach to that at all. I am not clear that there is any legislative or regulatory restriction or requirement on the Crown Estate to make a particular return. There may be understandings with the Treasury and so on about the rate of return, but it seems to me that that is a policy matter rather than a matter that is fixed forever.

Cllr Angus Campbell: I would agree with that. Most of my experience with the Crown Estate is that their view of their public service obligation is to maximise the return across the Exchequer, it is not looking at the individual effect on the ground on the people, say, up in Scotland.

Q447 Graeme Morrice: So what you are suggesting is that to better reconciling those two objectives, if that is possible, then we need some fundamental structural change?

Cllr Angus Campbell: To be honest, we have always advocated fundamental change. We do not think it will damage the Crown Estate to go away and play with their property, or the 97%, but give us control over the other 3% and let us get on with it.

Peter Peacock: I echo that entirely. I think that it fundamentally lies in who controls the asset ultimately.

Q448 Lindsay Roy: Can I just clarify if community ownership and public benefit are synonymous?

Peter Peacock: I would of course say, yes, that they are but there is a very strict sort of proper answer to that and that is that community ownership pursued through the Land Reform Act, but also community ownership that is outwith the Act but funded by public bodies—within those two descriptions just about every community ownership transaction would arise—cannot proceed unless there is a public interest test that is satisfied. The Act requires that the public interest has to be served by the transfer of ownership to the community. To that extent, yes, community ownership is synonymous with the public interest. The other thing at a very localised practical level is that, ultimately, a community owner cannot do anything that the community does not assent to because it is democratically decided, in terms of the purchase of the land in the first place, but thereafter the company that technically owns the land has got open membership to the community and open annual meetings and the community can see what they want and kick off the directors if they do not like the direction of travel and elect others. So it is fundamentally caught up with what the community's own belief is in what is in the public interest in that community.

Q449 Lindsay Roy: You mentioned the Coastal Communities Fund. What has been your experience of the process so far? What is meant to happen?

Peter Peacock: To the extent that there is quite a lot of money sitting in a pot to be spent in our communities, it is a good thing. A lot of projects have been pursued under that that are of great benefit, I am quite sure. I am not up on the fine detail of what projects have been supported or not. I do know that the fund was very, very heavily over-subscribed in the first year—many, many times over-subscribed. The figure in my head is 40 times but that would need to be checked. So the demand there is enormous but the fund has not had the supply of money to meet that demand and the fund has been increased partly as a consequence of that. It really goes back to the point that Angus made that, ultimately, in a sense, it would be better not to have a Coastal Communities Fund. Arguably, that would not be needed if in fact the communities owned the asset themselves and were just allowed to get on with it and use the assets to generate their livelihoods that they want to generate locally.

Q450 Lindsay Roy: Has there been a good return on bids put forward? Is the big lottery fund the right mechanism?

Cllr Angus Campbell: Our own point of view is that the big lottery fund is not the best mechanism because it does not take the local issues close enough. It is much more a mechanical system. Also, Peter mentioned demand of 40 times more; I know in the Western Isles we had a figure very similar to that. There was a huge appetite for doing things out there and there was just not enough to go around. What is there has been welcome but I think getting decision making back to local priorities would be a big step, and the ultimate place to be is to have what produces that funding, have that piece decided on how they are going to use it to do even more. You might get a better return from that as well.

Peter Peacock: I have not heard any comment from our members about particular difficulties beyond the normal for applying for money from the Coastal Communities Fund. I think people accept that that is the route they have to go and they live within the parameters of that. Everybody—

Lindsay Roy: That is not what we hear.

Peter Peacock: I have heard nothing from our members to say that it—well, community members complain about over-bureaucracy in every form of grant application but I have not heard the Coastal Community Fund is notably different from anybody else.

Q451 Lindsay Roy: Can you give us some examples of where there have been good dividends?

Peter Peacock: I cannot give you the detail of that, because I do not have the details at my fingertips, so I am afraid I cannot offer you that. I can get information for the Committee from our members if you want that.

Q452 Lindsay Roy: I would have thought communities would be blowing their own trumpets about their success.

Angus Robertson: I think there were very few of them in the first round. I think there were only about half a dozen or so that were actually funded. There were not many of them. I know there was one in Portree in the Isle of Skye—a local sailing club received some monies from it. I just do not have the detail on how well they are getting on with that.

Q453 Lindsay Roy: I am surprised the Crown Estate does not highlight it.

Peter Peacock: The Crown Estate do highlight it in press releases that have gone out. For example, in relation to Gigha I seem to recall that the press release did highlight that the Coastal Community Fund was a contributor to that overall project.

Q454 Chair: I am slightly surprised about the 40-times over-subscription; I would have thought it would be much more than that for a scheme that was basically giving out free money. As I understand it, people apply for it and they get a chunk of money. I am not entirely clear about the criteria used and how these have been arrived at. Is there anybody from the Western Isles or the west coast or the highlands who is distributing this money, who is from these areas, who is accountable in any way directly to people?

Peter Peacock: I am now wondering whether 40 times was the correct figure. I think it was but you need to verify that. It was many times over-subscribed. Again you would need to verify that, but I think the Chair of the Coastal Communities Fund is the former leader of Highland Council, David Green. If he is, or unless I am completely deluding myself, then he is someone who clearly understands the area.

Q455 Chair: Yes, there is an issue with bodies like this, of the great and the good, appointed to give money away. There is always the question about how accountable they are and how representative they are and to what extent their values are genuinely representing the values of the community, but that is perhaps something for us to pursue with Government rather than with the Crown Estate. But I think that we have come to the end of the section on the Crown Estate. As I was indicating earlier, for this section as well, are there any answers you had prepared for questions that we have not asked? Any points that you think that we have not touched on in terms of reviewing the Crown Estate? My understanding is that your view is that we should be sticking with the proposals that we made in our initial report and that the changes, slight though they are, are not sufficient to mean that that should simply be rejected. Is that a fair assessment?

Peter Peacock: That would be a fair assessment from our point of view.

Q456 Chair: I want to get it absolutely clear.

Right. If we could turn then to the question of land reform. I wonder if I could start off by asking you what you think are the key areas in which the Committee should focus on its inquiry on land reform, bearing in mind our intention to try to produce an interim report in the first quarter of next year, and then we will produce other reports as and when. We want to try to get something down on the record as soon as possible. What do you think should be the focus in the short term?

Angus Robertson: From a Community Land perspective, there are probably several roles that the Committee could play, including looking at the range of tax breaks and tax arrangements for private owners that they enjoy currently, and the extent to which these tax breaks and the other subsidies feed rising land values as such; the human rights obligations that might point to more land reform; any elements of ministerial discretion in Scotland by so-called Treasury rules; and—something that impinges on my own community group at the moment—the interpretation of state aid rules within Scotland, which are increasingly impeding groups such as our own in looking at new land acquisitions as well. That is some of the rules—

Q457 Chair: You gave us those four. Could I go back over those if I could? I think the first of these was the question of tax structures and so on. I think we understand that, and you have said that drives up values. I think we can ask that. The second one I think was the question of human rights legislation. Could you just clarify what you think needs to be looked at there?

Peter Peacock: The position that Community Land Scotland has taken is that the only time we hear about human rights is when the ECHR—European Convention on Human

Rights—is quoted to us. It is normally quoted in the context of saying, “There can be no further change in land ownership, or you infringe my private owners’ rights under ECHR.” There is no question that the ECHR has to be accounted for in how you seek to move land into more diverse ownership, but it is also perfectly clear that there are ways to account for that that are acceptable in terms of the law. It is interesting that the recent judgment, I think by Lord Gill, in the quarter session, about the case in the Western Isles of the park community seeking to buy their land. He made it perfectly clear that Ministers were acting both within the law but also that it was a matter pre-eminently for Ministers to decide what was the public interest in that; the ECHR was not breached by the decisions that were taken in relation to that, and that was a “compulsory” purchase by a community of the land.

That is the only thing we hear about human rights is “ECHR”, although there are other human rights that quite clearly point in the other direction that the UK has signed up for. For example, the International Covenant on Economic Social and Cultural Rights, which look at issues like maximising progressively the ability of communities and society to provide housing for its people, economic futures for the people, and so on. On the face of it, that particular obligation, signed up to by the UK Government, would point in the direction of more land reform, not less, to allow people to meet their aspirations. That convention also talks about changes to agricultural law, tenancy law and access to resources to allow development of society to take place.

From our point of view, it would be very helpful—given these are UK obligations—if we could get more light shone on this and to see if there is a balance there between what on the face of it ECHR might say about respecting individual rights to property, which can be respected, and still see transfers of land. But also are there other obligations in human rights terms that we are not paying nearly as much attention to that we ought to pay more attention to in future? That is an area in which Community Land Scotland has become increasingly interested.

Q458 Chair: Can I just clarify? The question of compulsory purchase is what springs to mind, and Governments and the public sector do this all the time. Is this all that much different, or do pretty much the same regulations apply, it’s just that here local providers have better and more expensive lawyers?

Peter Peacock: You are right. The underlying point here is that when we talk about communities being able to exercise rights to buy, as crofting communities can in laws now, which is not when land comes on to the market but when there is not a willing seller. You have to account for ECHR but that is no different from accounting for it if you are doing compulsory purchase of a corner of land to widen a road or to build a school or to build a house. There are a variety of ways in which our society has powers of compulsion over land use, and on a significant amount of that when it comes to compulsory purchase, you are required to satisfy the same test as you would when you—

Q459 Chair: I have been reminded that one of my colleagues is busting to ask you about that later on. So if we leave it there.

The third of your points was, remind me, the suggestion of Treasury rules?

Angus Robertson: Treasury rules, yes.

Q460 Chair: I think we understand that. Most of us who have been involved in anything at all have come across the dreaded Treasury rules at one time or another. It is a bit like local authority lawyers in the sense they are always making an argument. If you ask the question the answer is, "No". Right. Okay. We understand that one and the fourth one was?

Angus Robertson: It was about state aid rules that are impeding communities, such as my own, from buying and managing land and developing as well.

Q461 Chair: Yes. I am just checking that that is not one that somebody has already been allocated to ask a question about. I am allowed to ask you to expand a little bit on that.

Angus Robertson: My own community group bought a forest nearly three years ago with over £150,000 of Government funding. That locks us out through de minimis, through a European ruling, that you can only have an investment of €200,000 over a three year period into any organisation. We are just coming out of that now, so we are looking to make more funding applications for public funds for things like a community broadband network. But at this moment in time we are stymied by these regulations that we cannot move forward until the three year period came round again. So that is something that really impedes us as a community group.

Q462 Chair: Why don't you just set up another firm and then they apply?

Angus Robertson: We do. We have two subsidiary companies. The assets are owned by a community trust and the grant applications are made by a charity in the community for the assets themselves, so that locks us out.

Q463 Mr Reid: I understood that the Government could apply to the European Commission for an exemption.

Angus Robertson: It is all a bit of a grey area. They did increase it several years ago to €500,000 for one year only, just due to the banking crisis, but that came back down again to €200,000, and that is what it is at this moment in time. We have heard of no exemption.

Q464 Mr Reid: The Government applies for exemptions all the time, usually for itself for various projects such as rural post offices, for example, the Post Office gets more than that. Every time it tries to do that, it has to apply to the Commission for exemption. Surely the Government could apply to the Commission for exemption. I think Peter is bursting to speak.

Peter Peacock: I think there are two things about that. There was an indication from the Scottish Government, about six to eight months ago, that they were looking to approach Brussels with Defra—it has to be done through Defra as the UK is the member state. I know that the Scottish Government have been pursued about that recently in correspondence with an MSP. I have not seen it but I understand a recent reply from the Minister concerned, Mr Wheelhouse, has indicated that they are still looking at this. They are aware this is a much bigger issue than they previously thought it was and that they would report further in due course. That is seeking an exemption.

In a sense, though, the question arises in the way that Angus has indicated some groups experience it. It is not necessarily that we should have to go to Brussels to seek an exemption, but it is how we interpret the rules domestically and whether the way we interpret them requires us to go to seek an exemption. I do not think there is any doubt that the community groups—not only community groups that are members of Community Land Scotland, but more widely, I know—are experiencing interpretations of state aid rules in Scotland, which appear on the face of it to be tightening all the time and becoming more and more difficult. It is not clear to our members, and I know to others, whether these are necessary tightenings or whether they are a risk-averse tightening. In other words, "To avoid the possibility of any criticism we will not do that," and that therefore removes the possibility of criticism but it also prevents actual development on the ground the funds were intended for.

You would need to verify this, and I will be quite clear that this is anecdotal, but I am also aware that there is some evidence that has been reported to us that the interpretation of the rules in England is not as tight as in Scotland. It might be worth speaking to the Lottery who operate cross-border about that. Therefore, I think the worry from our members is, is it necessary to interpret the rules in this way and to the extent that then requires you to go to Brussels for exemptions? I think our members are genuinely bemused by this and frustrated.

Mr Pace will know much more about this than I do, having dealt with the EU and these things, but I just cannot think that there are lots of bureaucrats in Brussels who are worried about a £20,000 grant to a small foundation as distorting European competition.

Chair: You would possibly be surprised.

Peter Peacock: I would be very surprised because my experience is not that that is what preoccupies them. Nonetheless, I think it preoccupies people here.

Q465 Chair: Some of these issues it strikes me are perhaps initially best dealt with by correspondence from our selves rather than formal hearings. We will try to pick some of those up by clarifying the position as we understand it. But you were just coming back again to the priorities for the period. Angus, you have given us yours. Peter and Angus, are there other wider issues that you think we ought to be prioritising, just to try to clarify the position on a number of areas?

Cllr Angus Campbell: I am not an expert on the community land situation, but I will say on the back of what you are saying about state aid that it is becoming more of an issue. We get that from community groups all the time. An example was the west coast of Lewis where there a trust was going to take forward an outdoor centre. They were told they were distorting the market. You have been to the west coast of Lewis, what market are you distorting on the west coast of Lewis? Also, we had a small scheme of £50,000 a year in terms of inter-island commercial fares for businesses to try to encourage the Southern Isles to deal with the north and vice versa. That was blocked at Government level for three years, and I went to Brussels and made the point, "Why are we not able to do this small piece?" and I was told to go away, "That is not an issue, it does not bother us".

Q466 Chair: So this was blocked at Scottish Government level?

Cllr Angus Campbell: Blocked by the Scottish Government's interpretation of state rules. The same has happened with a discount scheme for the highlands in terms of business not being allowed to take advantage of it. We gave the Scottish Government at least six countries that have exactly the same schemes in place for their businesses, and said "Can we take advantage?" That means there is the question of interpretation there somewhere along the line.

On the land issue generally, the one big—

Q467 Chair: I think we have this. I am sure we appreciate there is a natural reluctance to point out to our Scottish Government colleagues the error of their ways in this as in so many other issues. I think we can make an exception here because it is so significant to lots of local communities.

Cllr Angus Campbell: I think clarity from the UK Government on that would be very helpful.

Peter Peacock: When I discussed coming here today, the most general point raised was: when you have landowners who do not want to sell, how we move that process on and how we move it on in a way that is secure for the communities who want to buy within a reasonable time scale. We want Scottish legislation that is to do with the hostile buyers, but there is a need to get that issue sorted because some communities are being very much discriminated against from their senior neighbours taking great advantage in terms of community ownership, employment and everything else that comes with that.

Peter Peacock: I was going to add to that point but Angus Robertson has covered Community Land Scotland's position. If you want to hear more about it, we have made a submission to the Land Reform Review Group about the changes to the Land Reform Act, which essentially tackles that latter point that Angus Campbell has raised about what do you do in circumstances where land is never going to come on to the market or never likely to, and yet the land uses are not anywhere near meeting their potential and the community have aspirations. We fundamentally believe that you have to widen out to all communities the right that already exists for crofting communities, and we have suggested a land agency could help facilitate discussion between landowners and communities.

There is a lot of evidence now in the Western Isles, in particular, where negotiations are taking place against the backdrop of a fallback power, if necessary, to acquire in the public interest a change of ownership. Negotiations could take care of a lot of that. I can go into much more of that if you want.

The only other point that I would add to what Angus Robertson said is that we have become interested in motion, the idea that the effect of a monopoly owner of large tracts of land, therefore, affecting quite a number of communities and very often, as we would see it, in quite negative ways. We do not seem to have a mechanism for deciding whether that monopoly ownership is in the public interest, and yet we have lots of other mechanisms in other parts of society to look at monopolies and the public interest. Therefore, the question arises—and Community Land, Scotland is going to be debating this quite soon—as to whether we should be encouraging you to think along these lines too and begin to explore whether a land registry, for example, might have a role at the request of Ministers or by some other mechanism to investigate whether it was in the public interest that land continued in a kind of monopoly ownership situation. It is an idea that perhaps we will come back to.

Q468 Mr Reid: Are there any island-specific issues about land reform? Any different issues for the islands compared to the mainland? Monopoly ownership is just one thing that springs to mind because, presumably, it is more of a problem on islands than on the mainland. Is there anything else?

Peter Peacock: The experience we have had is that people like to buy islands. It is quite an odd thing. People particularly from—

Mr Reid: You do not have a neighbour problem.

Peter Peacock: Perhaps that is the answer, but down the years in Scotland we have seen some pretty strange owners appear to buy islands. Therefore, everybody on that island is affected by that peculiarity. Whereas on the mainland you can partly escape that in some respects. In that sense, there may be a difference but fundamentally the same questions arise as would arise on an island, and it is about aspiration, it is about the potential of the land and how you can best utilise that to develop sustainable communities.

Q469 Sir James Paice: I want to take on one of the four groups, which is the policy of taxation and public subsidy, if I may. But before I do that can I just press you on fundamentally the position of CLS in terms of what you want to see because you just made the comment, Peter, that implies that monopoly ownership of a large tract of land may be bad but communities obviously find it difficult to dissent from that view. Do you fundamentally take the view that large scale private ownership of tracts of land is wrong and should be changed? Therefore, you have a baseline view that says that communities should be able to own whatever land they want regardless of who owns it owns it now, if they are large tracts of land, or are you happy with the concept of large scale private ownership if it is a benign ownership?

Peter Peacock: We have not approached the problem in quite that way. If you took any individual instance of a large holding of land, then there will be many communities in Scotland who are perfectly happy with that ownership structure and they do not feel it inhibits development in any particular way. Therefore, we would not think that there was any need to transfer the ownership of that land. It has to come from people who articulate a need to do that and they have to make a case to do it. We are not advocating that people can simply take somebody else's land. It would have to be demonstrated—as the current Land Reform Act requires—to be in the public interest and to further sustainable development. These are reasonably high hurdles and we would argue that they should be maintained. On a case by case basis you might find those circumstances I have described. However if you take Scotland in aggregate, then you have this really unusual situation in Scotland where we have so few owners who own such a huge amount of the country, and fundamentally when looked at from that point of view we think it requires change. Why do we think it requires change? Because too few people have a stake in the land. That has an impact on investment in the land, we would argue. It has an impact on the potential uses of the land. This decision-making about the land use is in very few hands, and that we think that communities, if they articulate a need and a desire to own and manage that land more effectively for their long-term sustainable development, then in law they ought to be able to pursue that subject to the public interest test.

I think if you take Scotland as a whole we would argue that the current land ownership patterns are not justifiable in the long term. They do not serve the public interest. It excludes a huge number of people who would want a stake in the land from getting that stake in the land. Therefore, greater diversity of ownership is fundamentally what drives us. If you apply that to an individual estate or an individual circumstance, you may take the view that that is perfectly legitimate. It is the aggregate position. I think the other thing is that where we foresee a community ownership angle on land, we recognise there are other interests at play here, for example, in recent tenants right to buy in farming, but also in allotments and all sorts of other uses of land that communities want to get involved in. If you were able to hear a bit more of what Angus Robertson is doing in his community to use the land now to benefit a wide range of economic developments, there are some very impressive things going on and we want to see more of it. I hope that answers—

Q470 Sir James Paice: Yes. It is very helpful, thank you, Peter. Obviously I do not have all the knowledge, but I am aware of the fight that has been going on.

Angus, if you will forgive me I will come on to the next question and then perhaps you can come in.

In your memorandum you made the statement that land ownership in Scotland is for many owners just a vehicle for tax advantages and public subsidies. Yet at the same time you also say that you have no particular expertise in the area of taxation subsidy, and, Angus, you said this in your response to the Chairman's question. Can you elaborate on where you think the taxation and subsidies available, whether they are UK, European or overseas taxation things, which somebody mentioned this morning, where you think they are disadvantaging landowners?

Peter Peacock: I will start and Angus will pick this up. First of all, I do not think we see any contradiction between not understanding the detail of taxation policy but understanding how land is marketed as a tax advantage and an investment advantage, and that is what we predominantly see with large estates in Scotland, and not such large estates, being advertised in glossy publications and right upfront in them is how this land ownership can be used for personal wealth development. We have an industry out there who are advising people on exactly that. The motivation underlying a lot of the marketing of land is for tax-beneficial purposes and for people to draw down grants and offset them against other arrangements and so on.

What is a mystery to us is how this is done in detail, because our membership does not have that expertise. We are currently debating membership principles for our organisation, and one of them is that you will not offshore any of your arrangements for landholdings in Scotland. Our membership does not believe that is right, but we are aware that other people do. I think we think it is an area that deserves to have the lint lifted a bit and for people to understand what is going on here, what are the arrangements that are put in place.

Underlying our concern goes back to the point I was making to you earlier that if you fundamentally believe that there should be greater diversity of land ownership, which we do believe, then what are the arrangements that beset support that greater diversity occurring. On the face of it, it would appear that the arrangements for taxation, tax breaks, incentives, public subsidy and so on has the effect, from our perspective, of consolidating current ownership patterns, not adding to the greater diversification of land. That is the question we would quite like the Committee to look at: what policies would have to be in place to support a direction of travel that is about greater diversification and ownership of land and do the current arrangements do that or do they consolidate the current position. Our view is that they would appear to consolidate the current position.

Angus Robertson: The thing we are looking for is about transparency and who owns the land. There are cases where we just do not know who owns some of these large estates, so there is no way we can approach individuals to get small parcels of it for local housing or what have you. We just do not know where these owners are. Some of them hide behind charitable status have a board of trustees which has no local representation on it at all.

We obviously have a concern as to how to move forward with approaching estates and large landowners, and perhaps private investors overseas as well, as to how to approach them to engage with them to release more land for community use. A greater transparency would be a starting point anyway to find out about who to talk to on some of the issues that we have from a community perspective.

Q471 Sir James Paice: I do not want to put words in your mouth. Am I right to assume you do not have any proposals yourselves on taxation or subsidy? You simply want us to look into it?

Peter Peacock: Fundamentally, as Angus said, it is about looking into it and trying to shed light on this so we can all understand this a good deal better. That said, we find it odd that in the mix of taxes that are available to the state we do not have land taxes really of any sort in Scotland. We used to have some rates that were applied but which were abolished some time ago. There is really no other form of land taxation per se in the overall mix of taxation. Clearly if you want to begin to move, if you share that objective of having greater diversity, are there things that can be done about land taxation that might create some of the incentives for that to happen? There are currently no such reliefs. That is one approach we would take. As to whether you would change certain rates of taxation of whether you should be able to offset certain inheritance things, we do not have the detailed knowledge to give you that.

One idea we did put in is that it seems to our members wrong that people should vest the ownership of land in Scotland in overseas vehicles. We were suggesting in our evidence that if people were not willing to bring back all their arrangements within UK tax then perhaps they should forfeit the land. If you were going to support that, that would be good.

Q472 Sir James Paice: What about the comment made this morning by a lady who was sitting in this morning's meeting? She said that overseas people should not be allowed to own land in Scotland itself.

Peter Peacock: The formal answer to that is we do not have a position on that. Our concern principally is that the vision we would like to see is of more diverse ownership that is owned locally. Our members, part of the reason they now own their land is they have suffered over the generations and watched their community decline when the owner was absent. That could be absentee within the UK; it could be in other parts of Scotland. It could be England or Wales or Northern Ireland or it could be in Denmark or wherever. It is the fact they are absent at all from the land, and the land that people depend upon for their future, that I guess is the principal driver. I am not clear whether an EU lawyer could discriminate against another nation per se, but for us it is more caught up with a vision that is to have more diverse land ownership. Fundamentally we would like to see that locally determined, locally held.

Q473 Sir James Paice: Can I take this on to the next stage and link it back to my first question, which is do you see taxation—and you were talking just now about perhaps new taxes. The other option would be some fewer reliefs, which I personally think is the bigger issue here, which is encouraging land ownership in order to gain reliefs. If everybody was equal in terms of the tax, do you still think that the larger holdings should in some way be at least having the majority of them broken up, regardless?

Peter Peacock: Not regardless. I think that when we find that served the public interest, that there was some clear case why that should happen—and the current law is driven by what would serve the public interest and we would want to see that maintained. I do not think it is a question of willy-nilly doing that. However, we are clearly aware of many communities who would like to own their land, we are aware of many individuals who would like to own a bit of land. We had an example this morning—I cannot remember whether the point was made before you arrived or not—of someone talking about the difficulty of being to get the 20 hectares or whatever to create a forest business that they otherwise could create.

I think it is in the context of that greater diversity. It is not breaking up land for the sake of breaking up land, it is when there is an interest and when there is a community desire to do that. We are very clear you cannot thrust community ownership down the throats of communities. You have to want to do this and you have to have clear motivation for doing it. Provided that is in the public interest, what we want to see is a mechanism, a means, by which that can occur.

On your particular point about reliefs of taxation, my personal instinct is somewhat along the lines that you have indicated, that the reliefs are what attract people into this. It is what the effects of that are in driving up land prices and what then are the other benefits that come with that. It is quite clear that the way that these are marketed encourages people to come in on that basis. That cannot serve that interest of wider diversification of ownership that we would argue for.

Q474 Sir James Paice: Taking this on a stage to your own members many of them—and Angus referred to charities just now—as I understand it many of your own organisation members enjoy tax charitable status. That in itself brings difficulty for tax advantages. There are some very, very large national charities, RSPB to name but one, but there is also Woodland Trust and the John Muir Trust and many others, apart from the Mount Stuart Trust, Applecross and so on. How do we take this argument about taxation forward in terms of equality? You are arguing some charities are perhaps too big or too remote—which I think was Angus's point—and yet your own organisations, or many of them, are them themselves charities enjoying the same tax status. That is a slight quandary.

Angus Robertson: As a community group, all the money that comes into that community group is obviously spent within the local area itself, so that is a major, whereas where land is owned by other individuals or corporations or their offshore accounts, it is all going out of the community itself. RSPB money or tax breaks or what have you that we gain as an organisation all comes in to make us more sustainable as a group and ultimately then to pass on to the local community itself.

Q475 Sir James Paice: My point is that you are charities and what you said in of course applies, but by the same token other charities own land, which probably are not ploughing all the money back into the community. They may be using it for completely other purposes or buying more land or whatever. That is my concern, that by virtue of your charitable status you have certain tax advantages, and yet those same tax advantages also apply to other organisations who you seem to consider less responsible.

Peter Peacock: I should first of all say, because you have raised it, that I am a member of the RSPB Committee in Scotland. I make that clear. I should also say that some of our members have had funding from national charities to help buy their land. The John Muir Trust, for example, has put up funding to help a couple of our members in the original purchase of the land, so we have quite close relationships with big, national conservation charities in that sense.

I guess, just being blunt about it, there are charities and charities. What we are concerned about is that on the face of it—I will be careful what I say—it sometimes looks like some of the charities that were probably approved as charities quite some time ago before the new regulation of charities in Scotland came into effect, look like a front for the existing old family just to continue the old ownership and continue the old ownership practices, but now with charitable status which gives them tax advantages which allow them to keep the ownership of that land. That is what we are concerned about in terms of the charitable side of things.

I would argue that we are entirely proper charities with public good at heart. The properties that Angus has described are owned by the community for public benefit, but that it is not the case, it would appear, in some of the arrangements. That is what we are looking at as one dimension of the tax advantages: are all charities, in the way they are constituted and constructed and their membership of trustees as elected—or not elected, appointed. Can you compare that to charities in the way that Angus was describing? We have concerns about that.

Q476 Sir James Paice: But by saying—and I am not dissenting with you—that there are charities and there are charities, you underline a huge difficulty in how do you make that differentiation. Taking that, my last point to you is the whole issue of how charities themselves operate, the point you have just been referring to, Peter. Are you saying—without trying to put words into your mouth—that some of the ways some charities operate, whether it is to do with their internal structures or just the way they want to operate, can be counterproductive to the community or to innovation, entrepreneurial activity, things like that?

Peter Peacock: I do not think it is so much whether they are a charity or not. One of the people who was here this morning was in exactly this situation, where that community is very, very frustrated by the management of the estate they live on and that their opportunities are being limited in a whole variety of ways. What is galling to that community is that the ownership is in a charity, and therefore the taxpayer, in a sense, is helping underwrite the management which they regard not to be in the public or community interest. That is what these people find galling about the situation: that the charitable status is being used in a particular way by what might appear to be the original family owners having converted it to a charity in some way and getting public benefits, when the community would like to see the whole thing move on its development. It is not that it is a charity it cannot move on, it just is more galling because it is charity and it does offer advantages and helps consolidate that ownership.

Q477 Sir James Paice: Your desire for a more equitable distribution of land ownership, diversity of land ownership, you would not wish to see charities per se be immune from that?

Peter Peacock: No. I do not think it is a question of the charity per se. As you indicated, our members, some are charities. There are national charities we work in partnership with, or some of members are, for the purchase of land. It is not charities per se, it is the actual use of the land. But when a charitable status allows an owner to manage land in a way that the community does not support and approve of long term, then the state to some extent is underpinning that through the charitable status and the tax advantages it gets.

Q478 Lindsay Roy: Can I just say that the Scottish Government should look again at what public benefit is?

Peter Peacock: I think there is a question of charitable status in the terms that we are trying to encourage people to look at, because wider taxation measures, it fits within that. In fairness we have not done this specifically: to encourage within Scotland OSCR to increasingly look at the types of charities that we have hinted at to be deceitful that in fact they are satisfying the public interest in the way that we have hinted at as well.

Lindsay Roy: That is what is happening in the rest of the UK at the time.

Q479 Jim McGovern: It falls to me to return to the human rights aspect that the Chair strayed into a little bit earlier. You talked in your paper about compulsory measures and suggesting that compulsory measures should be considered as part of land reform. What sort of compulsory measures are you referring to?

Peter Peacock: The current Land Reform Act that came into effect in 2003 provides—there are three parts. The first part is about access to land, and I will put that to one side. Part 2 is about the community right to buy. It is not a right to buy; I will come back to that. The third part is about the crofting community right to buy. The crofting community right to buy in part 3 of the Act gives the crofting community the right to buy, even though the land is not on the market. The crofting community would have to demonstrate to Ministers, who would make that decision as to whether they could proceed to purchase the land, it was in the public interest and it furthered sustainable development, essentially.

The right to buy is a complete misnomer, because it is a qualified absolute right to buy, which is a ridiculous contradiction in terms. There is not an absolute right to buy. It is a right to buy subject to meeting the public interest test, satisfying the public and sustainable development and if approved by Ministers. It is then subject to a court challenge if necessary.

What we would like to see is that part 3 right, currently confined to crofting communities, applied to all communities who are equally faced with circumstances where there is land they believe they could manage much more effectively in their own interests in terms of their development and suitability but that land may never come on to the market. Therefore, they currently do not have a right to buy under part 2 because you can only exercise your right to buy if the land comes on to the market.

Q480 Jim McGovern: This specifically relates to the provisions of protocol 1, article 1 of the European Convention on Human Rights, because that is ultimately the one that we are arguing about here, which is that every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one should be deprived of his possessions except in the public interest. That is where the qualification comes in.

I noticed earlier on that when you were asked does community benefit equal public interest, you said yes. Is that really the crux of the argument here? Because if it does, then any community buyer would automatically reach the public interest test.

Peter Peacock: I was making the point earlier that community purchase equals public interest in the terms that you could only proceed to purchase under the Land Reform Act if it was determined that that purchase was in the public interest. There is a strict application within the Act.

We are only arguing that land could ever change hands if you could demonstrate it was in the public interest. I do not know if that is answering your question or not. We are arguing that there should be a public interest test but we are also arguing that if you meet the public interest test that does not mean the ECHR could automatically rule that out, because that public interest test and any decision on that by a Minister on that would be challengeable in the courts and they would have demonstrate that they had taken all the necessary factors into account. They would have to demonstrate that it was a proportionate action to meet the objectives that the community had with the requirement to compulsorily purchase the land.

There are a number of tests that would be within that that would require communities to satisfy. If they did satisfy, that did not automatically mean that would meet ECHR, but it would be part of the way down the road of meeting ECHR, provided there was compensation to the owner and the action was proportionate.

Q481 Jim McGovern: Part 3, which is the crofting community body right to buy, has been challenged in *Crofters v Scottish Ministers* and you have gone through the legal process. But surely the very fact that we have a part 2 and a part 3 points to the distinction between communities and crofting communities. Is there not more of a legal background to what would be defined as a crofting community and what is regarded as a crofter that gives backing to allow part 3 to meet that public interest test?

Peter Peacock: Our members, in debating this, have come at this from the point of view that—it is a kind of Highlands or Islands perspective, which it has to be if you are talking about crofting anyway. You have crofting communities crofting estates, you might say, in terms of the Act, which are sitting cheek by jowl with other bits of land that are not in crofting tenure or not to the same extent in crofting tenure, yet face exactly the same economic challenges that the crofting community face. When you get to think about that, it has become increasingly anomalous that in the highland context one community could pursue, because they are a crofting community, a particular avenue of the absolute right to buy but another community facing exactly the same economic circumstances, or analogous economic circumstances, could not because they did not happen to meet the crofting community right-to-buy requirement.

When you start thinking about that, you think why would you draw a boundary within the Highlands and Islands for that? If that would be a suitable right for wider communities in the Highlands and Islands, why would it not be a suitable right for communities anywhere in Scotland?

Q482 Jim McGovern: My point was that presumably they have drawn that line because there is a legal backing to where that line has been drawn because of the crofting legislation.

Peter Peacock: I think that that would have underpinned the original logic, but I think you are saying is that in the light of experience of 10 years of operating the Act, we regard the fact that that right is not available more widely as a fundamental weakness of the legislation. That is what we are arguing should be addressed by extending that right to other communities.

Q483 Jim McGovern: You mentioned earlier on other human rights considerations. Was that particularly to do with the European Charter?

Peter Peacock: I feel rather guilty about all this in the sense that I was not really aware of the issues on rights argument, other than ECHR being argued as an obstacle to land reform, until earlier this year, where, in conversations with the Scottish Human Rights Commission, it became clear to me suddenly that there was a whole range to other obligations that I was blissfully unaware of which might point in the opposite direction. I am no expert on this. We gave evidence to the Scottish Human Rights Commission, encouraging them to have a look at all of this to see and to again bring to the surface what are the other human rights obligation that may have an impact and which might point in the opposite direction to constraining land reform but were arguing for me more land reform.

It is an area, given these are UK obligations, that we felt would be something the Committee could helpfully shed light on and to try to bring to the surface and find a more balanced overview of what are the range of human rights obligations here. You are right that the particular convention referred to—the International Convention of Economic, Social and Cultural Rights—is one that obviously has an interest to play out in this arena. But there may well be others, and I am no expert on that.

Q484 Jim McGovern: It is not one I am aware of, Economic, Social and Cultural Rights. The European Social Charter, which I thought was what you were talking about, which I thought was what you were talking about, has an employment section which does talk about an economic and social policy designed to ensure full employment. I wondered whether that was what you were getting at.

Peter Peacock: I am discovering that the world is littered—I do not mean that directly, but the world is littered with human rights obligations that I was blissfully unaware of. But every time I turn one over and dig into a website on some of this, you read things and think that is an argument for changing the way we do things. Really what I am saying is that I think it would be helpful to everybody if you were able to take evidence on that from experts in this field who could point to the various things that might point to that.

I have in front of me not the whole International Covenant on Economic, Social and Cultural Rights, but just to quote from bits of it the parties present to the Covenant recognise the right of everyone to an adequate standard of living, to adequate food, adequate housing and the continuous improvement of living conditions. Another part of it is pledging states to use legislative means to reform agrarian systems to achieve the most efficient development in utilisation of natural resources.

There are a whole range of things in there. If you take a human rights approach thinking into the land question, suddenly there are other obligations we have that we have signed up to in the UK that seem to us to have something to say to this debate. We are not experts in this at all. It is an area we would like to see explored a good deal more thoroughly.

Jim McGovern: As someone who has served on the Joint Committee on Human Rights for a year, you have no idea how much my heart is singing at the prospect of returning to that again on this issue, but let's move on for now.

Q485 Chair: Not only were you put on to that committee as a punishment— can I just clarify whether or not the obligations that the UK has for some of these things is an obligation to try to follow through an aspiration, as distinct from an actual legal obligation?

Peter Peacock: It is not a specific requirement but there is an obligation to pursue what you have signed up to, some of things I have just hinted at, and that points to the direction. If, for example, as we would argue, current land ownership patterns frustrate the ability of communities to develop—

Q486 Chair: I understand that, but there is a difference between a legal obligation and an obligation to move in a particular direction, even if only glacially, isn't there? That is what I am just trying to clarify: how strong some of these obligations are.

Peter Peacock: I genuinely do not know the answer to that. I do know that ECHR has been brought into UK legislation, so it is a clear obligation specifically, but I understand that this will require your advisers no doubt to advise you on this. I understand that the original Scotland Act also has a general obligation on Scottish Ministers to promote what are the obligations the UK Government has signed up to on human rights. You are right; it is a broad encouragement to develop that.

Chair: Generally obligations are not based on that. No doubt our legal advisers will have complete knowledge on these matters and they will be able to give us several pages at the drop of a hat.

Cllr Angus Campbell: Could I be excused? I have a plane to catch and I am running late.

Q487 Chair: Before you go, are there any points that you want to draw to our attention? In particular a number of questions largely to do with freedom around land ownership and diversity and so on. I think the others will probably be able to comment in line with what you would want to say.

Cllr Angus Campbell: I think all these gentlemen can speak on our behalf. They are probably better briefed than I am on that particular question.

Chair: Number 26. Is there anything that you would want to add there? We have one question, Jim, that you were going to ask about 26.

Q488 Jim McGovern: Angus, I will not keep you long. Do Islands councils have a view on other of how Scotland is owned? For example, Scottish Ministers, mainly via the national forestry estate, but some have their cultural estates such as Raasay, should be perhaps transferred to local government?

Cllr Angus Campbell: We have never looked for transfer of land to local government per se. We have encouraged very much the land ownership by communities route. I think that even applies to issues to do with bodies like Ministry of Defence, which is very prevalent in particular areas. We have never taken a position on whether you transfer it from an outside body to a local authority. We would be much more behind a community, especially in the Islands, in supporting that.

Q489 Jim McGovern: I suppose there is probably a difference between a position and a view. Is there a view?

Cllr Angus Campbell: I am struggling to see where, if it was to our advantage for something to be transferred to a local authority, we would not take it. We would have to take that on a case-by-case basis.

Jim McGovern: That is very pragmatic.

Q490 Chair: If there are no other points you want to raise, can I thank you very much for coming along? The Committee do not have another commitment until 8.15 am and therefore we were slightly more relaxed about the timescale we were pursuing. I had not realised you had a plane to catch at a particular time. We will carry on with the other victims that we have here in front of us.

Can I just clarify, Peter, one thing in my own mind that I am not sure about? It arose from my concern about crofting communities and so on. Everybody in a crofting community is not necessarily a crofter. But presumably in a community buy-in everybody is a participant in that. Is that any reason why the question of public interest is judged differently? Your crofting community or crofting group is only a section of interests. Does that explain why the latest rules—

Peter Peacock: I will have to go back and check this, but I am sure your adviser will know about this than I do. I think if you go back to the original Land Reform Policy Group that met after the 1997 election and before devolution, which did a lot of the groundwork on land reform that was then carried out with the Land Reform Act, I think part of the thinking that underpins this is that individual crofters already had a right to buy and could exercise their right to buy collectively in a variety of ways. That led into thinking about how you then created a crofting community right to buy, which would include the crofters but also non-crofters who are part of that community.

Be clear too that our position, irrespective of where this originated, is that you cannot expect to see a greater diversity of land ownership in Scotland being moved forward unless you widen that same right to wider communities so that the right to buy does not depend solely on land coming on to the market, because some land never comes on to the market. Nevertheless, it might be in the public interest that it was managed and owned differently. That is the fundamental point, leaving aside all the origins of it. It is a fundamental point of principle.

Q491 Jim McGovern: The only other question was more in relation to local authorities to see whether you had a view on what other powers local authorities should have that would help with this type of problem.

Peter Peacock: It was very brutal of Angus Campbell saying he thought I could speak on their behalf. We believe that the legislative framework needs to be right, and that requires the Scottish Government and Parliament to act on that, but thereafter any policies the local authority can put into effect that support communities in a variety of ways to exercise their right would be extremely welcome. But those are more matters for policy development and support. I don't know if Angus has any thoughts on that from his practical experience on the ground, but it is more that a local authority would do that.

I could see arguments where a local authority might be invited to use their compulsory purchase powers to purchase land that they might then transfer to a local community, but if the community had that right themselves, that perhaps would not be necessary, but that might be a another way of looking at that.

Angus Robertson: As a successful community group, we see it going in the opposite direction. Local authorities are giving us more responsibility of their services, and that is partly because of how successful we are in our land management and the income that we get from what we own as assets. We are thinking along things like old-age pension clubs, local transport and that sort of thing as well, so it is going in the other direction for us.

Q492 Chair: Are local authorities then dumping on to you stuff that they cannot afford to do? You can see there is an issue there. Are you having transferred to you local authority responsibilities?

Angus Robertson: Yes, and that is increasingly so through many of the community groups that we see. More and more has been passed on to groups such as ourselves to take on things that cannot be afforded any more by local authorities. Some of these are actively tended out to community groups as well, although some of them are just picked up because they are dropped by local authorities.

Q493 Chair: I think there is a distinction between things that are dropped and things that are transferred. There is also a history about the extent to which you as community landlords are being expected to carry above the private sector landlords. Nobody would consider for a moment asking them to carry some of these responsibilities. I think we will just bear that one in mind.

Q494 Graeme Morrice: I wanted to touch on the broader community land ownership. Obviously within the context of this debate on land reform it is important to clarify what we mean by community ownership. It is not necessarily the same as public ownership as we know it. I wanted to ask you if you could define what you mean by community ownership of land.

Peter Peacock: There are several ways of attacking that. The Land Reform Act specifies what conditions would have to be met. It defines the community body for the purpose of the Act. It sets out means by which a community body has to demonstrate support for its action to seek to buy the land. It has to get assent to the purchase of that land from the community through a ballot and so on and so forth. There is a legal side to that and I guess that a more informal way of looking at this, which underpins membership principles that we have been looking at and discussing within our organisation, is that fundamentally this has to be something that is first of all desired by the community to own the asset. They have to be able to demonstrate that they are able to do something with that asset that is going to help further the sustainability of the community into the future. Also fundamentally it has to have the assent of the community in a clearly democratic way.

The benefit of the Land Reform Act, or some of the procedures the funders have picked up, some of it preceding the Land Reform Act, required the community to demonstrate that what they were doing had the absolute and clear consent of the community otherwise it could not be regarded to be a community enterprise and therefore community ownership. So it has to be fundamentally consented by the community.

Q495 Graeme Morrice: I suppose the community organisations that make up the membership of your own organisation needs to be representative. I understand that they are typically companies limited by guarantee with no share capital. How representative of the actual community themselves are these bodies?

Peter Peacock: Maybe Angus can do that.

Angus Robertson: We have a free and open membership. Our membership is 75% of the adult population within our Sleat area itself. We are a charity and also a company limited by shares, and we have two subsidiary groups as well. That is all owned by the community with three separate boards, so we have accountability all the way through. We have open meetings, we have constant dialogue through email and various other workshops that we call, newsletters that we put out as well, so we are very accountable to our local membership in many different ways.

We also have an office which is 9.00 am to 5.00 pm and people come through the door all the time to ask us questions, and ask questions of what we are doing as well. We are completely transparent with what we do. We are always going out. We have had reviews in the last few years of what we do and what we do right and what we do wrong. Our membership is very vociferous at telling us where we do something wrong or they don't like what we do.

Peter Peacock: Can I just add one clarification to that? The membership of the companies which own the land, following the community consent into that and there has to be a clear majority to do that, are individuals not bodies, or individuals within the community. There are some examples where communities have chosen to co-opt a director or have a director, have a right to have a director to other organisations. I think it would still be the case if you went to the Island of A, for example, the Highland Council probably has a right to have a member. I cannot be sure that it is right still or whether they have co-opted somebody from the council. To that extent you may have a body which is part of the community body, but in that case that would be a democratic body.

The other thing, just to emphasise again, is that we have taken some legal advice on this that we cannot force everybody in the community to be a member of the community company. They have to agree to be a member of the company. The rules that we operate by and are not to operate by, which we are still getting agreed by Community Land Scotland, would be that first of all any member of the community, without exception, can be a member of the company and the company should actively promote as much membership as they can get to try to further that democratic basis for the community.

Q496 Graeme Morrice: Just to clarify, Angus, you mentioned the figure of 75%. Was that in a particular community you have 75% of those residents within that community being members of the community organisation?

Angus Robertson: Absolutely. Our membership has risen over the last five years or so from around about 60% up to that 75% figure. As we do more and more good work within the community itself, more people are coming on board with this as members. Being an open and free membership certainly helps as well. It is just a signature on a piece of paper saying what we do as a community trust. It is really straightforward.

Peter Peacock: It is not a limit of 75%; it could be 100%.

Q497 Graeme Morrice: In terms of that democratic legitimacy, there is no question that these organisations have substantial community buy-in. Is there a particular reason why somebody would not want to be involved, the other 25%?

Angus Robertson: I suppose there are always people that just do not want to engage with any organisation as such. Some people just come to retire into our area as well and want nothing to do with a community group or organisation. I think we have come to realise we are never going to reach everybody. Some people just do not want to be part of it.

Q498 Graeme Morrice: I think that is really good; it is particularly high, having to engage people from the community and other bodies in other parts of the country, such as a centre that I represent. We are not looking at anywhere near that kind of figure.

Angus Robertson: I know we are extremely fortunate. We also have 19 voluntary directors as well. We have had no problems trying to attract directors. These are people who freely give of their time, and some fairly complex issues as well regarding Sleat Community Trust and its workings over the years, which has involved all sorts of skills that they have learned or had to learn to get through some of the issues that we have had.

Q499 Chair: Can I just ask the percentage turnout for the elections?

Angus Robertson: It is very high usually, somewhere in the region of between 60% and 70% usually, of that 75%.

Q500 Graeme Morrice: Are there a lot of contested elections? Rather than appointments, do you have elections because there are more people coming forward than there are places available?

Angus Robertson: No, we have not had that so far. It is been that we have two places available and a board where two people come forward for that. We have not had a need to have an election yet. We would love to have an election in years to come, but we have not had that yet.

Q501 Chair: How can you have a 60% turnout if you do not have elections?

Angus Robertson: This is for whatever reason, like our National Forests Land Scheme application, that sort of vote that we are talking about. That was a referendum. That is what I was alluding to, not for board of directors' position or anything like that.

Chair: An interesting concept that you have a 60% turnout in an uncontested election.

Angus Robertson: No, I was talking more about applications we have to make to various schemes.

Peter Peacock: Can I just be clear that there are competitive elections in other areas? The practice varies. In periods when there are particularly contentious issues you may get a higher turnout and you may get more candidates standing. It is not at all without precedent that there are competitive elections.

Chair: There is a parallel with housing associations and so on, isn't there? That is what I am much more familiar with, SAME sort of a structure, so we can just read that across almost. That helps give us an understanding.

Q502 Graeme Morrice: What would you say was the role of community ownership within the wider land reform agenda?

Angus Robertson: For us there are three pillars: it is sustainability, it is social, environment, economic. We try to attack all these areas. We have a very vibrant environment group that looks after all things world-life related in our area itself. Socially, we try to bring together groups on social housing and we are looking at small housing developments within the area for people. Economically, we have started up our own enterprise fund, so, in effect, as a community organisation it is now a grant-giving organisation to local entrepreneurs and this is stimulating businesses to grow within our own demographic area itself, geographic area. We see these three aspects as the way to move forward in Sleat and we have been relatively successful in many of these areas so far.

Peter Peacock: Adding to that, I think the other dimension to your question is Community Land Scotland is representing the community landowners and therefore has a particular focus on that, but we recognise clearly that community land ownership is only one dimension of the must wider land reform debate. Thus, we want to see more community ownership and promote it and we think it can bring huge benefits of the kind that Angus has just been alluding to.

We also know that there are movements, arguments, for an absolute tenant's right to buy in agriculture, but there are also lots of other forms of ownership that could occur that would contribute to that greater diversity in ownership. That is the thing that fundamentally we recognise: there should be greater diversity of ownership, of which community land ownership is one dimension.

Q503 Graeme Morrice: Clearly it is the case that the popularity of community ownership has grown over the years, as indicated over the last while. Do you feel the reason for that is because it gives communities a stake in how land is managed and gives them influence in this? Do you think that is a fair comment to make?

Angus Robertson: Yes, absolutely. We have a lot of our members who come to us and have actively engaged with their own land that we own, which is forestry land that we own. They work with us in many ways in that forest area itself.

Peter Peacock: I think one of the interesting things I have observed over a number of years is that if you go back 20-odd years ago a lot of what was driving community ownership politically, with a small p, was about rectifying wrongs of the past. It was about people trying to do that and community ownership was one of the ways of doing that.

Today the motivation comes from communities having seen other communities, whatever the original motivation, doing things, making progress, developing jobs, developing housing, creating hopefulness out of hopelessness, as it was at one time.

Therefore, the clear driver today is for communities to get ownership of the land in order to develop their community because they see other communities doing it and it is successful. So the political dimension to it is it much less pronounced. It is much more about doing something that will help their community survive and develop.

Q504 Graeme Morrice: Do you think their engagement is because they feel this is the only way that communities can have an influence in the process?

Peter Peacock: I think that is increasingly the case. If you read Jim Hunter's book, his last book, *From the Low Tide to the Highest Mountain Top*, it is a tale of hopelessness, of communities feeling in decline, of being out of control of their circumstances. The only way to influence that was to get control of the land, and that is what has driven and underpins this. Controlling the land allows you to have a far greater control over your own destiny and to do all of the exciting things that Angus and his organisation and many others are doing.

Q505 Graeme Morrice: If land ownership was further regulated, perhaps ensuring that it can only be bought and sold in small parcels, do you think this would reduce the drive for community ownership?

Angus Robertson: I don't think so. I do know of several community groups that do not want to own large estates, they only want a small proportion of it, for whatever reason that may be, usually housing of some sort, where low-cost housing just is not available to them. I think there is probably in some instances still a need for bigger estates to be brought into community ownership just because of a lack of use of the land itself and there would be much more benefit to the community owning it.

I think perhaps there are many answers to that question, but a lot of groups just want access to some land and they cannot get access to any at all, certainly in rural and island locations in the Highlands and Islands particularly.

Peter Peacock: I was doing some stuff a couple of weeks ago, digging into an international dimension of land reform and came across the very idea that you have suggested. Don't ask me where this was—I would have to retrace my steps on the internet to find this—where land above a certain size could only be transferred with the approval of Parliament of the local authority, some democratic institution. The idea that lies behind your question applies in other contexts. I don't think it would necessarily change the drive for community ownership. It is one dimension of that, but it might then provide other people also with an opportunity to come in to owing land.

Q506 Chair: Can I just clarify one thing? In terms of the drive for community ownership of estates, have you always gone for complete estates or do you go sometimes for bits of estates? I think it was the point that you made, Angus, about people only wanting maybe a relatively small area in order to build houses. I was not sure if that was because it was only a small estate that they went for. Is it all or nothing or are there shades?

Angus Robertson: It is definitely shades within it. Applecross were here this morning and I know they want access to some land.

Q507 Chair: I don’t think we want to cover particular examples unduly, given the sensitivities of the particular stage, because there were several estates this morning who mentioned particular drive and ambition and so on. But just in the abstract.

Angus Robertson: Again I go back to the example of my own area. We have two large estates in our area. We have tried to work with the estates and we have a courteous relationship with them. The whole right-to-buy issue and a register of interest in it is something we have not gone down because we think that would break that relationship that we have and it would perhaps then turn into a hostile relationship with the estate itself.

I cannot speak for my board, but whether it be we would want the whole of these estates or just parcels within it, I think there is probably a bit of both. Again, it would depend on what was being offered to us on the market itself at that time.

Peter Peacock: We have put this in our evidence to the Land Reform Review Group. One of the reasons we have argued for that extended right, but you would not be able to exercise that right unless you had tried to negotiate a deal with the landowner, is partly borne of this thinking that maybe you do not want all the land. Indeed, the landowner themselves might be quite prepared to negotiate, having never really realised that the community had particular aspirations or could develop.

We are seeing in the Western Isles in particular a move to much more negotiation. That does mean giving and taking on whether it is the whole estate of bits of the estate. What you have to guard against in that is cherry picking. Angus and I were having a discussion earlier today about that. It would not be right for a community to go in and just cherry pick the good bits of ground, because that would leave an unviable remaining estate. Having said that, clearly our thinking is that by negotiation you may end up with a whole estate but you may not.

In fact, if you look at one or two of our owners, they have come to arrangements with the existing private owner or with a new private owner, where the private owner has taken part of the land and the community has taken the rest, but that that has been by negotiation. It does not necessarily imply whole estates but there has been a pattern of that up until now.

Q508 Chair: I was not thinking so much of cherry picking, I was thinking of people not wanting to bite off more than they could chew, in the sense of some of the estates being really quite substantial. If it was an all or nothing situation, then they would feel that is far, far more than they could cope with, however they could take 10% of it or 5% of it, a much lower proportion. That would be covered by the structures you were proposing. If there was anything compulsory it could be only a proportional type.

Peter Peacock: Absolutely.

Q509 Lindsay Roy: We have a figure of 500,000 acres currently in community ownership. Do you know where that comes from whether that is accurate?

Peter Peacock: It is broadly accurate. Whether it is precisely accurate to the last acre I would very much doubt. As in so many things about statistics, there are different ways of collecting the statistics and different interpretations of what is community ownership and so on. I gather the Land Reform Review Group are looking at trying to get a clearer handle of what the exact limit is. It will range from well into the 400,000 hectares up to 500,000. Where the exact point is I am not entirely clear.

Q510 Lindsay Roy: This information would be where?

Peter Peacock: Highlands and Islands Enterprise have a fair amount of information on that because they have assisted a lot of the community groups. We have some information as Community Land Scotland. Andy Wightman will have a lot of information on that in his publications and will be capable of writing that. Whether these sources are in complete agreement about the amount of land in community ownership I somewhat doubt. I think the order of magnitude is close to 500,000 acres. Whether it is precisely that or not, I don't know.

Q511 Lindsay Roy: We also have an aspiration to double that by 2020. Are you aware of the source of that?

Peter Peacock: I am aware of the source of that. The First Minister announced that at the Community Land Scotland conference in Skye earlier this year, and I gather it was to the complete surprise of his civil servants.

Q512 Lindsay Roy: It is not the first time they have been surprised about what the First Minister is saying. Is that a target achievable or is it indicating that is a way in which it is likely to go?

Peter Peacock: I think there are two figures there. We were surprised to hear the target but we are finding it very helpful to have that target. It is focusing a lot of minds inside the Scottish Government about how to deliver it, so we think it is a helpful thing to have. We do not see that as the end point. That is simply another staging post on the way forward, if I can put it that way.

The last thing we are acutely conscious of is this: one way of looking at this is that you could achieve that target potentially, theoretically, and if state aid did not get in the way, by transferring bits of the forestry estate into community ownership, and you could do it comparatively easily. For us that would be a mistake. We want to see the opportunity of ownership being much wider than just the current land held in Government hands. While we think it is a helpful target from our point of view and it is focusing minds, we would want to see it not being just focused in its achievement on land in state ownership but to look at the wider canvas of interests here.

Q513 Lindsay Roy: That is potentially not—

Peter Peacock: We were not looking for a quick fix, no.

Chair: Can I just ask Jim does he want to come in at that point?

Q514 Jim McGovern: Yes, I do, if I may. Do you think the use of 500,000 and doubling it to 1 million acres is the right criteria? Can I put it to you that not all land, particularly Scottish land, is equal? Somewhat linked to it is a challenge I should have put to you earlier when you said half of Scotland's land is owned by a tiny number of landowners. It is quoting all the land as if it was all the same value. Is there not a case for saying what really matters is that communities can attain the land they need for their community purposes, whether it is for allotments or for affordable housing or local woodlands or whatever, rather than some bland figure of acres which could, in extremis, be half a million acres of very barren rock?

Peter Peacock: It is not for me to say how politicians behave in setting targets, but there is a tendency to do that. What is important about it from our point of view is it is symbolic. That target is symbolic of a recognition by the Scottish Government that community land ownership has delivered a lot of things they are really pleased about, they want to see more of, and it is a way of saying, “We want to see more of this”. We do not find that unhelpful.

Within that, it is up to communities to say that they want the land. It is not up to Governments to force communities to take land. Communities will want to have the land that they think is going to benefit the long-term interests of their community. To that extent the communities will apply, at a local level, the value they attach to the land in the sense that you are describing it. The fact is that a 500,000-acre target will not affect communities who do not want to buy the land. But to the extent that it helps drive improvement in policy to allow communities to buy land, it is helpful.

Q515 Chair: Can I just again try to be clear? This 1 million acres, am I right in thinking that owes more from the fact that 1 million acres is double 500,000 acres, which is what is reckoned to be there at the moment, rather than being a worked-out figure.

Peter Peacock: you may think that. I could not possibly comment.

Q516 Chair: The difficulty is you are the witness at the moment. You happen to be here.

Peter Peacock: I have not spoken to the First Minister about this. We were as surprised as anybody to hear the announcement. We did not find it at all unhelpful, for the reasons I have said, but I don’t think you should read it as any more than a signal to say, “We think there is something going on here that is very powerful and we want to see more of it and in the short term we would like to see that double”. As I say, we don’t think that is the end of the matter. A figure of 500,000 is not a figure that we recognise in that that context. We would like to see it continue, but it is a helpful staging process.

Q517 Chair: I understand, but 1 million by 2020—I think you used the term “symbolic”. It would be fairer to say it is an aspiration rather than a commitment.

Peter Peacock: No, I think it was a commitment by the Scottish Government to do everything they can to facilitate communities to get at least another 500,000 acres into community ownership. I think it is a commitment in that sense. The Scottish Government cannot deliver this other than through their own land by saying, “We are going to make that available in particularly beneficial terms in communities”. Therefore, they could deliver it that way, but I am afraid state agents’ interpretation will largely get in the way of that.

Q518 Chair: It is fair to say the more we look at this stated aspiration or commitment, the more vacuous it appears. In a sense, it is moving in the right direction. However, although it is an indication of the direction travelled, it is not a firm commitment in the way that we maybe thought it was to begin with.

Peter Peacock: I think it is a firm commitment insofar as it is saying within Government, “Prepare the ground to allow us to meet this target”. Therefore, that is helping shift policy. I think in the other sense it is much more, in the way that you describe it, “It is symbolic and we want to see real progress on this and here is tangible target that we can say we would like to see achieved”, and we would like to see achieved to.

Q519 Lindsay Roy: You have mentioned several things—diversity and land ownership—what exactly do you mean by that?

Peter Peacock: Our starting point is that the current patterns of land ownership in Scotland are not justifiable. That so few people own so much land inhibits other people from getting the opportunities of that land, whether that is community owners or private owners or tenant farmers of whatever, then you require more diversity. That is an objective that we ought to share in Scotland and that would promote greater social justice, it would create more opportunity for more people. It is in that spirit that we would like to see that move forward to have much more diversity of land ownership for those reasons.

Q520 Lindsay Roy: And the Scottish Government releasing some of its land as well?

Peter Peacock: Including Scottish Government land, yes.

Q521 Lindsay Roy: My last question is about community ownership itself. The buzzwords that are around vibrancy and dynamism. Is that in contrast generally with what happens on the large estates?

Peter Peacock: Angus can maybe talk about what happens when a community gets its land, because there is something that really happens, and I will come to the large estates.

Angus Robertson: Since we have owned land, we own 1,001 acres; 1,000 of that is forestry and the other acre is some retail that we own. We have retained a petrol station, which was going out of business, for the area. We have incorporated a post office that was going to close down, within the area itself. We are employing staff, six staff now. We also lease a garage that was no longer used, and there are six individuals now working within that garage area itself.

Our forest area has been harvested. It is making us sustainable now as a group, so our overheads and wages are all paid through our own enterprise through the forest itself. Investment was given to individuals within the area as fencing the forest, £50,000 for three or four local boys to fence the forest. Internal roading has been given to a local contractor. These are all additional things that would not have happened without us owning the forest itself. The forest would have been harvested by a large developer, a large forestry company. The wood would have been taken out of it, it would have gone wherever and the money would have been given to a large corporation or a large company elsewhere outside Skye itself.

There are many other instances where we, as an organisation, have contributed to the local economy and actively encouraged people to live within our community because of the potential they have to work within our assets.

Q522 Lindsay Roy: Suitability and development and people work their own lands?

Angus Robertson: Absolutely, and our whole remit has been to drive ourselves to a core sustainability as an organisation and not be reliant on core funding. We still will approach funders for some larger projects as we move forward, for specific interest areas that we have. Community broadband was mentioned before. But as a community group we see owing our land as being the main driver for us to grow as a community and give these economic possibilities to local companies and individuals.

Q523 Lindsay Roy: That is sustaining and increasing your population?

Angus Robertson: That is indeed, yes. The island population is increasing. It went up about 10% or 15% in the last 10 years or so, which is bucking the trend a wee bit for island communities, particularly in the northwest islands.

Peter Peacock: Your question too is that if community ownership is vibrant and dynamic, are large estates that are not in community ownership not vibrant and not dynamic? There is no doubt that some of the large estates that have come into community ownership have come into community ownership because the community did not think the landowner was either vibrant or dynamic. Indeed, they would be neglectful and sometimes worse than that, if I can put it that way. But that does not mean that there are not large private estates that are not doing some quite remarkable things as well in developing housing, developing workspaces, developing forestry, creating employment and so on. Not all estates are that way, but I don't think there is anything that I have found that a privately owned estate is doing that is vibrant and dynamic that a community owned estate could not also do and possibly do more. I think that we want to make sure that all land is managed in a vibrant and dynamic way.

Q524 Lindsay Roy: Do you think community ownership has been a catalyst for change?

Peter Peacock: I don't think there is any doubt that if you went around the Highlands and Islands in particular, where most of this has happened, that for the first time in generations you are seeing things happen that simply did not happen before. It comes about by being in control of the land asset and you can then do things that you were simply unable to do before, because you are in control of the decision-making about the future of your community.

We are seeing investment taking place, we are seeing houses being built, renewable energy generating income that is then reinvested in workspaces and improved interpretation, improved land uses, people planting trees, harvesting trees, a whole range of things going on that frankly for a lot of people involved in Highland development over recent generations have seen nothing like this. It is really very powerful and it has great potential, but it is still very early days. There is still a long way to go on this.

Q525 Lindsay Roy: Possibly a catalyst for change for private estates as well?

Peter Peacock: It is very interesting that in the Western Isles—and we do not really have an explanation for this but we are going to try to do something about it—is that the progress on the Highland mainland has been far less than on the Islands. It is partly that you get to pinpoint where people see a few things happening. The Islands are very intimate places too. Word travels fast about what is going on, and more people, as I said earlier, are looking to get the benefits of community ownership. You then get to a point where you tip over. We have had examples of landowners who have made it quite clear privately through estates or whatever to communities, "If you want to negotiate this, we are up to talking to you". That was not happening 10 years ago, so in that sense it is setting a standard for people to come to the table on that.

We also had one example of an owner giving the land to the community because they recognised it is probably better for the community long term, and they are removing themselves from that interest and passing that land on to the community.

Lindsay Roy: That is really encouraging.

Peter Peacock: There are some very encouraging things happening. We need to make sure, though, that the law underpins more of that. That is happening in crofting communities. We need it to happen much more widely across Scotland.

Q526 Sir James Paice: Can I come on the back of that? It raises a point I wanted to ask you, Peter. It is not explicit anywhere, but I think it is implicit in what you have been saying in your evidence. You take the view that it is not only proper but desirable that public money, in which I include lottery money, should be made available to the community to buy land? Am I mistaken?

Peter Peacock: We clearly believe that. In fact, we argued for the land fund in Scotland to be created for that purpose, or recreated for that purpose. In fact, it has happened and indeed has recently been extended. It is simply not normally within the wherewithal of a community to raise that kind of cash at their own hand. Yes, we are arguing for public money to be available for that on a continuing basis.

It is interesting to note, though, that a number of past purchases have been with private money not with public money, where people have donated quite a lot of cash. Communities have raised money themselves, but predominantly there has been a large amount of public cash. However, what is important to recognise is that once purchased, that land is available in perpetuity for that community to make a living from. What is also important to understand, and I touched on this earlier, is that you can then use that asset against which to borrow and grow the value of that land against which you could potentially borrow more to invest, the relevant spirit that Angus Robertson said, so that ultimately—not ultimately but as quickly as possible—the community is free of public subsidy to any great extent in terms of its core costs and so on, and therefore can survive on its own. But in order to get to that point, we do require monetary help with the purchase of land. We think that should continue and it is entirely justifiable.

Q527 Sir James Paice: You think you can justify that to the ordinary taxpayer, who is contributing in one way or another

Peter Peacock: I have not found, really, any taxpayer resistance to that at all. I have found taxpayer to all sorts of other public subsidies. In that book I was referring to that Jim Hunter has written, I think it is in that book that he quotes the amount of money spent on community land purchases in Scotland, which secures the land in perpetuity, is roughly equivalent to one day's spending on agricultural subsidies, like on forestry and everything else. So you have to see this in context. On the face of it, a £4 million grant from the lottery or something to help buy an island or a piece of land, a big estate, seems like a lot of money. In the context of history it is not a lot of money if it provides the basis for that community securing its own future and being less dependent on public subsidy long term than it currently would be.

Q528 Chair: Leaving aside the question of agricultural subsidies, in which we have an interest as well—and I heard, Angus, what you were doing— can you just clarify for us how much money was put upfront for your takeover?

Angus Robertson: £330,000 was the purchase of the forest. We have three loans and three grants against that. The three grants were given, major grants, and three loans.

Q529 Chair: In terms of the amount of grant funding, the amount of free money you have, it totals what?

Angus Robertson: That was approximately half that cost, £330,000, so it is £165,000, something like that.

Q530 Chair: All you have had of free public money is £165,000?

Angus Robertson: Around about that, yes, for that particular purchase of that forest, for the land.

Q531 Chair: You say that particular part. What I am trying to clarify is the balance for the public sector. If you have taken all these people into employment and in the event paying taxes and generating money for a variety of things, whether it is VAT and all the rest of it, taking them off the dole queue and the like, for £165,000, if that is the total public subsidy or contribution, that presumably would end up being repaid to the public purse through a variety of different channels in a relatively short period of time.

Angus Robertson: Indeed, yes. Even just on our commercial loans that we have, we are trying to pay that back within five years. That is to commercial high-street banks to pay that back. We have not looked at the return of investment. It is something we plan to do on the funds that we have, particularly in the forest area. I should also mention that we are multi-project trust, so the purchase of our community petrol station was through a lottery-funded application, which was £230,000. Particularly our land asset was through three loans with three grant funds.

Q532 Chair: I think it would be helpful. Jim raises a legitimate point. Leaving aside the question of comparing what is given out in agricultural subsidies, the question of how quickly projects like this wash their face in terms of contribution back to the public sector would be immensely helpful in arguing whether or not much more money could be made available. Presumably at the moment, given it is seen as giving away money, expenditure rather than investment, then obviously there is going to be a constraint about how much money is allocated to that, whereas where it is seen as an investment, then different criteria could very well come into play. Therefore, the issue 1 million acres and so on becomes more realistic, particularly taking into account the point that was made then about the Public Works Loan Board and whether or not you add on to the amount of money that could be available to free money, money that could be lent, and taking into account the question of a land agency and so on, you are then starting to have completely different paradigms altogether. I am not quite clear whether or not any work has been done on that.

Peter Peacock: You make a very good point. In fact, one of the things that surprised me, coming into this area of work comparatively recently, is how little of that kind of data there is. We have just started doing a very small piece of work to begin to scope out how we look at this in much more detail to get some of the answers to the question you have asked, because I think we do need more data in that, and we will be happy to share the results of that as soon as we get it. That might be around the time you are reporting; I had better check on that.

I think the other thing to remember too is in a sense it is easy to talk about the grant that Skye Community Trust gets, or Scottish Youth got from the lottery or whatever, because it is highly transparent and visible. It is much less easy to know what tax allowance you got on the private estate you just bought. That is taxpayer money as well. Hopefully, the work we can do in that will also shed light on that, because the sums might be even greater there but they are not seen.

Chair: I think we understand that point.

Q533 Jim McGovern: You said community ownership tends to replicate the existing typical pattern of land ownership in Scotland, with large estates that once in community ownership are expected to remain in community ownership.

Peter Peacock: Again I think that the great difference between the large estate that was in single ownership, private hands, a few years ago and is now in community ownership is that the future of that land is determined by the community collectively. At the minute, Community Land Scotland has not really developed its thinking beyond encouraging more communities to get the benefit of that. However, there are interesting things happening within that, in that some community owners are creating new tenancies for crofting, for forest crofts. They are creating smaller landholdings and estates and so on for individuals. I don't think it is at all beyond the bounds of possibility that as the years evolve you will see further land reform within community-owned areas of land, which might open up other opportunities for other people within the community to take a direct personal stake in some of the land.

The framework of it might be a permanent existence, so to speak, but I think within that you are going to see that evolve over time. This is still a movement in modern times that is less than 20-odd years ago. It is less than 20 years of experience of this. It is evolving, but our first objective is to get more land into the ownership of communities where they can get the real benefits that we are seeing in places like Sleat.

Q534 Lindsay Roy: You have almost answered the last question as well. Do you think it would be desirable for communities to buy, for example, large estates and then divide it into smaller parcels, selling it over perhaps a number of years so that more individuals could then have a stake in land management?

Peter Peacock: I think that one of things we have seen from the Scottish Government, from the Community Empowerment Bill that is about to go before the Scottish Government, is to remember that there are powers already on the statute books which have not been repealed, like the Land Settlement Scotland Act of 1919 and a variety of Acts thereafter, up to about 1934 or 1940s, which do empower Government to take land into ownership in order to create holdings, agricultural holdings in that instance.

Q535 Lindsay Roy: Is that the National Government?

Peter Peacock: That is the National Government. The reason we have crofting estates today and agricultural estates was the UK Government of that time in Scotland used that statute to create agricultural holdings for people. Part of what we are arguing about the powers that a new land agency might have is for exactly the purpose you have indicated: to be able to potentially buy land for the creation of a range of different types of holdings. It might be for allotments, it might be for personal holdings, new crofts, whatever. I think there is scope for that, not just within community-owned estates, potentially, but also much more generally. Whether communities would be the right vehicle to make purchases for that purpose or whether the state should do that or the local authority or a development agency is maybe a slightly different question.

Q536 Lindsay Roy: Would you have answered that one very much the same, Angus?

Angus Robertson: More or less. Cherry picking was mentioned earlier on. I suppose you need to watch how much you take how much you take out of an estate and cherry pick out all of it before it becomes worthless as an entity. That would have to be taken into consideration on some of the land, certainly in Skye and the Western Isles before any break-up of any estate was done.

Q537 Chair: I think that is right. That comes back to the question of if a big estate comes on to the market and your eyes are bigger than your stomach, you might very well think, "We could cope with a certain amount but we would have to dispose of the rest in some way or another". It might be that there is a variety of different ways of dealing with that.

Angus Robertson: I think that happened with some estates already where they have taken on a very large landholding and the big house has been sold off to get some money back in to do other development work, so I think that is happening. I have heard of that happening before.

Peter Peacock: I was speaking to a tenant farmer on the borders not so long ago and he was talking about the frustration with the landowner and his neighbour's frustration with the landowner. I said, "Why don't you try to engineer the situation where the community might buy some of the land?" He said, "That a kind of Highlands and Islands thing". Actually it is not, and there is no reason why in principle, particularly if the backstop powers we are asking for were available, that that group of tenant farmers, together with the community, could not come to an arrangement to buy that land collectively and the tenants then buy that land once it had been purchased by that community and the community hold on to the other bits. You need the framework of law to permit that to happen and we were not quite there yet, but people often need to think more imaginatively about how you can engineer change.

Chair: I think you are right. It has been seen very much as community buyouts is a bit like working with co-ops. They generally only tended to develop when something was crashing.

I think that has covered all the questions we have, unless there is anything else from my colleagues. As I said to Angus, any answers you had to prepared for questions we have not asked—

Thanks very much, that has been very helpful. We will obviously be sitting down and working out how we take things forward from here. There might very well be some additional information that we seek from you. I was thinking in particular the point you were making about public money coming in, and rather than having the final word it might be more helpful to have a rough sketch at an earlier stage to inform our thinking as well.

Thank you very much.