

Submission to the Land Reform Review Group (LRRG) by the Woodland Crofts Partnership

The Woodland Crofts Partnership

The Woodland Crofts Partnership (WCP) is a partnership of 3 third-sector organisations seeking to promote and develop woodland crofts. It comprises the Scottish Crofting Federation, the Community Woodlands Association and the Highlands Small Communities Housing Trust. We welcome this opportunity to submit evidence to the Land Reform Review Group.

The Scottish Crofting Federation is the only member-led organisation dedicated to promoting crofting and it is the largest association of small scale food producers in the UK. Its mission is to safeguard and promote the rights, livelihoods and culture of crofters and their communities. Tel: 01599 530 005, www.crofting.org

The Community Woodlands Association is the direct representative body of Scotland's community woodland groups. It helps community woodland groups across the country achieve their aspirations and potential, providing advice, assistance and information, facilitating networking and training, and representing and promoting community woodlands to the wider world. Tel: 01309 674 004, www.communitywoods.org

The Highlands Small Communities Housing Trust is a registered charity helping rural communities secure long term solutions to their local housing needs. It represents a wide range of interests including communities, local government, landowners, crofters and housing associations. By helping rural communities meet their needs for additional affordable housing it plays an important role in actively supporting their long term viability. Tel: 01463 233 549, www.hscht.co.uk

What is a woodland croft?

We define a woodland croft as a registered croft with sufficient tree cover overall to be considered a woodland. Note however that this is a descriptive term and there is no distinction in law between a woodland croft and any other kind of croft. Nevertheless, it is useful to highlight woodland crofts as a separate entity not least in terms of the opportunities and benefits they bring to the forestry sector.

Whilst there are a small number of woodland crofts (as defined above) already in existence, either crofts which have always been wooded (for example as found in the Sunart Oakwoods) or 'traditional' crofts planted up under the forestry provisions of 1993 crofting legislation, there is no question that the provisions of the 2007 Crofting Reform Act mark the most significant opportunity relating to woodland crofts, namely the ability to create new crofts from existing woodlands. This has the potential to transform the forest landscape of Scotland, delivering local benefits for local communities through forest management in a way that is relatively uncommon at present.

Scope of submission

We confine our comments on land reform specifically to woodland crofts: there are wider issues relating to crofting, housing, community woodlands, and wider forestry which of course will relate to woodland crofts also, but we are aware that separate submissions are being made on those topics. Where appropriate, we refer to these and other documents to avoid unnecessary duplication.

Our response is structured broadly in the format requested in the 'Call for Evidence', namely referring to the given three key land reform questions (bullet points), with *vision*, *barriers* & *solutions* highlighted. However, we note there is considerable overlap between these three topics highlighted as key objectives of land reform; in particular the reasons 'why' things should be different are typically overarching, hence as before we will avoid unnecessary repetition by referring where appropriate to comments already made.

As our result, our response under the first question (bullet point) will be the most comprehensive, setting out much of the background information common to all; thereafter responses to the latter questions will only highlight issues unique to them and not already covered.

However we begin our evidence with some introductory comments exploring the context in which woodland crofts currently sit. This in large part helps answer *why* things should be different, ie why we need many more woodland crofts.

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Context for Woodland Crofts

When members of the LRRG gave evidence to the Rural Affairs, Climate Change and Environment Committee on 26 September 2012, Professor Hunter commented¹:

“It is fairly clear from our remit—and it is a self-evident fact—that Scotland has one of the most concentrated patterns of land ownership in the world and—certainly—in Europe”

What may be less obvious is that this ownership pattern is even more concentrated when it comes to ownership of woodlands. In the past there has been little examination of this issue, but in early 2012 the Forest Policy Group (FPG) published “Forest Ownership in Scotland: A Scoping Study”²

Amongst the findings of the report were that 91% (by area) of privately-owned woodland in Scotland was owned by either landed estates or investment owners (privately-owned woodland made up two-thirds of total woodland, with one third publicly owned). As a consequence, forest holdings in Scotland are typically large, and few in number – a pattern which is the inverse of that found in Europe and elsewhere in the world, where the norm is to have large numbers of individual owners, each holding smaller areas of woodland.

How extraordinary the figures are can be appreciated by comparing the situation in Scotland with that in the Scandinavian countries, which all have similar populations to Scotland. Denmark (the least wooded of the 5 nations) has 25,000 woodland owners³; Norway has 120,000⁴; Sweden has 327,000⁵; and Finland has 920,000 individual woodland owners⁶. Scotland has perhaps 4,000 (from the FPG report above) – though no official data on woodland ownership is collected.

In this discussion we use ‘ownership’ as a proxy for occupancy: many of the benefits of ownership are of course available via secure tenancies (as in crofting). However at present the rented woodland sector is minimal in Scotland, and whilst we have no knowledge of its size in Scandinavia, such is the ubiquity of woodland ownership it is unlikely rented woodland is an important factor there in facilitating access to woodland (unlike in Scotland).

Consequences

The consequences of this pattern are that woodland management is far less diverse than management of land for agriculture. Forestry in Scotland is essentially an industrialised, centralised activity, with fewer, larger stakeholders. Family forestry (“small scale forestry, based on personal involvement and strong stewardship values”) is currently almost non-existent.

¹ <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7529&mode=pdf>

² http://www.forestpolicygroup.org/Forest_Ownership_In_Scotland_Feb_2012.pdf

³ <http://www.nordicforestry.org/facts/Denmark.asp>

⁴ http://www.ssb.no/skog_en/

⁵ <http://www.skogsstyrelsen.se/en/AUTHORITY/About-us/News-Archive/Statistical-Yearbook-of-Forestry-2012/>

⁶ <http://www.nordicforestry.org/facts/finland.asp>

Whilst public benefits are undoubtedly delivered by this industrial forestry model, they may not accrue to the communities in which the forests are located, indeed they may suffer disbenefits (e.g. from timber transport). Processing of timber typically occurs at a considerable distance from the forests themselves: for example Argyll, one of the counties of Scotland with the highest percentage of forest cover, has no major timber processor within its boundaries. Even the contractor workforce tends to be itinerant and, being relatively poorly-paid, based where housing is most affordable ie in towns and cities.

By contrast in agriculture, as well as larger 'agri-business' operations, there are also smaller farms, both owned and tenanted, and of course in the crofting counties are some 18,000 registered crofts, which are in the main smaller units.

The contribution such smaller units make in social, economic and environmental terms is greater than their absolute size would suggest. Crofting has been recognised as helping retain populations through provision of sites for houses and businesses; for contributing to sensitive land management through the smaller-scale, less-intensive management approaches employed; and for contributing towards the food and fuel requirements, to some degree at least, of a croft household.

Development of Woodland Crofts

It was these benefits, and the potential of deriving them in a woodland context where no such analogous model existed, which led to proponents of woodland crofting lobbying for their development, over a period of years. Amongst other things, this culminated in 2006 in an official report to Ministers: "The Potential and Practicalities of Forest Crofts: Steering Group Report"⁷, whose recommendations were in large part accepted by the Scottish Government (SG).

Though this report focused on the use of the National Forest Estate for creating new woodland crofts, it recognised the potential benefits which could arise from them generally. The report commented that "Sustainability is fundamental to the idea of woodland crofts" and suggested that woodland crofts should aim to "enhance local economic benefits from forest and woodland management and contribute to rural development and economic sustainability", "empower communities through the control of local resources" and "create environmental gains through woodland micro-management and integrate forestry and pastoral use".

Benefits were then described under the usual social, environmental and economic headings, and can be read in full in that report. However cross-cutting themes were the benefits of diversification, local rural development, improved forest management and community benefit. It is worth stressing the potential for improved forest management: much of our plantation woodland is currently managed under a clearfell-and-replant regime with minimal ongoing management input, whilst much of our native woodland is simply not managed at all.

These two realities are illustrated by current Scottish Forestry Strategy Progress Indicators⁸ – in 2010 the proportion of woodland area managed under low-impact silvicultural systems (ie *not* clearfell-and-replant) was only 6.5%; whilst in 2011 one third of *designated* native woodland sites (ie SSSIs) were in unfavourable condition (so the picture on undesignated sites is likely to be considerably worse). Clearly, Scottish forestry 'could do better': and woodland crofts offers one mechanism for it to 'do better', not least because a woodland crofter will assess the results of his management against the 'triple bottom line', rather than the narrower purely financial measures driving most current forest management.

⁷ [http://www.forestry.gov.uk/pdf/WoodlandCroftsSteeringGroupFinalReport.pdf/\\$FILE/WoodlandCroftsSteeringGroupFinalReport.pdf](http://www.forestry.gov.uk/pdf/WoodlandCroftsSteeringGroupFinalReport.pdf/$FILE/WoodlandCroftsSteeringGroupFinalReport.pdf)

⁸ [http://www.forestry.gov.uk/pdf/TheScottishForestryStrategyindicators.pdf/\\$FILE/TheScottishForestryStrategyindicators.pdf](http://www.forestry.gov.uk/pdf/TheScottishForestryStrategyindicators.pdf/$FILE/TheScottishForestryStrategyindicators.pdf)

Woodland crofts do not therefore deliver their social & rural development benefits at the expense of good forest management, rather they are two sides of the same coin. This is a vitally important point: if there was some sort of ‘cost’ to the conversion of existing woodlands to woodland crofts, this could ultimately constrain woodland crofts to being a niche activity.

However, the WCP believes that wherever there are people in our communities willing and capable of taking on the management of woodland crofts, their establishment should be encouraged and facilitated.

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Q1 How will Land Reform: Enable more people in rural and urban Scotland to have a stake in the ownership, governance, management and use of land, which will lead to a greater diversity of land ownership, and ownership types, in Scotland

The WCP believes the establishment of woodland crofts will allow more people to have such a stake, in a woodland context. However, our *vision* would be that woodland crofts themselves will be diverse: in terms of size; woodland type; management approaches; and importantly, tenure arrangements.

Traditionally, crofting has been based on secure tenancies, but the right to buy has changed that, whilst recent legislation has made owner-occupiers and tenants equivalent. Similarly, the landlord-tenant dynamic itself has altered, with the development of community landowners, where the rights of individual tenants have to be balanced with the rights of the wider community. In short, crofting has become a more varied model than it used to be, and this will extend to woodland crofts too.

In promoting the development and expansion of woodland crofting, the WCP therefore supports the establishment of both owner-occupied & tenanted woodland crofts; and believes in order to satisfy the demand that exists for tenanted woodland crofts, private, community & public sector landowners should all contribute to the expansion of woodland crofting, with each model likely to offer a slightly different suite of benefits.

We highlight below various existing *barriers* and possible *solutions* to this expansion.

Public sector tenancies

Government is in a unique position: it both supports woodland crofts through policy & legislation, and also owns considerable areas of woodland. However, to date the focus in creating woodland crofts has been on the transfer of woodland to community groups to empower them to establish woodland crofts.

Whilst this route should certainly be part of the mix (see more on this below), it should also be possible for the SG and local government to create woodland crofts themselves and let them directly to tenants. After all, local authorities are major housing landlords, and SG is a major crofting landlord already. Its forestry department, Forestry Commission Scotland, also itself a crofting landlord, is we note actively creating opportunities for individual new entrants to agriculture (‘starter farms’) – but not, yet, for new entrants to woodland management.

This approach would circumvent one of the major *barriers* facing community groups – the need to raise substantial capital to purchase woodlands. It would be desirable to have community involvement even where SG or local authorities created the crofts themselves – but various arrangements could be possible, ranging from giving responsibility for woodland croft allocations to appropriate community bodies, to leasing the landlord’s responsibilities to such bodies under an interposed lease. There could also be a role for the individual partners in the WCP – SCF, CWA or HSCHT – to lease the landlord’s responsibilities in appropriate situations, or simply provide a contract factoring service to government, under a ‘social enterprise’ model of woodland crofts development.

Private sector tenancies

We have noted earlier that woodland ownership in Scotland is heavily concentrated in large forest holdings typically owned by estates or investment owners. Whilst this presents a **barrier** to individuals accessing woodland (see more on this below), at the same time it offers a potentially very significant opportunity for expansion of woodland crofts tenancies.

Many of the perceived **barriers** to such an approach as viewed from the landowner's perspective have already been removed or otherwise passed: the ability to withhold Right to Buy from new tenancies being the most obvious. Other concerns relating to value of the woodland transferred under a crofting tenancy can be addressed through selling the timber to the incoming tenant (as technically it still belongs to the landlord); it is also now common practice to 'sell' tenancies for a consideration or request an 'entry fee'.

Thus there is no longer any particular financial disincentive to private landowners creating crofts for tenants, woodland or otherwise. Indeed, it is notable that the first new woodland croft created under the provisions of the Crofting Reform Act 2007 was exactly this: created by a private landowner, for a tenant.

Though there are aspects to a 'market' in woodland crofts which would arise from this approach, this reflects the realities of wider crofting today – and as part of a diverse mix of woodland crofts opportunities, the WCP would have no objections to this.

In the absence of financial **barriers** to private sector tenancies, the main issue is therefore one of awareness-raising and promotion to the private sector. The WCP is uniquely placed to deliver such activity, if funding was made available to it to do so.

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Q2 How will Land Reform: Assist with the acquisition and management of land (and also land assets) by communities, to make stronger, more resilient and independent communities which have an even greater stake in their development

Community sector tenancies

The establishment of new woodland crofts by community landowners addresses this second question posed in the 'Call for Evidence', in a woodland context.

We have previously touched on opportunities for community bodies to become crofting landlords via interposed leases of SG or local authority woodland; in principle this approach could also be applied to private ownerships.

However, many community groups will have aspirations to acquire woodlands, for projects in which woodland crofts may only be a part of wider measures, and various **barriers** to this exist. We are aware that other responses to the LRRG will be covering in some detail generic issues relating to the Land Reform Act 2003, the National Forest Land Scheme (NFLS), the problems of financing buyouts, and so on, and we refer the LRRG to them rather than repeating them here. We confine ourselves here instead to some comments more specific to woodland crofts.

NFLS: though the NFLS is in many respects an exemplar scheme, there are aspects which could be improved in respect of the provisions for woodland crofts.

As the NFLS is a discretionary scheme it does not require legislation for it to be amended, therefore we suggest that once the LRRG has produced its Report of Intermediate Measures, FCS should review the NFLS with stakeholders without delay with a view to adopting any such Measures proposed.

At present a significant proportion of community applications to the NFLS are driven by FCS's repositioning programme. Identification of land for disposal by FCS is based on their own 'portfolio analysis': we believe this process would benefit from a broader range of inputs, including stakeholder consultation.

We consider that woodland crofts should be presented under the Scheme as a subset of Community Acquisition rather than as a separate strand, as we believe projects involving woodland crofts only will be few and far between. This may require some adaptation of the criteria, for example the requirement to have an indication of Crofting Commission support 'up front'.

We also believe there should be further consideration of the potential eligibility of a woodland crofts 'community of interest' where this can deliver public benefit, particularly in areas where there is no pre-existing community interest or body. This may also require new thinking about company forms, and ballot requirements.

Public Bodies: Many public bodies in Scotland own woodland, and would have certain discretion in how they transfer them to communities interested in acquiring them. There is however no consistent approach being taken. Despite the constructive criticisms of the NFLS above, it is a tried and tested scheme much valued by communities and we suggest that its principles (including measures relating to woodland crofts) should be adopted by other public bodies for their own woodland transfers, to provide consistency across the public sector. Indeed, under such an approach there could be merit in extending the role of the NFLS panel to also cover applications to acquire other public woodlands, where it could provide an independent recommendation to the public body concerned.

Local Authorities specifically also have the power to dispose of assets at less than market value where the disposal is likely to contribute to economic development or regeneration; health; social well-being; or environmental well-being (under the Disposal of Land by Local Authorities (Scotland) Regulations 2010). They must be encouraged to make use of these powers, and indeed consideration should be given to granting such powers to all public bodies.

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Owner-occupied woodland crofts

The WCP supports owner-occupied woodland crofts as part of a diverse mix. Indeed, if those with the means and the opportunity to acquire woodland crofts are able to do so, they will not then be competing for potentially more affordable tenancies with those who cannot pursue such a 'market' solution to their needs.

With owner-occupiers now subject to the same key requirements of crofting law (residency, & cultivation or 'purposeful use' of the croft), and likely to deliver similar public benefits from such a regulated system of land management, the only concern the WCP would raise regarding owner-occupied woodland crofts is their potential cost, and hence their accessibility to people of ordinary means. If fewer people are able to take on woodland crofts, fewer public benefits will ultimately be realised.

At present, very few woodland crofts exist so the most likely mechanism for an owner-occupier to acquire a woodland croft will be to acquire an appropriate parcel of woodland, and then apply to create a croft from it. As a result the potential cost of a woodland croft will be closely linked to the cost of woodland, particularly when presented in smaller parcels. This then forms a significant **barrier** to the development of owner-occupied woodland crofts: woodland capital values are high.

One cause of elevated values is of course the balance between supply and demand; as noted already Scotland's forest holdings are large and few in number, and such scarcity means that there is often considerable competition for woodlands coming on to the market. **Solutions** should therefore involve addressing both supply and demand issues. We start with the latter, as it is the less obvious issue and has received little public attention.

Demand

The realities of forest economics are that if woodland values were based purely on the financial returns arising from growing timber, they would be lower than at present: demand would be limited to those wishing to simply grow trees. In practice of course, woodlands offer other opportunities to generate income through multi-purpose management – sporting use, recreation and so on – and naturally these tend to increase values to some degree.

The WCP however believes that the proactive promotion of woodland ownership as an investment opportunity, based on the tax advantages available to woodland owners (as highlighted in the promotional materials of all forestry companies and land agents)⁹, is artificially increasing woodland values and is damaging to the wider public interest.

It is right that public support is offered to managers of woodland to encourage management which delivers increased public benefit. The WCP believe that this support should be delivered through targeted grants, which reward active management and – if set at appropriate levels – are neutral in their effect on woodland values.

In contrast, many of the tax advantages available – for example Inheritance Tax provisions – primarily reward ownership of woodland, rather than specific management activities. They are also inequitable, being only available to personal owners of sufficient wealth – less wealthy individuals, tenants and community owners all fail to benefit. Even the income tax treatment of forestry, considered fiscally neutral overall, rewards inappropriate decisions: an owner wishing to process timber on site and only export finished product (minimising ‘timber miles’) will be taxed on his sales, whilst an owner wishing to export timber to be processed many miles away will pay no tax on his sales of roundwood.

Fiscal arrangements for forestry need to be reviewed and the WCP believes public support for forestry should be delivered through a grant system available to all.

Supply

It is likely that adjustments to the support framework for forestry as highlighted above and the more general positive climate for land reform will over time increase the numbers of woodlands becoming available for purchase, and subsequent conversion to woodland crofts. This will however be a slow process, and shorter-term measures are needed. Fortunately, government has a *solution* in the form of its own disposals programmes.

In recent years public bodies have been tasked with disposing of surplus assets in order to raise revenue in this time of austerity. The SG is also committed to land reform as evidenced by the current Land Reform Review and other measures. It therefore follows that its own disposals programmes should be run in such a way as to encourage the greatest diversity of bidders, with the aim of diversifying ownership. Unfortunately, this is not the case, as we illustrate using woodland sold by FCS as an example.

Such sales of surplus woodland are first offered to community groups and NGOs via the NFLS, which the WCP welcomes. Where such a sale cannot be progressed, the next step should be to relax the eligibility criteria for community bodies in order that other local community interests have the chance to purchase, as we have noted above. In the event that no such bodies can be found and the sale reverts to an open market sale to private buyers, the WCP believes that woodland areas should be lotted in order to make them more accessible to buyers of ordinary means, for example for the subsequent creation of woodland crofts.

Regrettably, far from lotting such woodland areas, in many cases FCS is doing the reverse: bundling together several individual woodlands into single lots of very significant value (as for example in Skye currently)¹⁰. This almost guarantees that the concentrated pattern of private ownership, in the form of investment owners or landed estates as highlighted earlier, is perpetuated and is quite frankly inexcusable.

⁹ For example: <http://www.upm-tilhill.com/woodland-forest-for-sale/page-773.php>

¹⁰ Eg <http://slice3.reapit.com/ckdrpsdets/EDI120088.PDF> and <http://slice3.reapit.com/ckdrpsdets/EDI110161.PDF>

Such an issue could be solved overnight by appropriate policy direction by SG to its departments. Alongside this needs to be a confirmation that 'best value' does not equate to highest price (though one should expect a sale in lots to generate greater income overall anyway).

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Conclusion

Taken together, the measures suggested by the WCP, alongside those put forward in the responses of other woodland organisations including the Forest Policy Group, the Community Woodlands Association and the Scottish Woodlot Association, would fundamentally change forestry in Scotland. The current homogenous nature of ownership and management would be diversified, bringing significantly increased public benefits. The beneficiaries of forestry would be similarly diversified and increased in number.

Forestry would become more typical of forestry in Europe and elsewhere in the world: it would become 'forestry for people'. A core part of this *vision* would be thousands of new woodland crofts, contributing to a new forest culture in Scotland. In this way the third, overarching key question for Land Reform identified in the 'Call for Evidence' would be answered, in a woodland context:

Q3 How will Land Reform:

Generate, support, promote and deliver new relationships between land, people, economy and environment in Scotland.