

## **PE1729/F**

Petitioner submission of 23 April 2020

Response to Scottish Government submission PE1729/E of 26 March 2020

I am aware of the legislation and Guidance referred to in paragraph 1 of the government submission. I accept that that the guidance states that the value of property and/or land can be taken into account at the discretion of the local authority. I would point out again that there is no mention of crofting tenancies in the definition of capital in the 1992 Regulations which underpins the guidance. The regulations specify buildings and land as capital in terms of ownership, and we would argue that a crofting tenancy would be exempt.

Although it is regrettable that crofting legislative reform has been suspended for the current term that would have happened in any case due to current circumstances. However, I cannot see that croft tenancy being treated as an asset, for security provision, could be passed under the current regulations, allowing consideration for the added security of tenure provided to crofters under crofting legislation.

I note that the Charging for Residential Accommodation Guidance (CRAG) is being updated but cannot see that anything would change in relation to this specific issue of crofting tenure as that should still be directed by the National Assistance (Assessment of Resources) Regulations 1992. Ultimately, it is for local authorities to interpret the 1992 Regulations in applying their policies, and it is our contention that Comhairle nan Eilean Siar (CNeS) applied them incorrectly in our specific case, when they should have used their power of discretion to disregard our late mother's house and croft tenancy.

On Tuesday 3<sup>rd</sup> March 2020, a special meeting was called by Councillors from CNeS requesting an urgent debate to establish if security of crofting tenure as set out in Crofting Legislation has primacy over the need to recover costs for residential care. Furthermore, it was to establish whether the Council's practice of forcing the sale of crofting tenancies and properties owned by landlords has primacy over the statutory legislation in the Crofting Acts of parliament. At the conclusion of this meeting, the Council's Chief Executive apparently agreed to take further legal advice and review their policy relating to this matter. CNeS would provide Council Officers with a full report on this review in the next 2 months. Council Officers then held a vote and a resolution was passed for an interim moratorium on the current CNeS policy relating to crofting tenancies. This meeting highlights the continuing serious doubts that exist about the application of the CNeS policy.

However, our national situation has changed significantly since the 3<sup>rd</sup> of March and I accept that this matter will now be of low priority for CNeS and the Scottish Government as they have more pressing matters to address.