



## Tenant Farming Advisory Forum

5<sup>th</sup> December,

Turcan Connell Office, 1 Earl Gray St, Edinburgh

Item no.	Item	Lead
1	Welcome and Apologies	Rob Black
2	Minutes of Last Meeting	Rob Black
3	Update on Land Reform Bill	Fiona Leslie/James Muldoon
4	TFAF Members Contribution to Land Reform Secondary Legislation	Sarah-Jane Laing
5	TFAF Charter (TFC Paper)	Rob Black
6	AOB	All
7	Date of Next Meeting	All

## 1. Welcome and Apologies

Rob Black	TFC
Peter MacDougall	SLC
Gemma Cooper	NFUS
David Johnston	SLE
Sarah Jane Laing	SLE
Andrew Wood	RICS
Hamish Trench	SLC
Sarah Madden	SLC
James Bowie	RICS
A Haliday	STFA
Christopher Nicholson	STFA
Heather Bruce	ALA
Fiona Leslie ( <i>online</i> )	SG
James Muldoon ( <i>online</i> )	SC
<b>Apologies</b>	
Duncan MacAlastair	NFUS
Jackie McCreery	SLE
Rhianna Montgomery	NFUS
Emma Roberston	ALA

## **2. Minutes Last meeting**

The minutes of the last meeting held on 30 September 2025 were circulated in draft format prior to the meeting. No further amendments were made therefore the minutes were approved. The minutes will now be finalised and placed on the SLC website.

## **3. LRB update**

Fiona Leslie gave an update on the Land Reform Bill progress, the timescale is still not clear and will not become clear until after the bill receives royal assent.

Although the timescale was not clear it was requested that a map of critical path be made available to allow stakeholders to prepare by confirming the individual aspects that need to be addressed without an attached timescale. It was agreed that although internal approval would be required to share this it could be shared. **Action FL to share.**

Discussion on the stage 3 changes that had been made including the super-affirmative statutory instrument and the rigours this introduces. There will be a requirement for stakeholders to provide evidence both written and in person and it may potentially need multiple rounds of consultation with amendments based on feedback. On completion it will go to committee.

ROS – working group automatic right to buy from 2016

Regardless of the make up of the new parliament bill has to go through this process as it has passed.

Another aspect is the consultation on TFC powers, this has been drafted and will be out soon.

## **4. TFAF Members Contribution to Land Reform Secondary Legislation**

SJ led a discussion with TFAF on how to progress discussions on secondary legislation.

The capacity of the TFAF to deal with legislative discussions is limited therefore it was proposed that it may be more efficient to have a second technical group specifically to discuss the secondary legislation.

Some members felt it was important to keep focus on future and making it work and not ignore this for an extended period while detailed secondary legislation discussions are required.

FL intimated that it was the intention to discuss with ministers, they are envisaging a technical working group. Specialists will be required to assist with this, it was acknowledged that it will be a very technical discussion. It was agreed that it was not an efficient use of time for TFAF but it was highlighted that TFAF can still feed in views.

Resource planning is very important as issues cannot be addressed all at once

**Action - FL will speak to the new administration on approach.** FL confirmed that it was not just up to the new administration as the parliament has control over when slots can be given. Bids are submitted for slots for even basic implementation. Complicated mapping is required to get spacing and set timescales.

**Action - Members to consider who to be valuable in tech working group.**

***Agreement was reached that TFAF is not the most appropriate vehicle for undertaking the technical work on secondary legislation. A specialist working group is required for the technical aspect.***

SJ highlighted the importance of a clear understanding on what constitutes a TFAF view. During previous discussions where it was desirable to have a consensus view and no consensus view was possible the consideration of a majority view was problematic.

JM – need to understand what ministers want from the process, once it is sketched out will engage and identify the most appropriate ways of moving forward.

The importance of resourcing was also discussed as groups need to be honest about their capacity. SG resource was also discussed and the way their legal team will approach discussions. It was acknowledged that all parties had capacity issues.

There was a desire through the TFAF to move faster on some issues as even in the absence of a timescale certain issues were known and would need addressed. Some members felt the technical group could prepare views on some issues to front load efforts as much as possible.

**Action SJ to draft a section on the working of the technical group and share with the group.**

GC asked if it was possible to get a list of what needs done even if not a full timetable, FL confirmed this could be given as a starting point. Members need to keep in mind that things may change post-election.

**Action FL to send list to group.**

## **5. TFAF Charter**

Overall the purpose and format of the Charter were welcomed by members as a positive basis for TFAF.

Some members were unsure how to interpret aspects such as the “Revisiting of old arguments”, the direction was intended to promote an efficiency where focus could be on issues that can be addressed.

An example of housing legislation was discussed where consensus was achieved in TFAF therefore direct discussions with bill team was possible.

The charter was seen as a good document offering a high level approach, a question was raised over whether there would be value in seeking endorsement from the Cab Sec. It was agreed that while TFAF should not be seeking specific agreement from the Cab Sec on the charter, it would be helpful to ensure it has ministerial support. RB confirmed that the charter is for the TFAF and members rather than needing external endorsement.

A discussion was held regarding the balance of the TFAF with differing views given on whether there was an imbalance. The discussion focused on those members other than SLE and STFA as their weighing is clear.

A question over how RICS, for example, communicate with members and feed issues into their representation on TFAF was raised. AW – will take on board the criticism regarding feedback. Will engage with tenant orientated individuals.

ALA have taken positive steps to address any imbalance or perceived imbalanced regarding their representation.

Possible measures to help with the balance of TFAF were discussed and the challenges that may bring. Measures used previously together with the potential of a landlords working group and a tenants working group was also discussed.

It was agreed that it would be beneficial if members showed how they are bringing views forward. This would give confidence in the impartiality of the professional TFAF members. **Action Members to confirm how views are taken forward from respective groups.**

A discussion was held on the barriers to letting land with some members feeling the biggest issue was the tax system and others that confidence in the government policy consistency was the biggest deterrent.

It was highlighted that both could be correct and data was required to define the issues. DR proposed going out to speak to landlords and tenants to build an evidence base to identify and define the issues. A survey could be put out covering members and professionals

The group felt there was an opportunity to make a UK case on tax and collaboratively move forward with Alan Laidlaw the newly appointed English TFC.

***Agreement was reached on revisiting previous Jeremy Moody tax paper and discussing with the English TFC.***

Other issues discussed involved uncapped support payments

AW suggested that some agreements were working well and was interested to see evidence that tax was the main issue with letting.

SJ commented on the purpose and mission section, it is important to tease out what it means, maybe give the elements that a thriving tenanted sector would have.

*Eg Give landlords the confidence to let and the tenants the confidence to invest.*

AH – argument there is nothing wrong with contract farming. But TFAF, need to look at the tenancies. Need to address the barriers. While farmers and new entrants want tenancies they will accept contract farming when this is what is on offer.

AW – there are some contract farming agreements that are up to 20 or 30 years long and suit both parties.

Potential to dispel the myths though an information hub. There could be an opportunity to highlight where things are working well, where agreements are being made successfully.

It was considered a positive step to invite Mount Stewart to TFAF to share their experience, and particularly the factors influencing their confidence to let long term. This would allow the group to learn lessons and help articulate solutions. This was agreed but no firm action was taken forward, to be discussed at next TFAF.

The data gap was again discussed highlighting the need for raw data, FL confirmed the first steps of this were underway with Alma economics report due out end of Jan. She advised it may be worth waiting for this to be released before planning further work.

**Action Data will be put on the agenda for the next TFAF.**

A discussion was had on the profile of the TFAF and Comms touching on reporting and the release of information at certain times. GC felt it was appropriate to have a public launch of the charter and potentially coincide with announcing the public survey to encourage participation which was supported by the group.

**TFC Charter Action Members to provide written commentary prior to final drafting of charter.**

## **6. AOB**

CN raised the issue of soil carbon and the rights to soil carbon, who can access it? Recent leases he has seen have included a clause that reserves the soil carbon and there is a question of whether this is legally competent.

There is an attempt to treat soil carbon in the way mineral rights have been historically but it is not clear if this is appropriate. Important to know where liability lies especially

as there are instances where agreements impacting the land may last for significantly longer than the agricultural lease.

**Action TFAF to formally ask for clarification on the rights to soil carbon and who has access.**

The issue of comparables and parties not divulging comparables was discussed, there was a concern this was being used as a tool to pressurise one side into accepting terms by using the financial burden of going to the land court. In such instances there was often no effort to negotiate in good faith.

It was agreed that this was not the type of practice any member of the TFAF would support.

**Action – TFC to bring forward options to address using the threat of the land court as a negotiation tool in place of good faith negotiation**

GDPR was again raised as a reason landlords were giving for not sharing information on comparables. It was highlighted that this was not an issue south of the border for when handling this type of information therefore as the legislation was UK wide there should be no reason why it wouldn't be possible in Scotland.

**Action TFC to get answer from government on GDPR issue**

***Agreement was reached that transparency of comparables is important***

**Model lease**

TFC gave a briefing on the role of the SLC in developing the model lease with work beginning now. James MacKessock-Leich will attend the next TFAF meeting to give information on approach and the role of TFAF. It was noted that this work and engagement will extend well beyond the scope of TFAF, but there is a valuable connection to make.

AW highlighted that model leases already exist and CN suggested their potential conflict with sporting leases.

Vermin control was also discussed with a number of issues highlighted. It was agreed that members could put out information individually, but it may be better a single document coming from the TFAF. SJ offered to draft a document highlighting what can and cannot be done for SLE members. It was felt a TFAF document was required.

**Date of Next Meeting**

It was agreed to look for a date in February for the next meeting. A poll will be circulated at the beginning of January.

Table 1.0 Action Log

Action	Responsible	Completed
Share Map of Critical Path LRB	FL	
Speak to new administration regarding their approach to implementation	FL	
All members to consider who would be valuable for the technical working group	All	
Draft a section on the working of the technical group and share with the group.	SJ	
List of tasks needed to introduce LRB measures to members	FL	
Members to confirm how views are taken forward from respective groups.	All	
Data Gap to be put on agenda for next TFAF	PM	
TFAF to formally ask for clarification on the rights to soil carbon and who has access.	RB	
Bring forward options to address using the threat of the land court as a negotiation tool in place of good faith negotiation	RB	
Approach government to get an answer on GDPR and comparables question.	TB	

Table 1.1 Agreement Log

<b><i>Agreement was reached that TFAF is not the most appropriate vehicle for undertaking the technical work on secondary legislation. A specialist working group is required for the technical aspect.</i></b>
<b>Agreement was reached on revisiting previous Jeremy Moody tax paper and discussing with the English TFC.</b>
<b><i>Agreement was reached that transparency of comparables is important</i></b>

A vote of thanks is given to Turcan Connell for hosting the TFAF meeting and helping facilitate the day.