

## **SCF position on crofts as assets for care**

Local authorities have, for a long time, assessed the value of a person's assets if that person is in need of being taken into care – with the intention that the assets can be used to pay for the care-home costs. This applies to everyone, crofters included. Assets may include cash, investments, 'valuables', buildings, land and so on.

A relatively new thing that is specific to crofting is that local authorities are considering a croft tenancy to be an asset which may be valued and the value realised, even though the land is actually owned by someone other than the tenant. This is an unusual situation and contentious. Tenancies are not valued as an asset in any other situation that we know of, but then crofting tenure is unique.

The justification offered by the local authorities is that croft tenancies are sold on the open market and therefore have a value – making them an asset which, should the crofter need to go into care, can be valued and sold if necessary to raise money to pay for the care.

This is countered with the argument that a tenanted croft does not belong to the crofter – it is someone else's property. The lease of the croft is between the landlord and the tenant, and it therefore inappropriate for a third party to interfere in this arrangement in any way. It is pointed out that no other annual leases are valued and forced to be relinquished. But then it is very unusual for a tenant to have the right to assign their tenancy, which is what makes it a saleable commodity.

Others simply say that this practice simply goes against what crofting is about – and perhaps would agree that selling crofts, tenanted or 'owned' on an open market is a fundamental change in this unique system of regulated land tenure that many do not welcome.

The opinion of Scotland's top crofting lawyer, Sir Crispin Agnew, was that the assessment is reasonable.

Scottish Government have no intention to offer a policy directive.

SCF position is that no one has come forward with a valid argument against the policy of the local authorities, as yet.