

## Governance of the Crofting Commission

### Action Plan by the Chief Executive

#### Introduction and Context

1. On 10 February 2017, the Scottish Government published a review of the Governance of the Crofting Commission, which had been carried out for the Scottish Government by Scott-Moncrieff. On publication of the report, the Cabinet Secretary for Rural Economy and Connectivity, Fergus Ewing MSP, asked the Chief Executive of the Commission to prepare an action plan to rectify perceived weaknesses and secure improved performance in key areas of governance.
2. Scott-Moncrieff's report drew on the enquiries and investigations they carried out in November and December 2016, which looked into governance, procedures and practices within the Crofting Commission, with particular reference to its handling of controversial cases in the townships of Mangersta, Upper Coll and Bohuntin in 2015 and 2016. Scott-Moncrieff made a number of recommendations about the expectations of Commissioners, of senior staff of the Commission, and of the interactions between the two.
3. Since Scott-Moncrieff's investigations took place, there have been wholesale changes in the membership of the Crofting Commission, with eight new Commissioners appointed or elected (one in January, one in February and six in March), and six outgoing Commissioners standing down. As a result, only one of the 2016 Commissioners is still serving on the Board. The Scottish Government has appointed a new Convener for the Board in June 2017. All of these changes provide a clear opportunity for the new Commissioners to consider governance issues afresh. There has also been a recent change in the post of Chief Executive, with my appointment made on a temporary basis in October 2016, and confirmed as a permanent appointment in January 2017.
4. This does not mean, however, that there is any need for the incoming Commissioners, or for me as a new Chief Executive, to reinvent Crofting Commission governance from scratch. The Commission already has in place a full range of documents setting out our policies and procedures, from the Standing Orders for the conduct of meetings, to the Code of Conduct for our Commissioners. A list of these documents is included at Annex A. All of them accord with best practice for Non-Departmental Public Bodies, and they provide a strong platform for the governance arrangements going forward. It is important to recognise that the need for a Governance Review was prompted by a limited number of breaches of established governance arrangements, rather than by the lack of such arrangements.

#### The main issues

5. Scott-Moncrieff highlighted what they saw as the most important issues in a 'Conclusion' section, paragraphs 10-16 in their report. By far the dominant theme in this section is the failure of the previous Commissioners to act together as a collective unit:

"The Commission has not been working as a fully effective, *co-ordinated* entity." (para 10)

"must have eroded ... perception of the ability of the Commission to operate as a *cohesive* and focused unit." (para 11)

“Strong personalities, differences of opinion and apparent incongruent individual objectives and priorities have also impaired effective and efficient governance.” (para 12)

“announcements have been made (particularly at Commissioner level), without clear cognisance of the Commission’s policies procedures and *collective* decision making process.” (para 14)

“Commissioners and staff should ... [have] the ability to disagree, but with an optimism and confidence that a negotiated solution can likely be agreed (or at least be *collectively* supported in public).” (para 16)

*(italics added for emphasis)*

6. Like other Non-Departmental Public Bodies, members of the Crofting Commission are required to adhere to three fundamental principles, which are set out in the Scottish Government’s ‘On Board’ guide for members of statutory boards. The first of these is the principle of *corporate responsibility*. “While Board members must be ready to offer constructive challenge, they must also share collective responsibility for decisions taken by the Board as a whole. If they fundamentally disagree with the decision taken by the Board, they have the option of recording their concerns in the minutes. However, ultimately, they must either accept and support the collective decision of the Board – or resign.”
7. During the latter part of 2016 there was a failure by one or more Commissioners to act in accordance with this principle. **The current Commissioners are in no doubt of the importance of this principle, and have committed to observing it during their terms of office.** At the same time, both Commissioners and officers of the Crofting Commission have taken note of the underlying tensions which can magnify the pressure on any Commissioner who feels uncomfortable with a Board decision:
  - Because most Commissioners are elected, there are many in the crofting counties who believe that the Commissioner from their area is there to represent the area’s interests and/or to push for action in accordance with the principles they set out while canvassing for election. Even if the Commissioner knows that his/her primary responsibility is to the collective decision, this perception can be hard for them to resist. For this reason officials have emphasised to the elected Commissioners that they should regard themselves – and describe themselves – as “the Commissioner from” their constituency rather than “the Commissioner for” their constituency.
  - Sometimes, including in regard to grazings committees, the Crofting Commission takes decisions where the legal position is unclear. The Commission therefore needs to be able to hold a collective position even when different Commissioners have different views on the legal imperatives.

It is important that any action plan of the Governance of the Crofting Commission takes account of these pressures, and seeks ways to help Commissioners cope with the pressures they can generate.

8. While making clear that the authors saw lack of cohesion as *the* key governance issue for the Commission, the ‘Conclusion’ section of Scott-Moncrieff’s report also highlighted two subsidiary perceived problems:

“Documentation and robustness of records management has also been an issue.” (para 13)

and

“Crofting Commission Board and staff could benefit significantly from expanding their networks and seeking greater engagement with and learning from other NDPBs and public sector bodies.” (para 15)

9. In its public statements about the review, the Scottish Government has highlighted two further issues:

“Arrangements for handling conflicts of interest”

and

“Ensuring that capacity building and development needs of Board members are met and that the necessary training is provided.”

10. All of these issues were addressed in Scott-Moncrieff’s recommendations, and the Crofting Commission’s position on each of them is set out in this Action Plan.

11. Annex B lists Scott-Moncrieff’s recommendations and sets out the Crofting Commission response to each. The commitments contained within these Crofting Commission responses are collated in Annex C, as a summary of the Actions which are being, or will be, taken by the Commission to enhance our governance.

Bill Barron  
CEO, Crofting Commission  
June 2017

## **Annex A**

### List of Current Crofting Commission Governance documents

- Anti-Fraud Policy
- Framework Document (signed)
- IS Protocols (3 docs)
- Media Protocol
- Standing Orders as at Aug 16
- FOI request Staff Guidance
- Risk Management Policy
- Risk Register
- Code of Conduct
- 'On Board' public bodies information for Commissioners
- Whistleblowing Policy
- Complaints Handling Procedure
- Audit & Finance committee Terms of Reference
- Standing Financial Instructions
- Scheme of Financial Delegation
- Memorandum of Terms of Understanding with SNH
- Memorandum of Understanding with Registers of Scotland
- Business Plan
- Corporate Plan
- Policy Plan

### To be added in August 2017:

- Equality & Diversity Plan
- Sustainability Statement.

## Annex B

### Scott-Moncrieff Recommendations and Crofting Commission Responses

The following table sets out the Scott-Moncrieff Recommendations in full, and gives a Crofting Commission response to each. A resume of the actions which the Commission will be taking is then included at Annex C.

Scott-Moncrieff Recommendation	Crofting Commission Response
<p>There is a strong case for the Commission seeking professional support from an independent expert to work through the interpersonal issues impairing the ability to work as a cohesive, integrated and fully effective organisation. The exact approach to this issue may be determined by the outcome of the upcoming elections in March 2017.</p>	<p><b>Accepted:</b> Although all but one of the Board members, and the Chief Executive, are new, the Commission has contracted Boardroom Development Ltd to work with the Board and senior officers to build strong relationships and to provide an opportunity for us to discuss together our roles and responsibilities, and how we will fulfil them together.</p>
<p>There may be a role for a Senior Independent Director/Commissioner within the organisation. This could be a multi-faceted role, but would at least provide a route for staff and/or other Board members if they have concerns which they feel they cannot take to the Convener or Chief Executive (or which have not been resolved successfully through that route). More widely, such a role could provide a sounding board for the Convener, serve as an intermediary for the other Commissioners where necessary, help conduct the Convener's annual performance appraisal, or become involved in external complaints processes where other key individuals (e.g. Convener and Chief Executive) are conflicted. Such a role should differ from that of a Vice-Convener; for example, a Senior Independent Director would not have a deputising role for the Convener in his or her absence.</p>	<p><b>Not accepted:</b> There is no reference to such a role in the governing legislation, and it is not clear how a Senior Independent Director would alter the responsibilities within the Commission, nor whom they themselves would be answerable to. If this recommendation were to be implemented, it would be for the Scottish Government, rather than the Commission, to decide how.</p> <p>In common with other NDPBs, responsibility for leading the Crofting Commission lies with the Convener and the Chief Executive, both of whom are appointed by the Scottish Government. So long as these individuals have the confidence of the organisation and of the SG, there should be no need for a Senior Independent Director role as proposed.</p> <p>It is recognised, however, that twice within the Crofting Commission's first 5 years, the other members of the Commission's Board united to express lack of confidence in their Convener. While there is no reason to suppose this situation may arise again, it is important to be clear what should happen if it did. The 'On Board' guide makes clear that this is an unusual situation but that responsibility for resolving it rests with the Scottish Government: "If you [as a Board member] have specific concerns about the manner in which the public body is being run, these should be raised with the Chair [ie Convener] in the first instance. If you fail to achieve resolution with the Chair, it is open to you to take them to the relevant senior civil servant in the Scottish Government – but you should appreciate that this is a significant step."</p> <p>Any such matters would also be brought to the attention of the Commissioner for Ethical Standards in Public Life.</p>

Scott-Moncrieff Recommendation	Crofting Commission Response
<p>We recommend that, as soon as practical after appointment, Board members should undergo a skills and capabilities assessment against the requirements for the role to identify any training and development needs. Board-wide and individual training programmes should then be developed. This should cover both the formalities of acting as a Commissioner and soft-skills and behavioural awareness training to support cohesiveness, collaboration and team working. Progress against these plans should be monitored and appropriate commentary included in the annual accounts.</p>	<p><b>Accepted:</b> The Commission is implementing a comprehensive package of training, support and induction for Commissioners, including developing connections with other public bodies at both Commissioner and senior officer level, and support for our 'soft skills' through work with Boardroom Development Ltd.</p>
<p>A more robust and inclusive Commissioner appraisal process is also required, to help identify and deliver ongoing training and skills development. The potential to co-opt experts to support the work of the Board or its Committees should also be explored further.</p>	<p><b>This is a matter for the Scottish Government to consider,</b> as they have responsibility for the Commissioner appraisal process.</p> <p>The Crofters (Scotland) Act 1993 already allows for the co-opting of external experts onto Committees: "The Commission may appoint as members of any of their committees persons who are not members of the Commission." Making use of this flexibility will be considered if the need arises.</p>
<p>A review of crofting legislation is planned within the lifetime of this parliament. We endorse this review, and encourage that exercise to be mindful of both scope and clarity of legislation. In the meantime, we recommend the Crofting Commission identifies areas that it feels it has insufficient or no policy/processes in place to support, and looks to develop appropriate plans in the interim. Such an exercise could also support the Commission in informing drafting and consultation over any new legislation.</p>	<p><b>Accepted in part:</b> The review of crofting legislation is being carried forward by the Scottish Government and the Commission, like other crofting stakeholders, will continue to make its views known to the Scottish Government.</p> <p>It is recognised that there are elements of the crofting legislation which are unclear or counter-intuitive but the Commission, as a creature of statute, is bound to implement the law as it stands. Many of the areas where the Commission is hampered by imperfect legislation are already well known, for example the extent of the powers of grazings committees, the lack of flexibility in enforcement of duties, and the position whereby many who consider themselves crofters are technically 'owner occupiers' but not 'owner occupier crofters'. The Commission will continue to decide its actions in all such matters with regard for the legislation, and will act cautiously in cases where there is doubt.</p> <p>On the roles and responsibilities of grazings committees, the Commission has been working with a stakeholders working group to develop new guidance in the light of the current legislation. This guidance is currently out for consultation, and it is due to be finalised and formally adopted later this year.</p>

<b>Scott-Moncrieff Recommendation</b>	<b>Crofting Commission Response</b>
<p>These issues [the legality of the Commission's meeting(s) at Brora on 28 September 2016] should be clarified as soon as possible, including with the wider public. A process should be put in place to manage any future votes of no confidence, in terms of making it clearer how the existing rules will be interpreted and applied in practice. That questions arising from Brora are still unresolved some months on reinforces the issues highlighted elsewhere in this report.</p>	<p><b>Accepted in part:</b> The Commission issued a public statement on 9 December 2016 to clarify the legality of its proceedings at Brora. The Commission has also reviewed and made some revisions to its Standing Orders for the conduct of meetings. However, it is not possible for the Commission's own procedures to <i>require</i> a Convener to stand down following a vote of no confidence:- the position of Convener is an appointment of the Scottish Government and it is for the Scottish Government to decide what action to take in that eventuality.</p>
<p>There are several options available to address this issue [actions agreed orally at meetings either not recorded or not implemented]. For example, the Commission could choose to audio or video record meetings for minuting purposes, or the Chair/minute-taker could summarise at the end of each agenda item (or sub-item) the relevant note and action point(s). This would allow key phrasing or wording to be discussed, so it is as clear as possible what the meeting has collectively decided has to be done. Any recording/broadcasting could also allow wider stakeholders to observe directly the work of the Commission and overcome any logistical issues in attending meetings.</p>	<p><b>Accepted in part:</b> The Commission accepts that there were occasions over the last two years when decisions taken at Board meetings were not implemented as they should have been, but the Commission believes these were rare aberrations. Commission staff have always taken care to record and implement decisions, and will continue to do so.</p> <p>As with all other public bodies, officials at the Crofting Commission take care over accurate minute-taking and give all Commissioners the opportunity to check the contents of the minutes. Action points are clearly highlighted in the minutes and are followed up systematically.</p> <p>While the greater part of all Commission meetings are held in public, and the press often attend, the Commission does not propose to invest in broadcasting its proceedings at the present time.</p>

<b>Scott-Moncrieff Recommendation</b>	<b>Crofting Commission Response</b>
<p>We recommend that the number of oral agenda items should be minimised, ideally only used for information items rather than those requiring decision. Meetings would benefit from more robust and timely agenda planning. Strategic or potentially controversial decisions should never be taken on the basis of an oral agenda item or informal meeting. It is acceptable to defer items where it feels there has been insufficient time for consideration or information is lacking, but doing so regularly calls into question the meeting administration and preparedness.</p>	<p><b>Accepted:</b> The Commission already has well established processes for planning and circulating agendas and papers for meetings well in advance. While the Commission accepts that there were a very few occasions in the last 2 years when decisions were taken on the basis of papers circulated late, and that this should not have happened, it would also emphasise that this was exceptional, and by no means the norm. For the future, the Commission is clear that all decisions, whether about casework or policy, will be taken after proper consideration of the issues based on papers circulated in advance.</p> <p>The suggestion that controversial issues can be deferred for further consideration on another occasion is accepted, and indeed to some extent is already established Commission practice. The Commission regularly considers policy questions in private on a provisional basis, before confirming or refining the position reached at the public part of a subsequent meeting. In addition, the Commission will seek (internal or external) legal advice on any controversial matter well in advance of any Board meeting in order that any decisions can be taken in light of such legal advice.</p> <p>Regulatory casework decisions are taken at the private part of Board meetings, and following the meeting there is a further aspect of the process when the Commission composes the written intimation of the decision including the grounds (justification) for it. There have also been occasions when, in the aftermath of a Board meeting, officials have had cause to doubt the legality or soundness of a regulatory decision taken by the Board. In these circumstances officers may give further consideration to the matter and if necessary ask a future Board meeting to reconsider the decision in the light of legal advice. As a matter of law, a casework decision is not confirmed until it is publicly intimated.</p>
<p>At the end of Commission meetings, there may be value in including a (brief) standing agenda item to seek any comments on the meeting preparation, operation, papers and administration, to support continuous improvement.</p>	<p><b>Accepted in part:</b> The Commission is committed to continuous improvement in its processes and will continue to reflect on them. In particular, as the new Commissioners develop in their roles, care will be taken to ensure that the processes are working well for all, and a reflection at the end of Board meetings may be a useful tool on occasions. However, to do this routinely could be overkill and might soon become a ritual of little value.</p>

Scott-Moncrieff Recommendation	Crofting Commission Response
<p>The management team and the Board should be regularly updated on the impact of recent changes to sub-committee and management delegation. There should be clear metrics developed to allow for ongoing review and assessment of how successful this has been in practice. The Board should also review the terms for each Committee to ensure it is delegating in an efficient but effective manner.</p>	<p><b>Accepted:</b> Since the appointment of the new Commissioners, the Board has considered and re-endorsed the principles of ‘delegated decision-making’ whereby the majority of casework decisions are made by officers, guided by decision-making ‘parameters’ agreed by the Board. The Commission intends to extend delegated decision making still further, so that all non-contentious decisions are made by officers, in the interests of efficiency and consistency.</p> <p>The Commission has also agreed to abolish the tier of decision-making whereby decisions are made by an individual Commissioner. If the decision is too significant to be taken by officers, then it will be taken either by a panel of three Commissioners (a casework panel) or by the full Board. This too should help improve consistency of regulatory decision-making, and help reduce the scope for divisions within the Board.</p> <p>It is understood that this recommendation also related to the work of the former <i>Complaints Committee</i>, a subcommittee of three Commissioners, supported by officials, who considered the complaints against the Commission. In practice this meant that these three Commissioners had an additional perspective and involvement in some of the more controversial aspects of the Commission’s work, and at times this became another focus for division within the Board.</p> <p>Since the election of the new Commissioners, the Board has decided not to continue the Complaints Committee. Instead, the Commission’s handling of complaints will be brought into line with the Scottish Public Services Ombudsman’s model approach: Complaints will be reviewed quarterly by the Senior Management Team, and reported to the Audit &amp; Finance Committee and onwards to the full Board.</p> <p>This means that in future there will be only one sub-committee of the Crofting Commission, namely the Audit and Finance Committee, which is a requirement of the legislation. The members of the AFC will give particular attention to matters of financial probity and efficiency, but the full Board will also regularly consider these matters.</p>

<b>Scott-Moncrieff Recommendation</b>	<b>Crofting Commission Response</b>
<p>We recommend that the Commission takes a broader consideration of what it does in practice against the responsibilities for which it is charged. In some cases, it may find that directing a correspondent to engage with other entities and authorities such as HMRC, the police, the Courts, independent arbitration etc may be a far more appropriate way to seek resolution to a matter of which it becomes aware. Commission management should have a clear role in helping with evaluation of any such cases at an early stage of the process.</p>	<p><b>Accepted:</b> The Commission is aware of its primary function – to regulate crofting, and accepts that its expertise lies in this field. For example, it cannot give definitive advice on tax issues for crofters or grazings committees.</p> <p>That said, the Commission also has statutory functions of ‘promoting the interests of crofting’ and ‘keeping under review matters related to crofting’. These are very general responsibilities, without clear boundaries. The Commission does not believe it would be right to retreat into a narrowly defined role of taking regulatory decisions and no more. Rather, it believes that the vast majority of crofting stakeholders want the Commission to exercise its role in an open, proactive and creative way, seeking to help solve problems and to help crofters succeed. The Commission will seek to operate in this way, while also being mindful of the limits of its particular functions and expertise.</p>
<p>Although all Board papers now contain legal impact and policy sections, the role of the internal solicitor and the internal processes for obtaining legal advice should be further discussed and clarified. Linked to the above, this should also include consideration as to whether the matter put before the Commission is better served by directing a correspondent to engage with other entities or authorities.</p>	<p><b>Accepted in part:</b> The in-house solicitor has a crucial role within the Commission, being the sole or main conduit for legal advice to the Chief Executive and thereafter to the Board. Since the appointment of an in-house solicitor in 2015 the role has evolved and developed. Explanation and clarification of this role is part of the induction process for the new Commissioners. The in-house solicitor is an accredited specialist in crofting law. The Chief Executive will in future ensure that the solicitor (whether it is the in-house solicitor or an external firm of solicitors) is appropriately instructed in advance of any important decisions being made on matters requiring legal advice.</p> <p>Respect for the position of the in-house solicitor is a key element that underpins the cohesiveness of the Commission and its Board. The Board members, who would not usually have any legal training, frequently have to grapple with points of law relating to questions of policy or detailed regulatory decisions. It is important that they have regard to the advice from the in-house solicitor and, if they want to question it, do so in a constructive and inclusive manner.</p>

<b>Scott-Moncrieff Recommendation</b>	<b>Crofting Commission Response</b>
<p>We recommend that the importance of this principle [collective adherence to Board decisions] and compliance thereof is covered in training for Commissioners, including the induction materials for new Commissioners. Non-observance to the agreed process should be identified and acted on, commensurate with the context of the specific situation.</p>	<p><b>Accepted:</b> The Commissioners and senior officers of the Crofting Commission are committed to the principle of operating as a collective body. The importance of this principle, and how it works in practice, will be the focus of much of the induction training for the new Commissioners this year.</p> <p>Officers of the Commission will support Commissioners by working to ensure that (a) their best advice is available to Commissioners before decisions are reached and (b) where there are different, valid perspectives on an issue, smart solutions are identified which, as far as possible, incorporate the best from each of those perspectives.</p> <p>If this principle is not observed, and if it cannot be resolved internally, the Chief Executive will highlight it to the Ethical Standards Commission and/or the Scottish Government, whose role it is to oversee such matters.</p>
<p>A statement should be included within the Crofting Commission annual report confirming the extent of compliance with relevant governance standards and codes of corporate governance. Any non-compliance should be highlighted and explained in the report, along with details of how these will be addressed going forward.</p>	<p><b>Accepted:</b> A statement on governance will be a feature of the Commission's next annual report and of all subsequent ones.</p>

Scott-Moncrieff Recommendation	Crofting Commission Response
<p>A process should be agreed for withdrawal of previously declared conflicts of interest, and the Commission's conflicts of interest guidance should be updated accordingly. If further guidance or support is deemed required in particular cases, formal advice should be sought from the Standards Commission for Scotland. This should be done in good time before any meeting. Any relevant documentation arising should be available on request, as evidence to support resulting actions (eg rescinding of any interest). There may also be value in further training on declarations and management of conflicts of interests.</p>	<p><b>Accepted in spirit:</b> However, the Commission's existing guidance is already in accordance with the views of the Standards Commission. The principle is that it is for individual Commissioners to decide whether they have a declarable interest, and when circumstances change they may accordingly change their position on whether they have an interest. The Convener has a role to help guide Commissioners in making these judgements correctly, but ultimately it is for the individual Commissioners to judge the position for themselves.</p> <p>There is however a wider issue about conflicts of interest, which has been a factor within Crofting Commission governance for some years. Crofting Commissioners typically come from small tight-knit communities where they have extensive social and family ties. The question arises whether such ties are in themselves 'an interest' which should invalidate their taking part in regulatory decision-making about those communities.</p> <p>Many crofting Commissioners have taken a purist approach to this question. They have noted the stringent text in the Act ("A member of the Commission ... who is in any way directly or indirectly interested ... must not take part in any deliberation or decision of the Commission") and in the 'On Board' guide ("You should note that the appearance of a conflict of interest in terms of public perception can be every bit as damaging as an actual conflict – both should be avoided"). They have concluded that to avoid any risk of being conflicted they should withdraw from the discussion whenever there is any kind of connection.</p> <p>It is questionable whether this is the real intention of the legislation. For example, the 'On Board' guidance's description of what constitutes an interest is mainly about financial interests, together with 'non-financial interests including membership or holding office in other public bodies, clubs, societies and organisations such as Trade Unions and voluntary organisations'.</p> <p>The Commission has discussed these matters with representatives from the Standards Commission, who have advised Commissioners on how to make these judgements.</p>

<b>Scott-Moncrieff Recommendation</b>	<b>Crofting Commission Response</b>
<p>There are clear procedures in place for hearings and Board meetings, but we recommend that the processes for other meetings (eg where a number of Commissioners are in attendance with external stakeholders) are included in the Standing Orders. Developing this process should take cognisance of “lessons learned” from the meetings with shareholders in relation to Grazings Committees cases.</p>	<p><b>Accepted in spirit:</b> There will continue to be many occasions when Commissioners or senior officers of the Commission meet with or speak to stakeholders and discuss Commission matters with them. If the Commission is to maintain its cohesiveness, Commissioners and officers need to know how to represent the Commission’s view, and how – and how far – they can embellish it with explanations or additions of their own. This is a key matter for training and also for the Code of Conduct where key principles are set out.</p> <p>There are particular controls on how the Commission speaks to the national media, which in the main is limited to the Convener, the Board’s Gaelic Spokesman, the Chief Executive and his deputy. Further details are set out in the Commission’s Media Protocol, which guides Commissioners on how to represent and promote the Commission’s views effectively.</p>
<p>Whilst the Crofting Commission does not use a document management system at present, it is investigating the options available. We endorse this evaluation. In the meantime, a clear and complete audit trail of key documentation should be retained (even if any such documentation is subsequently superseded). This should also take account of audit trails surrounding short notice and ad-hoc procurement actions.</p>	<p><b>Accepted:</b> While the Commission accepts that the occasions on which papers were not retained should not have happened, it believes these were very much the exception. The Commission has good systems in place for retaining paperwork relating to Board business, regulatory casework or other matters. The Commission manages Freedom of Information requests efficiently and effectively and is currently investigating options to modernise its IT system for document management, which will enhance our systems still further.</p> <p>The Commission is not clear on Scott-Moncrieff’s recommendation about the routine retention of drafts, which may conflict with guidance from the Information Commissioner. This point will be checked.</p>
<p>All Commissioners and staff should have use of and access to official Crofting Commission communications. They should be firmly reminded of the need to avoid use of non-official mechanisms. Non-compliance should be dealt with in a manner commensurate with the context of the specific situation.</p>	<p><b>Accepted:</b> All Commissioners already do have access to Crofting Commission IT systems. In the past connectivity has been an issue for some Commissioners, though this has been improving significantly. The Commission’s IT team provides a responsive service to the Commissioners, seeking to ensure that all Commissioners are able to use the equipment efficiently irrespective of their remote location and the level of their IT skills. Mandatory Information Protection training should be completed by all staff and Commissioners on an annual basis and officials will ensure that this is completed and understood by all, in order to reinforce the principles of protecting data at all times.</p>

## Annex C - Summary of Key Actions

1.	The Commission is implementing a comprehensive package of training, support and induction for Commissioners, including developing connections with other public bodies at both Commissioner and senior officer level, and support for our 'soft skills' through work with Boardroom Development Ltd.
2.	Many of the areas where the Commission is hampered by imperfect legislation are already well known. The Commission will continue to decide its actions in all such matters with regard for the legislation, and will act cautiously in cases where there is doubt.
3.	As with all other public bodies, officials at the Crofting Commission take care over accurate minute-taking and give all Commissioners the opportunity to check the contents of the minutes. Action points are clearly highlighted in the minutes and are followed up systematically.
4.	The Commission is clear that all decisions, whether about casework or policy, will be taken after proper consideration of the issues based on papers circulated in advance. The Commission will seek (internal or external) legal advice on any controversial matter well in advance of any Board meeting in order that any decisions can be taken in light of such legal advice.
5.	The Commission is committed to continuous improvement in our processes and will continue to reflect on them. In particular, as the new Commissioners develop in their roles, care will be taken to ensure that the processes are working well for all.
6.	The Commission intends to extend delegated decision making still further, so that all non-contentious decisions are made by officers, in the interests of efficiency and consistency. The Commission has also agreed to abolish the tier of decision-making whereby decisions are made by an individual Commissioner. If the decision is too significant to be taken by officers, then it will be taken either by a panel of 3 Commissioners (a casework panel) or by the full Board.
7.	The Commission believes the vast majority of crofting stakeholders want the Commission to exercise its role in an open, proactive and creative way, seeking to help solve problems and to help crofters succeed. The Commission will seek to operate in this way, while also being mindful of the limits of its particular functions and our expertise.
8.	The Chief Executive will in future ensure that the solicitor (whether it is the in-house solicitor or an external firm of solicitors) is appropriately instructed in advance of any important decisions being made on matters requiring legal advice.
9.	The Commissioners and senior officers of the Crofting Commission are committed to the principle of operating as a collective body. The importance of this principle, and how it works in practice, will be the focus of much of the induction training for the new Commissioners this year. Officers of the Commission will support Commissioners by working to ensure that (a) their best advice is available to Commissioners before decisions are reached and (b) where there are different, valid perspectives on an issue, smart solutions are identified which, as far as possible, incorporate the best from each of those perspectives. If this principle is not observed, and if it cannot be resolved internally, the Chief Executive will highlight it to the Ethical Standards Commission and/or the Scottish Government, whose role it is to oversee such matters.
10.	A statement on governance will be a feature of the Commission's next annual report and of all subsequent ones.
11.	The Commission is currently investigating options to modernise its IT system for document management. The Commission is not clear on Scott-Moncrieff's recommendation about the routine retention of drafts, which may conflict with guidance from the Information Commissioner. This point will be checked.
12.	Mandatory Information Protection training should be completed by all staff and Commissioners on an annual basis and officials will ensure that this is completed and understood by all, in order to reinforce the principles of protecting data at all times.