

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 13 MAY 2015

|          |                    |                                      |
|----------|--------------------|--------------------------------------|
| Present: | Colin Kennedy      | Vice-Convener                        |
|          | David Campbell     | Commissioner                         |
|          | IG Macdonald       | Commissioner                         |
|          | William Swann      | Commissioner                         |
|          | Murdo MacLennan    | Commissioner                         |
|          | Marina Dennis      | Commissioner                         |
|          | Arnie Pirie        | Commissioner                         |
|          | Kathleen Sinclair  | Commissioner (from 09:55 hrs)        |
|          | Catriona Maclean   | Chief Executive                      |
|          | Trudi Sharp        | Deputy Director, Scottish Government |
|          | Donna Smith        | Head of Information Systems          |
|          | John Toal          | Head of Policy                       |
|          | David Findlay      | Commission Solicitor                 |
|          | Posy MacRae        | Communications Manager               |
|          | Morag Menzies      | PA to Convener, Minute-taker         |
|          | Alasdair MacLennan | BBC (from 09:45 hrs)                 |

### 1 APOLOGIES AND WELCOME

Apologies were received as follows:

Joseph Kerr, Head of Regulation  
Jane Thomas, Head of Corporate & Customer Services  
Neil Macdonald, Interim Head of Finance

Vice-Convener Kennedy chaired the meeting and welcomed everyone, especially Trudi Sharp, Deputy Director of Agriculture, Rural Development and Land Reform.

Vice-Convener Kennedy explained that he expected there would be media interest following the recent resignation of the Convener, Susan Walker and he read out the following statement:

*'It has been a difficult time for the organisation and it had been hoped that the matter would have been dealt with internally, but that was not the way that things panned out.*

*The Commission would like to wish Susan well, and are grateful for the contribution she has made during her time as both Commissioner and Convener.*

*As the Minister said yesterday, we will discuss the matter with the Minister when we meet her later this month, as it is for Scottish Ministers to select a new Convener or to decide to delegate that function to the Commission.*

*I am sure that I speak on behalf of everyone when I say that today we are all equal with collective responsibility. In fact we are all Conveners, working together for the betterment of the Crofting Commission. I am simply fulfilling my duty as Vice-Convener in the interim.*

*Moving forward as a Board, I think it is of vital importance that we all pull together and I'm sure that we will, to progress what we have started, and I can assure everyone that the Board will continue to be engaged in creating leadership and taking decisions required to provide for the Executive to carry out the task of regulating crofting.*

*I would also like to assure our Chief Executive and all crofters that it is business as usual and that the Board will afford the time and space for her and her Management Team to deliver the service to everyone in the appropriate manner, and she has our unanimous support.*

*So we will now begin the business of the day, concentrating on the primary function of the Commission and staff, which is to focus on the effective regulation of crofting.'*

## **2 DECLARATION OF INTERESTS**

None

## **3 APPROVAL OF DRAFT BOARD MINUTE OF 25 MARCH 2015**

The Minute of the Meeting of 25 March 2015 was approved subject to the following amendment:

| <b>Page</b> | <b>Item</b> | <b>Paragraph</b> | <b>Amended/Additional text should read</b>        |
|-------------|-------------|------------------|---|
| 2           | 4           | 1                | Amend 'North Ronaldsay' to say 'South Ronaldsay'. |

## **4 MATTERS ARISING FROM PREVIOUS MEETING**

The Action Points from the previous meeting on 25 March 2015 were reviewed:

- Page 4, Item 8, the Chief Executive advised that the new application forms have gone live and are available on the Commission's website. There is a 28 day period where anyone using the new application forms can make comments or suggest improvements to the Commission. If old versions of the application forms are received in the office, they will be processed.  
The Commission were pleased with the advertising campaign that was used prior to the launch of the new forms.
- Page 5, Item 10, Commissioner MacLennan wished to report that he has heard that two people have gone forward under the Tighean Innse Gall Scheme to do up two derelict croft houses, and this is very positive news.
- Page 5, Item 10, fourth paragraph, the Chief Executive agreed to discuss with Stewart Wilson of Tighean Innse Gall, the issue of croft land not having to be decrofted when doing up derelict croft houses.

## **5 E-MAILED PAPER FOR HOMOLOGATION**

### **(a) Best Value Arrangements**

The Chief Executive advised that no negative comments had been received by Commissioners about the e-mailed Paper. The Paper was approved.

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| <b>Decision</b> | <b>The Commission approved the e-mailed Paper on Best Value Arrangements.</b> |
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## 6 UPDATE FOLLOWING AUDIT & FINANCE COMMITTEE MEETING

(a) Commissioner Swann gave an update following the recent Audit & Finance Committee (AFC) Meeting on 29 April 2015.

- On the Action Points the AFC have agreed the development of the Anti-Fraud Policy which is going ahead with the Internal Auditors.
- Discussion took place at the AFC about Declarations of Interest and generic Registers of Interest, and how to deal with conflicts of interest with regard to regulatory work.
- There was concern about the Commission not originally having the systems in place to deal with the large sums of money that were received by the Commission on behalf of Registers of Scotland for applications to register crofts, but it was agreed that this problem has been resolved. It is hoped to streamline the process and be able to accept electronic transfers of money from applicants in the future.
- Audit Scotland have advised that they have no concerns about the Interim Audit.
- The Internal Auditors carry out reviews each year on specific areas of the Commission's activity and for 2016/2017 it was the original intention that they would look at Stakeholder Engagement. The AFC have recommended that a review be done on Governance and Risk Management instead, due to the fact that the current Commission is approaching the end of its life, and in terms of handing over to a new Commission it was felt this was much more important.
- Regarding the Risk Register, the AFC agreed that the Commission needs to work closely with the Scottish Government regarding succession, to try and reduce the risk to the organisation.
- Another area that was highlighted as a risk was a need to look at matters that are reserved for the Board and matters that are appropriate for sub-committees to deal with. The On-board Guidance makes it very clear that sub-committees have a duty to report fully to the Board and this must be made clear in the Commission's Standing Orders.  
The Chief Executive advised that Standing Orders were due to be discussed at the Board Meeting today but it was decided that they will now be discussed on 27 May at the Commissioner Training Day, to make sure that they are in line with the On-board Guidance. It is then hoped that a Paper will come to the Board Meeting in June.
- The AFC would like to encourage Commissioners to attend the AFC meetings as observers where time allows, purely to give them experience of the work and a familiarisation of the AFC.
- The Chief Executive advised that the Commission's Annual Report and Annual Accounts will be simplified this year, following advice from Audit Scotland.

Commissioner Sinclair entered the room at 09:55 hrs.

### (b) Risk Register

Discussion took place about the need to plan ahead for succession to the Board and also to think about succession to the Chief Executive post, if the need were ever to arise. Commissioners expressed concern about what would happen if the Chief Executive were to be off sick for a period of time.

The Chief Executive advised that all members of the Senior Management Team took turns to cover for her when she was out of the office, but there was no deputy as such.

Trudi Sharp, Deputy Director advised that this was a very good point to raise and she would think about this and discuss it in more detail with the Chief Executive. She advised that Sponsor Division were going to give more support to the Commission and the Chief Executive.

The Chief Executive advised that, following the Head of Finance Gordon MacDonald's early retirement, Jane Thomas, Head of Corporate & Customer Services has taken over from Gordon, and Neil Macdonald works under Jane.

Discussion took place about the problem of crofters not using their grazings shares and what could be done to improve this situation. It was felt that there would be a better awareness of the use of grazings shares once the information from the Census was analysed.

It might be possible to set up a Pilot with Highlands & Islands Enterprise to work with grazings committees on a local scale and the Commission agreed that if this was possible, they would like to move forward with this in the next few months. Commissioner Swann said that he will make sure this issue stays on the HIE radar.

HIE are already in discussions with the Chief Executive regarding where they would like to see development in crofting and once the information from the Census is known they will be able to move forward on this.

The Commission agreed to let HIE lead on this Pilot.

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| <b>Decision</b> | <b>The Commission agreed to let HIE lead on a possible Pilot to try and encourage more crofters to use their grazings shares.</b> |
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The Commission would like a member of staff to be appointed as a point of contact to liaise with HIE and the Chief Executive agreed to appoint someone and advise the Board who that person is.

The Vice-Convener thanked Commissioner Swann and the AFC for their work on the Committee.

## **7 SHORT TERM WORKING GROUP UPDATES**

**Duties Working Group** – Commissioner Campbell advised that the group met on 23 April 2015 where a broad discussion took place. The group agreed that there was a need to engage with crofters who had advised the Commission that they are in breach of their duties and write to the crofters who haven't returned their Census, advise them that they are in breach of their duties and that they will be put on a list to be investigated. No detail of timescale for that investigation will be given.

The Commission needs to prioritise who to investigate and a Paper will come to the June Board Meeting with details of the group's thoughts on this.

**Records Management STWG** – Commissioner MacLennan advised that he had not attended a Records Management STWG meeting recently but it will be discussed later in the agenda.

**Grazings Regulations STWG** – Commissioner Dennis advised that she had attended the Grazings Regulations STWG but it will be discussed later in the agenda.

## **8 UPDATE FOLLOWING COMPLAINTS COMMITTEE MEETING**

John Toal, Head of Policy declared an interest in items 5.4 and 7.1.

Vice-Convener Kennedy advised that he didn't think that anyone needed to declare an interest for this item as no decisions were being made. The minutes were purely for information but if a more detailed discussion were to take place, interest should be declared at that point.

Commissioner Macdonald gave an update on the Complaints & Investigations Committee Meeting that took place on 23 April 2015 to discuss the quarter 1 January 2015 to 31 March 2015.

He advised that all Stage 2 complaints had been investigated and resolved and there were currently no Stage 2 complaints outstanding.

SPSO guidance states that complaints figures must be published on the Commission's website within 28 days of the end of the quarter and this has already been done. The Board should also note that the 2014/2015 year-end figures for complaints have also been published on the Commission's website, as per SPSO guidance and they will also be included in the Commission's Annual Report.

Staff are regularly reminded about logging Frontline Complaints and training is provided for new staff.

All Investigating Officers are to be issued with an Investigation Plan which will include a summary of complaints received, the decisions taken and the identified learning outcomes, and by doing this it is hoped that all Investigating Officers will deal with complaints in the same way.

The Commission has to publish on a quarterly basis the complaints, the outcomes, the trends, actions taken, and use case studies and examples to demonstrate how complaints have helped to improve the service given by the Commission.

On lessons learned the Commission has to ensure that it has a structured handover for when staff leave their position within the Commission and new staff take over. The Commission needs to ensure better co-ordination in contacting particular third parties e.g. SGRPID, Assessors, Registers of Scotland etc and try to iron out the delays which are affecting applications being processed.

Application forms have been amended to advise customers that there may be a delay to applications being dealt with due to the applicant having to register their croft first. Hopefully this will reduce the number of complaints received.

A Paper will be prepared for the Board on how the Commission handles allegations of misappropriation of funds or allegations of fraud by a grazing committee.

Commissioner Macdonald, as Chairperson of the Complaints & Investigations Committee, felt that it would be more appropriate to have three Commissioners on the C&IC instead of two and the Commission agreed to this. Commissioner Campbell volunteered to be the third Commissioner along with Commissioner Macdonald and Vice-Convener Kennedy. The Committee's remit should be changed to reflect this change.

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| <b>Decision</b> | <p><b>The Commission agreed that there should be three Commissioners on the Complaints &amp; Investigations Committee instead of two and Commissioner Campbell volunteered to join the Committee.</b></p> <p><b>The Committee's remit should be changed to reflect this change.</b></p> |
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Vice-Convenor Kennedy wished to thank former Convenor Susan Walker and Ian Bryce for their valuable input to the Complaints & Investigations Committee.

## 9 POLICY PLAN

David Findlay, Commission Solicitor presented the Paper and advised that the Chief Executive had asked for the Policy Plan to be refreshed so that it focuses more on what the Commission has to do as opposed to what the Commission could do.

Where there were areas that were unclear or confusing, the language has been simplified and linked more closely to the legislation. These areas are identified by tracked changes.

Where there are parts that are contradictory, Mr Findlay feels these should be amended. Once the Policy Plan is stripped down, careful thought should be given to the development of new policies. The Act provides the Commission with a lot of discretion and it would be useful if the Policy Plan outlined how the Commission will use its discretion and clearly state what its Executive functions are.

Part 74 and paragraphs 95 and 96 were amended following the North Ballachulish decision.

After discussion the Board agreed that it was vitally important that the Policy Plan was aligned to legislation. Mr Findlay will continue to work on the Policy Plan and will provide a working draft for Commissioners as soon as possible. If Commissioners are in any doubt in the meantime they should focus on legislation and consult the Commission Solicitor if required.

Linda Gourlay, Crofting Regulatory Manager entered the room at 10:50 hrs.

The Commission asked for 'Report on State of Crofting' to be added to the Bibliography of the Policy Plan. The list of respondents to the draft Policy Plan in 2012 will be removed.

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| <b>Decision</b> | <p><b>The Commission agreed that the Policy Plan should be refreshed as explained by the Commission Solicitor and that a working draft should be provided to Commissioners as soon as possible.</b></p> <p><b>The Bibliography should have 'Report on State of Crofting' added, and the list of respondents to the draft Policy Plan in 2012 will be removed.</b></p> |
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## 10 GRAZINGS REGULATIONS

Linda Gourlay, Crofting Regulatory Manager presented the Paper which consists of a revision of the Grazings Regulations which was carried out by the Grazings Regulations STWG. It takes account of feedback received from respondents following consultation with key stakeholders.

The regulations have been reduced and the guidance has been increased.

There was concern expressed about the fact that grazing committees have to write out to all shareholders every time they want to hold a meeting and it was agreed that this point will be looked at by the Commission Solicitor.

After discussion the Commission agreed that the draft Grazings Regulations were still too complex and that the Commission Solicitor should review and refine them to keep them as simple as possible, taking into account the legislation and what the Commission can enforce.

The Commission would like 'fixed equipment' clarified. They would also like a thank you letter sent to Joyce Wilkinson, Assessor for the work she has put into the Grazings Regulations STWG.

Mr Findlay will start work on the Grazing Regulations immediately and will advise Commissioners when they are likely to come back to the Board for approval. He will e-mail an edited copy to Commissioners when it is ready.

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| <b>Decision</b> | <p><b>The Commission agreed that the draft Grazings Regulations were still too complex and that the Commission Solicitor should review and refine them to keep them as simple as possible, taking into account the legislation and what the Commission can enforce.</b></p> <p><b>The fact that grazing committees have to write out to all shareholders every time they want to hold a meeting will be looked at by the Commission Solicitor.</b></p> <p><b>'Fixed equipment' is to be clarified.</b></p> <p><b>A thank you letter is to be sent to Joyce Wilkinson, Assessor to thank her for her work on the Grazings Regulations STWG.</b></p> <p><b>The Commission Solicitor will advise Commissioners when the revised Grazings Regulations are likely to come back to the Board for approval and he will e-mail an edited copy to Commissioners when it is ready.</b></p> |
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## 11 REPORT ON CENSUS RETURNS

The Head of IS gave an update on the Census returns.

Out of 17,000 Census forms issued, just over 14,000 were returned which equates to 84%.

The percentage returns for each crofting area are as follows:

|               |     |
|---------------|-----|
| Argyll & Bute | 78% |
| Highland      | 84% |
| Western Isles | 85% |
| Orkney        | 78% |
| Shetland      | 87% |

The Commission thought this was an excellent return rate and would like this information released to the public through the media.

Discussion took place about whether the Census needed to be issued annually and stressed that it was important that crofters are told what will be done with the information that they provided in the Census.

Trudi Sharp, Deputy Director advised that she was sympathetic but the Commission was tied to the constraints of legislation which states that the Census must be issued annually. The Commission should look at what is practically possible. This will be discussed at a Sponsor Division meeting.

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| <b>Decision</b> | <b>The Commission would like the information regarding the excellent Census return rate released to the public through the media, along with information to crofters about what the Commission is going to do with the information provided by crofters in the Census.</b> |
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## 12 CORPORATE PLAN UPDATE

The Head of IS presented the Paper which presents an initial draft of the Corporate Priorities for 2015/2016 for consideration. It takes into account the Commission's current position on various pieces of work that were started in 2014/2015 and for the first time introduces some key outcome measures which will provide an indication of whether the Commission is working to meet its priorities which are Regulation, Evidence and Duties.

Discussion took place and Commissioners were also given handouts showing tables with baselines and targets, and a sample report which will show a breakdown for each measure and what has happened since the last report. These reports will be looked at by the Senior Management Team on a quarterly basis and will then come to the Board for information thereafter.

The Commission was very impressed with the new reports and it looks forward to receiving them in the future.

## 13 GAELIC LANGUAGE PLAN

Posy MacRae, Communications Manager presented the Paper which includes the updated Gaelic Language Plan for 2015-2020.

The current GLP expires in June 2015 and the targets have been updated to be more in line with the Corporate Plan and Communications Strategy.

To be able to achieve some of the targets, an application for Gaelic Language Implementation Funds has been made to Bòrd na Gàidhlig to help fund the communications side e.g. Gaelic leaflets, videos etc.

An application for funding has also been made to help with staff Gaelic training in conjunction with SNH.

Commissioner MacLennan wanted some amendments made to the Plan. On page 130 it should say 'The Crofters Commission developed a Gaelic Policy which was endorsed by its Board in **2009**' instead of '2002'.

Commissioner MacLennan asked that the Commission try to recruit Gaelic speakers where at all possible. The Chief Executive advised that the Commission is bound by Scottish Government rules on recruitment but that she would consider any available options.



The Commission agreed the Gaelic Language Plan for 2015-2020.

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| <b>Decision</b> | <b>The Commission agreed the Gaelic Language Plan for 2015-2020 with the following amendment:</b><br><br><b>On page 130 it should say ‘The Crofters Commission developed a Gaelic Policy which was endorsed by its Board in 2009’, instead of ‘2002’.</b> |
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#### **14 SHORT REPORT ON EVENTS ATTENDED BY COMMISSIONERS**

**Commissioner Campbell** – attended the Cross Party Group meeting in Edinburgh.

**Vice-Convener Kennedy** – attended vacant croft letting interviews in Sutherland.

**Commissioner Sinclair** – didn’t attend any meetings but was invited to attend a Local Leader Programme Meeting which was taking place today 13 May, so she couldn’t attend. The Commission asked if more information could be found out about this Programme and passed on to Commissioners for their information. The Chief Executive advised this will be done.

**Commissioner Dennis** – attended a Highland Land Use Strategy Meeting in Inverness and a Delivering Favourable Conditions meeting in Edinburgh.

#### **15 RECORDS MANAGEMENT**

Commissioner MacLennan presented the Paper which gives an update to the Board about the current Records Management Plan situation.

Everything is on track with regards to the Plan and there is online training on Records Management that all the Commissioners need to complete. The Head of IS will follow this up.

The Board needs to approve ‘A Retention of Records Plan’, which will set out clearly which records can be retained and which can be destroyed, at an early meeting.

The Chief Executive advised that in order to comply with legislation, this area of work will have resource implications for the Commission.

#### **16 DATE OF NEXT MEETING**

24 June 2015 – Great Glen House

## 17 ANY URGENT BUSINESS

- Vice-Convener Kennedy advised that Susan Walker, as Convener of the Crofting Commission, had been the Commission's spokesperson and he proposed that the Commission appoint the Chief Executive as the new spokesperson for the Commission, and Commissioner MacLennan as the Gaelic spokesperson. This was agreed.

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| <b>Decision</b> | <b>The Commission agreed that the Chief Executive should be appointed as the new spokesperson for the Commission, and that Commissioner MacLennan will be the Gaelic spokesperson.</b> |
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- The Commission agreed that the Board should write to the former Convener, Susan Walker to thank her for her contribution to the Commission.
- The Commission agreed that the Board should write to Gordon MacDonald and Arthur MacDonald, previous members of staff who recently took early retirement, to thank them for their work with the Commission.

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| <b>Decision</b> | <b>The Commission agreed that letters of thanks should be sent to Susan Walker, Gordon MacDonald and Arthur MacDonald and the Chief Executive will arrange for those letters to be prepared.</b> |
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## 18 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 12:50 hrs.

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 24 JUNE 2015

|          |                   |   |
|----------|-------------------|---|
| Present: | Colin Kennedy     | Vice-Convener                                       |
|          | IG Macdonald      | Commissioner  |
|          | David Campbell    | Commissioner  |
|          | Kathleen Sinclair | Commissioner  |
|          | Marina Dennis     | Commissioner  |
|          | Arnie Pirie       | Commissioner  |
|          | Murdo MacLennan   | Commissioner  |
|          |                   |   |
|          | Catriona Maclean  | Chief Executive                                     |
|          | Trudi Sharp       | Deputy Director, Scottish Government                |
|          | Lucy Carmichael   | Senior Crofting Policy Advisor, Scottish Government |
|          | John Toal         | Head of Policy                                      |
|          | Joseph Kerr       | Head of Regulation                                  |
|          | Jane Thomas       | Head of Corporate & Customer Services               |
|          | David Findlay     | Commission Solicitor                                |
|          | Posy MacRae       | Communications Manager                              |
|          | Morag Menzies     | PA to Convener, Minute-taker                        |
|          | Kerr Gibb         | BBC Alba  |

### 1 APOLOGIES AND WELCOME

Apologies were received as follows:

William Swann, Commissioner  
Donna Smith, Head of Information Systems

Vice-Convener Kennedy chaired the meeting and welcomed everyone, especially Trudi Sharp and Lucy Carmichael from the Scottish Government.

### 2 DECLARATION OF INTERESTS

None

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 13 MAY 2015

The Minute of the Meeting of 13 May 2015 was approved subject to the following amendment:

| Page | Item | Paragraph | Amended/Additional text should read                    |
|------|------|-----------|--|
| 8    | 13   | 1         | Amend 'Paper with includes' to 'Paper which includes'. |

**4 MATTERS ARISING FROM PREVIOUS MEETING**

The Action Points from the previous meeting on 13 May 2015 were reviewed:

- Page 4, Item 6, the Chief Executive advised that Jacqueline MacBean, the new Duties Team Manager, will act as the point of contact between the Commission and Highlands & Islands Enterprise.

**5 E-MAILED PAPER FOR APPROVAL**

**(a) Appeals to Scottish Land Court – Operational Matters**

The Commission welcomed the clarity and content of the Paper, which sets out the roles and functions relating to Land Court appeals that require an instruction from the Board and those matters that are operational and can be dealt with by staff.

The Commission approved the Paper.

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| <b>Decision</b> | <b>The Commission approved the Paper.</b> |
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**6 SHORT TERM WORKING GROUP UPDATES**

There were no updates to report.

**7 REVISED STANDING ORDERS AND STRUCTURE OF COMMISSION MEETINGS**

The Head of Policy presented the Paper, which provides a revised version of the Commission Standing Orders and explained the parts that have been removed or amended.

Under ‘Commission Committees’ on page 20, the Commission want the word ‘generally’ removed from paragraph 19.2.

Under paragraph 16.5 the Commission want the wording amended to say ‘mover or seconder’ instead of ‘mover and seconder’ and a full stop should be added to the end of the sentence.

The Commission approved the Paper.

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| <b>Decision</b> | <p><b>The Commission approved the Paper subject to the following amendments:</b></p> <p><b>Under ‘Commission Committees’ on page 20, the Commission want the word ‘generally’ removed from paragraph 19.2.</b></p> <p><b>Under paragraph 16.5 the Commission want the wording amended to say ‘mover or seconder’ instead of ‘mover and seconder’ and a full stop should be added to the end of the sentence.</b></p> |
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**8 IMPACT OF CENSUS RESULTS ON DUTIES/INVESTIGATING BREACHES**

The Head of Policy presented the Paper, which provides indicators from the annual census returns in relation to crofting duties. It recommends a methodology for prioritising subsequent investigations and areas it might consider working in partnership with HIE and others. It also recognises the role of landlords and in particular considers that the Scottish Ministers’ crofting estates could provide a lead.

Following the return of the Census there are almost 5000 crofters that need to be investigated to ensure compliance with their duties.

A Working Group looked at this issue and agreed that if the Commission was advised of non-compliance of duties, they had a duty to investigate.

The Commission must prioritise areas it is going to investigate and do that in a collaborative way, possibly in conjunction with HIE under their Community Account Management Programme, and have discussed working with Scottish Ministers’ Estates.

If the Commission took this approach it would not just investigate breaches of duties but all regulation including compliance through sublet, assignation and letting, and also look into unresolved succession and vacant crofts.

The Commission approved this suggested way forward and agreed that the Chief Executive will write to the Minister to ensure that she is content with this approach.

The Commission agreed that all crofters who are in breach of their duties should be written to and the Chief Executive advised that letters are going to be issued to them soon.

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| <b>Decision</b> | <p><b>The Commission approved the Paper and the suggestion to work in conjunction with HIE under their Community Account Management Programme, and also to begin working with Scottish Ministers Estates after hearing back from the Minister.</b></p> <p><b>The Chief Executive will write to the Minister to seek her approval and staff will write to all the crofters who are in breach of their duties, to advise them that they will be investigated in due course.</b></p> |
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**9 ROLE OF ASSESSORS – STAGE ONE**

The Head of Policy presented the Paper, which provides for the first phase of a revised structure for the Commission’s panel of Assessors.

Under this new structure, Assessors will no longer be asked for advice on regulatory matters and applications. They would instead be asked for advice on other elements as follows:

- Promoting common grazing regulations/setting up grazing committees
- Promoting the completion and return of crofting census forms
- Assisting people with applications
- Mentoring new crofters/practical skills for crofters.

Commissioners discussed the proposed new responsibilities for Assessors on page 28 and agreed that at bullet point 3, the word 'promoting' should be replaced with 'encouraging' and at bullet point 5, the word 'advising' should be replaced with 'informing'.

The Commission agreed that it was important to give Assessors training for their revised roles and to keep them informed about the proposed changes.

The Commission approved the Paper. A Paper will come to the Board at a later date to discuss the future selection of the Assessors Panel.

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| <b>Decision</b> | <b>The Commission approved the Paper subject to the word changes at bullet points 3 and 5.</b><br><b>The Commission advised that it was important to give Assessors training for their revised roles and to keep them informed about the proposed changes.</b><br><b>A Paper will come to the Board at a later date to discuss the future selection of the Assessors Panel.</b> |
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## 10 REVISED POLICY PLAN

The Commission Solicitor presented the Paper, which details the changes to the Policy Plan that were agreed with Commissioners at the Policy Planning Day on 2 June 2015.

There is to be a consultation next week where Decrofting Policy will be looked at.

Discussion took place about Division and what happens to a share if a croft is divided. If an applicant applies to divide a croft and doesn't mention the share on the application form, the Commission must write out and clarify what they want to do with the share. The application is not competent until that information is received. This should be added to the Policy Plan.

Advice from Senior Counsel has already been received on this matter.

The wording of the fourth bullet point under Division should be amended to say 'of the use of any associated share(s) in a common grazing'.

Discussion took place about Sustainability. The Commission recognises that it has limited powers to deliver sustainable development.

The Commission discussed Apportionment and agreed that at bullet point 2, the words 'though it will not necessarily agree with these' should be removed.

Under bullet point 4, the Commission agreed to take out the first sentence and replace it with 'In the absence of any comments in response to the public advertisement, the Commission will assume it will have no adverse impact on crofters.'

The Commission approved the Paper, subject to the above mentioned changes.

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| <b>Decision</b> | <p><b>The Commission approved the Paper, subject to the following changes to the Policy Plan:</b></p> <p><b>If an applicant applies to divide a croft and doesn't mention the share on the application form, the Commission must write out and clarify what they want to do with the share. The application is not competent until that information is received. This should be added to the Policy Plan.</b></p> <p><b>The wording of the fourth bullet point under Division should be amended to say 'of the use of any associated share(s) in a common grazing'.</b></p> <p><b>The Commission agreed that at bullet point 2, the words 'though it will not necessarily agree with these' should be removed.</b></p> <p><b>Under bullet point 4, the Commission agreed to take out the first sentence and replace it with 'In the absence of any comments in response to the public advertisement, the Commission will assume it will have no adverse impact on crofters.'</b></p> |
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## 11 SHORT REPORT ON EVENTS ATTENDED BY COMMISSIONERS

**Commissioner Campbell** – attended the Duties STWG, the Cross Party Group meeting in Edinburgh and the Royal Highland Show.

Commissioner Campbell felt the Commission should have a presence at each of the local shows throughout the summer.

**Commissioner Macdonald** – attended the Duties STWG and a Registers of Scotland meeting in Broadford.

**Commissioner MacLennan** – attended the Duties STWG and made various regulatory visits.

**Commissioner Dennis** – hosted a visit through Crofting Connections of a group of farmers from Kenya. They spent six hours on her croft and it was a very interesting visit. She took part in a teleconference to discuss Devolved Decision Making and attended a Hearing in Strachur.

**Commissioner Sinclair** – attended a Hearing in Strachur and a Registers of Scotland Meeting in Lerwick.

**Commissioner Pirie** – did not attend any meetings.

**Vice-Convener Kennedy** – attended a Hearing in Strachur and a teleconference on Devolved Decision Making.

## 12 DATE OF NEXT MEETING

5 August 2015 – Great Glen House

**13 ANY URGENT BUSINESS**

None

**14 EXCLUSION OF THE PRESS AND PUBLIC**

Vice-Convenor Kennedy thanked everyone for attending the meeting and especially thanked the staff for producing such excellent Papers for today's Board Meeting.

The meeting ended at 11:46 hrs.



# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 5 AUGUST 2015

|          |                   |   |
|----------|-------------------|---|
| Present: | Colin Kennedy     | Convener  |
|          | IG Macdonald      | Vice-Convener                                       |
|          | Kathleen Sinclair | Commissioner  |
|          | Marina Dennis     | Commissioner  |
|          | David Campbell    | Commissioner  |
|          | Arnie Pirie       | Commissioner  |
|          | William Swann     | Commissioner  |
|          | Murdo MacLennan   | Commissioner (from 09:45am)                         |
|          | Catriona Maclean  | Chief Executive                                     |
|          | Lucy Carmichael   | Senior Crofting Policy Advisor, Scottish Government |
|          | Jane Thomas       | Head of Corporate & Customer Services               |
|          | Donna Smith       | Head of Information Systems                         |
|          | David Findlay     | Commission Solicitor                                |
|          | Joseph Kerr       | Head of Regulation                                  |
|          | John Toal         | Head of Policy                                      |
|          | Asif Haseeb       | Audit Scotland                                      |
|          | Neil Macdonald    | Finance Manager                                     |
|          | Posy MacRae       | Communications Manager                              |
|          | Morag Menzies     | PA to Convener, Minute-taker                        |

### 1 APOLOGIES AND WELCOME

There were no apologies.

On behalf of the other Commissioners, Commissioner Dennis wished to congratulate the new team at the top, Convener Colin Kennedy and Vice-Convener IG Macdonald, on their appointments. Commissioners are looking forward to working with them.

The Convener thanked Commissioner Dennis for her kind words and the Commissioners who voted for them. He feels the Board is working well together and he hopes that will continue.

The Vice-Convener said that he felt yesterday's Policy Meeting had gone very well and the evening meeting had been a very good opportunity to discuss various issues together in a more informal way.

The Convener welcomed everyone to the meeting, especially Lucy Carmichael from Scottish Government and Asif Haseeb from Audit Scotland.

### 2 DECLARATION OF INTERESTS

None.

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 24 JUNE 2015

The Minute of the Meeting of 24 June 2015 was approved.

#### 4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 24 June 2015 were reviewed:

- Item 8, sixth bullet point, the Chief Executive advised that she has been in discussions with Sponsor Division about prioritising information received from the Census and Duties work, and she will write to the Minister on behalf of the Board, seeking approval for the approach that the Commission is going to be taking in terms of prioritising that work.

Lucy Carmichael advised that the Minister looks forward to receiving the Commission's consideration of how best to prioritise the Census work, and they look forward to receiving updates in due course.

- Item 8, seventh bullet point, the letters to crofters in breach of their duties will be issued in the last week of August 2015 - 300 crofters have been written to already.
- Item 9, letters have been sent to Assessors, RPID offices and staff, advising them of the changes to the Assessor's role, and the only negative comment received was from the Scottish Crofting Federation, who did not understand the reasoning for the change. That has now been explained to them and an Assessor's Newsletter will go out soon which will clearly explain the reason for the changes in the role, and why the changes were agreed, which was following the Assessors Conference in 2014.
- Item 14, third paragraph, in the 37 North Ballachulish appeal case, the Commission have written to all parties. The people who expressed demand have come back and said they are still interested, and a report is awaited from RPID. The Commission's Solicitor has written to the applicant's agent, MacPhee & Partners and they have said they are awaiting instruction from their clients.

#### 5 ADVANCED PAPERS FOR APPROVAL

##### (a) Grazing Constable

The Head of Policy presented the Paper and explained that the Paper had been seen at the last Policy in Development Meeting on 24 June 2015, and then had been e-mailed to Commissioners for comments. No negative comments had been received.

The Commission approved the Paper.

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| <b>Decision</b> | <b>The Commission approved the Paper.</b> |
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##### (b) Outcomes from Policy Meeting on 4 August 2015

##### Decrofting Policy

Commission Solicitor, David Findlay presented the Paper, which consists of:

- A Paper analysing decrofting applications in relation to policy and the law, with particular emphasis upon the issue of 'reasonable purpose' and some of the issues that have arisen in the Eunson cases
- An annotated copy of the relevant section from the existing Policy Plan, with tracked changes showing suggested deletions and additions
- A clean copy of the amended Policy Plan for ease of reading only.

Following discussion, Commissioners agreed that they would like training on the definition of 'Natural Justice'.

In exercising their functions under Section 2 of the Act, the Commission must have regard to the impact of changes to the overall area of land held in crofting tenure and the sustainability of crofting, when deciding decrofting applications.

The Commission agreed that when a decrofting application is received for a Reasonable Purpose, the following criteria should be considered first:

- Purpose
- Extent asked for
- Location of the development
- Access to the remainder of the unit
- The views of the Estate if appropriate
- Any necessary statutory consents
- Any objections received.

The Commission agreed that when a decrofting application is received for a Non-Reasonable Purpose, the following criteria should be considered first:

- Desirability of overall area of land held in crofting
- Desirability of supporting population retention in the crofting counties
- Demand for croft land in the area
- General interest of crofting community (two or more crofts).

The Commission agreed that the applicant has to demonstrate that approving a non-reasonable decrofting application will not be detrimental to the overall area of land held in crofting tenure, and will have to demonstrate that there is not a crofting community. If there is a crofting community, the applicant will have to prove it will not be detrimental to the interests of that crofting community for the decrofting application to be approved. The applicant will have to answer any objections that are raised during the process to the satisfaction of the Commission.

Discussion took place about 'Demand' and the Chief Executive advised that Posy MacRae, Communications Manager is developing a campaign on 'Demand' and has been liaising with the SCF and the Woodland Trust to see if the Commission could get access to their list of demand.

The Chief Executive advised that she is happy to open discussions with HIE regarding having one place where people interested in obtaining a croft can register their interest.

Discussion took place about the word 'District' and the Commission agreed that generally the district will be the area covered by the Area Assessor, but this will be looked into and brought back to a future Board Meeting.

At point 69 of the Paper, the bullet points will be re-ordered 4, 2, 3 and 1, to be in line with the paragraph below at point 70.

The Commission approved all Mr Findlay's suggestions and track changes, subject to the points raised above.

The Commission wished to thank Mr Findlay for an excellent Paper.

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| <b>Decision</b> | <p><b>The Commission approved the Paper and wanted the following added:</b></p> <p><b>The Commission agreed that when a decrofting application is received for a Reasonable Purpose, the following criteria should be considered first:</b></p> <ul style="list-style-type: none"><li>• <b>Purpose</b></li><li>• <b>Extent asked for</b></li><li>• <b>Location of the development</b></li><li>• <b>Access to the remainder of the unit</b></li><li>• <b>The views of the Estate if appropriate</b></li><li>• <b>Any necessary statutory consents</b></li><li>• <b>Any objections received</b></li></ul> <p><b>The Commission agreed that when a decrofting application is received for a Non-Reasonable Purpose, the following criteria should be considered first:</b></p> <ul style="list-style-type: none"><li>• <b>Desirability of overall area of land held in crofting</b></li><li>• <b>Desirability of supporting population retention in the crofting counties</b></li><li>• <b>Demand for croft land in the area</b></li><li>• <b>General interest of crofting community (two or more crofts)</b></li></ul> <p><b>The applicant has to demonstrate that approving a non-reasonable decrofting application will not be detrimental to the overall area of land held in crofting tenure and will have to demonstrate that there is not a crofting community, or if there is a crofting community that it will not be detrimental to the interests of that crofting community, for the decrofting application to be approved. They will also have to answer any objections that are raised during the process, to the satisfaction of the Commission.</b></p> <p><b>Commissioners would like training on the definition of ‘Natural Justice’.</b></p> <p><b>The words ‘Demand’ and ‘District’ will be investigated and brought back to a future Board Meeting.</b></p> |
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### **Resumption Policy**

The Commission Solicitor David Findlay presented the Paper and explained that in the 2007 Act the Commission was given the right to object to Resumption applications.

The Commission advised that they would like policy on Amenity Land produced and added to decrofting Policy, and that the Amenity Land should not exceed 0.15 ha. This will be worked on and brought to a future Board Meeting.

After discussion the Commission agreed that the Policy for Resumption will be to respond to Resumption applications where the total area, including the former decrofted or resumed area, is going to extend to more than 0.15 ha. Where that would not normally be decrofted the Commission will respond, but will use its discretion to decide whether or not it is appropriate to make a response with regard to any particular application, as there may be cases where it is not a good idea for the Commission to lodge a response.

### **Scheme for Development**

The Commission agreed to leave the Scheme for Development Policy at the moment as the Commission receives so few applications, but if an application is received, it should consider if the purpose is a reasonable one and if the development is fair or unfair.

The Commission would like the fourth bullet point at the top of the second page of the Paper to be re-worded.

It was agreed in principle that notifications of Resumption applications from the Land Court would be passed to the Regulatory Team initially, as they have more resources, but the Commission Solicitor and the Head of Regulation would discuss and confirm arrangements.

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| <b>Decision</b> | <p><b>The Commission would like a Policy developed on Amenity Land and added to decrofting Policy, and this will come to a future Board Meeting.</b></p> <p><b>The Commission agreed that the Policy for Resumption will be to respond to Resumption applications where the total area, including the former decrofted or resumed area, is going to extend to more than 0.15 ha. Where that would not normally be decrofted the Commission will respond, but will use its discretion to decide whether or not it is appropriate to make a response with regard to any particular application, as there may be cases where it is not a good idea for the Commission to lodge a response.</b></p> <p><b>The Commission agreed to leave the Scheme for Development Policy at the moment as the Commission receives so few applications, but if an application is received, to consider if the purpose is a reasonable one and if the development is fair or unfair.</b></p> <p><b>The Commission would like the fourth bullet point at the top of the second page of the Paper to be re-worded.</b></p> |
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## **WOODLAND CROFTS AND CROFTER FORESTRY POLICY**

### **Woodland Croft**

The Head of Policy presented the Paper, which is provided for the purpose of considering Commission Policy in relation to woodland on croft land in terms of land use and, particularly, in relation to a crofter's duty to be ordinarily resident on, or within, 32 kilometres of their croft.

The Commission agreed that there should be no exception to a crofter having a duty to be resident on their croft, even if the croft is all trees, but applicants can apply for consent to be absent, which will be assessed on its merits.

The Commission discussed what would constitute an appropriate standard for Woodland Crofts and considered that the same phrase as used in the Act for conservation measures should be employed; that is “in a planned and managed manner”. The Commission wish to have this phrase defined. They would also like ‘Regeneration’ mentioned in the third paragraph of page one of the Paper, and linked in with ‘planned and managed manner’.

The Commission would then like the next Census form to have questions about woodland crofts added.

The Chief Executive advised that a group will get together to talk about this issue, with advice from Commissioners and possibly other bodies e.g. SCS.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <p><b>The Commission agreed that there should be no exception to a crofter having a duty to be resident on their croft, even if the croft is all trees, but applicants can apply for consent to be absent, which will be assessed on its merits.</b></p> <p><b>The Commission discussed what would constitute an appropriate standard for woodland crofts and considered that the same phrase as used in the Act for conservation measures should be employed; that is “in a planned and managed manner”. The Commission wish to have this phrase defined. They would also like ‘Regeneration’ mentioned in the third paragraph of page one of the Paper, and linked in with ‘planned and managed manner’.</b></p> <p><b>The Commission would then like the next Census form to have questions about Woodland Crofts added.</b></p> |
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### **Croft Woodland in the context of National Policy**

The Head of Policy explained that the second part of the Paper was looking at Woodland Crofts in terms of the National context. The government is pushing for more woodland generally.

After discussion, the Commission approved the Paper and agreed that in order to try and promote woodland crofts, and the use of Section 50A, the Chief Executive will share the Paper with the Chief Executive of the Forestry Commission and say that the Commission is very supportive of the National Targets and could promote the scheme through the Assessor Network and possibly RPID.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <p><b>The Commission approved the Paper and agreed that in order to try and promote woodland crofts, and the use of Section 50A, the Chief Executive will share the Paper with the Chief Executive of the Forestry Commission and say that the Commission is very supportive of the National Targets and could promote the scheme through the Assessor Network and possibly RPID.</b></p> |
|-----------------|---|

## **COMMISSIONER ELECTIONS**

The Chief Executive asked Commissioners if there were any areas, from their own experience following the last Commissioner elections in 2012, that they would like to see changed or improved.

Commissioners agreed that the main geographical areas were uneven and had to be changed, so that each Commissioner had an equal level of responsibility.

Prospective applicants need to know exactly what they are applying for, so clear guidelines of the job description are required.

It would be useful if prospective applicants were told the number of crofts in each geographical area, and the amount of regulatory activity in each area.

Training needs to begin before the elections.

Computer literacy is very important and needs to be a vital requirement.

Discussion took place about multiple owners of a croft and only one being allowed to vote. The Head of IS clarified that it is only crofters or owner-occupier crofters that can vote, or a crofter can nominate someone to vote in his/her place. Landlords of vacant crofts cannot vote.

The Head of Corporate & Customer Services advised that there would be an expectation to promote diversity amongst potential applicants.

The Chief Executive advised that she thought it would be useful for some young people interested in crofting to be mentored by current Commissioners, to give them an idea about what is involved in being a Commissioner, in case they were interested in applying in the future, and Commissioner Dennis and Commissioner MacLennan will be starting this very soon.

## **6 SHORT TERM WORKING GROUP UPDATES**

There have been no meetings of any STWGs since the last Board Meeting.

The Head of IS advised that the Grazing Census STWG will need to meet soon, with Commissioner Dennis and the Vice-Convener, and she will arrange this as soon as possible.

## **7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED**

Vice-Convener – Attended a joint Registers of Scotland Community Mapping and John Muir Trust Meeting, met with SAC in Portree and the RPID office in Portree, made a Blog on Succession which is on the Commission website, will be on a crofting panel at the Belladrum Music Festival on 7 August, will be attending the Skye Show on 8 August, and the Lairg lamb sale.

Commissioner Swann – Attended a HIE meeting, will be attending a Balmacara Estate and National Trust crofting meeting on 27 August, and will be giving a talk to the European College on animal welfare associated with small scale agriculture.

Commissioner MacLennan – Met with the TIG Housing Manager, will be attending a local Community Development Meeting in Point, and will be attending the lamb sales later in August.

Commissioner Dennis – Attended a Registers of Scotland Meeting in Boat of Garten, attended a Hearing in Diabeg, will be attending the Grantown Show next week and has been asked to be a tutor at a Scottish Crofting Federation Crofters Course in Inverness.

Commissioner Pirie – Has not attended any meetings but hopes to attend two local shows in Orkney in August.

Commissioner Sinclair – Has not attended any meetings but will be attending a meeting with the Minister, Dr Aileen McLeod and Tavish Scott MSP in Shetland on 10 August, and will be attending the local show in Shetland on 12 August.

Commissioner Campbell – Attended and helped at the Scottish Land and Estate stand at the Game Fair in Perth, will be doing the same at the Black Isle Show on 6 August and the Moy Game Fair on 7 and 8 August. Attended a Hearing at Diabeg, attended the Complaints & Investigations Committee Meeting on 15 July, attended the Caithness Show and a Workshop Meeting between the Helmsdale crofting community and the Sutherland Estates. Attended the Sutherland Show, the Audit & Finance Committee Meeting and attended a Registers of Scotland Meeting in Inverness. Will possibly be attending a meeting with the Cabinet Secretary in Ullapool on 11 August and will attend the Lairg and Dingwall lamb sales next week.

Convener – Was umpire at the Tiree Show, attended the Complaints & Investigations Committee Meeting by teleconference on 15 July, hopes to attend the Black Isle Show on 6 August and will attend the Strontian Show, Lochaber Show, Dalmally Show, Appin Show and will attend the lamb sales.

The Commission agreed that a huge amount of work is being done by Commissioners in the background and it is good to highlight this.

## **8 ANNUAL REPORT**

Commissioner Swann, as Chairperson of the Audit & Finance Committee advised that from a Governance point of view, the Commission is in the strongest position it has been in since 2012, due to the fact that the Commission is an elected body, dealing with matters that involve those people who elected the body, with representation from landlord's interest, and the fact that the Commission now has good legal advice and good structures in place. There is still work to be done but overall the Commission is in a very good place.

Commissioner Swann endorsed Commissioner Dennis' comments at the start of the meeting and said that he thinks it is appropriate that an elected body should elect its own Convener and Vice-Convener.

Audit Scotland have given the Commission a clean bill of health with regards to their accounts and Commissioners wished to thank Neil Macdonald, Finance Manager for all the work he and his team have put into preparing the Annual Accounts for this year.

Asif Haseeb from Audit Scotland advised that he thought it was very important that the Annual Report was being discussed at the highest level and demonstrates good governance and practice. Overall the Annual Report was a balanced report with some recommendations, but Audit Scotland are very happy with the governance, accountability and performance issues and are relieved that the recent issues with the Commission have been resolved.



Mr Haseeb said it is now for the Board to recommend the Annual Report to its Accountable Officer, the Chief Executive, to certify the document and then the external Auditors will sign it off. It will then be laid before Parliament in week commencing 7 September 2015. It is only following this that the Annual Report becomes a public document along with the Auditor's Report.

The Convener recommended that the Chief Executive should formally sign the Annual Report and the Commission agreed.

Commissioner MacLennan entered the room at 09:45 hrs.

The Chief Executive formally signed the Annual Report.

The Commission thanked Mr Haseeb for all his help throughout the year and Commissioner Swann wanted to record how much he has appreciated his support over the last few months.

Asif Haseeb and Neil Macdonald left the room at 09:50 hrs.

The Convener wished to thank all the members of the Audit & Finance Committee, Neil Macdonald, Finance Manager and his team for all their work in drawing up the Annual Report.

## **9 AUDIT & FINANCE COMMITTEE REPORT**

### **(a) Update from Commissioner Swann**

Commissioner Swann began by highlighting the overview of work to be carried out by the Audit & Finance Committee in the coming year in the Annual Report on the AFC Paper.

The Anti-Fraud Policy will be going online in the near future and with that, guidance on conflict of interest of both Commissioners and staff. This is an Auditable Policy, along with Stakeholder Engagement Policy and Best Value Policy, and these will be the last major pieces of work for the current AFC.

The AFC will keep an eye on any risks involved with Regulatory Decision Delegation.

A regular report will come to the Board about Corporate Performance and a proper set of guidance notes will be produced for Commissioner equipment e.g. mobile phones, computers etc.

The Commission pointed out that it is very important for Commissioners to keep their Records of Interest up-to-date and to notify the Head of Policy if there are any changes to it, to prevent any conflict of interest.

The Chief Executive advised that a more structured method of holding that information needs to be devised, and this will be discussed by the Management Team.

### **(b) Draft Minutes from AFC Meeting on 27 July 2015**

Commissioner Swann advised that the Commission had been given a clean bill of health by the Auditors.

### **(c) Risk Register**

Commissioner Swann said that the biggest discussion at the AFC Meeting was about the balance of the Census returns and the processing of all the information received, and this has been added to the Risk Register as a high risk at number 040.

The Head of Corporate & Customer Services explained the Risk Register to Commissioners and advised that it has been changed this year to bring it more in line with priorities and the Corporate Plan objectives. Everything in green text is either new or amended, and everything in red text is closed and replaced with updated risks.

The Commission Solicitor pointed out that legal costs are an ongoing risk for the Commission and that the reputational risk of litigation should be a risk factor that the Commission should be aware of.

Commissioner Swann advised that he feels that risks are being managed adequately by staff, except for risk number 040.

The 10-year residency obligation cannot be dealt with as the Commission does not have the staff resources. The Chief Executive advised that she had had feedback from the Minister to say that as long as the Commission continues with cases that are open and brings them to a conclusion, then the Minister is happy for us to take our new approach and not be tied to the 10 year obligation. The Risk Register will be updated to show this.

The Chief Executive advised that the biggest risk to the organisation at the moment was the new computer system, and that is being managed very closely.

### **(d) Performance Measurement Report**

Commissioner Swann advised that the AFC had been re-assured by the Chief Executive that the production of the Performance Measurement Report was a straightforward system to implement and would not impact negatively on staff time. Commissioners will now have access to all the information that they should expect to receive regarding performance issues.

The Head of IS explained the Performance Measurement Report to Commissioners. The first two pages give a summary of priorities, milestones and measures. Each one is marked red, amber or green with red being the highest risk.

The Commission asked that they be advised at each Board Meeting of any risks marked red, and the Chief Executive agreed.

The Chief Executive advised that the Performance Measurement Report will be brought to each AFC Meeting and then to the following Board Meeting, and it would only come to the Board in between times if there was something significant that Commissioners needed to be aware of.

The information in the report will be passed to Sponsor Division quarterly.

The Senior Management Team will be looking at it on a monthly basis and the report can be revised if required.

The Commission approved all the Papers and the Chief Executive thanked the Head of IS for producing the Performance Measurement Report.

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| <b>Decision</b> | <b>The Commission approved the Papers and asked to be advised of any red risks in the Performance Measurement Report at each Board Meeting.</b> |
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## 10 COMPLAINTS & INVESTIGATIONS COMMITTEE UPDATE

- (a) Update from the Vice-Convenor and
- (b) Draft Minutes from 15 July 2015

The Vice-Convenor advised that Schedule 1 section 13 of the Act says that the Convenor must Chair all meetings if he is present. As the Convenor was not physically present at the meeting he had to nominate someone else to Chair the meeting on his behalf, and he nominated the Vice-Convenor.

The Vice-Convenor went through the draft Minutes from the meeting and explained the Record of Complaints received for the period 1 April 2015 to 30 June 2015.

Concerns were expressed at the C&ICM about RPID reports being received late, which impacted on applications.

Committee members were satisfied that staff training on complaints was up-to-date and complaints were being logged correctly.

Discussion took place about an anonymous complaint and lessons learned for staff. The Commission is responsible for all information it is given and training will be given to staff and RPID staff in Great Glen House soon.

The next meeting of the Complaints & Investigations Committee will take place on 14 October 2015.

The Convenor thanked the Head of Corporate & Customer Services and everyone else on the Committee for their work.

## 11 STRUCTURE FOR DELEGATION

The Head of Regulation presented the Paper and explained that Commissioners had seen the Paper at the last Board Meeting and the only part that had been changed was the rolling out programme. The proposals at Part 2.1 on page 45 of the Paper will come in right away, once the new computer system CIS is implemented, which is hopefully going to be on 1 November 2015.

Following that, the other functions identified at 2.2 on page 46 of the Paper will be rolled out.

A meeting took place with officials, the Head of Regulatory and the Commission Solicitor recently to discuss Subletting, Short Term Let and Commission Consent for Absence. A meeting with the Delegated Decision Making STWG will take place in the next two weeks. Following that, a Paper will come to the next Board Meeting.

The Commission approved the Paper.

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| <b>Decision</b> | <b>The Commission approved the Paper.</b> |
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The Chief Executive advised that once the Delegated Decision Making starts, 55% of casework will be delegated to staff.

Discussion took place about what will happen when new Commissioners come in in 2017 and how will they be introduced to the ordinary work of the Board. The Chief Executive advised that a Training Plan will be put together for them.

The Commission would like to be kept aware of how the delegated process is going, once it starts, and they would like to look at some cases and see how decisions have been made by staff. They would like to request that a Paper comes to the Board, setting out how the Audit Process and Compliance will take place.

The Chief Executive agreed.

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| <b>Decision</b> | <b>The Commission requested that a Paper be brought to the Board, setting out how the Audit Process and Compliance for Delegated Decision making will take place.</b> |
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## **12 CONFIRM GRAZING REGULATIONS, GUIDANCE & OTHER MATTERS RELATING TO GRAZING COMMITTEES**

The Commission Solicitor presented the Paper, which the Commissioners saw at the last Board Meeting. Some changes have been made to it, including an amendment to the definition of Fixed Equipment.

The Grazing Regulations will no longer mention anything about Financial Management, but the Guidance will offer advice about financial matters. The Guidance will be e-mailed out to Commissioners and then come to the next Board for approval. The Commission agreed that the Guidance should state that Grazing Committees would be well advised to adopt a system for financial accountability.

Discussion took place about what to do if the Commission is notified about possible financial irregularities within a grazing committee and the Board agreed that it was not a matter for the Commission.

The Commission agreed that the wording at 3.4 on page 56 of the Paper should be changed to say 'The Commission will not, at its own hand, undertake any formal investigation into alleged financial impropriety. This is potentially a civil and/or criminal matter and should be dealt with by the relevant authorities.'

Once the Guidance is approved by Commissioners, it will be sent out to all Grazing Committees and displayed on the Commission website.

The Commission Solicitor advised that e-mail communication to notify shareholders about meetings would be added to the Guidance.

The Commission Solicitor advised that there should be a public advertisement in a newspaper to advertise a meeting to appoint a new Grazing Committee and after discussion the Commission agreed. This new information will need to be publicised to Grazing Committees and put on the Commission website.

The Chief Executive advised that a Paper will come to the next Board Meeting to look at advertising in newspapers and local newspapers, and the implementation of this change will not take place until the Paper is approved.

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| <b>Decision</b> | <p><b>The Commission approved the Paper and agreed that once the Guidance has been revised, it will be e-mailed to Commissioners for information and comments, and then come to the next Board Meeting for approval. The Guidance should recommend that Grazing Committees would be well advised to adopt a system for financial accountability.</b></p> <p><b>The Commission agreed that allegations of financial irregularity within Grazing Committees was not a matter for the Commission.</b></p> <p><b>The Commission agreed that the wording at 3.4 on page 56 of the Paper should be changed to say ‘The Commission will not, at its own hand, undertake any formal investigation into alleged financial impropriety. This is potentially a civil and/or criminal matter and should be dealt with by the relevant authorities.’</b></p> <p><b>The Commission agreed that there should be a public advertisement in a newspaper to advertise a meeting to appoint a new Grazing Committee, and this new Policy will have to be cascaded to all Grazing Committees and displayed on the Commission website.</b></p> |
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### 13 LAND REFORM

The Head of Policy presented the Paper. The Land Reform Bill was introduced to the Scottish Parliament on 22 June 2015, and the Rural Affairs Committee for Climate Change and the Environment (RACCE) has requested views on the general principles of the Bill from the Commission by 15 August 2015.

After discussion it was agreed that the Head of Policy would ask for an extension to the deadline for comments, and he and Commissioner Campbell and Commissioner MacLennan will meet/teleconference and put together a response on behalf of the Commission, which will be e-mailed out to Commissioners for comment and must be replied to immediately.

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| <b>Decision</b> | <p><b>The Commission agreed that the Head of Policy will ask for an extension to the deadline for comments on the Land Reform Bill and meet/teleconference with Commissioner Campbell and Commissioner MacLennan to put together a response on behalf of the Commission, which will be e-mailed out to Commissioners for comment and must be replied to immediately.</b></p> |
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### 14 DATE OF NEXT MEETING

16 September 2015 – Great Glen House

## **15 ANY URGENT BUSINESS**

- The Chief Executive advised that Commission staff had a stand at the Black Isle Show on 5 August and the Belladrum Music Festival on 5 to 7 August. The Vice-Convener is taking part in a Question and Answer Panel at Belladrum on 7 August.
- The Chief Executive advised that the Minister will be visiting Shetland on 10 August and the Cabinet Secretary is possibly visiting Ullapool on 11 August, and the Commission has provided briefings for both of these visits.
- The Chief Executive advised that she has been having discussions about promoting diversity in Boards and it has been agreed that a mentoring programme for potential young crofters will begin with Commissioner Dennis and Commissioner MacLennan initially. The young people could attend a Board Meeting to see what that involves, and get a tour of the office. Five young people showed an interest in this at the Gathering of Young Crofters in Assynt in March 2015.
- The Commission asked for a copy of the revised Policy Plan to be sent out to them and the Head of Policy will arrange for this to be done.
- The Commission enquired as to what is happening about Commissioner appraisals and the Chief Executive advised that as soon as the new Convener has had training, appraisal interviews will be arranged with each Commissioner.
- The Chief Executive advised that the Highland Leader group have asked if any Commissioners or staff wish to be involved in a local appraisal group. No Commissioners or staff are available to take part in this and the Chief Executive will reply to Highland Leader and advise them of this.

## **16 EXCLUSION OF THE PRESS AND PUBLIC**

The meeting ended at 13:25 hrs.

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 16 SEPTEMBER 2015

|          |                     |  |
|----------|---------------------|--|
| Present: | Colin Kennedy       | Convener   |
|          | IG Macdonald        | Vice-Convener  |
|          | Kathleen Sinclair   | Commissioner   |
|          | William Swann       | Commissioner   |
|          | David Campbell      | Commissioner   |
|          | Arnie Pirie         | Commissioner   |
|          | Marina Dennis       | Commissioner   |
|          | Murdo MacLennan     | Commissioner   |
|          |                     |  |
|          | Catriona Maclean    | Chief Executive  |
|          | Donna Smith         | Head of Information Systems  |
|          | John Toal           | Head of Policy   |
|          | Joseph Kerr         | Head of Regulation   |
|          | David Findlay       | Commission Solicitor   |
|          | Gordon Jackson      | Head of Agriculture Development & Crofting,<br>Scottish Government |
|          | Betty Mackenzie     | Communications Officer   |
|          | Morag Menzies       | PA to Convener, Minute-taker                                       |
|          | Vivienne Montgomery | Member of the public   |
|          | Donald MacKinnon    | Member of the public (from 09:50 hrs)                              |

### **1 APOLOGIES AND WELCOME**

Apologies were received as follows:

Jane Thomas, Head of Corporate & Customer Services  
Posy MacRae, Communications Manager

The Convener welcomed everyone to the meeting, especially Gordon Jackson from the Scottish Government and Vivienne Montgomery, a young crofter from Newtonmore.

### **2 DECLARATION OF INTERESTS**

The Vice-Convener and Commissioner MacLennan declared an interest in the Mangersta case at item 14c.

### **3 APPROVAL OF DRAFT BOARD MINUTE OF 5 AUGUST 2015**

The Minute of the Meeting of 5 August 2015 was approved.

#### 4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 5 August 2015 were reviewed:

- Page 7, Item 5b, Commissioner Elections, the Chief Executive advised that she has had a discussion with Scottish Government about the Commissioner Elections in 2017 and fed back learning points from the last election to them. Discussion took place about a need for training for potential applicants and the Chief Executive advised that it would be difficult to deliver training before the elections but there would be lots of publicity leading up to them, to give prospective applicants as much information as possible, and a good training plan implemented for the new Commissioners, once they start. The Commission felt it was important to know if any of the current appointed Commissioners would be standing again, in advance of the elections in 2017, in order to gauge for example whether someone would be required with Audit & Finance experience or not. The Chief Executive will be meeting with Scottish Government again in October to continue discussions.
- Page 8, Item 8, the Chief Executive advised that the Annual Report has been laid before Parliament.
- Page 13, Item 12, first paragraph, the Chief Executive advised that there was to have been a Paper brought to this Board Meeting to look at the costs of advertising in newspapers and local newspapers, to try to save money for the Commission and our customers, but it was decided to ask Assessors at the upcoming Roadshows which newspapers they think would be the most cost effective, and a Paper will come to the Board after that.
- Page 13, Item 13, the Head of Policy, Commissioner Campbell and Commissioner MacLennan drafted a response to the Land Reform Bill Consultation and a submission was sent on behalf of the Commission.

#### 5 ADVANCED PAPERS FOR APPROVAL

##### (a) Board Dates for 2016

The Commission approved the Paper, with three amendments, and agreed the dates for the Board Meetings in 2016.

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| <b>Decision</b> | <b>The Commission agreed that the dates for the Board Meetings in 2016 would be as follows:</b><br><br><b>Wed 3 February 2016</b><br><b>Wed 9 March 2016</b><br><b>Wed 4 May 2016</b><br><b>Wed 22 June 2016</b><br><b>Wed 17 August 2016</b><br><b>Wed 28 September 2016</b><br><b>Wed 9 November 2016</b><br><b>Wed 14 December 2016</b> |
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##### (b) Commissioner Training

Commissioners felt that the Training Plan for the remainder of their term was too intensive and did not reflect the role of the Commission, and the Chief Executive agreed to reduce it to include only essential training. They felt that they did not get enough training at the start of their term when they should have.



They were content with the proposed Training Plan for the new Commissioners in 2017.

The Commission felt it was beneficial to attend at least one external course each year.

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| <b>Decision</b> | <b>The Commission rejected the Training Plan for the remainder of their term as it was too intensive and approved the Training Plan for the new Commission in 2017.</b> |
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## 6 SHORT TERM WORKING GROUP UPDATES

**Grazing Census STWG** – The Vice-Convener advised that this group met on 15 September 2015 and consisted of himself, the Convener, Commissioner Dennis and members of staff.

They reviewed the form and stripped it back to just what is required by the Act. The Commission agreed that the Grazing Census form will not be issued until 2016.

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| <b>Decision</b> | <b>The Commission agreed that the Grazing Census form will not be issued until 2016.</b> |
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**Delegated Decision Making STWG** – Commissioner Dennis advised that this group met on 15 September 2015 and it was a very productive meeting with a lot of decisions being made. The parameters on Croft House Site and Garden Ground were revised and the Policy on Resumption was changed, to bring the two in line with each other. They also agreed parameters for Subletting, Short Term Letting and Consent to be Absent, which will come to a future Board Meeting for approval.

**RPID Reporting STWG** – The Head of Regulation advised that this group met on 15 September 2015 and there is a lot of work still to be done. A lot of training and communication is required between the Commission and RPID.

## 7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

**Convener** – Attended a meeting with RPID in Edinburgh, attended a meeting about the Vision for Crofting in Edinburgh, attended a meeting with the Minister, attended the Cross Party Group Meeting in Edinburgh, attended a meeting with SCF in Broadford, attended the Standards Commission training in GGH, attended the Devolved Decision Making, RPID Reporting, and Grazing Census STWG Meetings in GGH, attended the Dalmally Show and had various telephone meetings over the month. Will be attending a meeting of the Convention of the Highlands & Islands in Elgin on 5 October, a Cross Party Group Meeting in Edinburgh on 28 October, and the Complaints & Investigations Meeting on 14 October.

Donald MacKinnon, a young crofter from the Isle of Lewis joined the meeting at 09:50 hrs. The Convener extended a warm welcome to Donald on behalf of the Commission.

**Vice-Convener** – Took part on a Crofting Panel at the Belladrum Music Festival, attended the Skye Show, attended the Lairg lamb sale and managed to speak briefly to the Cabinet Secretary Richard Lochhead, had a meeting with Davie McCracken from the SRUC to talk about sheep disease, had lots of telephone calls from a journalist called Sally Bramhall who was writing an article for the New Statesman, attended a meeting with young crofters in Staffin, attended a meeting with the National Trust in Kyle and a Land Reform Meeting in Portree. Will be attending the Crofting Roadshow in Lairg next week.

**Commissioner Swann** – Was scheduled to attend a Land Reform meeting but withdrew because he was concerned that there was the potential for distraction from the topic due to press attention. He wanted to stress that if a Commissioner is attending an event, that it is made clear to the organisation that they are attending as part of the Commission and not as an individual. Will attend a HIE meeting in Orkney in October and suggests that the Convener might like to meet with the Convener of HIE sometime in the near future.

**Commissioner MacLennan** – Attended the lamb sales in Stornoway, attended a meeting with Finlay Beaton and the Chief of Police in Stornoway regarding straying stock and advised that it is not a problem for the Commission, attended a meeting with Matt Bruce of 'Point Power' in the Stornoway RPID office, a community owned turbine energy company who want to invest in young crofters in Point, and was visited by 10 crofters who were concerned about the recent Census letter that was sent out from the office. Will be attending a drop-in session held by the Citizens Advice Bureau in Barra, will attend the Crofting Roadshow in Stornoway in October, and will be doing an interview with BBC Alba for RPID, regarding the new hogs scheme.

**Commissioner Dennis** – Attended the Grantown Show, the Standards Commission Training in GGH, had two 2 hour sessions mentoring young crofter Vivienne Montgomery, attended the three STWG Meetings on 15 September, and will attend the Crofting Roadshow in Thurso in October.

**Commissioner Pirie** – Attended the West Mainland Agricultural Society Show in Dounby and the Orkney County Show, Kirkwall in August, and was interviewed by a Stirling University student who is doing a survey on the goose cull in Orkney. They are being assisted by SAC, SNH and RPID. Will be attending the Crofting Roadshow in Thurso and hopes to attend the ploughing championships in Kinloss in October.

**Commissioner Sinclair** – Attended a meeting in Shetland with the Minister on 10 August where an array of problems and issues were raised by crofters in attendance, attended the local Show in Shetland and will attend the Crofting Roadshow in Lerwick in October.

**Commissioner Campbell** – Attended various meetings, Short Term Working Groups, Standards Commission Training, Land Reform Bill Consultation meeting and the lamb sales. Commissioner Campbell advised that the Chairman of the Scottish Land & Estates Crofting Group has recently retired and he is concerned that the group may not continue. The Chief Executive advised that as the Chairman has retired, she would write to the group on behalf of the Commission and advise how much the Commission values the group and hopes it will continue.

The Convener thanked all Commissioners for their contributions and explained to Vivienne Montgomery and Donald MacKinnon that apart from attending Board Meetings, it was important that Commissioners attended various events throughout the crofting counties, to offer advice to crofters and other organisations.

## **8 UPDATE ON VISION DOCUMENT**

Gordon Jackson from Scottish Government presented the Vision Document, which was launched by the Cabinet Secretary at the Royal Highland Show. It is entitled 'The Future of Scottish Agriculture' and the strapline for the Vision is 'Scotland has a green, innovative and profitable agricultural industry which is outward looking and resilient, supporting economic growth, environment and communities, and contributing to global security'.

The Vision is not time bound and nine outcomes have been identified which include such things as sustainable growth, value chain linkages, supply chain resilience, training and skills, and innovation and best practice. The idea is that it becomes part of a national discussion and organisations are encouraged to hold local meetings, to promote the national discussion and to engage with people and identify appropriate actions to govern how agriculture progresses in the future towards the Vision that has been identified.

A toolkit and website have been produced and there are dedicated sites on Twitter and Facebook.

The Scottish Government ask that the Vision Document is signposted and promoted at the forthcoming Crofting Roadshows, documents are available from the RPID offices which can be distributed at the events, and they encourage everyone to provide feedback through the web portal to the Scottish Government.

The Commission felt it was vital that it is involved in promoting the Vision from a crofting point of view, and to feedback separately to other stakeholders.

The timeframe for feedback is 6-8 months from the Royal Highland Show in June 2015, and the Commission agreed to set up a working group consisting of the Head of Policy, the Convener, Commissioner MacLennan, Commissioner Swann and Commissioner Dennis, to produce a response to the Vision Document on behalf of the Commission.

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| <b>Decision</b> | <b>The Commission agreed to set up a working group consisting of the Head of Policy, the Convener, Commissioner MacLennan, Commissioner Swann and Commissioner Dennis, to produce a response to the Vision Document on behalf of the Commission.</b> |
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## **9 CONFIRM PLANNING REMIT**

The Head of Policy presented the Paper, which asks the Commission to consider its role as a key agency and statutory consultee in the planning process, and advised that the Paper was discussed at the Policy in Development Meeting on 5 August 2015.

After discussion the Commission agreed that they want the first two bullet points on page 30 of the Paper removed: 'Advising planning departments of the local authorities when new crofts are being created', and 'Advising planning departments of applications for division of crofts in case there are housing implications'. The Commission is only going to consult with the Local Authorities, and not the Planning Departments.

When consulting with the Local Authorities, the Commission is doing so to determine the social and economic benefits of bringing land into crofting.

The Chief Executive will think about how best to engage with Planning Departments and in particular discuss the issue of creating new crofts, and revisit the wording of letters that the Commission sends to Local Authorities, to improve clarity.

When the new computer system comes in at the end of this year, Local Authorities will be advised how they can view crofting boundaries etc on the Commission's Croftview system, which will hopefully help them decipher whether a planning application is on croft land or not.

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| <b>Decision</b> | <b>The Commission agreed that they want the first two bullet points on page 30 of the Paper removed: 'Advising planning departments of the local authorities when new crofts are being created' and 'Advising planning departments of applications for division of crofts in case there are housing implications'. The Commission is only going to consult with the Local Authorities and not the Planning Departments.</b> |
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## **10 CENSUS: GRAZINGS/OPTIONS FOR THIS YEAR'S CENSUS**

The Head of IS presented the Paper, which presents options for consideration in relation to the issue of the second Crofting Census and first Common Grazings Census.

Of the 85% returns of the first Census issued in October 2014, 9000 indicated a change of some kind and of those, 770 changes have been completed so far, 740 crofts have indicated a change of status from tenant to owner-occupier, and all these changes have to be updated before the next Census form can be issued.

The options for the format of the second Census form are on page 32 of the Paper and after discussion the Commission agreed to approve Option 3, which is to issue the Census in the same way as the first year, with only the croft and crofter's details prepopulated. The Commission agreed that it was important to stress that the Census is an annual requirement.

The Chief Executive advised that there will be a publicity campaign to advise how to fill in the next Census form and highlight the lessons learned. The Short Term Working Group will reconvene to discuss how the process can be improved, including the tone of the letters issued.

The Head of IS advised that it had been decided to leave the issue of the Grazing Census form until next year.

Follow up letters were issued recently to the crofters who indicated they were not complying with their duties and this has resulted in a huge amount of telephone enquiries to the office. There have been various areas of confusion and the STWG will consider whether a different form should be issued in future to crofters who have only a share and not a croft.

Discussion took place about the Commissioner Elections in 2017 and the issue of only crofters and owner-occupier crofters being allowed to vote, as it is now clearer which crofts are owned by owner-occupier crofters, and there will be people who voted last time who will not be allowed to vote next time. The Head of IS will be looking into this issue and deciding how best to advise the public about this change.

The Chief Executive, and the Convener on behalf of the Commission, wished to thank all staff for the huge amount of work involved in the issue and return of the Census forms. They appreciate the volume of work and the intense pressure that staff are under.

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| <b>Decision</b> | <b>The Commission approved Option 3 of the Paper, which is to issue the second Census in the same way as the first year, with only the croft and crofter's details prepopulated. The Commission agreed that it was important to stress that the Census is an annual requirement.</b><br><b>The second Census will be issued on 1 December 2015, provided all the notified changes from the first Census have been processed.</b><br><b>The Grazing Census will not be issued until 2016.</b> |
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## 11 ASSESSORS

### (a) Assessors – Stage 2

The Head of Policy presented the Paper, which considers the appointment of Assessors that will specialise in specific regulatory functions. The Commission will appoint individuals with the attributes to undertake this role and they will become part of its revised decision making process.

The functions of the Assessor are now split, with the majority not being involved with regulatory applications and adopting more of an advisor's role, and a small number having a more specialist role.

In the third tier of the Delegated Decision Making process, there is the option of having specialist Assessors helping to take decisions on regulatory applications. Specific training would be given.

Any Assessor appointed to the specialist role would need to be committed. There is no payment and only expenses can be given. They would have to comply with the Commission's Code of Conduct and specialist Assessors would be dealing with all areas of the crofting counties, not specific areas.

It is proposed to test the process with only Assignment applications initially. The process can be adjusted and once it is working well, it can be adopted.

There are currently around 80 Assessors and, after discussion, each Commissioner agreed to nominate up to two Assessors' names that they think would be suitable for the specialist role. They will pass those names to the Chief Executive.

Concern was expressed that if the Commission does not ask interested Assessors to apply for either role, it cannot assess the applicant's skill set, and this was accepted.

The Commission approved the Paper.

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| <b>Decision</b> | <b>The Commission approved the Paper and agreed to think of up to two Assessors' names each, who could possibly be considered for the specialist Assessor role, and pass those names to the Chief Executive. The Commission stressed that it was vital that adequate training was provided for those appointed.</b><br><b>The Commission agreed it was important for prospective Assessors to apply formally for the role, in order to assess their skill set.</b> |
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**(b) Paper on future selection of Assessor panel and consider training requirements relevant to adjusted role of Assessors**

The Head of Policy presented the Paper, which looks at consideration of how the Commission appoints any further Assessors.

The Commission could decide to continue with a simple self-nomination form, decide to ask for references from other crofters, or consider other alternatives. The Commission may wish to consult with other bodies e.g. the Scottish Crofting Federation, regarding any change of process.

Commissioner Swann suggested that it would be worth looking at the protocols for charitable sectors and how they train and appoint volunteers. He said that he thought he might have some information that he could pass to the Commission.

Concern was expressed that if the Commission allows applicants to self-nominate, how does it know if the applicant has the skills required for the job. When Assessors are out and about and give advice to anyone, they are acting on behalf of the Commission, and it is important that they act in a professional way.

The Commission suggested that instead of new Assessors being appointed at the same time as the new Board, the selection of new Assessors could be delayed for a year and appointed at the end of the first year of the new Commission.

After discussion, the Commission agreed to continue to not appoint any new Assessors at the moment, and to set up a Short Term Working Group to consider the way forward and look at timing and the application process. The group could include some Assessors and/or the SCF. The Convener and Vice-Convener volunteered to be part of the group.

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| <b>Decision</b> | <b>The Commission agreed to continue to not appoint any new Assessors at the moment, and to set up a Short Term Working Group to consider the way forward and look at timing and the application process. The group could include some Assessors and/or the SCF. The Convener and Vice-Convener volunteered to be part of the group.</b><br><b>The Commission suggested that instead of new Assessors being appointed at the same time as the new Board, the selection of new Assessors could be delayed for a year and appointed at the end of the first year of the new Commission.</b> |
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Betty Mackenzie left the room.

## 12 DATE OF NEXT MEETING

4 November 2015 – Skeabost House Hotel, Skeabost Bridge, Isle of Skye

## 13 ANY URGENT BUSINESS

- The Convener asked Commissioners where they thought the Commission should hold its Board Meeting out of the office next year, and after discussion the Commission agreed to hold the Board Meeting on 28 September 2016 in Brora.

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| <b>Decision</b> | <b>The Commission agreed to hold the Board Meeting on 28 September 2016 in Brora.</b> |
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- The Convener asked the two young crofters in attendance at the meeting to give a short summary of their crofting experience.

Donald MacKinnon advised that he is from the Isle of Lewis and that he works his mother's croft with a few sheep and some vegetables. He has always been interested in crofting. He has helped Commissioner MacLennan with the gathering on Scarp and enjoys the variety of work. He is currently at University in Glasgow studying Geography and Politics. He attended the Young Crofters Gathering in Assynt in March and found it really interesting.

Vivienne Montgomery advised that she is a crofter born and bred and is one of the Craggan Crofters from Newtonmore. She got her assignation about 2½ years ago from a non-family croft in the township that her dad had the sublet of for 35 years. It is a 42 acre croft with a sixth share in the common grazings. She has 50 blackie ewes and 36 hogs on it at the moment and her dad winters his cows on it as well, to use it up a bit more. The six crofters in the township work really well together. She attended the Young Crofters Gathering in Assynt in March and is treasurer for the Young Crofters Group. Because of bad publicity, she set up a Facebook page which is for any crofter to join, not just young crofters, and so far there are about 105 members. Through the Facebook page, crofters can give advice and help each other. The most important thing is to help and encourage young people/crofters, as Vivienne knows how important this is. She received a lot of help herself and wants to pass this knowledge and experience on to others.

Through SCF, Vivienne is running a Foundation Common Land on her own croft. She is running a Crofting and Environmental Schemes Course on 22 September 2015, and she has ten people coming to her croft from different organisations including Cairngorm National Park, John Muir Trust, RSPB, SNH for the day, to find out how a crofting township and common grazing works.

Vivienne has recently found out that her niece and herself have been awarded the contract for outside catering for the work taking place on the A9 between Kingussie and Kincaig.

Trudi Sharp and Lucy Carmichael from Scottish Government, and the Chief Executive, are visiting Vivienne's croft on 24 September 2015.

The Convener thanked Donald and Vivienne for coming to the Board Meeting and the Commission felt their croft work was most encouraging.

Donald MacKinnon and Vivienne Montgomery left the room at 11:55 hrs.

## 14 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 14:50 hrs.





# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT SKEABOST HOUSE HOTEL, SKYE ON 4 NOVEMBER 2015, 08:45 hrs

|          |                    |                                       |
|----------|--------------------|---------------------------------------|
| Present: | Colin Kennedy      | Convener                              |
|          | IG Macdonald       | Vice-Convener (from 08:55 hrs)        |
|          | David Campbell     | Commissioner                          |
|          | Marina Dennis      | Commissioner                          |
|          | Kathleen Sinclair  | Commissioner                          |
|          | Murdo MacLennan    | Commissioner                          |
|          | William Swann      | Commissioner                          |
|          |                    |                                       |
|          | Catriona Maclean   | Chief Executive                       |
|          | David Findlay      | Commission Solicitor                  |
|          | John Toal          | Head of Policy                        |
|          | Joseph Kerr        | Head of Regulation                    |
|          | Donna Smith        | Head of Information Systems           |
|          | Lucy Carmichael    | Scottish Government, Edinburgh        |
|          | Posy MacRae        | Communications Manager                |
|          | Morag Menzies      | PA to Convener, Minute-taker          |
|          | Ewen McPherson     | SGRPID, Portree (from 09:30 hrs)      |
|          | Lucy Sumsion       | NFUS (from 09:30 hrs)                 |
|          | John W Gillies     | Member of the public (from 09:30 hrs) |
|          | Calum MacLean      | BBC, Alba (from 09:30 hrs)            |
|          | Andrew Banks       | Member of the public (from 09:30 hrs) |
|          | Janette Sutherland | Member of the public (from 09:30 hrs) |
|          | Alister Beaton     | Member of the public (from 09:30 hrs) |
|          | Jake Sayles        | NFUS (from 09:30 hrs)                 |

### 1 APOLOGIES AND WELCOME

Apologies were received as follows:

Arnie Pirie, Commissioner

Jane Thomas, Head of Corporate & Customer Services

The Convener welcomed everyone to the meeting and said it was a great pleasure to be holding the Board Meeting in Skye.

### 2 DECLARATION OF INTERESTS

Commissioner MacLennan declared an interest in item 17a, Hushinish Common Grazings -v- Scarp Grazings Committee.

Commissioner Dennis declared an interest in item 17d, Bohuntin Common Grazings & Sheep Stock Club.

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 16 SEPTEMBER 2015

The Minute of the Meeting of 16 September 2015 was approved.

#### 4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 16 September 2015 were reviewed:

- Page 3, Item 6, the Chief Executive advised that the Grazing Census will be issued next year, and as each Common Grazings Regulations are updated, each Common Grazings will be invited to complete the Grazing Census, which will also be available on the Commission's website.
- Page 7, Item 11, the Chief Executive advised that, following a request for Commissioners to recommend two Assessors each who could possibly be considered for the specialist Assessor role, three Commissioners responded. A final date of 13 November 2015 has been set for any other Commissioners to recommend Assessors for this role, and following this date, the names will be e-mailed to Commissioners for their approval, before asking the approved Assessors if they are interested in participating in the pilot to develop the specialist role.
- Page 11, Item 14, the Commission Solicitor advised that in the appeal case 186 Strathmelness, the Land Court ordered a sist following the instruction from the last Board Meeting, and the case is sisted until 30 November 2015 pending receipt of a registration application. If no registration application is received by this date, the Commission Solicitor will ask the Commission if they wish the sist to continue.
- Page 12, Item 14c, the Vice-Convener and Commissioner MacLennan declared an interest and left the room at 09:40 hrs.

The Chief Executive advised that, following the last Board Meeting when the Mangersta Common Grazings was discussed, it has come to light that the Committee involved with the current issue has gone out of office, and a new Committee was appointed in March 2015.

The Commission agreed to write to the new Committee to find out if all monies due have been distributed. The Committee will be given one month to respond, and if no response is received, or the monies have not been distributed, an Investigating Officer will be appointed to look into the matter. The letter to be sent to the Grazings Committee will be e-mailed to Commissioners for approval before being issued.

The Commission agreed to this proposal.

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| <b>Decision</b> | <b>The Commission agreed that a letter is to be issued to the new Mangersta Common Grazings Committee, after being approved by Commissioners, asking them to advise the Commission within a month, whether all monies due have been distributed. If no reply is received, or the monies have not been distributed, an Investigating Officer will be appointed to look into the matter.</b> |
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The Vice-Convener and Commissioner MacLennan returned to the room at 09:45 hrs.

## 5 ADVANCED PAPER FOR APPROVAL

### (a) Section 58A(4)(d) objections

The Commission Solicitor presented the Paper, which refers to a technical point regarding objections received by the Commission, in connection with applications for approval or consent.

In respect of most applications for approval or consent, with the exception of section 58A(6A) applications and section 50B applications, certain parties are entitled to submit an objection to the Commission as regards the application, within 28 days after public notification. An objection can be submitted by the landlord, a member of the crofting community or by “**any other person the Commission consider has a relevant interest in the application**”. In considering the application the Commission must have regard to the factors set out in section 58A(7), which includes the interests of the public at large and the sustainable development of the crofting community. Any decision of the Commission, which fails to consider these factors, is susceptible to appeal.

The Commission approved the Paper.

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| <b>Decision</b> | <p><b>The Commission approved the Paper and agreed parameters as to what constitutes ‘relevant interest’ as follows:</b></p> <ul style="list-style-type: none"><li>• <b>a measurable financial/proprietary interest in the outcome of the application to which the objection relates;</b></li><li>• <b>close geographical proximity of the objector’s croft to the croft of the crofter making the application;</b></li><li>• <b>a long-standing ‘interest’ with the croft which falls short of a croft tenancy, such as an informal sublet or occupation of the croft and/or croft house over a period of time – though it is difficult to see how such an ‘interest’ could realistically affect the outcome of any particular application (see ECHR below);</b></li><li>• <b>whether the ‘objector’ has demonstrated that the objection/ submission relates to any of the section 58A(7) factors, namely:-</b><ul style="list-style-type: none"><li>○ <b>the interests of the crofting community in the locality;</b></li><li>○ <b>the sustainable development of the crofting community;</b></li><li>○ <b>the interests of the public at large;</b></li><li>○ <b>any other matter the Commission considers relevant;</b></li></ul></li><li>• <b>whether there are any ECHR considerations (specifically, Article 1 Protocol 1).</b></li></ul> <p><b>The Commission agreed that where such an ‘objector’ falls within such parameters, an individual Commissioner will decide whether or not to accept the submitted ‘objection’. Where the ‘objector’ falls outwith the parameters, the competency of the ‘objection’ will be a matter for the whole Board to determine. The Commission will have to consider whether there is a relevant interest in all cases. In all cases, the fact that any such objection is regarded as valid by the Commission, is separate from the question as to its merits and how much, if any, weight should be given to it. It may be sufficient for it simply to be demonstrated that the Commission has considered the objection as part of its decision-making process. Any objection will have to be dealt with according to the principles set out in Stewart -v- Crofters Commission (Application RN SLC/40/11 – Order of 10 April, 2013).</b></p> |
|-----------------|--|

## 6 SHORT TERM WORKING GROUP UPDATES

**Delegated Decision Making STWG** – The Convener advised that this group met recently to decide the framework and parameters for Tiers 1, 2 and 3 of the Delegated Decision Making process. Considerable progress has been made and the first decision under Tier 1 has already been taken in a Croft House Site and Garden Ground application for croft 1 Cruard in Sleat, Isle of Skye.

The Commission asked that a summary of decisions taken under Delegated Decision Making be sent to each Commissioner monthly, showing their own areas. The Chief Executive advised that this will be done.

|                 |  |
|-----------------|--|
| <b>Decision</b> | <b>The Commission agreed that a summary of decisions taken under Delegated Decision Making should be sent monthly to each Commissioner, showing their own areas.</b> |
|-----------------|--|

## 7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

**Convener** – Attended the Convention of the Highlands & Islands in Elgin, the Cross Party Group Meeting in Edinburgh, two Vision for Crofting Meetings, will be attending a meeting in Stornoway in November to discuss an ongoing case, and will attend the Official Opening of the new College in Inverness in November.

**Vice-Convener** – Attended an event to mark the retirement of David MacVicar and Tom Palmer from SGRPID in Portree, and the Vice-Convener wished to welcome Ewen MacPherson to the Board Meeting today as he has replaced David MacVicar. The Vice-Convener attended the Crofting Roadshow in Lairg, visited the island of Scarp with thanks to Commissioner MacLennan, attended the Complaints & Investigations Committee Meeting, met with Petra Lackova of the James Hutton Institute to discuss common grazings, attended the Audit & Finance Committee Meeting, was part of a team involved in the letting of a croft in Portnalong, chaired the Assessors Meeting and Roadshow in Portree on 3 November, will attend a meeting in Stornoway in November with the Convener to discuss an ongoing case, and will meet the Minister on 9 November with other Commissioners.

**Commissioner Swann** – Was supposed to be visiting Orkney with HIE but that trip was cancelled. The Director of Development from HIE is leaving and Commissioner Swann will ask for an early meeting with her replacement, to discuss crofting development.

**Commissioner Sinclair** – Attended the Crofting Roadshow in Shetland on 7 October, attended the Audit & Finance Committee Meeting, and attended a meeting to discuss the letting of a croft.

**Commissioner Campbell** – Attended the Crofting Roadshow in Lairg, attended the Devolved Decision Making STWG Meeting, attended the Audit & Finance Committee Meeting, attended the letting of a croft meeting in Portnalong, and attended the Regulatory Staff Away Day in Rogart last week.

**Commissioner MacLennan** – Attended the lamb sales in Stornoway, attended several meetings with crofters in the SGRPID office in Stornoway, attended the Crofting Roadshow in Stornoway, and attended the Crofting Roadshow in Portree. Was supposed to be holding a surgery in Barra but the ferries were cancelled so that meeting will be re-scheduled.

**Commissioner Dennis** – Attended the Crofting Roadshow in Thurso, attended a meeting with the Cairngorm National Park Authority, where the Land Use Manager gave a presentation on the future of Scottish agriculture, attended a meeting in Perth on behalf of the Commission about Scotland's Moorland Forum, and the Forum are looking for someone to represent crofting interests as part of the group that will be reviewing the Muirburn Code. If anyone is interested they should get in touch with Commissioner Dennis or the Chief Executive. Attended the Devolved Decision Making STWG and will be attending the meeting with the Minister on 9 November.

## **8 GRAZINGS PROJECT**

The Head of IS gave an update on the progress of the Grazings Registration Project.

The project is funded by the Scottish Government and is funded until the end of March 2016.

To date, the Commission has engaged with 485 common grazings committees, and of those, 195 common grazings have been registered. There is a backlog and staff will concentrate on registering the 290 outstanding common grazings that they are already engaged with meantime.

## **9 AUDIT & FINANCE COMMITTEE REPORT**

### **(a) Update from Commissioner Swann**

Commissioner Swann gave an update following the AFC Meeting that was held on 20 October 2015.

On page 1, Item 4 of the AFC minutes, the external Audit fees were confirmed for the next year and the program was updated for the external Audit report coming to the Commission.

The Scheme of Financial Delegation will need to be reviewed in due course and the Committee is expecting a new framework document from Scottish Government for Financial Reporting, but will continue with the current Financial instructions until the new document is received.

The Committee's current Terms of Reference were considered to be satisfactory.

The Committee looked at the Financial Shared Services Agreement with SNH and charges were thought to still be best value. The Committee were content with the Service Level Agreement, subject to one or two alterations.

The Anti-Fraud Policy will be discussed under Exclusion of the Press and Public.

A review of the Whistle Blowing Policy was considered fit for purpose and the Risk Register was reviewed.

The Committee will have a regular Finance Presentation, in line with other Key Performance Indicators.

Key Performance Indicators were reviewed and the only one of any significance was the one regarding Information Systems.

The Committee looked at the auditing requirements for the new Devolved Decision Making process and a new policy for consistency of decision making will have to be implemented, to make sure the process is working correctly.

Commissioner Swann thought it would be a good idea to advise the SPSO about the Commission's change in decision making processes, and the Chief Executive agreed to speak to them informally.

The Financial Report from the Finance Manager was satisfactory, and in line with Grant-in-Aid for this point in the Financial year.

The Vice-Convenor advised that he had attended the AFC Meeting as an observer, and was very impressed with the professionalism of the Committee Meeting.

#### **(b) Draft Minutes from AFC Meeting held on 20 October 2015**

The draft minutes were approved.

#### **(c) Risk Register**

The Chief Executive presented the Risk Register and advised that the Senior Management Team reviews the Risk Register on a regular basis. The most important risk is the new Croft Information System, and the other risks that are red or amber are all linked to the implementation of the new computer system.

#### **(d) Key Performance Indicators**

Commissioner Swann advised that the KPIs are proving to be a useful tool and not too onerous on staff time.

The Chief Executive advised that as well as concern about the new CIS computer system, there is also concern about the Census returns, which require 9000 changes to data before the next Census form can be issued. So far, staff have processed 7000 of those changes and the Chief Executive commends the staff for their hard work. The launch of the new CIS system has been delayed, to enable all the data changes to be updated, and the next Census form will be issued at the end of December 2015.

Commissioners advised that they had received feedback from crofters that the Census form was very easy to complete, which is reassuring.

Commissioner Swann advised that Audit Scotland are pleased with the way the Commission's governance responsibilities are coming together, and he feels that the Commission is in the strongest position it has ever been in, in terms of how it reports and records information and how the Policies are being implemented.

The Convenor wished to formally thank the Chief Executive, her staff and everyone involved in getting to this important position.

## **10 CIS UPDATE**

The Head of IS handed out a timeline document and gave an update on how the new computer system, Computer Information System (CIS) is progressing. It had been hoped to launch the new system at the beginning of November 2015 but that date has slipped back due to various issues.

Staff are working hard on building the IT system and the processes. User testing will take place throughout November and training materials will be developed from November until January. Once the system is ready to go live, all the data from the CADs system will be migrated to the new CIS system. If for any reason that does not go according to plan, the CADS system will still be available to use as a backup. Unfortunately, CADS is currently on old hardware, which would be difficult to source if it failed. To mitigate for this, data will be migrated at the end of November.

The Commission asked that a Paper be brought to the next Board Meeting, to reassure the Commission that data is adequately backed up and will not be lost, if the CADS system were to fail. This information will then be passed to the AFC at their next meeting in January. The Commission would also like an update at the next Board Meeting of the likely go-live date of the CIS system.

|                 |  |
|-----------------|--|
| <b>Decision</b> | <p><b>The Commission asked that a Paper be brought to the next Board Meeting, to reassure the Commission that data is adequately backed up and will not be lost, if the CADS system were to fail.</b></p> <p><b>The Commission would also like an update at the next Board Meeting of the likely go-live date of the CIS system.</b></p> |
|-----------------|--|

The Commission wished to record their appreciation of all the work that is going into the development and implementation of the new computer system. They realise that staff must be under a lot of pressure but hopefully the benefits will soon be seen by all.

## 11 CENSUS 2015 UPDATE

The Head of IS advised that the Census form has been updated and simplified, and will be issued at the end of December 2015.

All the 9000 changes that were reported in the return of the 2014 Census must be updated by staff by 4 December 2015, if they are to be included in the 2015 Census. If there are some changes that staff do not manage to update by then, a letter will be issued to those affected, advising them of the situation and the reason.

It is hoped that the volume of calls coming in after the issue of the 2015 Census will be reduced, as the form has been simplified. A sheet with Frequently Asked Questions will be issued with the new Census form.

## 12 COMPLAINTS COMMITTEE UPDATE

### (a) Update from Chairperson

The Vice-Convenor gave an update following the Complaints & Investigations Committee Meeting on 14 October 2015. He advised that, although the Convenor attended the C&ICM and policy states that if the Convenor attends a meeting he must chair that meeting, the Convenor delegated the chairing of the C&ICM to the Vice-Convenor.

The Head of Policy declared an interest in Bohuntin Sheep Stock Club, and the Vice-Convenor declared an interest in Mangersta Common Grazings.

The Vice-Convenor advised that the Convenor and himself are visiting Upper Coll in Lewis next week, to try to resolve issues there.

The Commission asked why Terms of Reference was to be revisited at the next meeting, and the Chief Executive advised that the original thought had been that the Complaints Committee should just look at complaints received by the Commission and look at lessons learnt, to improve the service we provide to our customers. But the Committee has also been dealing with complex and legacy cases, and it was felt that the remit of the Committee needed to be looked at and clarified.

Any decisions made about the remit of the Committee will come to the full Board for approval.

The Vice-Convener advised that all complaints statistics are displayed on the Commission's website for everyone to see.

The Convener reminded the Board that once a final decision is made by the Board, that is the decision.

**(b) Draft Minutes from Complaints & Investigations Committee Meeting of 14 October 2015**

The draft Minutes from the Complaints & Investigations Committee Meeting held on 14 October 2015 were approved.

**13 POLICY PLAN**

The Commission Solicitor presented the Paper, and advised that the variations to the Policy Plan have been out for consultation to the Scottish Government, Highland Council, Argyll & Bute Council, Shetland and Orkney Councils, and HIE. Regarding the decrofting element and Land Court cases, two versions were drafted, A and B, and Commissioners have advised that they prefer Version A.

Any changes to the Policy Plan have been highlighted in red

The Head of Policy advised that the responses have been circulated to Commissioners and the intention is to send the revised Policy Plan to the Minister at the end of this week.

The Plan is now much more closely linked to legislation.

The Commission expressed disappointment that Shetland & Orkney Council did not respond to the consultation.

The Head of Policy wished to highlight paragraph 120 on page 23 regarding 'Working with Scottish Ministers' Estates'. He had also produced an alternative sheet entitled 'Geographic Initiatives (geo-pilots)' and after discussion the Commission agreed they wanted the alternative sheet entitled 'Geographic Initiatives (geo-pilots)' included in the Plan.

The Commission also want to remove paragraph 44 on page 10 from the Policy Plan, and remove the red text from paragraph 89 on page 18.



The Commission approved the variations to the Policy Plan, with the above changes incorporated.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <b>The Commission approved the variations to the Policy Plan with the following changes:</b><br><br><b>At paragraph 120 on page 23 regarding ‘Working with Scottish Ministers’ Estates’, use the alternative sheet entitled ‘Geographic Initiatives (geo-pilots)’ instead.</b><br><br><b>Remove paragraph 44 on page 10 from the Policy Plan, and remove the red text from paragraph 89 on page 18.</b> |
|-----------------|---|

#### **14 MINISTERIAL VISIT**

The Chief Executive advised that the Minister for the Environment, Climate Change and Land Reform will be meeting with Commissioners in Inverness on 9 November 2015.

The Minister will visit the Bull Stud at Knocknagael Farm in Inverness first, along with two young crofters, Vivienne Montgomery and Donald MacKinnon, before the Commissioners meeting in Great Glen House. There will be four short presentations from staff on the Crofting Roadshows, Delegated Decision Making, the new computer system (CIS), and the re-let of a croft at Portnalong.

Commissioners have highlighted a number of issues that they would like raised with the Minister e.g. the new Hogg scheme, the Housing issue, Governance, and the Convener will prioritise which issues can be raised, given the time available.

#### **15 DATE OF NEXT MEETING**

9 December 2015 – Great Glen House

#### **16 ANY URGENT BUSINESS**

The Chief Executive advised that she had an item to raise, but it would be dealt with under Exclusion of Press and Public.

The Convener thanked everyone for attending the meeting today, especially the members of the public and Lucy Carmichael from Scottish Government.

#### **17 EXCLUSION OF THE PRESS AND PUBLIC**

The meeting ended at 11:55 hrs.



# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 9 DECEMBER 2015

|          |                   |  |
|----------|-------------------|--|
| Present: | Colin Kennedy     | Convener   |
|          | IG Macdonald      | Vice-Convener                                      |
|          | William Swann     | Commissioner                                       |
|          | Murdo MacLennan   | Commissioner                                       |
|          | David Campbell    | Commissioner                                       |
|          | Marina Dennis     | Commissioner                                       |
|          | Kathleen Sinclair | Commissioner                                       |
|          | Arnie Pirie       | Commissioner                                       |
|          | Catriona Maclean  | Chief Executive                                    |
|          | Donna Smith       | Head of Information Systems                        |
|          | David Findlay     | Commission Solicitor                               |
|          | John Toal         | Head of Policy                                     |
|          | Joseph Kerr       | Head of Regulation                                 |
|          | Jane Thomas       | Head of Corporate & Customer Services              |
|          | Posy MacRae       | Communications Manager                             |
|          | Morag Menzies     | PA to Convener, Minute-taker                       |
|          | David Wright      | SGRPID, Inverness                                  |
|          | Anne Williamson   | Regulatory Casework Officer (13:10 hrs –14:18 hrs) |

### 1 APOLOGIES AND WELCOME

Apologies were received from Michael Nugent, Scottish Government.

The Convener welcomed everyone to the meeting.

### 2 DECLARATION OF INTERESTS



### 3 APPROVAL OF DRAFT BOARD MINUTE OF 4 NOVEMBER 2015

The Minute of the Meeting of 4 November 2015 was approved subject to the following amendments:

| Page | Item | Paragraph | Amended/Additional text should read   |
|------|------|-----------|---|
| 4    | 7    | 2         | Amend the spelling from  |

### 4 MATTERS ARISING FROM PREVIOUS MEETING

There were no Action Points from the previous meeting on 4 November 2015.

5 **ADVANCED PAPER FOR APPROVAL**

**(a) Anti-Fraud Policy**

The Head of Corporate & Customer Services advised that, following a request from Commissioners for more clarification on the Declaration of Interest form that has been provided to Commissioners, all Commissioners are now content with the Anti-Fraud Policy.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <b>The Commission approved the Anti-Fraud Policy Paper.</b> |
|-----------------|---|

**(b) Short Paper on Demand**

The Head of Policy presented the Paper, which follows up from the Paper presented to the November Board Meeting, and summarises the Commission’s consideration of demand for croft tenancies in the context of determining regulatory applications. It recommends the requirements of the Commission for applications under section 58A and also for decrofting applications.

Concern was expressed about the issue of knowing whether there is demand for crofts in Commissioners’ own areas, and it was agreed that Commissioners should say if they can comment on demand or not. They are not expected to know if there is demand in every part of their own areas.

██████████ from SGRPID said that he advised his staff that it was very important that they did not record their personal opinion about demand in their reports. The Chief Executive advised that good guidance regarding demand will be sent to RPID staff.

It was agreed that when a vacant croft is advertised by the Commission, any demand expressed by applicants should be recorded, and this can be used to gauge demand for other applications.

The Commission recognised that although there may be strong demand for crofts in particular areas, the costs involved are often too high and people cannot afford them.

The Commission approved the Paper and its recommendations.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <p><b>The Commission approved the Paper and the following recommendations:</b></p> <p><b>The Commission will only consider specific expressions of demand resulting from the public notification when determining applications covered by section 58A.</b></p> <p><b>In its consideration of decrofting applications, the Commission will consider expressions of demand resulting from the public notification, in addition to the informed opinion of the Commissioner if possible.</b></p> <p><b>The Commission will take cognisance of any relevant Land Court guidance and adapt its policy, as necessary.</b></p> <p><b>Any expressions of demand received when vacant crofts are advertised by the Commission will be recorded and used to gauge demand in applications.</b></p> |
|-----------------|---|

6 CAP PAYMENTS UPDATE FROM [REDACTED], SGRPID

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 SHORT TERM WORKING GROUP UPDATES

There was nothing to report as none of the STWGs have met since the last Board Meeting.

8 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

**Vice-Convenor Macdonald** – Attended and led at the Future of Crofting Stakeholder Conference on 4 December, which was a good day. A lot of emphasis was put on creating large amounts of new crofts, but there are so many unused crofts that the Commission felt it was more important to deal with them first. The general feeling from the Conference was that there was no pressure on the Commission to create new crofts, but for the Scottish Government to take forward.

A discussion took place about crofting development being passed to HIE and how HIE's general remit is for job creation and resilient communities, and they have no facility to pay grants. Also, small businesses do not come into the remit of HIE unless they are specifically trying to create jobs.

[REDACTED]

[REDACTED]

The Commission wish to hold a meeting in January and crofting development will be on the agenda.

|                 |  |
|-----------------|--|
| <b>Decision</b> | <b>The Commission want the issue of crofting development addressed.</b> [REDACTED] |
|-----------------|--|

Vice-Convener Macdonald attended the meeting with the Minister on 9 November, will attend a NFUS Meeting on 15 December, and will attend the Commission Christmas Lunch on 18 December.

**Commissioner Swann** – nothing to report.

**Commissioner MacLennan** – Had two meetings with Grazings Committees, [REDACTED] attended Governance Training in Edinburgh, will visit Barra next week, and will attend the Lewis Sheep Producers AGM on 18 December.

**Commissioner Dennis** – Attended the Minister’s Meeting on 9 November, the Vision for Agriculture Meeting on 16 November, a meeting in Nethy Bridge with the Land Management Department of the Cairngorms National Park Authority, and will attend a meeting of the Scottish Land Use Strategy Group.

**Commissioner Pirie** – Attended a Show Sale of prime stock at the Orkney Auction Mart, the Minister’s Meeting on 9 November, and the funeral of a farmer in Orkney.

**Commissioner Campbell** – Attended the Minister’s Meeting on 9 November, [REDACTED] the Crofting Conference and will attend the Commission Christmas Lunch on 18 December.

**Commissioner Sinclair** – Attended the Minister’s Meeting on 9 November and a meeting of the NFU in Shetland.

**Convener** – Attended the Cross Party Group Meeting in Edinburgh, a common grazings meeting in Stornoway, the Minister’s Meeting on 9 November, [REDACTED] and the Vision for Crofting Meeting

The Head of Policy, John Toal advised that he had attended a Memorial recently for Allan MacRae from Assynt, who played an important role in his community.

The Convener thanked Mr Toal for attending the Memorial on behalf of the Commission.

## 9 CIS UPDATE

The Head of IS advised that the building of the new computer system (CIS) was progressing well. Staff are currently working on protecting data that is on the current CADs system, and importing data from the old system to the new system. The core data is all safeguarded.

Of the 34 essential workflows, 22 have been completed for the new system. There is a huge amount of work going on and it is hoped that the go-live date will be the beginning of February 2016.

## 10 CENSUS UPDATE

The Head of Corporate & Customer Services advised that preparations were progressing well for the issue of the 2015 Census forms. 18,000 standard letters and forms will be sent out on or around 31 December, with another 1,600 for grazing shares only.

Of the 9,000 changes reported from the 2014 Census, all but 158 have been updated, and the 158 crofts outstanding will not receive a new Census form, but will instead receive a letter explaining the situation.

The Commission wished to thank all the staff involved in dealing with the Census and data changes, and asked that a press release go out to advise the public of the biggest update of the Crofting Register in 60 years, and to stress that it was very important to complete the 2015 Census.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <b>The Commission asked that a press release be issued to advise the public of the biggest update of the Crofting Register in 60 years, and to stress the importance of filling in the 2015 Census.</b> |
|-----------------|---|

## 11 THE FUTURE OF SCOTTISH AGRICULTURE

The Head of Policy presented the Paper, which concerns a discussion document on the Future of Scottish Agriculture from the Scottish Government.

Concern was expressed that there was a lack of the word 'crofting' in the document and although it is recognised that crofting is not central, it should not be marginalised.

A Commission group discussed the document in November and a response highlighting the significance of crofting has been drafted.

The deadline for comments is the end of March 2016 but the Commission were content for the response to be sent now.

The Commission approved the Paper and wished to congratulate the Head of Policy for drafting an excellent response to the document.

|                 |   |
|-----------------|---|
| <b>Decision</b> | <b>The Commission approved the Paper.</b> |
|-----------------|---|

## 12 DATE OF NEXT MEETING

3 February 2016 – Great Glen House

## 13 ANY URGENT BUSINESS

(a) Commissioner MacLennan wished to thank staff for the Delegated Decision Making Report that was recently issued to Commissioners. He noted that 70% of the cases decided on were in the Western Isles and this was a very good reason for creating jobs in the Western Isles.

(b) Report on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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|  | [REDACTED] |
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|  | [REDACTED] |

**14 EXCLUSION OF THE PRESS AND PUBLIC**

The meeting ended at 14:40 hrs.



# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 3 FEBRUARY 2016

|          |                  |  |
|----------|------------------|--|
| Present: | Colin Kennedy    | Convener   |
|          | IG Macdonald     | Vice-Convener                                    |
|          | Marina Dennis    | Commissioner                                     |
|          | David Campbell   | Commissioner                                     |
|          | Arnie Pirie      | Commissioner                                     |
|          | William Swann    | Commissioner                                     |
|          | Murdo MacLennan  | Commissioner                                     |
|          |                  |  |
|          | Catriona Maclean | Chief Executive                                  |
|          | Trudi Sharp      | Deputy Director, Sponsor Division                |
|          | Lucy Carmichael  | Senior Crofting Policy Advisor, Sponsor Division |
|          | Jane Thomas      | Head of Corporate & Customer Services            |
|          | Donna Smith      | Head of Information Systems                      |
|          | David Findlay    | Commission Solicitor                             |
|          | Joseph Kerr      | Head of Regulation                               |
|          | Posy MacRae      | Communications Manager                           |
|          | Coinneach Smith  | BBC, Alba  |
|          | Valerie Rankine  | Minute-taker                                     |

### 1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the first Board Meeting of 2016, especially Trudi Sharp and Lucy Carmichael from Sponsor Division.

Apologies:

- Kathleen Sinclair, Commissioner
- John Toal, Head of Policy
- Neil Macdonald, Finance Manager.

Before commencing business, the Commission, led by Mr MacLennan, wished to record its appreciation of the life and work of Simon Fraser, OBE, who had died recently. Mr Fraser, a crofter himself, was a well-regarded solicitor who assisted many crofters throughout the crofting counties. He will also be remembered as a leading advocate of land reform and a legal advisor to community landlords. Mr MacLennan was thanked for representing the Commission at Mr Fraser's funeral.

### 2 DECLARATION OF INTERESTS

Vice Convener Macdonald declared an interest in the Mangersta case. Commissioner MacLennan declared an interest in the Mangersta case and Huishinish Common Grazings.

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 9 DECEMBER 2015

The Minute of the Meeting of 9 December 2015 was approved subject to the following amendments:

| Page | Item | Paragraph         | Amended/Additional text should read  |
|------|------|-------------------|--|
| 3    | 8    | 1                 | Word 'Stakeholder' to be added between 'Crofting' and 'Conference'.                    |
| 6    | 13   | 3                 | Delete 'unannounced' in first sentence and add 'formerly' after 'Mr Maclver'.          |
| 8    | 13   | 1                 | Remove last sentence of first paragraph.   |
| 8    | 13   | Decision          | Remove first paragraph of the Decision.  |
| 9    | 13   | Decision          | Remove last paragraph of the Decision.   |
| 11   | 14   | Decision - Para 1 | Line 1 - Delete the words 'to refuse the application as'.                              |
| 12   | 14   | Decision Para 1   | Line 1 - Amend to read 'The Commission Solicitor will provide advice on draft grounds. |

### 4 MATTERS ARISING FROM PREVIOUS MEETING

- With regard to crofting development, the Chief Executive advised that she has written to the Minister and a meeting is to be arranged with the new director of HIE Strengthening Communities.
- The Chief Executive advised that discussions had been held with RPID on the issue of delays to reports.
- Head of Information Systems gave an update on CIS. The main risks at this stage are that testing is not completed or uncovers a major bug; and that the migration process fails. These risks are mitigated by the availability of a fall back option.

There was a discussion on the need to arrange training for Commissioners. It was agreed that though staff training was a priority at this stage, Commissioner training would be arranged.

- There was an update on the 2015 Census. By end of January 2016, 6742 returns had been received, two-thirds of which were without amendments. Of those with amendments, most were of a minor nature requiring small changes to personal contact information.

### 5 ADVANCED PAPERS FOR APPROVAL – RE-LETTING PAPER

The Paper was tabled for approval, the Chief Executive explaining that, though the proposals are in line with Scottish Government's estates re-letting policy, the Commission policy focused on new entrants rather than restricting re-lets to young entrants only.

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| <b>Decision</b> | <b>The Commission approved the Paper.</b> |
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**6 RE-LETTING RENTS AND IMPROVEMENTS**

Commission Solicitor David Findlay summarised the options:

- Option 1: The Commission accepts landlord’s rent proposals;
- Option 2: The Commission consults with the landlord, rent to be comparable with similar rents in the locality (bearing in mind that many croft rents are historically very low) and within the Board’s parameters. The Commission fixes the croft rent but does so only in accordance with the landlord’s proposal (if within the parameters) or a specialist surveyor’s advice. If the rent proposed by the landlord is appropriate (and within the said parameters), the Commission will fix the rent. A surveyor will be consulted if the rent proposed by the landlord is outwith the parameters to be set by the Board.
- Option 3: The Commission instructs a surveyor to give a fair rent, bearing in mind that surveyor consultation could be expensive.

There was a discussion on a variety of issues and scenarios which could arise under each option. It was noted that there are only a small number of surveyors who would be qualified to advise on croft rents, and such surveyors/land agents often act for estates and would tend to suggest rents on the higher rather than lower side.

David Findlay explained that the Land Court set out very clearly how they determine rents and, following that example, the Commission should set clear and understandable parameters.

It was agreed that Option 2 would be adopted and that a working group should be set up to discuss issues arising from the revised Commission letting process and report to the Board.

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| <b>Decision</b> | <b>It was agreed that a Working Group be set up to consider the revised Commission letting process and report to the Board. The group would include Commissioners and Commission Solicitor, with input from Duties and Regulatory Teams.</b> |
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**Re-letting – Improvements**

David Findlay gave a summary of considerations relating to improvements, explaining the mechanisms that the Act provides, as outlined in the Paper. There was no statutory basis for the Commission valuing improvements and there was potential for such a procedure to expose the Commission to liability. Ideally the outgoing tenant, landlord and incoming tenant all agree the matter. There will be cases where no agreement can be reached and parties themselves must resolve this.

After discussion, Commissioners agreed the recommendation.

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| <b>Decision</b> | <b>The Commission approved the recommendation that in the absence of agreement, it will be for the parties (excluding the Commission) to resolve any issues concerning permanent improvements. The Commission should inform parties that termination of a tenancy creates an entitlement on the part of the outgoing tenant to be compensated by the landlord, and should inform any incoming tenant that in the absence of agreement between the incoming tenant/outgoing tenant/landlord, any permanent improvements on the croft will not belong to the incoming crofter.</b> |
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## 7 SHORT TERM WORKING GROUP (STWG) UPDATES

There was nothing to report on this agenda item.

## 8 REPORTS FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

**Vice Convener Macdonald** attended the NFUS meeting of the Skye and Loch Duich Branch, the Complaints committee, the Transgrass Conference with the James Hutton Institute. Also involved in setting up a new Grazings Committee for Borreraig and Galtrigal CG. Will be doing Roadshows in Barra and North Uist later in the month.

**Commissioner Swann** would be attending the HIE Board meeting next week.

**Commissioner Campbell** attended the Audit & Finance committee and the Complaints committee and will be attending the SLE Crofting Group meeting later in February.

**Commissioner MacLennan** conducted a well-attended surgery on Barra, visited various Assessors in the Uists who had been unable to attend a Roadshow in Stornoway, attended a Hearing in Fort William and had six individuals in the Stornoway office.

**Commissioner Pirie** attended the annual show and sale of the Orkney bull breeders association.

**Commissioner Dennis** attended a Hearing in Fort William.

**Convener Kennedy** attended the Complaints committee, the Crofting Stakeholder meeting, a Hearing in Fort William, meeting with RPID officials in Edinburgh and would be attending the Cross Party meeting and the Commission Vision meeting in February.

## 9 COMPLAINTS & INVESTIGATIONS COMMITTEE UPDATE

### (a) Update from Chairperson

The Convener advised that in line with previous meetings he will hand over to the Vice-Convener as the Chair of the original working group, to present the update on the Complaints & Investigations Committee Meeting.

The Vice-Convener drew attention to the Paper to be discussed under 'Policy in Development' which recommends adopting a separate protocol when dealing with complaints made about grazings committees, under Section 47(8). The Complaints Committee see this as a sensible move.

### (b) Draft Minutes from meeting held on 20 January 2016

Committee members had asked for clarification on the definition of "customer" to be used when dealing with complaints.

They were advised that this was wider than those with an interest in the crofting community. Therefore, a paper has been requested to set out the different categories of customer in relation to complaints and regulatory functions.

It was clear that there are instances where customers continue to communicate with the Commission after a final decision has been taken on a complaint. This is using up valuable staff time, so guidance will be prepared to assist staff in closing off such correspondence.



The Vice-Convenor advised that a Paper on the revised Terms of Reference for the Committee would be presented to the March 2016 Board Meeting.

The next meeting of the Complaints & Investigations Committee will take place on 13 April 2016.

Trudi Sharp wished to compliment the minute-taker on the quality of the minutes. To someone not involved, the minutes were very clear.

The Convenor thanked everyone involved on the Committee for their work.

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| <b>Decision</b> | <b>The Minutes of the Complaints &amp; Investigation Committee were approved.</b> |
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## 10 AUDIT & FINANCE COMMITTEE REPORT

### (a) Update from Commissioner Swann

Commissioner Swann explained that the 'Draft Budgets' indicated 'For discussion' were in fact 'For approval'.

Commissioner Swann drew attention to a couple of items in the AFC minutes:

- Item 4 – External Audit Annual Audit Plan: The audit plan for 2016/2017 would be the last audit carried out by the present auditors. New external auditors have to be appointed. The Chief Executive confirmed that it was a requirement after five years to avoid the possibility of over-familiarity.
- Item 5 – Finance Shared Services–Service Level Agreement with SNH: The final version of the 2016/2017 SLA will be presented to the Chief Executive for approval/signature.
- Item 8 – Best Value: The Commission will respond to Scott-Moncrieff who had carried out the review and the final report on prioritisation of resources will be presented at the March Board Meeting.
- Item 10 – Corporate/Business Plan. The Senior Crofting Policy Advisor agreed to check whether the Corporate Plan needs to be signed off by the Minister.

### (b) Draft Minutes of the AFC Meeting held on 14 January 2016

The draft minutes were approved.

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| <b>Decision</b> | <b>The draft minutes of the Audit &amp; Finance Committee were approved.</b> |
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### (c) Risk Register

The Chief Executive presented the Risk Register, noting risks discharged and amended.

It was agreed that a new Risk on Elections should be added, as there will be cost implications for the Commission. The Chief Executive advised that a dialogue has started with Scottish Government.

**(d) Key Performance Indicators**

Commissioners considered the Paper and had no questions.

**(e) Draft Budgets**

The Chief Executive gave some background information on the forecasting from last year, based on the priorities set out in the Business Plan this year, explaining that pressure funding is separated out. The Commission is now in a better position to assess the cost of running the business and delivering the requirements of the legislation.

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| <b>Decision</b> | <b>The Commission approved the Draft Budget.</b> |
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**11 CORPORATE AND BUSINESS PLANS**

The Head of Information Systems, Donna Smith gave an overview of changes that have been made to the Corporate and Business Plans. The Business Plan for 2016/17 is still a work in progress.

**(a) Corporate Plan**

Donna Smith explained that suggestions from Sponsor Division have been included. Commissioners were pleased that the plan refined objectives and gave clarity to our vision.

**(b) Business Plan 2015-16**

This had been revised to ensure it fully aligned with the restructured Corporate Plan. Commissioners were asked to consider the format of the plan.

Commissioner Pirie pointed out an error in the conversion of 700,000 hectares to acres. This would be amended.

**(c) Business Plan 2016-17**

This Paper was presented as a working draft with the broad direction and key projects for the year outlined. A Paper will be brought back to the Board in March for approval.

Donna Smith was thanked for the hard work entailed in developing the plans.

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| <b>Decision</b> | <b>Business Plan 2016-17 to be brought back to the March Board Meeting for approval.</b> |
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**UPDATE ON RAFE**

The Deputy Director, Trudi Sharp, gave an update on the Rural Agriculture Food and Environment (RAFE) Board which has now been running for approximately 7 months. Members include Ministers, Directors and Chief Executives of delivery bodies, Crofting Commission, SEPA, SNH, and RPID. A large part of the journey was to bring people together; the next stage is to see improvements and learning coming through.

The Chief Executive commented that there are a lot of advantages in involvement with the RAFE meetings but, being a small organisation, there are also challenges.

It was noted that many knowledgeable people sit on a number of different Boards and some are very aware of the importance of crofting to the natural environment. The Convener suggested putting this on the agenda for the Commissioners' Vision Meeting on 15 February 2016.

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| <b>Decision</b> | <b>It was agreed that an agenda item be included to discuss the importance of crofting to the natural environment at the Commissioners' Vision Meeting on 17 February 2016.</b> |
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## **12 ANNUAL COMMUNICATIONS REVIEW**

The Communications Manager Posy MacRae informed the Commission that she sits on the RAFE Communications subgroup and is working on the stakeholder mapping exercise, which is now looking at stakeholder engagement across the RAFE partners.

The Chief Executive advised that the Best Value review noted how thorough and professional the stakeholder map is.

The Communications Manager introduced the Annual Communications Review for 2015, looking at communications activity and identifying priorities for 2016.

In answer to a question from Commissioner MacLennan, Posy MacRae explained that we currently only have statistics on Gaelic media coverage on social media. This is because our press cutting service does not include this. We are currently trialling an in-house service, which would include Gaelic media coverage.

The Convener thanked the Communications Manager for the great progress made in raising the profile of the Commission.

## **13 DATE OF NEXT MEETING**

9 March 2016 – Great Glen House

## **14 ANY URGENT BUSINESS**

### **(a) CHGS**

The Commission commented that the recent announcement of increased support for crofter housing is very welcome.

The Chief Executive explained she understood draft applicant guidelines were being set out at the Stakeholder Forum. These will have more information on how selection will work, with questions on the loan element being taken forward separately.

The Convener, on behalf of the Commission, formally acknowledged and expressed delight that the crofting community has received this uplift in funding and that all crofters requiring housing should benefit from this.

### **(b) Basic Payments**

Commissioners advised that they continue to receive negative comments on payment delays.

The Deputy Director handed out a news release which sets out the current position. She stressed that the department was doing its utmost to get payments out.

It was pointed out that crofters were also being hit by redundancies in the oil and aquaculture industries and that many crofting small businesses are having to carry debt until they receive their payments.

All agreed this issue is very serious for crofting and for population retention in the Crofting Counties.

## **15 EXCLUSION OF PRESS AND PUBLIC**

The Convener closed the meeting by wishing to formally record, on behalf of the Board, the appreciation of the extensive work that staff have carried out and also the excellent work the Commissioners bring to the Board.

The meeting closed at 12:50 hours.

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 9 MARCH 2016

|          |                   |                                       |
|----------|-------------------|---------------------------------------|
| Present: | Colin Kennedy     | Convener                              |
|          | IG Macdonald      | Vice-Convener                         |
|          | David Campbell    | Commissioner                          |
|          | Arnie Pirie       | Commissioner                          |
|          | Marina Dennis     | Commissioner                          |
|          | William Swann     | Commissioner                          |
|          | Murdo MacLennan   | Commissioner                          |
|          | Kathleen Sinclair | Commissioner                          |
|          | Catriona Maclean  | Chief Executive                       |
|          | Jane Thomas       | Head of Corporate & Customer Services |
|          | Joseph Kerr       | Head of Regulation                    |
|          | John Toal         | Head of Policy                        |
|          | David Findlay     | Commission Solicitor                  |
|          | Donna Smith       | Head of Information Systems           |
|          | Posy MacRae       | Communications Manager                |
|          | Morag Menzies     | PA to Convener, Minute-taker          |

### 1 APOLOGIES AND WELCOME

Apologies were received Michael Nugent, Scottish Government.

The Convener welcomed everyone to the meeting.

### 2 DECLARATION OF INTERESTS

The Convener declared an interest in item 13c, and the Scottish Land Court report on Kilmoluaig.

The Vice-Convener declared an interest in the Mangersta Common Grazings case.

Commissioner MacLennan declared an interest in the Mangersta Common Grazings case, Hushinish Common Grazings and item 13c.

Commissioner Dennis declared an interest in item 13a and item 13b.

The Head of Policy declared an interest in item 13a and item 13b.

The Head of Regulation declared an interest in item 13c.

### 3 APPROVAL OF DRAFT BOARD MINUTE OF 3 FEBRUARY 2016

The Minute of the Meeting of 3 February 2016 was approved.

#### 4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 3 February 2016 were reviewed:

- Page 2, Item 4, fourth paragraph, the Chief Executive advised that the Head of Information Systems is arranging for Commissioners to get an overview of the new computer system, CIS, and three Commissioners have seen it already.
- Page 3, Item 6, a Short Term Working Group Meeting to discuss Re-letting rents and improvements will be rescheduled to allow all members to take part.
- Page 7, Item 14b, a discussion took place about the continuing delays in Basic Payments being received by crofters. The Chief Executive advised that Finlay Beaton has been seconded back to SGRPID in Inverness for a short period of time to help out, and he will give priority to processing the Commission's Area Office Report requests.

#### 5 ADVANCED PAPERS FOR APPROVAL

##### (a) Best Value Report

The Head of Corporate & Customer Services presented the Paper, which has been considered by the Audit & Finance Committee and now comes to the Board for formal approval.

The findings from the Audit & Finance Committee have been adopted and the Best Value Review Report now reflects the Commission's Policy.

Staff training on completing the Declaration of Interest form has been arranged for the end of April 2016.

The Commission approved the Paper. The Best Value Review Report will now be displayed on the Commission's website.

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| <b>Decision</b> | <b>The Commission approved the Paper and the Best Value Review Report.</b> |
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#### 6 SHORT TERM WORKING GROUP UPDATES

The Head of Regulation advised that a STWG to look at the Letting process has been established.

The Head of Regulation advised that officials from the Delegated Decision Making Parameters Group have met to look at the next tranche of functions to be delegated, which includes vacant croft letting by landlord, letting by owner-occupier crofter, enlargement of crofts, exchange of crofts, extension of consent to be absent and variation on consent to be absent.

The group, which includes the Convener, Commissioner Dennis and Commissioner Campbell will meet on 24 March and then a Paper will come to the Policy in Development Meeting on 4 May.

Tier 2 of Delegated Decision Making has not started yet due to the implementation of CIS, but seven Assessors have shown an interest in being involved.

## 7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

**Vice-Convener Macdonald** attended the Commissioners' Vision Meeting, the final meeting of the James Hutton Institute on the Transgrass Project, and meetings in Barra and Benbecula with SCF, Registers of Scotland and the Woodland Trust. The Vice-Convener attended a meeting with Derek Fraser, Casework Officer and the Clerk and Chairman of the Sleat Common Grazings.

**Commissioner Swann** attended the Commissioners' Vision Meeting and the HIE Board Meeting.

Discussion took place about Crofting Development and HIE's role.

The Chief Executive advised that she has a meeting with HIE on 22 March to discuss the future of Crofting Development, and whether it is possible for another body to have responsibility for this.

**Commissioner MacLennan** attended a Hearing in Fort William, went to North and South Uist with no cost to the Commission and had a meeting with Storas Uibhist, a meeting with three Assessors, and attended a JCC Meeting at Western Isles Council, Stornoway.

**Commissioner Pirie** attended the Commissioners' Vision Meeting and two Ploughing Matches in Orkney.

**Commissioner Sinclair** attended the Commissioners' Vision Meeting and spoke on the telephone with the local agricultural office.

**Commissioner Dennis** chaired the launch of a book on the history of land use in Badenoch from 1750 to 1800 by David Taylor.

**Commissioner Campbell** attended the Commissioners' Vision Meeting and spent a day at Armadale Farm, a 5000 acre croft, which was arranged by SAC and was attended by the Cabinet Secretary, Richard Lochhead.

**Convener Kennedy** attended the Commissioners' Vision Meeting, a Hearing in Fort William, the launch of CIS in Great Glen House and the Convention of the Highlands & Islands in Stornoway.

## 8 COMPLAINTS QUALITY ASSURANCE COMMITTEE TERMS OF REFERENCE

The Head of Corporate & Customer Services presented the Paper, which outlines the proposed revised Terms of Reference for the Complaints Quality Assurance Committee and has been considered by the Complaints & Investigations Committee at their last meeting.

The need for revised terms was prompted by a desire to return to the key imperative given to public bodies in Scotland by the Ombudsman, to take action and learn from complaints.

Currently the Convener, Vice-Convener and Commissioner Campbell attend the Complaints & Investigations Committee Meetings and as per the legislation, the Convener should chair any Committee Meeting that he attends, but he always hands over the chairing of the meeting to the Vice-Convener.

Discussion took place about this arrangement and the Board were in agreement that there was no need to appoint another Commissioner onto the Committee and that the current arrangement should continue. The Commission approved the revised Terms of Reference, subject to the change in wording regarding the Commissioners attendance and chairing of the meetings.

The Head of Corporate & Customer Services will amend the Terms of Reference.

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| <b>Decision</b> | <b>The Commission approved the revised Terms of Reference for the Complaints Quality Assurance Committee, subject to the wording change that the current three Commissioners will continue to attend the meetings and the Convener will hand over the chairing of the meeting to the Vice-Convener.</b> |
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## 9 BUSINESS PLAN 2016/2017

The Head of Information Systems presented the tabled Business Plan and explained that all Commissioners had seen the draft Business Plan at the last Board Meeting.

The Business Plan is still a work in progress with some figures still to be added. The Head of IS advised that some turnaround times do not look positive but that has a lot to do with complications involved in croft registration and legacy cases.

After discussion, the Commission agreed that the Business Plan needs more narrative, and once the updated figures have been added, the Head of IS will e-mail the Business Plan out to Commissioners.

The Commission wished to express their thanks to staff for the huge amount of work that has gone into developing and implementing CIS.

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| <b>Decision</b> | <b>The Commission agreed that the Business Plan needs more narrative, and once the updated figures have been added, the Head of IS will e-mail the Business Plan out to Commissioners.</b> |
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## 10 [REDACTED] UPDATE

To be taken under Exclusion of the Press and Public.

## 11 DATE OF NEXT MEETING

4 May 2016 – Great Glen House

## 12 ANY URGENT BUSINESS

There was one item under Any Urgent Business. This was heard under Exclusion of the Press and Public.

## 13 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 12:52 hrs.