



CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 17 AUGUST 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice Convener
	David Campbell	Commissioner
	Kathleen Sinclair	Commissioner
	Murdo MacLennan	Commissioner
	Arnie Pirie	Commissioner
	Catriona Maclean	Chief Executive
	Donna Smith	Head of Information Systems
	David Findlay	Commission Solicitor
	Joseph Kerr	Head of Regulation
	John Toal	Head of Policy
	Posy MacRae	Communications Manager
	Jane Thomas	Head of C&CS + Minute taker
	Asif Haseeb	Audit Scotland
	Gordon Jackson	Scottish Government
	Lucy Carmichael	Scottish Government
		BBC Alba
		BBD Alba

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting, noting apologies from Commissioner Dennis.

2 DECLARATION OF INTERESTS

Commissioner Macdonald declared an interest in Mangersta. Commissioner MacLennan said he may have an interest to declare in the later private session.

3 ANNUAL REPORT AND ACCOUNTS

Asif Haseeb from Audit Scotland introduced the item, to seek the Board's approval of the Annual Report and Accounts. He was pleased to report there had been a clean audit, which had already been reported to the Audit and Finance committee. After today, the report would be forwarded to the Auditor General for formal clearance and it would then be cleared to lay before parliament.

As Vice Chair of the Audit and Finance Committee, Commissioner MacLennan wished to formally record his thanks to Mr Haseeb for all the assistance and advice he has provided to the committee and the Commission for the past five years, as this marked his last engagement with the organisation. This was echoed by the Convener and Chief Executive. The Convener also wished to pass on his thanks to everyone who had been involved in the production of the report, which represents a considerable piece of work.

The Commission approved the Annual Report and Accounts, which were signed by the Chief Executive and Mr Haseeb.

Mr Haseeb then left the meeting.

4 APPROVAL OF DRAFT BOARD MINUTE OF 22 JUNE 2016

The Minute of the Meeting of 22 June 2016 was approved with no amendments.

5 MATTERS ARISING FROM PREVIOUS MEETING

There were no Matters Arising from the previous meeting.

6 ADVANCED PAPERS FOR APPROVAL

(a) Evidence of Crofting Community

The Paper was accepted by e-mail, noted and approved.

Decision	The Commission will seek to establish whether a crofting community exists by examining evidence for a potential township when assessing relevant decrofting applications. The Commission recognises that a decrofting application for a reasonable purpose may take place on other land. Therefore the potential benefits or otherwise of the decrofting should be considered.
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Commissioner Campbell requested that the papers brought to the Board for homologation are collated into a reference resource, as this would be a useful aid to decision-making. Staff will take this forward.

(b) Retention Policy

Chief Executive asked if Commissioners could please respond when emailed papers are sent out, as it is important to collate the views of the whole Board and responses had become patchy.

Commissioner MacLennan had asked for this emailed paper to be discussed. He wished to clarify what the plans were for dealing with files which may contain information of historical value. Chief Executive reassured the Board that the retention and disposal schedule recommended in the Paper relates in the main to the routine paper files and that separate arrangements will have to be agreed with the Board in due course for the historical case files, which are not included in the Paper.

On this basis, the Paper was approved.

Decision	The Commission approved the recommendation agreed by senior management for the retention and disposal of records.
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7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Vice Convener Macdonald had taken part in a film made for a Transgrass project, in association with the James Hutton Institute. He also attended the Complaints Quality Assurance committee meeting by tele-conference. He had also been speaking to crofters in Wester Ross and Sutherland, who had expressed concern about absenteeism and the misuse and neglect of crofts. He is aware of the resource constraints but highlighted the need to do all we can to put Duties work on the agenda.

Commissioner Sinclair had attended the Cunningsburgh Show and the Audit and Finance committee meeting.

Commissioner Pirie attended the Orkney Agricultural Show in Kirkwall.

Commissioner MacLennan had attended the Audit and Finance Committee, the first cross-party group meeting of the new parliament, the Pairc Community buy-out launch, and wished to comment on the SCF meeting held recently in Stornoway. It was disappointing that no-one from the Commission had been invited to the meeting, which received a lot of press coverage. Following the meeting, local crofters have expressed concerns to him regarding recent decisions made by the Commission, relating to grazings committees.

Commissioner Campbell had attended the Complaints Quality Assurance committee meeting by tele-conference, the Audit and Finance committee meeting and had been at various lamb sales, where people had also been critical of the Commission, following recent press coverage.

The Convener attended the Complaints Quality Assurance committee by tele-conference, a meeting in Edinburgh, the Queen's Garden Party at Holyrood and planned to attend the Lochaber Show. He had received no critical comments on the Commission from crofters in his area.

8 PARAMETERS FOR CONTENT OF RPID REPORTS

Head of Regulation introduced the Paper, explaining that it sets out how the Commission engages with RPID colleagues as processes or procedures change.

Following a particular case, regulatory staff now have a better understanding that we are responsible for information we have sought, so where we have asked for comments, for instance in an Area Office Report, it is important that the information received is objective and verifiable. If Commissioners are aware or have any concerns about comments in reports, Head of Regulation will take this forward as a training exercise with staff, to ensure the guidance is embedded.

RPID have some concerns over changes to the apportionment function, which Head of Regulation will explore further. If necessary, this will be brought back to the Board.

The Note on changes to the policy on decrofting will be written up as a procedural guidance note for RPID after today's meeting.

Chief Executive explained that we are aware there have been concerns of possible conflicts of interest where RPID is the landlord of crofting estates/croft land and we will work with the department to try to resolve any issues. Ms Carmichael offered to help in any discussions. Head of Regulation wondered if reconvening the working group that had previously considered the case-paper was a way of taking this forward and this was agreed.

Decision	Commission approved content of Paper and procedure for providing further guidance to RPID.
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9 AUDIT AND FINANCE COMMITTEE REPORT

(a) Update from Commissioner MacLennan

Commissioner MacLennan was pleased to report that the Commission has been given a clean audit for 2015-16. One of the key issues brought before the committee was the discussions on VAT which have taken place between HMRC and SG. A Note has been added to the Annual Report and Accounts to cover this point. There are financial implications for the organisation, which is why it is important to work with Scottish Government on this, to make sure the risk is managed.

Commissioner MacLennan was pleased to report that almost all staff have completed a Declaration of Interest form, the Chief Executive explaining that this was over and above what they are required to do as civil servants and so she too is very grateful that staff have engaged with this exercise.

Commissioner MacLennan thanked staff for their work in support of the committee over the last year and for all of the work that goes on behind the scenes to ensure we have a clean audit report.

(b) Draft Minutes from 5 August 2016

The draft Minutes had been tabled and were approved. Three members of the committee, who had attended the meeting, were present. The three other Commissioners accepted the Minute.

(c) Risk Register

Commissioners considered the Risk Register which had been reviewed by Senior Management prior to discussion with the Audit and Finance committee, to ensure current risks are included. Chief Executive drew attention to increasing workloads, which increase pressure on staff and also to the effect on risk of external perceptions of the Commission. The pressure caused by reputational issues is considerable and Commissioner MacLennan asked if the Board is content that the Chief Executive seeks assistance in this area. This was agreed.

Decision	Commission agreed content of Risk Register and gave authority to the Chief Executive to seek assistance to allow the organisation to manage current reputational issues.
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(d) Key Performance Indicators

Head of Information Systems introduced the tables which show two targets at Amber. She explained these were not a particular concern at present and that there are some positive indicators on turnaround times. She explained that a staff satisfaction survey had been carried out and a target would be developed to hopefully improve on the result, as part of the Corporate Workplan.

The statistics show that there has been an increase in applications over the quarter, particularly with assignments, which may in part be due to the 2015 Census. General Enquiries have also gone up and decrofting applications. As well as a response to the Census, this may also be caused by a raised profile on social media, on succession for example. Though this is positive, in reflecting the Commission's desire to see crofters self-regulate, the increase shows forward planning is required before the 2016 Census is issued.

Commissioners discussed the work being completed by Head of Information Systems to ascertain unit costs, which is providing the Commission with much-needed evidence to take to SG on the future resource requirements of the Commission. Ms Carmichael suggested this could be part of the discussion with the Cabinet Secretary on 21 September.

10 COMPLAINTS QUALITY ASSURANCE COMMITTEE UPDATE

(a) Update from Chairperson

Vice Convener Macdonald explained that, as per the Terms of Reference for the committee, the Chair is passed to him for meetings, though the Convener is present.

He drew the Commission's attention to the note on Ex-Gratia Payments, which had been approved by the Board in May and was now part of the Complaints Handling Procedure. There is an appeal against the Commission's handling of a complaint with SPSO and the result of this will be forwarded to the Board once it is known. It was good to report that there had been no Stage 2 complaints in Q1 of 2016-17. The Vice Convener stressed that the work of the committee is now focused on learning from complaints and that the Lessons Learnt table is shared with staff and available on the website for the public.

(b) Draft Minutes from 27 July 2016

The draft Minute was approved and the Convener thanked everyone involved for their efforts in this area, which showed excellent progress.

11 GRAZINGS COMMITTEES – A PRACTICAL APPROACH

Revised draft Guidance had been tabled. Chief Executive introduced the item, explaining that it could only be a guide to good practice because the Act is largely silent in this area. The Commission can therefore recommend processes but cannot enforce them. Given the differences of scale and activity in grazings across the crofting counties, it is a challenge to come up with a set of guidelines to cover all situations. It is important not to include too much in the Regulations themselves or they will be too inflexible and prescriptive. The principle of keeping the Regulation Template as simple as possible was accepted.

Chief Executive stressed that the Commission has to regulate what committees have included in their Regulations, once they are approved.

Commissioners wished to see early discussions with key stakeholders to agree Guidance to grazings committees and, after further discussion on the tension between what the Act says in this area and the different circumstances that may pertain in a variety of committees, it was agreed that the initial focus for a stakeholder meeting would be on guidance pared back to what the Act says. This is in keeping with the approach the Commission has taken on other regulatory issues, taking things back to the fundamentals. Otherwise, the danger is that committees will take whatever is in the Guidance as an invitation to include everything in their regulations.

It was agreed that the Commission would set up a Stakeholder Group with the aim of engaging the group in helping to build a set of guidelines from this starting point. The Commission agreed it was important to include voices on the group who have been critical of recent actions, to help build a consensus going forward.

It was agreed to complete a re-draft of the Paper, in light of this discussion and try to arrange a small stakeholder meeting as an initial step, if possible before the meeting with the Minister on 21 September and before the Board visit to Brora. The group should involve 2-3 Commissioners, 2 Assessors, an SCF and NFUS representative and any other individuals as appropriate.

(The members of the press left at the end of this item)

Decision	The Commission authorised setting up a stakeholder group as soon as possible to consider re-drafted practical guidance for grazings committees.
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12 STAKEHOLDER MAPPING

Chief Executive explained what the Stakeholder Map represented. It was agreed that Community Land Scotland should be added and that NFUS should appear alongside SCF.

13 DATE OF NEXT MEETING

28 September 2016 – Royal Marine Hotel, Brora.

14 AOB

There was no other business.

15 EXCLUSION OF THE PRESS AND PUBLIC

The Convener closed the meeting at 14:30.