

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 10 MAY 2018

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Iain Maciver	Commissioner
	Cyril Annal	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	Joseph Kerr	Head of Regulatory Support
	Jane Thomas	Head of C&CS
	Fiona MacDonald	Minute-taker
	Betty Mackenzie	Communications Officer
	Margaret Williamson	Observer

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic and then in English. He also welcomed Margaret Williamson as an observer to the meeting. He then took the opportunity to thank everyone for their contribution in the first year of their term.

Apologies were received from John Toal, Head of Policy.

2 DECLARATION OF INTERESTS

Commissioner Maciver declared an interest in Item 15(c).

3 APPROVAL OF DRAFT BOARD MINUTE OF 8 FEBRUARY 2018

The Minute of the Meeting of 8 February 2018 was approved subject to the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
1	2	1	'father' should be amended to 'father-in-law'

The Minute of the meeting of 22 March 2018 was approved with no amendments.

4 MATTERS ARISING FROM PREVIOUS MEETING

There were no matters arising.

5 ADVANCED PAPER FOR APPROVAL – CODE OF CONDUCT

The Code of Conduct was approved.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson provided an overview of the last Audit & Finance committee (AFC) meeting:

- The Disaster Recovery Plan was discussed with a particular focus on previous concern that had been raised as to what would happen if systems went down. The AFC were content that there were procedures in place and, in addition, as we have now moved to the 'Cloud', they were content that appropriate back-up was in place.
- Commissioner Mathieson asked those who had not filled in the Board Evaluation Questionnaire to please complete it as soon as possible.
- There had been concern about delays to Internal Audit points and the Deputy CEO had carried out a review to update the dates to ones that are more achievable for SMT. All outstanding points were non-critical.
- The Year End Accounts were very good. The GDPR presentation was well received. Internal and External Audit Plans were looked at and approved.

(b) Draft Minutes from 18 April 2018

The draft Minutes were noted and approved.

(c) Risk Register

The contents of the Risk Register were noted.

(d) Key Performance Indicators

Concentration was on the 'red' indicators, but there were not many of these.

(e) Complaints Handling Report

Commissioner Holt complimented the Commission on the low amount of complaints received.

(f) Terms of Reference

Commissioner Mathieson explained that the Terms of Reference for the AFC were included so that everyone is aware of what their remit is.

Commissioner Scott complimented the committee on the quality of the information received.

Commissioner Campbell raised the question of standing down in one year's time (ahead of the end of his 3-year appointment) to allow someone to take his place to get experience serving on the committee and it was agreed that this would be put on the agenda for the next AFC meeting

7 ROUND THE TABLE UPDATES BY COMMISSIONERS

Commissioner Neilson: Busy working on the croft for the last six weeks. Will be attending the Quality Meat Scotland meeting and asked if there were any issues from Commissioners for him to take to the meeting.

Commissioner Mackenzie: Busy lambing for the last six weeks. Visit to Harris with Commissioner Campbell and Convener interviewing candidates in connection with the re-letting of a croft. Has been approached by RSABl to be a Trustee. Would take up a lot of her time but it was thought this would be good for the profile of the Commission.

Commissioner Campbell: Attended the re-letting of a croft along with Commissioner Mackenzie and Convener, and stated that it was good to see the re-letting process. Attended the Audit & Finance committee meeting.

Commissioner Scott: Attended Cross Party Group with Fergus Ewing. Attended Tier 3 casework meeting. Would also like to raise more awareness regarding Health & Safety on croft land.

A short debate on CCAGS followed and it was agreed that this would be put on the Agenda for the next meeting on 28 June 2018.

Commissioner Maciver: Attended Tier 3 casework meeting. Has a visit to SGRPID, Uist on 23 May re changes to the apportionments process. Has been asked to become Vice-Chair of the Crofting Law Group. Has signposted various people to GGH for help and guidance.

Commissioner Mathieson: Has been speaking to various people who are very supportive of the Commission and on the decisions taken on casework.

Commissioner Holt: Busy lambing. Is trying to put pressure on council regarding the school on Papa Stour to do video-conferencing, which would be beneficial to him as he wouldn't have to travel to the mainland so often.

Commissioner Annal: Raised concern about only one Assessor now in Orkney. Also raised the question regarding owner-occupier grants, which Commission Solicitor advised the Commission would try to push from Phase 2 to Phase 1 of legislative reforms.

Convener: Busy lambing/calving last six weeks. Visited crofting community for re-letting case. Prices good for sheep and cattle. Visited Shetland for cattle sale on 4 April.

A short discussion followed regarding bringing a development role back to the Commission. CEO noted that the Scottish Government's preferred terminology was a 'promotional role', in line with the wording of the Act.

Convener went on to talk about Commission attendance at the Black Isle Show on 2 August. The question was raised as to what other shows could be attended. Several possible examples were discussed and CEO said that Comms Team would investigate the pros and cons of these and work out a programme, dependent on costs and resources.

8 GDPR COMPLIANCE

Jane Thomas, Head of C&CS, gave a presentation on GDPR Compliance talking about the target date of 25 May for implementation and the impact on the Commission and Commissioners about the way we operate as an organisation.

The Commission has an Action Plan in place to show evidence that we are complying and there will also be an online training module for all staff to access.

Convener thanked Head of C&CS on how far we have come in the process.

9 ASSESSORS: REPORT ON INITIAL MEETINGS AND NEXT STEPS

The Convener introduced this paper, explaining that there were two items to discuss – the roles that assessors need to carry out and the late applications received by six applicants.

Duties (Annex A)

The afternoon at the Kingsmills was very successful, with all assessors interacting well and putting forward good ideas on how they see their role developing.

The various suggestions and comments made by Assessors at their initial meeting were discussed and it was agreed that it was important that Assessors act as an information exchange e.g. as a first port of call, to guide crofters to our website with any queries as this provides the most up-to-date information. Also, it was agreed that a pack for Assessors which includes all our factsheets and guidance on different regulatory applications should be developed.

The following points were also discussed and agreed:

- Assessors could function as an information exchange – with the appropriate training (GDPR will have an impact on this) and they should be provided with clear guidance around what they can and can't say.
- They can be there to help answer crofter's questions and guide crofters to get help with legislation or signpost them to other organisations.
- Assessors should not be tied to a specific area.
- We should ensure that they are accessible.
- They could be a valuable source of good stories about crofting in their area, perhaps providing contacts for case studies.

It was confirmed that Assessors did not need separate indemnity insurance, if they acted in good faith, in their Commission role.

The importance of keeping in touch with Assessors was raised and it was agreed that, as a first step, the Deputy CEO would arrange for phone numbers to be circulated to Commissioners so that they can each get in touch with three Assessors in order to start an ongoing dialogue with them.

Job Description (Annex B)

The job description was accepted.

Late applications received

Six applications were received past the deadline. Various options were discussed, centred on the following:

- Accept all late applications
- Accept one of the late applications due to the applicant having extenuating circumstance and include the other five in a potential second recruitment within the next year.

The following was decided:

- One of the applications (Argyll) would be accepted
- The other five would be informed that the Commission plan to do another recruitment within the next year where their applications would be considered.

Commissioner Neilson asked for a meeting of the assessor sub-group to decide on final numbers for the assessor panel before the next meeting of the Board on 28 June.

Decision	Deputy CEO would arrange for phone numbers to be circulated to Commissioners so that they can each get in touch with three assessors in order to start an ongoing dialogue with them. Contact the six late applicants, confirming the appointment of one and explaining to the others that they are not being appointed at this time, but should the Commission decide to run another recruitment, they would automatically be included in that. A meeting of the assessor sub-group will be arranged before the next meeting of the Board on 28 June
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10 COMMISSION LETTING PROCESS

The Head of Regulatory Support introduced the paper referring to sections 23(5B) and 23(5C) of the Crofters (Scotland) Act 1993 which relates to the Commission taking on the letting of vacant crofts at its own hand. The background to this paper was that the procedure adopted in relation to this function was last reviewed by the Board in June 2016. At that time the Commission had taken over the letting of three crofts and the new tenants had all been selected through an interview process. A review was undertaken because of a number of factors including:

- Cost factors (three Commissioners supported by officials undertook the interviews in the crofting township)
- Commissioners and the then CEO wished to revisit the process in the light of the experience of letting the three crofts
- The number of complaints received by and on behalf of unsuccessful applicants.

In June 2016, the Commission agreed to adopt a random selection process. Since then, the Commission has re-let a further seven crofts; six of these crofts were let through the random selection process and in one case the Board decided to hold interviews on the basis that one of the applicant candidates was using the croft which was the subject of the let.

Following discussion and consideration it was agreed that the Commission would adopt the following policy position:

Conditions

It was agreed that the Commission would retain the policy of only letting on the standard conditions set out at schedule 2 of the 1993 Act. It remained open to the landlord and tenant to agree alternative conditions depriving the tenant of rights, providing they were compliant with the provisions of section 5(3) of the 1993 Act.

Assessment of Rent

It was agreed that the only aspect of the letting the Commission would consult with the landlord on was the rental assessment. It was further agreed that the rent would be set on the basis proposed and set out at Part 1.3 of the Board Paper.

Commissioner Campbell made the point that we have experience on the Board to set rents ourselves. It was also noted that it is open to the landlord to apply to the Scottish Land Court under section 23(6) of the 1993 Act for a variation of the terms and conditions fixed by the Commission (which includes rent).

Assessing suitability of candidates (sift)

It was agreed to bring the process of assessing the suitability of applicants more in line with our regulatory processes in determining the suitability of proposed tenants in assignation and letting applications by adopting a number of the factors set out in section 58A(7) of the 1993 Act which the Commission are required to have regard to when considering applications. The factors the Commission would focus on are:

- (a)(i) whether any person is or will be ordinarily resident on, or within 32 kilometres of, the croft
- (ii) whether the croft is being or will be cultivated or put to such other purposeful use as is consented to under section 5C(4)
- (c) the interests of the crofting community in the locality of that land
- (d) the sustainable development of that crofting community
- (g) any plan of the Commission approved and published under section 2C
- (h) any other matter which the Commission consider relevant.

Determining to which of the candidates to let the croft

Following discussion, it was agreed to retain the current random selection method as the preferred method of selection but to disapply this policy where circumstances would warrant a different approach (i.e. interviewing candidates who pass the sift). Examples when random selection may not be appropriate could include where one of the applicants has a prior connection with the croft to be let, where Commission staff apply as candidates for the tenancy of the croft etc.

Commission Solicitor emphasised that SG are pushing for more enforcement work from the Commission, which could potentially result in more of these cases where the Commission have to take on the letting of the croft at its own hand.

Decision	To retain the current random selection method as the preferred method of selection but to disapply this policy where circumstances would warrant a different approach (i.e. interviewing candidates who pass the sift).
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11 PERFORMANCE/TURNAROUND TIMES

Deputy CEO introduced the paper. This had been provided for a variety of reasons but in particular to help address one of the questions often raised about the time taken to process applications. The different stages were explained and how circumstances can lengthen the time taken to process e.g. regulatory application along with croft registration, incorrect applications and maps having to be returned, time taken to process cheques, time waiting for SGRPID reports, which can vary given the time of year, whether it needs to be advanced from Tier 1 through to Tier 3.

The guidance for timescales is provided within the application guidance but it is proposed that this information be put on to the website in a much more visible and detailed way to help customers to understand the process and manage their expectations.

Various ideas were discussed about further information that could help mitigate common problems such as publishing checklists and parameters for different application types; educating solicitors and other agents; reviewing the timeline and process for handling objections.

12 BOARD MINUTES DISPLAY ON WEBSITE

Commissioner Campbell suggested that four Board meetings per year were not enough as this meant that minutes were not put on the website timeously.

It was suggested that a short Board meeting could take place before each Strategy meeting, but the risk here was that the Board meeting would carry on later than intended and reduce time for Strategy.

After further discussion it was agreed that the minutes would be agreed by e-mail, thereby ensuring that they are put on the website in a reasonable timescale after each Board meeting has taken place. The format of Board/Strategy meetings would be discussed at the June meeting.

Decision	Minutes would be agreed by e-mail, ensuring they are put on the website in a reasonable timescale after each Board meeting has taken place.
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13 DATE OF NEXT MEETING

28 June 2018 (Strategy Meeting – Great Glen House)

14 AOB

There was no urgent business to discuss.

15 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their input and closed the meeting at 1545hrs.