

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT THE AYRE HOTEL, KIRKWALL ON WEDNESDAY 3 OCTOBER 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
	Fiona MacDonald	Minute-taker
	Gordon Jackson	Scottish Government
	Michael Nugent	Scottish Government
	Reporter	Alba
		Radio Orkney
	Member of the public	

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic and then in English. He also welcomed the member of the public and BBC reporters until Item 13.

The Convener wished to record his thanks to Donnie MacDonald, Taldale; Ian Sinclair, South Ronaldsay and Commissioner Annal and his son for their warm welcome on the Commission's visits.

There were apologies from John Toal, Head of Policy and Jane Thomas, Head of Compliance.

2 DECLARATION OF INTERESTS

There were no interests declared.

3 BOARD MINUTES FOR 22 AUGUST 2018

The Board Minutes had been approved and published on the website.

4 MATTERS ARISING

4.1 Assessors

There was an update on assessors from the previous meeting.

Convener and Commissioners Campbell and Mackenzie had met with four assessors in the East Highland area and this had been very worthwhile. Commissioner Campbell commented on the encouraging level of knowledge of the four assessors. They were very interested in helping the Commission with the work that the Residency and Land Use Team were carrying out in connection with duties.

It had been intended to hold a meeting in Skye for assessors in the surrounding areas to attend but it had now been decided to hold this in Harris for convenience. If the Skye assessors couldn't attend this one, they could join another meeting.

The Convener and Commissioner Holt would arrange one for the Northern Isles.

4.2 Delegated Decision Making

Head of Regulatory Support advised that following the decision made to extend delegated decision making to resolving long standing unresolved successions, the Commission had advertised in the Orcadian a notice issued under section 11(4) of the Crofters (Scotland) Act 1993 proposing to terminate the tenancy of a croft and declare it vacant. The Residency and Land Use team were currently engaging with the landlord to ensure that he will be in a position to submit letting proposals when the formal notice is issued.

4.3 Complaints

Deputy Chief Executive advised that frontline complaints have risen due to the backlog but there had been no corresponding increase in formal complaints. Commissioner Mathieson advised that these would be discussed further at the next AFC meeting.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

The Convener had been in contact with assessors. Attended the livestock sales in Shetland. He said there had been a real 'feel good' factor there. People want crofting to exist!

Commissioner Holt agreed with the Convener re livestock sales. It was good to see young people there. He had also been busy with sheep handling: drenching, vaccinating, checking teeth and feet, sorting for sales and other pre tupping checks.

Commissioner Scott had attended sheep dipping courses. He said that it feels as if it is sharing a labour lost in communities. How do we get that back?

Commissioner Annal commented on owner-occupied crofts. The Convener thanked him for bringing this to the Commission's attention previously.

Commissioner Campbell had attended the Cross Party Group where there was a presentation from Gwyn Jones re the work he had done for the Commission which prompted some debate. Commissioner Campbell noted that it had been good to have this in Inverness rather than Edinburgh. It was agreed that it would be good to have the draft Agenda earlier so that Commissioners could plan ahead to attend if there were particular items of interest.

Michael Nugent, Scottish Government (SG) said that there would be a stakeholders' meeting with a focus on housing and an invite would be extended to the Commission. The meeting would hopefully be held in Great Glen House or at HIE's office.

Commissioner Mathieson had attended the Lochaber Show for the first time. He also attended the Lochaber Mart. He said he had heard very positive comments re Gwyn Jones' report as regards pro-activity. He had also visited a croft in Argyll to discuss a boundary dispute.

Commissioner Mackenzie said she was very interested in getting involved re planning. She had attended the dog trials and spoke to the Agricultural Officer there, who advised there is a huge backlog in the Department. Head of Regulatory Support advised that there was more follow-up training planned for the Department.

Commissioner Maciver had attended some shows where there were some interesting discussions regarding the casework backlog. There was a lot of anxiety over the future of crofting. He is currently waiting to hear from the Crofting Law Group about whether there will be a conference this year. He also re-iterated the importance of the assessors network.

Commissioner Neilson, working for QMS, has come across the huge problem with sea-eagles in Ardnamurchan and on the island of Skye; these were areas where farm and croft assessments were carried out. On general livestock trade, sheep/cattle sales were much harder on the year as sheep prices were down £5, cattle prices – average drop £40-£50, followed by a steep rise in fertiliser prices, up 25% on the year. Crofters with jobs are slightly cushioned from the financial strains. A croft buy-out scheme was suggested, along similar lines as the old croft house loan scheme – this idea needs development and Commissioner Neilson promised to fill out the bones of this and share around for further discussion. Commissioner Campbell stated that a croft buy-out scheme would be good to allow access to finance.

6 PHASE 1 OF CROFTING BILL WORK

Solicitor introduced the paper. The purpose was to inform the Board about Phase 1 and identify issues which the Bill team is likely to take forward and others that could be assigned to Phase 2. The Annex identified which areas could be included in Phase 1, if the Bill team take the matters identified forward.

The solicitor outlined that deemed crofts cause problems as they are not understood by crofters and solicitors.

Owner-Occupier status – the 2010 Act Section 19B contains a definition of owner-occupied crofter that excludes certain categories of occupiers of crofts, probably in order to prevent landlords and landowners becoming owner-occupier crofters.

There may be a minor change to the Crofting Register introduced to enable the Keeper to rectify the Register where there is an inaccuracy.

There was a small discussion about standard securities over croft tenancies. Discussion was ongoing between SG and banks.

Solicitor stated that in the 2010 Bill, although it is understood that the banks were broadly positive, key crofter stakeholders had reservations about the proposals.

Commissioners may wish to discuss some of the topics in more detail, and this will be facilitated as necessary.

It was agreed that discussions regarding specific Bill team Phase 1 proposals would be done outside formal Board meetings and by e-mail or group discussions involving several Commissioners.

7 DELEGATED DECISION MAKING – ESTABLISHING PARAMETERS TO EXTEND THE RANGE OF DELEGATED FUNCTIONS

Head of Regulatory Support introduced the paper, by confirming that the August Board agreed that a further nine regulatory functions/decisions be included in the delegated decision making process. Four were introduced with immediate effect and five were to come back to the Board for discussion and agreement once parameters for delegation had been drafted by officials.

There were three here today:

(a) Consent to Purposeful Use

Parameters agreed. If there were no objections received by landlord or the crofting community following consultation, then this could proceed under Tier 1.

(b) Recrofting Land

Parameters agreed. It was noted that there have generally only been three or four cases annually which fall into this category. It is not so much the parameters but the validity checks which were the main issue here e.g. only if the reasonable purpose Direction had been issued within the last 20 years, could a recrofting be considered. The case would be escalated if the crofter challenged the assertion that a breach in the direction had occurred.

(c) Enlargement of Common Grazings

Parameters agreed. This would generally be dealt with at Tier One where there was a demonstrated benefit to shareholders and the common grazings, and there were no access issues involved. If there was no universal agreement, the case would be escalated to determine whether an enlargement could proceed but only involving those shareholders who were in agreement (in such a case any enlargement may require a separate list of shareholders and distinct regulations).

Commissioner Scott wished it recorded how delegated decision making was working more widely and this was good for staff morale.

The Board decided to approve this paper.

Decision	The Board decided to approve this paper.
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8 ISLANDS BILL AND LOCAL GOVERNANCE REVIEW

Solicitor introduced the paper. The Commission may, in certain circumstances, have to carry out an Islands Communities Impact Assessment (ICIA). It would be for the Commission to decide whether its policy, strategy or services will impact one or more islands differently from the mainland or other islands.

Commissioner Campbell said that the Act would potentially require the Commission to think in a new way about a range of issues that impacted on islands. For example, next time the Commission discussed the pros and cons of locating selected posts outwith Inverness, the Islands Act would be relevant.

Commissioner Holt asked is there is a template for the Island Communities Impact Assessment?

Commissioner Campbell commented on the issues of road equivalent tariffs for the Northern Isles, potentially available through the so-called "Islands Deal". CEO said officials would find out a bit more about the Islands Deal.

CEO advised that the Commission already considers the impact of its policies and services on all the communities it serves, including island communities and remote mainland communities, such as Ardnamurchan and NW Sutherland.

Solicitor noted that the identification of owner-occupier crofters and status concerning them was an example of the Commission taking into account the particular facts and circumstances of all the crofting areas served by the Commission.

Convener asked the Solicitor how he wished it to be taken forward and the Solicitor replied by stating that officials would, in the first instance, identify if any policy, strategy or service would likely have a significantly different effect on any particular island community

Michael Nugent, SG advised that protecting and promoting the islands was a high priority for the Scottish Government.

9 CEO MEETINGS

CEO began by advising he had attended many SG meetings, one of which had brought public bodies together to be warned of the pressures on SG's budgets for future years.

He had also discussed the backlog with Michael Nugent, Gordon Jackson and Ian Davidson. SG had suggested an improvement project regarding the process of the handling of casework and officials were now considering how to scope such a study.

The Away Day at Cantraybridge College was well received and had built a sense of togetherness within the organisation.

Attended Cross Party Group.

Had been struck by a comment by a crofter whose paid job was in forestry, that demand for wood would likely outstrip supply within a decade. Should crofters be encouraged to do more with wood?

Attended the annual conference of the Highland Small Communities Housing Trust. He had been struck by the very hard work required of volunteers to drive community initiatives forward – the conference had highlighted successes in Achiltibuie (crowd-funded for a wind turbine) and Strontian (raised funds, built school and rented it to Highland Council to use as a primary school). In crofting, grazings committees were designed to play a strong community role – could they be empowered to do so more?

He had met with Hamish Trench of the Scottish Land Commission and agreed that the two organisations would produce a joint paper drawing out common themes, including the democratisations of land rights.

Convener and CEO going to meeting on Monday to have preliminary discussions with HIE.

10 REFLECTION ON SHOWS

Commissioners attended various shows which were well represented with Commissioners and staff.

Commissioner Neilson said that there was a lot of positive feedback.

Commissioner Holt asked that if they were to return to the Cunningsburgh show, could it be in a more prominent place? Regulatory staff got a lot of good questions and it was very beneficial for staff to be there with their regulatory knowledge.

Commissioner Scott said that it was good to speak face to face and Commissioner Campbell said it was also very beneficial on a personal level.

Commissioner Annal said that the County Show went down well.

Commissioner Campbell said that official gilets were good for smaller shows and Commissioner Mackenzie said it was more beneficial walking around meeting people rather than standing at a stall.

Convener said the Cabinet Secretary's visit to our stall at the Black Isle Show had helped to highlight the Commission.

Commissioner Maciver made the point that it would be more advantageous having a stall in the middle of the show. He had spoken to a lady who was annoyed that her CCAGS application had been disallowed, not understanding that this is no longer the Commission's remit.

Convener asked to formulate a plan for next year's shows and Commissioner Campbell made the suggestion that we could share a stall with some other organisations.

It was agreed that the Board would decide on the number of shows and locations, and to work round the holidays for these.

11 DATE OF NEXT MEETING

29 November 2018 – Great Glen House

12 ANY URGENT BUSINESS

The Board would like to record their thanks to Fiona MacDonald for organising the external public/board meetings and the external trip.

At this point, the meeting went into closed session and the BBC Alba reporter, Radio Orkney reporter and member of the public left the room.

13 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their input and closed the meeting at 1310hrs.