

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 19 AUGUST 2019

Present:	Cyril Annal	Commissioner
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Rod Mackenzie	Convener
	Bill Barron	Chief Executive
	Mary Ross	Crofting Regulatory Support Manager
	Aaron Ramsay	Head of Digital & Improvement
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulatory Support
	Jane Thomas	Head of Compliance, Minute-taker
	Betty Mackenzie	Communications Manager

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the Board meeting, giving a welcome in Gaelic and English.

Apologies were noted from Heather Mack, Head of Operations and Workforce and from James Scott. The Commission wished to convey its condolences to Mr Scott.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting. Mr Scott had forwarded information on an interest to the Convener. The Standards Officer confirmed this would be added to Mr Scott's Registered Interests.

3 APPROVAL OF DRAFT BOARD MINUTE OF 27 JUNE 2019

The Minute of the Meeting of 27 June 2019 had been approved by e-mail and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Neilson requested an update on the situation regarding joint tenancies and deemed crofts, in relation to new legislation. Deemed crofts was on the agenda for discussion and the CEO advised there would be a meeting with the Bill Team on 29 August, following which there would be a report back to the Board.

Head of Policy explained that, further to the discussion on electoral boundaries at an earlier Board meeting, Scottish Government have requested early feedback from the Commission. He will be contacting Commissioners shortly on this before writing back to SG.

5 E-MAIL PAPER FOR APPROVAL: GAELIC LANGUAGE PLAN

Head of Compliance explained the GLP Commitments are reviewed annually by the Board, ahead of an annual Review by Bòrd na Gàidhlig, which must be submitted in September. Next year will see the third iteration of the Commission's GLP and it is hoped that a draft will come to the Board for consideration in November.

The paper had been e-mailed to Commissioners. No negative comments had been received and the Board was asked to formally ratify approval of the paper.

The paper was approved.

Commissioners did, however, raise a query over the practical implications of the requirement for the Board to have at least one Gaelic-speaking Commissioner, asking what the position would be if either no Gaelic speaker was elected or the Gaelic speaker on the Board resigned. CEO confirmed he would raise this issue with Sponsor Division.

Decision	The Board approved annual review of Gaelic Language Plan.
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6 ANNUAL REPORT & ACCOUNTS

Vice Chair of the Audit & Finance Committee introduced the item, explaining that the committee had considered the report at their August meeting and found it to be comprehensive and informative. He wished to pass on thanks to the Finance Manager and Communications Manager for the quality of the report and for all the hard work that had gone into producing it.

Commissioners approved the report and it was formally signed off.

Decision	The Board approved the Annual Report for 2018/19.
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7 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson explained the committee had considered the management accounts, which were very well presented. The results show a likely overspend, due to budget cuts and extra costs, such as pensions, staff pay increases and an unexpected rise in costs paid to SNH, as the building factors. Due to a considerable increase in the number of applications received, there has also been a knock-on effect, increasing statutory advertising costs. Commissioners discussed the implications of this funding environment, going forward and were particularly concerned about the rise in building costs. The CEO explained this was being looked into and would be followed up.

The budget is very tight, with limited opportunities for adjustments in non-staff costs. Commissioners were concerned that if operational costs fluctuate, this may affect performance. Commissioners agreed there was a need to think innovatively about solutions and that the key to this in the longer term was good workforce planning and succession planning, as the service provided by the Commission relies on the knowledge of specialist staff. With this in mind, Commissioners want to see a detailed Succession Plan.

CEO reported that work with the Improvement Project team from SG has begun. Commissioners wished to see the Terms of Reference for this work.

Commissioner Mathieson also gave an update on the Scott-Moncrieff internal audit report, which had not raised any major issues, but which included several items that have been outstanding for some time, and which the committee wished to see discharged.

(b) Key Performance Indicators

Nothing critical was reported on the KPI's, though several items were standing at Amber and would be monitored.

(c) External Auditors Report

Commissioner Mathieson explained this was the first external audit report following an expansion in the scope of such reports, on the instructions of Audit Scotland. It looked at much more than purely financial governance and he advised Commissioners to read the report with the associated management comments.

In particular, attention was drawn to the need for a Medium-Term Financial Plan, along with the Workforce and Succession plans. The Auditor recommends that the Finance role is more closely involved in the SMT. The CEO would consider what practical changes could be made to present arrangements.

(d) Report on Annual AFC Activity 2018/19

The Commission considered the report and were happy to approve the record of the committee's activities for the year.

Decision	The Board approved the Report on Annual Activity of the Audit & Finance Committee.
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8 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

The Convener began the update. He has had regular meetings with the CEO and attended an interesting meeting with the Short-term lets working group. It was encouraging to see the Commission involved in this consultation. The Convener also attended several shows, feeling that this brings the Commission closer to its customers in a positive way. In order to plan for the future, he requested input from staff and Commissioners on the shows attended. It was agreed that this would be discussed at the next Board meeting, with comments to be forwarded to the Communications Manager.

The Convener reported that he had enjoyed an informal meeting with the Cabinet Secretary at the Black Isle Show.

Commissioner Neilson had visited around 100 units recently, in his QMS role. This generates lots of questions from crofters, which he finds staff are often able to help with. He too had visited shows and thanked the staff who had attended. He had been part of a Citizen's Panel on land use, organised by SG in March, for which the report had just been published. It had been an interesting experience.

Commissioner Mackenzie had been to the Skye show and talked to a lot of people. She had also been involved in a very productive meeting with an estate on Skye with staff, with a view to having three long-term vacant crofts occupied and used.

Commissioner Campbell had visited various shows and the Lairg sale. He commented on the tendency for the media to inflate the scale of some sales and hoped there could be more realism, as livestock sales tell a story. It is encouraging to see prices going up and good quality produce needs to be highlighted, as well as the impact that crofting has on population retention in remote areas. In relation to this, he would like to see closer links between the Highland Council and the Commission, as budgets follow people and there is a concern that HC may be too Inverness-centric.

Commissioner Mathieson had been to the Appin show and would be at the Lochaber show at the weekend. He too had found the meeting with the short-term lets group interesting.

Commissioner Maciver had continued to receive many requests locally for guidance on crofting issues. People are often asking about succession planning. He had attended shows and was keen to have the views of staff as to the benefits of their attendance.

Commissioner Holt had written an article for the Commission and attended the Cunningburgh show.

Commissioner Annal had attended the County show and spoken to several crofters there.

9 CYBER RESILIENCE

This paper was introduced by Head of Digital & Improvement, who explained the Commission had gained Cyber Essentials accreditation last year, what this entailed and the approach to gaining Cyber Essentials Plus accreditation in 2020/21.

He explained the role of the National Cyber Security Centre and how the Commission is engaging with the work being brought forward there.

He also gave an update on the introduction of InTune, which makes our operating environment safer. As there are a few devices which have not yet been updated, he urged Commissioners to let the IS team have these as soon as possible so the environment for using remote devices is as safe as possible.

Commissioners thanked Head of Digital & Improvement for the update and agreed they are happy with the approach being taken on gaining the next level of cyber security accreditation.

10 STRATEGIC RISK REGISTER

The paper was introduced by the CEO, who gave some context to the scores against each item. Item 005 represents a real challenge for the Commission and addressing this is a priority. On 003, it was explained that over 600 General Enquiries have been cleared in the last 3 months, as a consequence of developing a new way of handling them. The number of applications received continues to be high. On grazings, at 002, there is good progress to report, with the number of in-office committees rising.

Head of Digital & Improvement reported that for item 003, the Commission is now further ahead than the register records, due to the work on the Improvement Project. Head of Policy was also positive that the pro-active work on grazings, such as providing a template for grazings regulations, was now beginning to bear fruit and he could foresee the risk level continuing to decline.

Commissioners asked whether improvements could be made to the croft registration process, to reduce the burden on Commission staff. A meeting had been held with RoS the previous week and Commissioners would be kept informed of progress. There was concern over staff turnover, with news of two members of staff leaving for promoted posts shortly but there was also recognition of the changed culture of the job market and greater opportunities to work in Inverness now, in posts which would earlier have been based in the central belt.

The Convener confirmed that the Board will see the Strategic Risk Register four times a year.

11 PHASE 2 – INITIAL APPROACH

The paper was introduced by Head of Policy, who provided the context to what the Convener referred to as the start of a journey. He explained that the Commission needs to understand the evolving policy environment and come to an agreement on the major issues for crofting and what could be corrected or improved by legislation or government action.

Head of Policy suggested that the Board and the selected Assessors schedule four Strategy Days over the next 12-months, to consider the issues and build up a clear and comprehensive view to put to government. To begin with, it was agreed to devote the strategy day after the November Board meeting to this issue, with the Assessors to be invited to join the Board's deliberations.

The Convener asked Commissioners to focus on what they thought was most important for 21st century crofting, such as tackling absenteeism and neglect and considerations of community input to decisions. They discussed the many consequences of the Right to Buy legislation, some of which may not have been foreseen at the time and the different experiences of crofting in different areas, agreeing that it is vitally important to work with other agencies to make it attractive and accessible for young people to live and work in crofting areas. It was also recognised that there may be opportunities in the near future, which will make the crofting system more attractive, such as the growing emphasis on environmental sustainability and the desire to reduce food miles.

The Commission agreed to develop a Plan, co-ordinated by the Head of Policy, to present to government, with a positive emphasis on the solutions that crofting can be part of, if integrated with thinking on wider issues, such as transport, to show the relevance of crofting in the 21st century.

12 DEEMED CROFTS

The Commission solicitor explained the background to the paper, which comes to the Board ahead of a meeting with the Bill team on 29 August. He explained that the Annex to the paper had been drafted by a member of the Bill team, looking at various options. The Annex suggests moving away from using the term, 'deemed croft', referring instead to a grazings share. Any such administrative changes would not need to be included in new legislation.

On policy, he explained the damage that could result from separating grazings rights from the croft; problems which have been seen in several concrete examples, such as on Jura.

The Commission agreed that the term 'deemed croft' had no meaning to the majority of crofters, while it is easier to understand a grazing right, held in a grazings share, as a right of use rather than occupancy, though there remain further complexities, such as the distinction between Section 3(4) and Section 3(5) of the Act.

The solicitor thought that the Bill group may decide on administrative changes alone on 29 August, to help reduce the current confusion on the issue. All agreed that the issue seemed too complex to be included in the Phase 1 legislative changes and hopefully this message is now more fully understood, along with the desire of the Commission to see the muddle over the issue sorted out.

Commissioners considered various scenarios, including the question of the difference between crofting duties on the one hand and a share carrying no burdens on the other, which illustrated the number of factors to be clarified before any change in legislation should be carried through. The Scottish Government stance currently supports moves to make people more aware of grazing rights and apportionments, so that they do not walk into situations that create 'deemed crofts' unintentionally. The whole issue is tied in with owner-occupier status and property rights, so should be part of a much wider debate.

13 EXTERNAL MEETINGS

The Convener introduced the item, asking if there was a more worthwhile way to organise engagement than the yearly external Board meeting. The Communications Manager had given her informed opinion, with attendance at shows coming out top for good value, with public surgeries in crofting communities next, followed by public meetings and lastly, the external Board meeting.

Commissioners felt direct engagement with crofting communities is important, and that as a public body, it is something the Commission should continue to do.

After discussion, it was agreed that greater value could be delivered if three external meetings were organised each year, with representation split between Commissioners and staff. It was agreed that these would take the form of a public meeting and a surgery, that there should be 2-3 Commissioners at each, plus a member of senior management and two other members of staff. Assessors would also be invited.

After discussing various areas to visit, the Commission agreed there will be two external meetings arranged for February 2020, with a further one later in the year and that meetings would also be arranged wherever possible on the back of Hearings.

14 DATES FOR 2020 BOARD MEETINGS

Commissioners considered the dates detailed in a paper drawn up by the CEO. With the addition of an extra Strategy day on 15 May 2020, all of the dates in the paper were agreed.

15 DATE OF NEXT MEETING

The next meeting will be held in Argyll on 7/8 October 2019. Itineraries are being developed and will be forwarded to Commissioners shortly.

16 AOB

There was no urgent business.

17 EXCLUSION OF PRESS AND PUBLIC

As there were no questions, the Convener thanked everyone for their contribution and closed the meeting at 3.35pm.