

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 27 JUNE 2019

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Iain Maciver	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	Bill Barron	Chief Executive
	Aaron Ramsay	Head of Digital and Improvement
	David Findlay	Commission Solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulatory Support
	Jane Thomas	Head of Compliance, Minute-taker
	Heather Mack	Head of Operations & Workforce
	John Kerr	Head of Agriculture Policy Division SG
	Michael Nugent	Senior Crofting Policy Advisor SG
	Aileen Rore	Crofting Policy Advisor SG
	Neil Davidson	Rural & Environmental Science & Analytical Services SG
	Michael O'Neill (by telephone link at 11:50)	Crofting Bill Team Leader SG

1 APOLOGIES AND WELCOME

The Convener welcomed everyone and opened the Board meeting in Gaelic and English. A particular welcome was given to colleagues from Scottish Government (SG) attending the meeting.

Apologies were received from Malcolm Mathieson.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting.

3 APPROVAL OF DRAFT BOARD MINUTE OF 9 MAY 2019

The Minute of the Meeting of 9 May 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

There were several matters arising from the last meeting:

- The CEO referenced item 6 from the May Board Minute, regarding an Options Paper on involving young people in the work of the Board. Commissioners were satisfied that this could be dealt with by e-mail, rather than a paper coming back to a meeting.
- Head of Digital and Improvement apologised for the delay in rolling out the software for digital Board papers and went through various options to address the matter, explaining that hardware needs to be installed directly and this takes just a little time. Commissioners agreed to make time for this to be done.
- CEO and Convener confirmed there has been no further contact with HIE following the May Board, except for the Commission solicitor meeting with HIE's counterpart to discuss a single issue. After discussion, it was agreed that the meeting with HIE had been useful, in that it clarified that that organisation's priorities are not necessarily an easy match for crofting enterprises.
- CEO explained that a letter to SG on joint tenancies had been sent, as referenced in the Minute. He had been asked by NFUS to share the letter with them. The Commission agreed to make the letter public by putting it on the website.
- CEO apologised that the action on Blogs was outstanding and the Strategic Risk Register had still to be e-mailed to Commissioners. As some of the day's discussion may be relevant to the latter, the register would be e-mailed after today's meeting.

5 DELEGATED DECISION-MAKING – AMENDMENTS TO PARAMETERS FOR DIVISION AND DECROFTING (REASONABLE PURPOSE) APPLICATIONS

Head of Regulatory Support introduced the paper, which was in two sections, explaining the reasoning behind it.

The aim of section 1 was to minimise the level of subjective judgement required by officers. The Commission discussed the rationale behind terms such as sustainability and how this differs from viability. The suggestions in section 1 of the paper were seen as a streamlining of the process, to act as a sieve. Commissioners agreed that flexibility is needed in any policy on Division because of the variety of different circumstances that may pertain in individual cases.

The recommendation was agreed.

On section 2 of the paper, Head of Regulatory Support reflected that the Commission had discussed demand previously, agreeing that it can be relevant but also hard to measure, given that the asset may not 'exist' at the time evidence of demand is sought.

It was agreed that cases could expose a variety of complex issues and therefore the parameters would not be changed at this point.

Decision	The Commission accept the changes to parameters for Division of a tenanted croft and Division of an owner-occupied croft, as set out in section 1 of the paper.
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6 ROUND THE TABLE UPDATES FROM COMMISSIONERS

As this was the first Board meeting he had attended, the Convener asked the new Head of Digital and Improvement, Aaron Ramsay, to introduce himself to Commissioners. Mr Ramsay is looking forward to bringing his experience of performance management and improvement to his new role.

Commissioner Holt had visited one of the Shetland Assessors recently, spending a very interesting day in north Unst.

Commissioner Campbell had attended Tier 3 casework meetings and wished to record that the process is working well, and the standard of papers is excellent. As the information they contain is so comprehensive, Commissioners rarely need to ask for further information, making this an efficient process. He had been doing work in quite a remote rural crofting community, which represented the crofting system working well, with a diverse range of activities being undertaken and people living and working in the community.

Commissioner Annal asked if it was possible to see statistics on finance in crofting. The CEO explained this would partly be covered in the presentation after lunch.

Commissioner Neilson had made visits to around 40 different units recently, in his Farm Assurance role. From this, it was clear how much investment on the croft is dependent on external funding. He reported that people often approach him if they have difficulties with form-filling, which should be kept in mind when considering any changes to application forms, as some people find it hard to complete forms online. He had attended the Cross-Party group in June, which had been interesting.

Commissioner Maciver reported that he is also regularly approached by crofters seeking basic help and advice. He had taken part in Tier 3 meetings, which he felt were a very interesting aspect of the work of a Commissioner. He had attended a crofting book launch and hoped crofters and estate offices would find the new publication useful.

Commissioner Mackenzie had attended a Tier 3 meeting and had been to Skye with the Convener to meet a group of international journalists. She had also attended the Highland Show and met the SG Policy team there. From the SCF tent, she had reports of difficulties getting through to the Commission by phone, with the organisation saying they are now documenting the number of complaints they receive on this issue. It was also reported that Voicemail messages are out of date in some instances. Head of Operations & Workforce said she would look into this and remind staff to keep messages up to date. However, Commissioners wanted to note that the general feedback from customers and stakeholders, such as the SCF, is that when they do get through to an officer, the service they receive is excellent.

Commissioner Scott wondered if there was merit in looking at shared services to help overcome the switchboard difficulties. He agreed with previous statements about the quality of the Tier 3 process and papers and compared this to the Board paper organisation, which he found poor.

The Convener had spent a day in the office, answering phones and found the queries covered a variety of issues. He aims to do this again. He found the meeting with foreign journalists revealing, in terms of the perception of crofting by people from outside the region.

7 COMMISSIONER ELECTORAL AREAS

Head of Policy introduced the paper, explaining the background to the consultation undertaken by SG previously. Although Option 2 had been favoured by most respondents, SG decided not to adopt this, due to a variety of factors, including the low response rate. However, the current situation exposes difficulties, in terms of democratic accountability, given the geographic concentration of crofting communities in certain areas. In this context, the Island (Scotland) Act is relevant. The Commission considered what the rationale was for moving to a system of elected Commissioners, discussing the relevance of the Shucksmith report's proposals on Area Boards and the resultant consultation, which did not support using Boards to replace the Commission, leading to the creation of the new Commission with six elected members and a continuing panel of Assessors.

The paper reflected the movement to an environment in which Assessors have been removed from a decision-making role (but given a new direction) and proposed several options aimed at recognising local distinctiveness and encouraging greater engagement at a local level.

Commissioners welcomed the paper and discussed the options for the future, as well as current issues which arise because of the electoral area split, agreeing that a new infrastructure would be needed to support any radical departure from the present situation.

Commissioners agreed that the questions raised in the paper require an in-depth discussion by the Board and that an agreed view should then be relayed to SG. John Kerr requested that the discussion should include a cost benefit analysis of options, so that the government is presented with a clear argument on the benefits and value of the option preferred by the Commission. It was agreed to bring the item back to the Board for a substantive discussion.

8 EXTERNAL MEETINGS

It was agreed to push this item forward to the August Board meeting, to allow for feedback from participation in the various Agricultural shows the Commission will be attending over the summer.

9 SELF-ASSESSMENT QUESTIONNAIRE

CEO referred to the number of 'don't know' responses in the returns from Commissioners and asked that this be picked up as part of the training day on 28 June, with David Nicholl. This was agreed.

10 DEEMED CROFTS

Michael O'Neill from the Bill Team joined the meeting by telephone for this item.

Commission Solicitor explained that a substantive paper on this topic would come to the Board meeting in August and a short update be provided in the meantime. This was given by Mr O'Neill on behalf of the Bill Team.

He explained some of the criticisms of deemed crofts and the strong views held by some on the negative impact caused to townships. The Bill Team therefore wish to do something to reduce the difficulties. As well as looking at the Crofting Register and the Right to Buy, there is a hope that some issues could be managed via administrative changes (rather than legislation).

The Commission commented on the need to get across the concept that there is a Right, rather than the deemed croft necessarily being a physical entity. The terminology was therefore creating part of the difficulty. Mr O'Neill agreed there is a strong case for doing something on the terminology now, if that is possible.

Mr O'Neill left the meeting at 12:10pm. The Convener then moved to item 12, as the discussion on item 11 would take place after lunch.

12 DATE OF NEXT MEETING

19 August 2019 in Great Glen House.

13 AOB

There was no urgent business to discuss.

14 EXCLUSION OF PRESS AND PUBLIC

The meeting then went into private session to discuss items 14(b) and 14(c) on the agenda.

The solicitor then returned to the room.

The Commission agreed that, as the court hearing on the section 50(B) cases on Lewis had been held in public, the item at 14(b)(i) on the agenda should also be held in public. The legal update was of a general nature, summarising what had taken place in open court. Therefore, it was agreed that it was in order for Commissioner Maciver, who has previously declared an interest in 50B case on Lewis, to remain in the room. It was stressed that no Decisions were to be taken by the Commission at the meeting.

The Convener therefore took the next item in public session.

PUBLIC SESSION

14 (b)(i) Legal Update on 50B cases from Lewis

The Commission Solicitor gave a general update explaining that Senior Counsel for the Appellants held that the applications had to be determined with reference to Section 58(A)(7). The Commission solicitor had asked the Court to consider what parliament had intended, with reference to Section 50B(2). The Appellants argued that the Commission should not have considered late objections, but the Commission held that it is entitled to do so on the merits of the case because the proposed use applied for must not be detrimental to the landlords' interest. The SLC will now consider the case and make a Ruling in about a month.

The Commission wished to record its thanks to the solicitor for all of his hard work on this case. The public session was then closed, and the meeting reverted to a Closed Session.

PRIVATE SESSION

The meeting then broke for lunch, resuming at 13:40 in public session.

PUBLIC SESSION

11 FINDINGS ON THE SG SURVEY OF ECONOMIC CONDITIONS OF CROFTING AND THE COMMISSION CROFTING CENSUS SURVEY

Neil Davidson presented a summary of the findings from the SG survey, which had yielded around 900 responses from a mail-out to 4000 crofters. The results of the Commission's survey which was sent out with the 2018 Crofting Census were tabled. It was explained that IPSOS MORI had conducted the SG survey on behalf of the government. It was encouraging to see a very high return rate of the Commission survey sent out with the census.

The results of both surveys were discussed. It was interesting to note that around 40% of the respondents to the Commission survey report that they are engaged in conservation activity and less encouraging to note that in both surveys 50% of crofters have no Succession plans in place for the croft.

Mr Davidson highlighted two key conclusions from the SG survey; the continuing gradual diversification of crofting activities, and the greater polarisation in terms of economic return, with some crofters generating much more but more crofters making little or no profit from their crofting activities.

It was suggested that the Commission continue to issue a survey with the crofting census, perhaps once every 2 years, as a way to track trends and agreed that SG would consult with the Commission before compiling the questions for the next economic survey, to avoid duplication and maximise the usefulness of data. It was agreed that the NFUS would be included as a possible source of advice in the next Commission survey.

Commissioners felt that responses from tenants and owner-occupier crofters could be quite different, so it would be worth bearing this in mind when framing the next SG survey.

Commissioners made the point that they welcomed the variety of Task Groups set up over time by the government but would also welcome an opportunity to contribute to those relevant to crofting areas. SG colleagues agreed to take this point back.

It was agreed that both surveys provide useful information for the Bill team and for discussions on future support mechanisms and SG colleagues confirmed the government is looking at a new Agricultural Bill, called the Rural Financial Support Bill.

The meeting then went back into private session for the final item on the agenda.

PRIVATE SESSION

The Convener thanked everyone for their contribution and closed the meeting at 3.25pm.