

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 28 NOVEMBER 2019

Present:	Cyril Annal	Commissioner
	Mairi Mackenzie	Commissioner (by telephone)
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Rod Mackenzie	Convener
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	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
	Mary Ross	Head of Operations & Workforce
	Betty Mackenzie	Communications Manager

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic and English. He explained there were apologies from Commissioner Holt and that Commissioner Mairi Mackenzie could not make the meeting in Great Glen House but would take part via a tele-conference link.

The Convener was pleased that the Minister had formally announced the re-appointment of Commissioners Scott, Campbell and Mathieson. This was good news.

2 DECLARATION OF INTERESTS

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

3 APPROVAL OF BOARD MINUTE OF 8 OCTOBER 2019

The Minute of the Meeting of 8 October 2019 had been approved by email, publicly displayed and was brought to the meeting for information only.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Nielson mentioned the question on the Crofting Census that had come up at the last Board meeting, raised by a member of the public. The CEO confirmed that it was too late to change the census form for this year, but re-wording of questions could be considered in 2020.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Commissioner Scott began the discussion. He had attended a meeting of the Moorland Forum, where the discussion was quite pertinent to the Board's consideration of the Future of Crofting, with work on future food and farming moving on apace.

He had also led an interesting training course with a mix of crofters and non-crofters, where 'the crofting way of life' had come up as a justification for support, concluding that the Board needs to work on getting the message across to crofters that the story needs to be more about public benefits gained for all via crofting. Similarly, a clearer message could go out about local food opportunities, to ensure the focus is targeted in the right direction.

Commissioner Mathieson had attended a meeting attended by NFUS on Mull and raised concerns that one of the messages from this seemed to support an automatic right of owner-occupier crofters to decroft. He hoped this would not become official policy. The Convener suggested that Commissioner Mathieson accompanies him to the next meeting with NFUS.

Commissioner Campbell had attended the Kyle Question Time with Head of Regulatory Support, which had been a good meeting, with maybe 20 crofters present. There general view from all Commissioners is that we need to make the most of opportunities for joint meetings, both in order to spread costs but also to engage with wider audiences. SRUC have a programme of meetings, so the Commission should look at opportunities.

As Commissioner Mackenzie was having trouble following the meeting by speaker phone, Commissioner Campbell wished to raise the issue of the communications infrastructure in Great Glen House. Staff would take this back to SNH.

Commissioner Annal spoke about the financial position of crofters, saying that crofts are disappearing in Orkney because crofting does not pay, and would-be crofters cannot borrow to purchase crofts. He stressed there needs to be a modern way of crofting, which the Convener agreed would be looked at in the strategic meeting on 29 November.

Commissioner Neilson had been involved in discussions on the future of crofting, at a meeting in Mull and looked forward to the following day's discussion. He was keeping busy with QMS visits and wanted to draw attention to feedback from crofters on the excellent work of Lynne Hendry from the Grazings team, who had been out speaking to committees recently. Commissioner Neilson mentioned his and Commissioner Maciver's attendance at a meeting of a Law Society of Scotland subgroup which is examining crofting law reform (together with the Commission solicitor and, for a while, the CEO).

The Convener had attended a Stakeholder Forum in Great Glen House but again the VC links had not worked well. He had attended a COHI meeting at the Town House in Inverness, where population retention had been a key topic. The next meeting will be in Lewis, in March so it will be important to have a high profile for crofting there. He had attended training meetings for grazings committees in Stornoway in conjunction with SRUC, which had been very good and wanted to thank Finlay Beaton and Lynne Hendry for their excellent contribution.

The Convener had also given a presentation at a RoS event and was interested to hear there about challenges also faced by the Land Registry. Finally, he was at a meeting in Uist recently and wanted to draw attention to the continuing disconnect between crofters understanding of the Commission and the reality, concluding that the Commission has to be out in communities to directly address misunderstandings and get the message across.

Commissioner Maciver had attended Tier 3 meetings, and was in Uist with the Convener, where the Commission's lack of resources was noted. A member of the public had expressed concern that the Commission is not adequately resourced to meet demand or expectations. He has given crofters advice on Succession and advice to Grazings Clerks. He also attended 3 of the training meetings for grazings committees, where it was good to have the presence of Grazings Team staff. He wished to pass on the thanks of the clerks to Finlay Beaton and Lynne Hendry.

Commissioner Mackenzie has had several interesting meetings, including one with the area office last week and at Bettyhill with the CEO on Saturday, where muirburn was an issue. She has been aware of some planning issues recently and will attend a rural housing conference in the New Year. Commissioners reflected that feedback from crofters was that a Saturday meeting in winter was popular.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Vice Chair, Commissioner Mathieson gave an update of the committee meeting in October, explaining that several policies had been reviewed and approved. There had been a wide-ranging discussion on the Workforce Plan, which is in draft form. The CEO confirmed this will be worked on further and then go to the AFC, and on to the Board, with more work needing to be done of the Succession Planning element.

The AFC wish to draw the Board's attention to concerns on the future financial pressures on the Commission, for this year and next. SG have given the CEO some comfort regarding the likelihood of a small overspend at the end of this year, especially if related to legal costs, as these are very difficult to predict.

The larger concern is for next year's budget, with any cut being hard to manage, as non-staff costs have already been stripped down, leaving the potential impact of any considerable shortfall to rest on staff costs. The Committee urged the CEO to ensure Sponsor Division were aware of these concerns and the risks.

The CEO explained that SG have an unusual problem at the moment, of not being able to set budgets until after the election. Commissioners agreed the CEO should write again, being clear what we are asking for and what we will deliver.

In response to concerns expressed by Commissioner Campbell, the Head of Digital & Improvement confirmed that the Commission has taken advantage of the SG offer to look at process improvements and work is continuing with ARE. The work is based on LEAN principles. The CEO also explained, with regard to the results of the spring staff survey, that action is being taken to address negative results, in collaboration with the staff engagement group.

(b) Draft Minutes from 23 October 2019

Minutes for information

(c) Revised Risk Management Policy

The Commission approved the revised policy

Decision	The Commission approved the revised Risk Management Policy
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(d) Review of committee Terms of Reference

These were agreed.

(e) Review of Q2 Performance Indicators

No questions

(f) Review of Q2 Complaints Handling Report

No questions

(g) Annual Report on committee activity

Vice Chair explained this had already come to the Board.

7 STRATEGIC RISK REGISTER

Commissioners had hard copies of the register, as well as the electronic version. The CEO introduced the item and invited each of the 'owners' of the risks detailed to give the Board an update.

Head of Regulatory Support explained that staff resources in the Residency & Land Use team are depleted. Work is continuing on crofting census non-compliance, corresponding with people who have self certified on their census forms that they are in breach of one or more of their statutory duties. This is beginning to feed through to possible terminations of tenancies, with 2 cases being considered at the Tier 3 Casework meeting the following week..

On Intestate Succession, work is continuing, to take 25 cases forward, liaising with RPID. Checks are also planned on a sample of non-returners of the census forms, for people who appear from the Register of Crofts to be non-resident and the team will start to write to people before the end of the reporting year..

Commissioners were concerned to hear about the lack of staff resources for this work and want to see this a focus of requests for funding from SG, but also want to investigate the possibility of joint working, with the Land Commission, for instance, to get land back into use.

Head of Regulatory Support explained that the RALU team want to work with Assessors, if a meeting can be arranged in the spring and, as a result of Tier 3 work, 30 cases have been identified for enforcement action; 17 of which are already in the RALU system, with the other 13 being ranked in an order of priority.

On the Grazings risk, Head of Policy explained that the Grazings team is quite stable at the moment, with their earlier work now beginning to bear fruit, allowing them to be more pro-active.

Head of Digital & Improvement explained the emphasis on both wanting to reduce costs and improve services, as demonstrated by the work on online resources for the public. The decroftings are online and work is going well on the Apportionment plans, with more planned improvements for the online applications project. This could represent a large time saving for the Commission but must be planned carefully.

Head of Operations and Workforce explained that turnaround times are still being looked at carefully and was pleased to report that a backlog of General Enquires has been dealt with and is now under control, with work being progressed as it comes in.

Head of Policy reflected that tomorrow's discussion would touch on working with others, such as HIE. Commissioners heard that information is being sourced for HIE, to help them make progress with a large key project and hoped to see this reciprocated.

8 DRAFT GAELIC LANGUAGE PLAN 2020-2025

Head of Compliance & Board Support introduced the item, as the Commission's Gaelic Language Officer, explaining that this is the third iteration of the Commission's GLP, and that it has to be submitted to BnG by September 2020. The draft was being brought to Commissioners at this early point, to give plenty of time for public consultation.

It was confirmed that staff would have an opportunity to comment on the draft, before it goes out to the public and this would be done before Christmas, with the public consultation following in the New Year. The final version of the Plan will then come to the Board for approval in early summer.

There were no questions on the content of the draft.

9 THE CROFTING BILL – WHAT NOW?

The CEO explained that since the last Board meeting, the position had changed, with the Minister confirming that it will not be possible to follow the intended timescale for the introduction of Phase One of the Crofting Bill.

Within the Bill Group discussion, the Commission had communicated to the Minister that it still favoured a Phase One and Two approach if and when time allowed.

Commissioners would have liked more input into the deliberations of the Bill Team but could also see that the extra time was an opportunity for more thinking about crofting law reform before a Bill was introduced.

10 GRAZINGS – DELEGATED DECISION MAKING AND REVISIONS TO STANDARD REGULATION TEMPLATE

Head of Policy introduced the item, explaining it is a technical paper, setting out powers as they currently stand and suggesting revisions. The relevant parts of the Act affecting grazings are Section 47-49, and it is in this context that issues sometimes come to Tier 3 meetings and where some delegation of authority to staff could be beneficial.

Head of Policy explained that this approach would help the Grazings Team in their more pro-active work and also mean less pressure on Tier 3 meetings. There are situations where the legislation and issues such as the Duty to Report have not acted as a stimulus for the creation of grazings committees and having to pay for advertising when a committee is going out of office creates another possible disincentive. Therefore, it is proposed to allow delegated decision making in cases where there are only 2-3 shareholders, so that instead of compelling the committee to advertise, at a cost, the Commission would handle the appointment.

Annex A of the paper sets out the level of delegated decision making suggested and would cut out some time-consuming processes. Commissioners agreed this is a practical route and a sensible approach, focussed on reducing unnecessary burdens on committees. The positive feedback from the exercise with grazings clerks in Lewis has shown the value of pro-active work and should be rolled out to other areas.

The question of getting out of sheep stock clubs was raised, with Head of Policy explaining that was a bigger issue, which merits future consideration but rests with shareholders.

The Commission agreed to adopt the parameters for delegated decision making set out in the paper.

Decision	The Commission agreed to adopt the level of delegated decision making on grazings as set out in the paper.
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11 SHOWS AND EXTERNAL MEETINGS

This item was introduced by the Convener, who stressed that engagement with crofters and crofting communities is of paramount importance. The CEO explained how the paper had been put together, to provide evidence to the Board, on the different types of engagement undertaken in the last year, so that decisions can be taken for the future, explaining that we would all like to do more but there are direct and indirect costs to bear in mind.

The paper asks 5 questions, including whether the external Board meeting represents value for money and, if Shows are to be visited, which should be prioritised for 2020? There is no specific budget allocated to this activity, so a clear steer as early as possible would be helpful.

Commissioners favoured getting out and about as much as possible and want to see more joint events, to help reduce costs. They did not feel it was helpful to compare the cost of external visits with staff costs.

It was agreed that there will be an external Board meeting in 2020, in Lairg, as this area has not been visited before. The feeling was that the Board meeting shows the Commission in action, as befits a public Board.

On Shows, it was agreed to give priority to attendance at the following:

- Sutherland
- Dunvegan
- Black Isle
- Appin
- Lochaber
- North or South Uist
- Westside or Carloway in Lewis

It was agreed that the CEO would take this away, investigate costs and bring it back to the Board and that, when in an area, we should remember to reach out to the relevant area office.

12 DATE OF NEXT MEETING

The next meeting of the Board will take place on 6 February 2020 in Great Glen House.

13 ANY URGENT BUSINESS

Commissioner Campbell wished to bring up concerns he had with the Board papers. He had cleared this item with the CEO prior to the Board meeting taking place, as per Standing Orders.

He questioned whether the papers are being released early enough to Commissioners. The CEO confirmed they should be available around 8 days before the meeting, though there are occasionally glitches, for which he apologised. The number of Board meetings held each year (7) means that the production of papers for them is quite an industry of itself, so perhaps Commissioners would consider a move to fewer Board meetings in 2021.

He explained that currently the software being used to create the electronic version of the Board papers is causing some difficulties and more work than was previously the case when printed papers were produced – the opposite of what had been anticipated when the Commission moved to using electronic copies. He confirmed not everyone uses the digital papers, with some people using an App, some viewing in hard copy and some using a pdf, which is simplest to create. The Convener asked if individual papers could be circulated early, if they were ready. This could be done, though it was pointed out that the CEO has to approve all papers before they are prepared for distribution, and using the example of the current agenda, no papers were approved ahead of schedule.

Head of Digital & Improvement explained that he had recently forwarded a short survey, to look at satisfaction levels with basic functionality of the software and he will explore alternatives, with costs (as the current system has a substantial cost). Commissioners were surprised to hear this, as they had believed moving to digital papers would have negligible costs.

It was agreed that the Head of Digital & Improvement would carry out an evaluation and bring the results back to the next meeting, also bearing in mind, in the pros and cons, that we do not want to create a process which increases the staff resources needed to deliver it. It was also confirmed that anyone standing for appointment or election to the Commission self-certified that they were IT literate, as this was a requirement.

14 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their contributions and closed the meeting at 3:30pm.