

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT 09:30 ON 7 FEBRUARY 2019

Present:	Cyril Annal	Commissioner
	Andy Holt	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Rod Mackenzie	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	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 opened the meeting with a bilingual greeting and explained that the Commission wishes to reduce the amount of paper used at Board meetings. A paperless meeting had been trialled by the Audit & Finance committee and several Commissioners had decided to use Commission iPads today, rather than hard copy papers.

The Convener also explained that Matt Goddard of CTI was in the building today, meeting staff as part of an organisational development project. He would attend some of the Board Strategy day on 8 February, the format for which was a trial.

Apologies were received from Mairi Mackenzie and Fiona MacDonald (Minute-taker).

### **2 DECLARATION OF INTERESTS**

There were no interests to declare in the public part of the meeting.

### **3 BOARD MINUTES OF 29 NOVEMBER 2018**

The Minute of the Meeting of 29 November 2018 had been approved by e-mail and published on the website. It was brought to the meeting for information only.

Commissioners discussed the style of Board Minute, agreeing they would prefer a less personalised style, focusing on the collective nature of discussion and decision-making.

### **4 MATTERS ARISING FROM PREVIOUS MEETING**

There were no matters arising to note.

## **5 AUDIT & FINANCE COMMITTEE REPORT**

### **(a) Update from Malcolm Mathieson**

The Vice-Chair of the committee explained that the meeting in January had trialled the use of electronic papers successfully.

The major item to bring to the attention of the Board was the budget reduction for 2019/20; the impact of which is being discussed with SMT members, so that it can be managed carefully. Attention was also drawn to the Workforce Plan, which had been considered for the first time. It was noted that this is a key document for an organisation as small as the Commission as even slight shifts, such as an increase in staff turnover, can have important consequences.

The Self-Assessment exercise undertaken last year by AFC members is being repeated shortly and will then be rolled out to the full Board. It is important for every member to engage in the exercise, to allow a useful reflection on where the Board is at present.

### **(b) Draft Minutes from 23 January 2019**

The draft Minute had been tabled. The Chief Executive commented on news from the external auditor Deloitte, that due to changes required by Scottish Government, future audits would increasingly be looking at broad organisational governance, as well as financial management.

The Commission was content with the draft Minute but would ask the Finance Manager to revisit the wording of bullet point 5 on scenario planning and Scottish Government policy.

### **(c) Operational Risk Register & Issues Log**

Commissioners were content with the information set out in the Register and Log.

### **(d) Key Performance Indicators**

There were no comments on the report.

### **(e) Complaints handling report**

Commissioners considered the statistical report, which showed an increase in complaints at Stage 2 but with numbers still low. They were content with the procedure for investigating formal complaints.

### **(f) 2019-2020 Budget**

The Commission is facing quite a high percentage budget reduction in the next year, which will be managed to try to minimise the impact on the staff side of the budget. The Chief Executive explained how, traditionally, underspends can occur on staff budget forecasts because of staff turnover and delays in recruitment. Given this experience, management planned to over-budget at the beginning of the year and look for savings outside the staff budget. This approach had been explained to the external and internal auditors.

The Chief Executive was not aware whether the same percentage cut had been applied across Scottish Government but reflected that many departments and organisations had faced budget cuts for several years.

Commissioners were content that, given historic staff turnover rates, the approach outlined was sensible. It was further noted that the departure of the deputy CEO/ Head of Operations in March represented a risk to the organisation, which has been captured in the Issues Log.

<b>Decision</b>	<b>The Commission approved the budget for 2019-2020.</b>
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## 6 (a) REVISIONS TO CORPORATE PLAN

The Chief Executive introduced the paper, explaining that changes had been made as a result of previous discussions with Commissioners. It was expected that a few more revisions would be necessary before the draft was ready to submit to Sponsor Division for approval, for instance on the text setting out the Commission's Vision. More work is also needed on the Measures.

After discussions with staff, the Commission Values have been revised to 5:

- Caring about crofting communities
- Positive teamwork
- Commitment to service quality and improvement
- Encouraging staff development
- Being fair and impartial.

Commissioners discussed the role of the organisation and crofting with regard to the environment, deciding that the first Value should read, "Caring about crofting communities and environment." It was also agreed to add Commissioners to Value 4 on development.

The Chief Executive explained that Outcome 6 had been subsumed into Outcome 5 in the draft, which would be checked with Sponsor Division.

Commissioners agreed to forward comments on the draft to the Chief Executive by 21 February.

Joseph Kerr left the room at 10:30am.

## 6 (b) STRATEGIC RISK REGISTER

Deputy Chief Executive explained that this Register is for the Board as a whole to own, coming out of earlier discussions on the appropriate risk appetite for the organisation. This was the first time it had been presented to Commissioners, who confirmed they were happy with the format and content. It would be presented to the Board on a quarterly basis, to enable members to track the organisation's main activities and risks.

Commissioners discussed work being undertaken to follow up on non-returns of the Annual Notice. It was confirmed that the issuing of the Annual Notice is not connected with the Agricultural census and that a link had been considered before the 2010 Act was finalised but dropped from the legislation. Management agreed to raise the possibility of a link in the future with Sponsor Division.

Commissioners approved the format of the register and the Outcomes detailed.

<b>Decision</b>	<b>Commission approved format/content of Strategic Risk Register</b>
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Joseph Kerr returned to the room at 10:50am

## **7 PROGRESS WITH BUSINESS PLAN**

Deputy Chief Executive explained that it is not possible to finalise the 19/20 plan until the data for 2018/19 is complete. Quite a lot of updating will take place after the end of March but Commissioners were asked to comment on how the draft Business Plan for the coming year is shaping up. More work is needed on Milestones and the Key Performance Measures need to be agreed. Commissioners were encouraged to forward comments and suggestions to the CEO as soon as possible, as the intention is to have the Business Plan in place as early as possible in the new year.

Commissioners discussed the pros and cons of switching to a paperless environment and agreed that a more in-depth discussion should take place to consider our carbon footprint, later in the year.

## **8 CEO MEETINGS**

The Chief Executive gave a summary of meetings he had attended recently, including one with SAC before Christmas, various discussions with Scottish Government on Phase 1 of the new Act, Matt Goddard on organisational development and HIE.

Deputy Chief Executive provided an update to Commissioners on engagement with stakeholders on the plans to move to online applications. The stakeholders include agents and solicitors, as they are often completing forms for crofters. Shetland and Skye will be visited next week. The reception so far has been positive.

There are challenges, as the Crofting Registration forms belong to RoS and cannot be altered without a change to secondary legislation. Currently the law says the form has to be printed on paper. The Commission is engaged with RoS and SG to try to resolve this issue. The Commission is also speaking to RoS again about switching to online payments for croft registration, instead of cheques. This change also requires an amendment to the secondary legislation.

Deputy Chief Executive confirmed that shared services had been considered with SNH but did not prove practical and also that Sponsor Division would be approached if the cost of moving online was significant. It was hoped that it would not be too costly, and funds have been set aside in this year's budget to begin the development. It was also confirmed that, at least initially, crofters would have the choice of submitting a paper application if they preferred.

## **9 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS**

Commissioner Holt began the update, noting that he is pleased that the CEO is making progress with the SIC on enabling remote VC meetings from Shetland. This will allow him to take part in more meetings.

Commissioner Mathieson highlighted interesting points made in an IPSOS MORI presentation to the Cross- Party Group recently. Commissioners agreed it would be good to invite them to a future Strategy meeting of the Board.

Commissioner Scott highlighted several calls from crofters that he has received after his Commission blog was posted, mainly concerned with ways to formalise informal use of a neighbour's croft land.

Commissioner Neilson had visited many crofting units since the last Board meeting and wished to highlight how good it is to see a second generation of crofters coming through on Jura after work undertaken there by the HICES in the early 2000's had introduced 8 new crofters. He drew attention to the continuing issue of access to affordable housing for young people in crofting areas.

Commissioner Campbell highlighted a planning case which is causing concern in Easter Ross, where the views of the planners seem at odds with the need to retain croft land in the area. The results of a recent exercise by Albyn Housing Association show that people do want to live in rural communities.

Commissioner Maciver would be speaking to students at Lews Castle College and had spoken with people from various grazings committees. As had been mentioned by several other Commissioners, he finds it very common for crofters to believe that the Commission is still 'in charge' of grants. The message that this function was removed several years ago has not got through to everyone.

Convener Mackenzie had enjoyed engaging with Assessors at various roadshows. It was agreed that, if meetings between a Commissioner and local Assessors had not been possible, we would look at the logistics of inviting these Assessors to Inverness the evening before the scheduled meeting in March, to facilitate this.

The issue of increasing media coverage was touched on and would be discussed in more depth on 8 February.

## **10 ASSESSORS (INCLUDING 20-21 MARCH EVENT)**

The Chief Executive apologised for the paper being tabled. He explained that the focus was on the need to finalise the agreed role for Assessors, take stock of what is working well and confirm the Programme for the March event.

Regarding the role, it is expected that all Assessors will be asked to give general observations about crofting, housing and planning issues in their area and give the Commission their views on general crofting issues (points (a) and (b)) in the paper). In this way, Assessors will boost the pool of knowledge available to the Commission.

Items (c) and (d) in the paper are more specific, based on inviting Assessors to join two different types of focus group. The intention would be to convene meetings of the groups 3-4 times a year.

Item (e) in the paper concerns gaining information from Assessors, on a voluntary basis, to assist the Residency and Land Use Team. And (f) would see some Assessors engage in HIE-led local initiatives.

Commissioners discussed whether individual Assessors would be content for their name to be used on a 'Duty Compliance Notification' form and also how expectations would be managed if more cases of potential breaches were notified than the Commission had resources to respond to quickly.

The public role of the Assessor was discussed and issues around trying to de-personalise the information received, to protect the privacy of the individual. It was agreed that the solicitor would bring forward a paper on Openness and Transparency, in this context.

The Commission approved the approach set out in the paper by the CEO and looked forward to seeing the Assessors in March.

<b>Decision</b>	<b>Commissioners agreed to the setting up of two Assessor focus groups and the drafting of a new role description for Assessors.</b>
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Following the lunch break, the meeting re-convened at 1:15pm and members confirmed there were no interests to declare.

## **11 DRAFT GUIDANCE TO GRAZINGS COMMITTEES**

Head of Policy introduced the paper and stressed that it was guidance for committees and not instructions to them. Its aim is to help grazings committees and Commission staff, who are constantly asked questions by committee members and clerks. The main contentious issue that the Commission has been asked to intervene over in the past few years concerns the holding and distribution of funds by committees.

The paper, at page 110, sets out the Commission's position. It provides an example of the kind of support the Commission can give committees.

Head of Policy confirmed that committees receive a letter alerting them when they have gone out of office, followed up by a phone call.

Commissioners discussed the difficulties of getting new people to take on roles on committees, especially the clerk and the issue of lack of knowledge of the Regulations held by individual committees. This compounded the issues relating to the status of grazings committees, which has not evolved to match changes in circumstances, presenting concerns about liability and protection for committee members. As they do not have limited status, there are not the protections that Trustees, for instance, could have and there is no Crown Immunity. The position was likened to a barometer of what is happening in crofting, with less people choosing to work together. The lack of current flexibility in the status of grazings committees could be seen as frustrating opportunities in utilising the land asset managed by committees.

It was observed that there may not always be alignment between crofters' rights and the objectives of community land buy-outs and Commissioners agreed further wide-ranging discussions were needed on this important strategic issue.

The guidance produced was welcomed as helpful, clear and a useful resource for both staff and grazings committees. It was agreed that a press statement should be drawn up and the information disseminated to the key audiences in a variety of ways.

<b>Decision</b>	<b>The paper was approved by the Commission with no amendments.</b>
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## **12 HIE**

The Chief Executive introduced the item, reflecting that meetings with HIE followed the Cabinet Secretary's desire to see greater collaboration between the two bodies. Commissioners had a note of the most recent meeting, between the CEO and two officers from HIE.

Commissioners agreed that working with HIE on Phase Two of the Crofting Bill could give more local weight to discussions with SG and the same may be true on issues around future support for Scottish agriculture. The Commission is helping HIE in communities where the aim is to create new crofts and would use the Assessor network to help HIE's food and tourism initiative. There are, however, several areas where there are challenges to collaborative working.

Commissioners agreed there are merits in meeting with the HIE Board again and that the focus should be on trying to get across the Commission's objective of promoting crofting. It was agreed that it is important to keep channels open and that a conversation between the Convener and the HIE Chair would be beneficial.

### **13 DATE OF NEXT MEETING**

21 March 2019– Great Glen House

### **14 AOB**

1. Deputy CEO explained that there has been a loss of access to the internal intranet and, due to the specialist nature of the fix, the issue cannot be resolved until April. Commissioners expressed concern that the Audit & Finance committee had not been informed.
2. Commissioners asked whether case-related work is beginning to build up again and whether this represents a backlog or reflects increased workloads. It was agreed that analysis should be carried out and Sponsor Division informed.

### **15 (b) ITEM TAKEN IN PUBLIC**

The proposal to move from Tier-3 to Tier-2 the delegated authority for officers to refuse applications for 'Consent to be Absent' was considered and agreed by the Commission. Head of Regulatory Support confirmed that such cases would still be escalated to Tier-3 if there were any complex issues requiring Commissioner consideration.

<b>Decision</b>	<b>The Commission approved moving delegated authority from Tier-3 to Tier-2 where there is a proposal to refuse a 'Consent to be Absent' application.</b>
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### **15 EXCLUSION OF PRESS AND PUBLIC**

The Convener thanked everyone for their engagement and closed the meeting at 3:45pm.