

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING BY TEAMS ON 4 FEBRUARY 2021

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Vice Convener
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner (joined 9:50)
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner (until lunchtime)
	James Scott	Commissioner
	Bill Barron	Chief Executive
	David Findlay	Commissioner solicitor
	Mary Ross	Head of Operations & Workforce
	Aaron Ramsay	Head of Digital & Improvement
	Joseph Kerr	Head of Regulatory Support
	John Toal	Head of Policy
	Heather Mack	Head of Development
	Jane Thomas	Head of Compliance and minute taker
	Neil MacDonald	Head of Finance
	Gordon Jackson	Sponsor Division

Various assessors/staff and members of the public attended

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic, followed by a welcome in English, explaining that Commissioner Campbell would be a little late. A particular welcome was given to members of staff, the public and Assessors who joined the meeting.

2 DECLARATION OF INTERESTS

The Convener asked if anyone wished to declare an interest. No interests were declared in the public part of the meeting.

3 BOARD MINUTES OF 3 DECEMBER 2020

The Minute of the Meeting of 3 December 2020 had been approved by email and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Commission solicitor set out that at the previous board meeting, it was agreed that in future the issue of late objections would be reconsidered and in particular whether the same objector could object more than once and after the statutory 28-day period. It was agreed that a previous paper from 2015 on what constituted a “good reason” would be revisited and circulated to Commissioners and consideration would be given as to whether it is appropriate to reconsider the matter with regard to future cases.

5 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Vice Chair of the committee explained a meeting had been held on 27 January. It had been a very full meeting, with many issues feeding into the Board's discussion today and the Strategy Day on 5 February. He highlighted a paper from the Commission solicitor, which was very interesting but, due to the full agenda, the committee had not had time to discuss properly. This would be returned to at the AFC meeting in April and then come to the Board.

The committee had been pleased to note a positive internal audit report and thanked management for maintaining good governance work in difficult circumstances. The Convener wished to add his thanks to the SMT. It was also positive to note that approval has been given to carry forward underspend for this year.

The Vice Chair urged all Commissioners to complete the self-assessment questionnaire which they would shortly be receiving, as this gives the best picture of trends across years.

He reported that some completion dates on the Audit Progress Report had not been met but it had been agreed that SMT will take another look at these and amend forward if necessary, given the extra pressures on management in the current year.

(b) Draft Minute from 4 November 2020 and 27 January 2021

There was nothing to add on this.

(c) Q3 Performance Indicators

It was noted that most of the KPIs with a red status relate to Duties and Grazings work, which has been disrupted over the last year as a result of the COVID-19 restrictions. The CEO pointed out that management had also taken on board an audit suggestion to make sure the RAG status of each item is appropriate.

In answer to a request from Commissioner Annal, management agreed to send him a link to the Orkney and Caithness parishes on the RoC, which are publicly available.

(d) Annual Improvement Plan

This is an audit recommendation which management have followed up. The committee found it an interesting document, especially given the pressures of the current year. CEO confirmed it would be completed on an annual basis.

6 ROUND TABLE COMMISSIONER UPDATES

Commissioner Holt began by informing the Board that he had attended two Zoom meetings, with the Cross- Party Group and the Shetland Agricultural Forum.

The Convener's work with the Marts allows him to continue to see a lot of crofters but he reflected that the Commission has a lot of catching up to do on engagement, once the restrictions are lifted. There will need to be a programme of Roadshows, to help the Commission show an external face. However, Tier 3 meetings are going well by video-link and should be continued in this way.

Commissioner Neilson agreed that not being able to get out and about meeting people is difficult. He had had conversations with 3 crofters, who raised questions about the annual notice and why it did not include more descriptive questions. It was confirmed that this issue is due to be reported on at the next Board meeting.

Commissioner Mathieson agreed that it is difficult not being able to travel but that he had taken calls from several crofters complaining about neglected crofts, but who were not willing to bring their complaints to the Commission, as they did not want to be identified. He agreed that the way Tier 3 meetings are organised is very efficient and should be continued.

Vice Convener Mackenzie reported that, as part of her work on the Women on Board STWG, she had taken part in a Q&A session with the Highland Women's Business Network the previous evening. This had been very interesting and well received, with lots of follow-up contact from participants. She would like to see this model used for more promotion work ahead of the elections. It was also good to be out with the Communications Manager in December, recording the work, led by women, in Elphin, (the Green Bowl initiative) and it was good to see one of the women at the Board meeting today, who was to be congratulated for being recognised as 'Young Crofter of the Year'.

Vice Convener Mackenzie said she would be interested in seeing a repeat of the survey work completed a couple of years ago along with the Crofting Census, to see what the impact of Agri-tourism is on crofts, especially with the growing popularity of the NC500.

The Convener wished to congratulate Mrs Mackenzie on her selection as a committee member of the SG Hill & Upland committee, which is engaged in very important work.

Commissioner Scott reported that he had attended a Moorland Forum meeting, which had looked at management of uplands, the results of which may have an impact on crofting. Changes to the way muirburn is handled, for instance, could have a knock-on effect on livestock and when deciding on changes to the way large upland landscapes are managed it is important to beware of unintended consequences.

Commissioner Maciver agreed that Tier 3 meetings are going well. He continued to receive calls from crofters and attended the cross-party group meeting. He agreed with the Convener that it will be good to begin a programme of Roadshows when restrictions are eased.

Commissioner Annal had nothing to add.

Commissioner Campbell agreed with previous speakers that engagement is more difficult in the present circumstances but not impossible. He had received negative comments about having to return the Crofting Census forms to an address in England. While he understood the explanation, he stressed the need to build wealth in crofting communities by using the Commission's budget outside a 25-mile radius of Inverness. He wanted to see greater social impact of the organisation's spending power.

The Convener agreed that the negative publicity about the census was regrettable and urged everyone to complete it online, as it is very simple to do. He wished to look at the issue raised by Commissioner Campbell with the CEO.

The Vice Convener raised a question about why people with multiple crofts had received individual letters. The CEO confirmed this had been an error on the part of the contractor, for which the Commission had received a credit. It would not happen again. He also confirmed that the work contracted out was of a specialist nature and the Commission did investigate whether it could be completed by a local firm, but this was not possible.

7 REPORTS FROM HEADS OF TEAMS

(a) IS team

Head of Digital & Improvement reported that Crofting Census returns online were up by over 50% compared to last year but numbers of physical returns were lower, at this point. It was agreed more communications work would be done to encourage online returns.

It was hoped testing of the new version of CIS would begin this month. The work on the move to the Cloud and digital applications was delayed until the CIS work was complete, as the three strands of work are tied in together.

We are presently carrying out a one-month trial using Teams for phone calls, with 25 licenses. This is being reviewed by management next week. If we decide to go with this option, it will not come with a local area code. For this to work, the Commission could contract out an external switchboard, at a cost.

The Annual Review of Cyber Resilience will be discussed later but Head of Digital & Improvement reported that the firewall referred to is now in place. The team has been joined by a Temporary member of staff, who is currently carrying out census updates.

Commissioners expressed concern that the organisation does not appear to have equipped staff with the means of making phone calls as well as other organisations, such as Highland Council and NatureScot. It was agreed that Highland Council Planning dept would be contacted, to see if any lessons can be learnt.

(b) RALU & Regulatory Support

Head of Regulatory Support started the update by explaining what has happened over the last couple of months in the RALU team. Notices had been due to go out in December, but the team realised this could create deadline difficulties connected to statutory deadlines for both the crofter and the Commission. Therefore, the Workplan has been adjusted to avoid that month and send letters in January instead. Notices are now being issued, with another dozen ready to go. The Commission prefers landlords to deal with letting in termination cases where possible but is happy to discuss this and there are several recent examples of such engagement, in Skye, Argyll and the Western Isles.

On Regulatory Support, there has been a change in policy which means that the Commission would not normally approve a sub-let or short-term let of more than 5 years; looking instead for a longer-term solution. Casework processing was changed after the last Board meeting, so this is now being put into practice, which has an effect on cases escalated to tier 2 and 3.

Commissioners then went on to discuss the feedback they get from crofters, who have the impression that the organisation is doing nothing to tackle the issue of vacant crofts, and concerns Commissioners have about the resourcing of the RALU team.

It was asserted that some of the work required to chase up people in breach of their duties is simple and straightforward and could be done by Temps and that the additional funding available this year should be used for that. The CEO explained that recruitment to the team was taking place, the team is being expanded and the level of straightforward work was debatable. It was accepted that temporary staff could be used to make phone calls to non-returners of the Crofting Census, and this is being arranged. The Convener asked for an opinion from one of the Assessors present, who confirmed that this was the kind of task Assessors could complete, on a voluntary basis, provided they made calls to people outside their own area. It was agreed this would be followed up and put into practice.

Commissioners wished to know whether information from the census is the only way to know if the trend in non-residency is going up or down, asking if this could be analysed against data on terminations and duties action. Given there is not a 100% return rate for the Annual Notice (Crofting Census) and a lower rate for returns of the Grazings Census, this analysis would only give a partial result. The CEO confirmed that management understands the high priority of all of the duties work, on neglect as well as residency and that is why the RALU team is being expanded.

(c) Operation & Workforce

Head of Operations & Workforce gave the report, explaining that the further lockdown has had an impact on several staff, especially those with caring and home-schooling responsibilities. Connectivity issues are monitored but are much better than earlier. There is a new Temp in the team and no staff off on long-term sick leave, which is good.

When the latest lockdown was announced, the Commission had to quickly decide how to make arrangements to handle mail in and out, with no access to GGH at first and now only very restricted access. The mail handling has been temporarily contracted out, which caused minor delays at first because the new arrangements had to be put in place. Things are now proceeding and the mail coming through. Due to this, the regular monthly stats provided to Commissioners will be about a week late but should give the full January picture.

It was encouraging to see work being completed to push cases through to Tier 2 and to work on those cases which have been open for more than 12 months.

Head of Regulatory Support informed the Board that Registers of Scotland have agreed that the rectification process should be handled by RoS and not the Commission, and so we are moving to that situation.

Head of Operations & Workforce detailed some of the on-going work to support staff well-being, which includes working closely with the Staff Engagement Group, organising events online such as meditation, yoga, mindfulness, visits from HR Wellbeing officers, surveys of staff and ensuring conversations are taking place regularly between line managers and staff, which should always include a discussion on well-being. A Well-Being page is also being developed on Teams. Commissioners expressed thanks for all of the work being focused in this way, as they appreciate working in the current circumstances is difficult for many.

(d) Grazings & Policy

Head of Grazings & Policy reported that the initiative to allow committees to remain in office (remitting to the Commission) if they could not arrange relevant shareholder meetings due to COVID restrictions has been a success. This needs to continue until restrictions in movement are relaxed. The priority for the team at the moment is to consider Regulations submitted by grazings committees, to help get them finalised and approved. Training is also seen as a top priority, with grazings clerks having been surveyed. Two training sessions were delivered in December, assisted by FAS funding, with a good relationship built up between the team and FAS officers. More training is planned, looking at conflict management and mediation for committees, with Assessors helping to trial this, working with Mediation Scotland.

There is a negative impact on this small team caused by the lockdown, but their work is being assisted with help from an admin temp. It should be remembered that the team also handles Planning tasks for the Commission, not because there is a connection with Grazings work but because the individual expertise lies in the team. This does not, however, mean there is the capacity to cover this function fully.

8 REPORTS FROM SHORT-TERM WORKING GROUPS

(a) Application Forms

Head of Regulatory Support reported on the work of the group, which has been going through all relevant application processes in preparation for moving to submitting applications online. 34 different functions have been identified but these include Notifications as well as applications. The group decided to prioritise applications where individuals will already be on our systems, for instance owner-occupier crofters and tenants. This gives us 26 types to consider but some grouping of types may be possible.

A group, including Commissioner Neilson, meets every week and has broken forms down, to identify and create individual modules; the aim being to pre-populate the new forms as much as possible and have tick boxes, to reduce the amount of free text. Nine forms have been partially completed. These are with the IS Team to draft as digital forms. So, the focus for the group is now on Guidance associated with these forms. There will always be an opportunity for people to complete a hard copy if necessary and a pilot will trial the new forms, with assignment and sub-let almost ready. Assessors will be involved, and the exercise promoted on social media. Commissioner Campbell offered to complete some dummy applications, as he is used to the current process. Both Commissioner Campbell and Maciver will be invited to provide feedback to the group as part of the testing stage.

Head of Digital & Improvement explained what is happening on the digital side of the project, with a digital template being created, working with a contractor, going through the customer flow, which can be technically complex. There are issues, for instance, with the division of crofts and signatures. Engagement with SG's digital team is helpful, on design, readability and the new building required for the website.

It was emphasised that this represents a large project, being progressed by a small number of staff. There will be a phased release of new forms, and an App will be considered once we can see how the forms work on the website.

Commissioners hoped there would be a move to 100% digital forms in the long-term, with enough lead-in time, in order to free up resources. Sponsor Division were asked to provide information on whether all cattle movements are now notified online and what the stats are for IACSS forms.

(b) Women & Boards

Head of Compliance explained that there will be a final report from the group coming to the March Board meeting. The group has focused on agreeing a wide range of practical ways to encourage women to come forward for appointment and/or election to the Board and has populated a useful stakeholder list, which allows the Commission to push messages out to interest groups. A questionnaire to go out to stakeholders and be made available on the website and social media has been developed and will be circulated to SMT and the Board next week.

Vice Convener Mackenzie, who chairs the group, felt that events such as the one she took part in the previous evening are of benefit, with around 20 women attending. There are plans in the pipeline for more filming, highlighting women engaged in active crofting.

9 RALUT PRIORITIES

Commission solicitor led the discussion, which was the culmination of the work of the STWG. The paper under discussion identifies 12 priorities, with the Board being asked to select which of these to focus on.

Having considered the matter further, the Commission agreed that a case can be made that crofting duties apply equally to grazings shares that form part of a croft tenancy and a stand-alone grazing rights (where the croft land is purchased). If there is an obvious breach of duty, in a case which has been decided at Tier 3, there should be an automatic route for action, with Head of Regulatory Support agreeing and explaining the paper sets out the types of work that could be taken up and the steps needed.

Head of Grazings & Policy will be bringing a paper to the March Board on Vacant Crofts, so this needs to be kept in mind. One of the problems is that the statutory process set out in the 1993 Act is proscriptive.

To clarify what is meant by 'Short-term' or 'Long-term' on the list of priorities in the board paper, the Head of Regulatory Support explained, some things can be classed 'short-term' where work has already been identified but needs more resources to complete, where other things may have been mapped out as long-term because of the number of steps needed to complete them.

It was suggested that it would be better to wait until the Board has considered the paper on and had an agreed position in relation to Vacant Crofts before writing to landlords.

It was agreed that communicating with conveying solicitors should be encouraged, to ensure they inform buyers of crofting duties and that new owner-occupier crofters and assignees should receive a guidance letter. It was also agreed that one of the first priorities of the new WI officers could be to work with estates, landowners, and townships on crofting duties issues.

Commissioners wished to see extra resources being put into the RALU team, on top of the current recruitment. The CEO urged caution as he did not believe the budget would stretch to this. The Vice Chair of the Audit & Finance committee disagreed, with several other Commissioners calling for more posts to be created for the team straightway, using the underspend from 2020/21 and the 2021/22 budget, feeling that this will stimulate a reaction, otherwise it was a lost opportunity. Commissioners felt this is an area where a difference could be made and is a clear priority and they want to see action.

The Convener said this was a strategic direction from the Board to the CEO. The CEO accepted it was the wish of the Board to prioritise duties work but it was also a top priority to improve IT systems and to provide better customer service, which meant addressing any delays in regulatory work and the Board also wanted to see increased grazings work. When extra funding for an expanded role had been announced, there was no certainty that it would be consolidated into next year's budget. As CEO, he had mapped out a plan to recruit 6-8 posts, but the Board had wanted to be more cautious at the time, so it was agreed to recruit 5 new posts, 2 of which would go into the RALU team. One of these posts was filled in October and the other is being recruited now. The planning is in place and he accepted the Board had not seen the outcomes yet but stressed the team is being built up, with today's paper aimed at helping Commissioners decide which of the 12 items to prioritise.

Commissioners were not satisfied that carrying forward around £50k of the expanded role funding addressed the issue. They wanted to see the funds used now to boost the RALU team. The CEO explained that the funds carried forward may be needed to complete some of the short-term projects which are already underway.

The Convener requested a meeting to conclude this discussion on the budget and support for the RALU team, to take place within 10 days.

The RALU team manager asked Commissioners not to overlook what has already been achieved, given the very time intensive process involved in duties work. When asked which of the 12 priorities he would focus on, he chose 1, 2(1) and 4, with the Commission solicitor reflecting that item 5(7) should also be included. These all require extra resources. The Board agreed to prioritise items 1, 2(1) and 4. The next step would be to draw up a statement on how to proceed, which the Commission solicitor will lead on with input from Commissioner Neilson, who co-Chaired the working group, and the Head of Regulatory Support.

It was further agreed that all RALU team staff are to be given phones.

Decision	<i>The Commission will prioritise RALU work on items 1, 2(1) and 4 as outlined in the paper and the solicitor will draw up a Statement on how to proceed.</i>
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10 NEXT STEPS ON GRAZINGS

Head of Grazings & Policy introduced the paper, which had been written in the context of capacity building for communities, arguing that common grazings are an integral part of crofting. There has been decline in the number of committees over the last 20 years and the paper draws on two pieces of research and survey work with grazings clerks, suggesting that an independent survey of grazings now would be valuable, as the picture we have is incomplete.

It was suggested that to use its powers in a modern context, the Commission should invest in the communities themselves and provide a proper register of common grazings to help identify areas, such as Eday in Orkney, where people are forgetting that the land is common grazings. The Commission could leave a legacy by starting this process of identification, helping communities to see grazings as an opportunity they could benefit from.

Another locus the Commission has is connected to the structure of the management of grazings, where help can be given to set up committees and support them, helping them to deliver public goods. By collaborating there are benefits, as a trial in the Western Isles shows.

Commissioners discussed the links to Agri-environment schemes, which do not always work in favour of areas such as common grazings. There was a discussion on the merits of supporting active crofters with livestock which needs to be tempered by an appreciation of the different uses for the land, and also the impact that absenteeism has on the ability to manage large areas of common grazings.

Some Commissioners felt that there have been deep societal changes that have impacted common grazings and may be difficult to reverse. The momentum is with the likes of rewilding and there are difficulties in restoring previous livestock systems and management, and also the social elements that were once associated with that. A pragmatic approach is needed.

The CEO asked whether the Commission should start by focusing on areas where there is already interest and develop practical assistance such as a toolkit for communities, and engage in the funding debates around support schemes, to help them better suit common grazings.

Head of Grazings & Policy reflected that in the discussion on the previous paper, Commissioners had forcefully pressed for duties work to be properly resourced, but this is hard work too, just as working with grazings is. The Commission seemed to be saying that thinking about common grazings was too difficult, but it was possible to do something just as difficult on absenteeism and neglect. The result if no action is taken will be a loss of croft land. Identifying it would be a positive step.

There was a discussion on whether we are talking about conservation or preservation and the role played by apportionment. There was also a call from the Grazings Manager not to be too pessimistic and to consider what the team has achieved over the last year or so, with more committees in office and lively interest in the training workshops. It was felt there is potential as well as barriers and the Commission does not have to focus on one thing; it could have a multi-streamed plan.

Head of Grazings & Policy drew the Board's attention to the Recommendations in the paper. Commissioners agreed the recommendations.

Decision	<i>The Board agreed the full set of recommendations outlined in the paper.</i>
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11 DATE OF NEXT MEETING

The next meeting of the Commission will take place via Teams on 18 March 2021.

12 AOB

There were no urgent items. The public meeting was closed at 15:43, the Convener especially thanking staff and Assessors who had joined to view the meeting and contributed.

13 EXCLUSION OF PRESS AND PUBLIC

The Convener then closed the meeting, at 16:35, thanking everyone for their contributions throughout the day.