

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 6 FEBRUARY 2020

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	James Scott	Commissioner
	Bill Barron	Chief Executive
	Mary Ross	Head of Operations & Workforce
	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 and minute taker
	Betty Mackenzie	Communications Manager
	Gerry McGarry	Staff member
	Jacqueline MacBean	Staff member

1 APOLOGIES AND WELCOME

There were no apologies and the Convener welcomes everyone to the meeting, in Gaelic followed by a welcome in English.

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 28 NOVEMBER 2019

The Minute of the Meeting of 28 November 2019 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

Commissioner Nielson drew attention to part of the Minute (item 13) which stated that Commissioners had “self-certified” that they were IT literate when standing for election to the Commission, believing this to be inaccurate.

It was confirmed that the Scottish Government website states that IT skills are “highly desirable” for anyone taking up an appointment. The Commission agreed this did not necessarily make it a pre-requisite. The Standards Officer agreed to try to locate copies of the skills matrixes completed by Commissioners.

Head of Regulatory Support had an update on an issue discussed at the last Board meeting but, as this had been covered in the closed session, the update was given at item 14.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Prior to the meeting taking place, the Convener had asked Commissioners to use this section of the Board meeting to articulate their personal vision for crofting.

The Convener reflected that the current Board has been together for 3 years now and that it took time at first to become familiar with the operations and functions of the Commission and the role of an NDPB. With 2 years remaining, the time was right for focusing on the future. There are notable challenges for crofting and for the Highlands & Islands, but crofting can be part of the solution.

Rather than a fundamental change, perhaps crofting needs to be rebranded, with an emphasis on what it can deliver on food miles, population retention, climate change and progress towards a carbon neutral future, with sustainably managed crofts and opportunities for small scale renewable energy projects.

Solutions are already there in terms of the impact on biodiversity of extensive livestock systems and opportunities in the form of nature tourism. But as well as positives to promote, there are problems in crofting to tackle, such as misuse and neglect of crofts, which is why duties work is so important. If land is crofting's biggest asset, it needs to be treasured and the Commission should take a lead in promoting its future to Scottish Ministers.

Commissioner Mathieson agreed with everything the Convener had highlighted. He wished to emphasise the problem of unproductive crofts at a time when we should be growing more food and reducing food miles. He pointed out that Scotland produces 167% of its lamb requirements but the cost of exporting lamb will rise, so this will have a negative impact on crofters. By contrast, beef production is much lower and beef from grass-fed cattle is rising in popularity. This represents an opportunity but will be hampered if grass has to be imported. Veganism may be a growing market, but a lot of plant-based food is imported, so there may be a media backlash. Crofting is changing but who is championing crofting? This should be the Commission's role but to do so requires the Board to be bold and make sure its priorities are correct. As an example, Commissioner Mathieson noted that, when staff resources are short, experienced officers are moved from duties work to help in other areas of regulation.

Commissioner Maciver had a positive vision of crofting as a system of active land use, vibrant culture and heritage, with crofting embedded into the heart of rural communities. But he saw that, as a land use system, those actively crofting need a champion and asked if the Commission could be that champion. He asked whether communities have enthusiasm for the future and for crofting and wondered whether it needs to be part of one's DNA to make it work.

Commissioner Nielson emphasised the need to be flexible, not to be too prescriptive or to put crofters into a straitjacket. If a course of action becomes set in stone, it can have negative consequences. A vision evolves and it is often expensive to put right mistakes. He reflected that it was depressing to see the role of the Commission diminish when it lost the Development role and is keen to see this return, so that the organisation can encourage active crofting. The issue of sustainability on crofts is connected to the problem of neglect. In his view, crofters look to the Commission for protection. But to do this the organisation needs to be properly resourced. It needs to be bigger. And he believes the people with a lot of solutions are the Commission staff, so that any future legislation should start with close consultation with the staff. He sees the role of Commissioners as ambassadors connecting with stakeholders, including assessors. On

the ground, there are important skills gaps in crofting communities. This hampers population retention. Small scale agriculture is under pressure, with the cost of food much lower in the UK than in New Zealand, for example. Lastly, he drew attention to the fact that 80% of crofters are not represented by a membership body, which is why the leadership role of the Commission is so important.

Commissioner Annal wondered if crofting has lost control of itself. In his view, small crofts do not make a living for the crofter and there are no young people to gather the sheep, so how can they be retained in crofting communities. If they cannot make a living from the croft, they need access to industry and support mechanisms. He expressed concern about how difficult it has become to sell crofts because of a problem with collateral since the 2010 Act. What he wants to see is a way to release the ambitions of crofters.

For Commissioner Mackenzie, crofters are climate-friendly people who wish to preserve the landscape for future generations, chiming in with the government's agenda. The way they use the land preserves biodiversity and their livestock practices have a positive impact. We need to encourage sheep and cattle to stay on the hills and think about the industry's use of plastics and it is time for the Commission to be part of the climate change debate. Back in 2011, she noted another body called for the creation of thousands of new crofts but nothing has happened on this. While that may have been unrealistic, we should concentrate more on duties work in order to ensure more current crofts are actively occupied and worked. As part of the climate change agenda, we should be encouraging the planting of more shelter belts on crofts to aid production and help the environment. We should be supporting woodland regeneration with strict environmental guidelines and moving to carbon monitoring on crofts. Like other Commissioners, she wished to see young people engaged in crofting but understood their need or desire to move away for work or education. It is important to understand that the oil worker, for instance, can still make a positive contribution to crofting.

For the future, the way agriculture is seen has to change, with a move away from subsidy, towards environmental support.

Commissioner Scott's vision would see crofting so well regulated that there would be no need for the Commission to exist. He urged colleagues to consider how crofting is different and not to put too much emphasis on things which may be fashionable only in the short-term. The real difference crofting can make is in managing land for environmental benefits. It is difficult for the organisation to agree a uniform vision, as we come from different areas, with different views and experiences. This context makes it challenging for us as a regulator. There are plenty of good ideas out there and ways to make a difference, for instance, if it was possible for croft owners to create new crofts that could only be tenanted, removing the right to buy, we might see significantly more being created. Finally, he questioned the value for the future of the kind of 'good life' view of crofting, wondering if there is a tendency to hang on to what has gone before.

Commissioner Holt divided his vision for crofting into 4 headings:

- The law
- Tradition
- The market
- Crofters

The law protects but limits crofting and is in urgent need of simplification. Tradition is a great strength, providing continuity across generations, which creates an attachment to the land and communities. The market is relevant to crofters, who have shown that if they want to succeed, they have to be entrepreneurial opportunists. And they will continue to adapt. Much of the land in the Highlands & Islands is under the stewardship of crofters and large estates, for good or ill. At the moment, crofters feel besieged by a variety of 'movements' (green, vegan, rewilding), which creates a pressure.

Commissioner Holt reflected that he sees growing speculation in house sites and a deterioration in communities, with more absenteeism. The land has become a commodity, priced too highly with expensive tenancies, which are out of reach for young people. What he would like to see is a system where crofters have to live on or near their holdings and the restoration of a balance between income and food prices. Crofters and their produce should be valued. We need a speedier process for dealing with duties work, to free up crofts for people who want to work them rather than them being in the hands of people who do nothing with them. He would also like to see greater emphasis on education about crofting, both from a practical point of view, with more courses, and also more academic work. And with a raised profile for crofting, there should be a land matching service, to help new entrants.

For the Commission itself, Commissioner Holt favoured renaming the organisation, with a return to it being the Crofters Commission and internal restructuring, with a core based in cheaper offices in Inverness and 4-5 local offices in crofting areas, perhaps sharing with RPID teams, arguing that this would reduce staff turnover and increase knowledge sharing.

Finally, Commissioner Campbell questioned whether crofting is currently delivering enough to match the effort put in, crofters being a small proportion of the Scottish population. No other sector is so heavily regulated and so the Commission should be taking its vision from the crofters themselves, not the 9 people around the table.

If the Commission takes its role from the Act, it tells us what the government wants, which is population retention in peripheral communities. Land ownership gives power, but occupancy also gives power. Crofters often hold power in their communities because they hold the land.

If the Commission really wants to make a difference it must be prepared to be radical. The crofting system and society are moving in different directions; crofting has not kept pace. Collectively, we need to use crofting to support and protect services in communities, to help make a fairer society, so that people can live and thrive in Unst, as well as in Edinburgh. The Commission needs to be much more supportive of diversity, promoting smaller crofts, working with Planning Authorities to create housing and business opportunities, moving away from the fixation on livestock. Crofters need to be empowered to help their communities and duties action needs to be prioritised. Commissioner Campbell explained his vision was for a team of 15 staff to work for 5 years to tackle the problems of residency and land use. This should be resourced from a separate budget to tackle the problem of people holding land and not using it and the Commission should focus on sustaining people in communities. But, at present, the organisation is too small to make a difference. Properly resourced, however, the Commission could help the government to achieve its vision for crofting.

On common grazings, Commissioner Campbell felt not enough was being done with what is a huge asset. He asked what action we are taking against inactive shareholders. On the internal structure of the organisation, he suggested the Commission be divided, with offices in Ullapool and Stornoway, which would in itself create a different vision.

The Convener thanked everyone for their stimulating reflections, and agreed the ideas raised would be considered and the discussion returned to.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson took members through the main points covered by the Audit and Finance committee at its meeting on 23 January 2020. He explained that a self-assessment questionnaire would be forwarded shortly and urged everyone to complete it, as it will show trends over time.

He explained that key accounting policies were reviewed by the committee and that the committee considered a report from the internal auditors, Scott-Moncrieff, on GDPR compliance measures. The audit had been positive and gave the Commission assurance on the way GDPR had been planned and approached by the Commission, with several areas of good practice being identified.

Commissioner Mathieson commended the Workforce Plan, which was discussed at the meeting and now included a Succession Plan. This has been emailed to the Board. He wished to bring to Commissioner's attention that there was a 'red' risk in the operational risk register, around resilience in connection to the IS team and CIS. The Head of Digital & Improvement is looking at ways to mitigate the risk, but it does remain at a high level.

The committee had noted in the Complaints quarterly report a continuing downward trend in complaints.

For the current year, the budget forecast is for the Commission to break even and, given the budget concerns this year, the organisation was to be commended for the level of performance achieved. Commissioner Mathieson stressed the need for Commissioners to submit T&S claims timeously, so they can be paid in the current year. He explained that the Medium-Term Financial Plan had not yet been distributed to Commissioners, but it is in draft and will be circulated once further sections have been added and the 2020/21 budget is known.

(b) Draft Minute from 23 January 2020

After a question on the budget, it was confirmed that if the budget was not increased, that effectively acted as a cut, as wages would rise and so would pension contributions. On a question concerning cleaning costs, it was explained that these had risen in 2019/20, due to the awarding of a new contract. However, it is anticipated that these will return to a more normal level next year.

(c) Q3 Performance Indicators

These were forwarded for information, with no comments made.

(d) Draft budget 2020-2021

Information on the draft budget will come to the March Board meeting for approval. There is also an additional AFC meeting to discuss the budget in early March.

7 STRATEGIC RISK REGISTER

Commissioners had copies of the register. The CEO explained that the scoring for each item remained static. He explained that the risk score on the Future of Crofting was static because this was a focus for work over the next few months.

8 DRAFT BUSINESS PLAN

The CEO introduced the paper, explaining that the final version will come before the Board for approval in March. He asked Commissioners to consider the draft and email comments before the end of the month, explaining that the performance measures have not changed very much, as it is important to view trends. An extra measure has been added to the grazings section. The CEO drew attention to the Milestones and asked for input on these and emphasised the need to consider the detail for Outcome 3 and 4, especially the future of crofting. There are quite big milestones here. It was agreed that plenty of time would be set aside at the March Board meeting for a full discussion of the Plan.

9 MANAGEMENT/VIEWING OF BOARD PAPERS

The CEO explained that there are two aspects on Board papers for the Commission to decide on; one concerning the question of print and electronic copies of Board papers and the other on what form of electronic papers to use, if any.

The Audit & Finance committee was working well using only digital papers, but the CEO reflected this was more difficult for a larger group that met in public. He suggested carrying on with an App for digital papers but had a few suggestions for streamlining the production, such as giving up the master copy with consecutive running page numbers from start to finish, which takes time to format and produce, and providing numbered separate papers instead. We would also stop printing spare copies for meetings but display papers on the website in advance of meetings, alongside the meeting agenda.

This was agreed.

There was a concern that the Commission had made a collective decision to move to electronic papers, to help meet Scottish Government environmental targets and this was not being adhered to by all. However, it was appreciated that it was important to enable everyone to contribute in meetings and therefore discretion was needed. The main practice would be to use electronic papers. It was also agreed to trial using the large screens available in meeting rooms, to display papers during Board meetings.

Head of Digital & Improvement then gave a presentation on the different options for viewing papers digitally, explaining that if the Commission carried on using the current App, there would be a cost of several thousand pounds per year. There was concern that this had not been clear when the earlier decision to move to a digital option had been discussed. However, Head of Digital & Improvement was able to demonstrate an alternative version, which could be made available at no cost. This version is called OneNote and is available on smartphones, iPads and laptops.

Commissioners agreed to move to using OneNote as the solution for digital Board papers and also wished to use it for the Tier 3 casework meeting papers. It was agreed to trial this and that general tuition in its use would be made available to any Commissioner on request. The CEO confirmed that this represented the Board reviewing an earlier decision.

On the issue of communications, Commissioners were urged to remember to respond to emails from staff. A further question on communications via non-Commission phones and the risks associated with Cloud storage would be considered by officers.

10 CROFTING CONSTITUENCIES

Head of Policy introduced the paper, providing Commissioners with the background. The previous Board decision was explained, along with the response from Sponsor Division, who have said that any change would require a further public consultation. It was pointed out that one of the previous consultation responses was from the Electoral Boundary Commission, who had commented that the crofting constituency boundaries fall below the electoral parity which they apply to their own work. Essentially, this entails that two-thirds of the electorate receives one-third of the representation.

The CEO clarified that time for a further approach to SG on this is getting short, so a decision is quite urgent. The previous consultation response rates had been quite low but that is not unusual for a technical consultation such as this.

The CEO further clarified that new legislation would not necessarily be needed to change the number of constituencies because this could be done by Regulation.

There was a concern from Commissioners that a case had already been put to Sponsor Division and nothing had happened and that there are dangers in taking a predetermined stance before a consultation. However, Commissioners restated their view that more proportionate constituencies would be desirable.

After further discussion, it was agreed to write to the Minister, detailing the case for a move to 7 constituencies.

11 DEVELOPMENT OF CROFTING – ROLE FOR THE COMMISSION?

The CEO introduced the item, explaining that there would be more time to consider this substantial topic at the March meeting. As yet, no decision has been made by the government, but the Commission must be prepared and have an agreed approach to this.

The CEO had outlined several headings to stimulate thinking on what a development role for the Commission might encompass. It could mean:

- increased duties work
- an educational role
- working on the carbon neutral/ environmental agenda
- succession and the turnover of crofts to new entrants/young people
- new croft creation
- help with branding of croft produce.

Commissioners discussed the need to ensure that whatever role the Commission played was properly resourced, to allow for the job to be well done and for it to sit appropriately with the Commission, rather than another agency. Part of this had to be about providing feedback to government about where the present gaps are but it was agreed that any proposals from the Commission must be costed and outcome-based, with measurements attached and that partnership working could be considered.

Commissioners discussed the need to be forceful, with a clear vision but would also need to know what government thinking is and the kind of resources that would be made available. Without this kind of information, it would be difficult to make informed judgements. On a question on whether legislative change would be needed if the Commission reprised its development role, it was felt this should not be necessary, given the remit of the current Act. The CEO confirmed that, after a more substantive discussion in March, any proposal would be confirmed by the Board before being submitted to Sponsor Division.

12 DATE OF NEXT MEETING

The next meeting of the Commission will take place at Great Glen House on 19 March 2020 and the Strategy day would be used for substantive discussions.

13 AOB

There was no urgent business

Communications Manager left at lunchtime.

14 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for engaging in the meeting and closed the meeting at 2.05pm, asking that compliments received on good customer service recently be passed on to staff.