

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD BY SKYPE ON 25 JUNE 2020

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner
	Billy Neilson	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
	Garry Laws	RALU team manager (from 15:30)
	Joy Smyth	Case Officer
	Gordon Jackson	Scottish Government
	Aileen Rore	Scottish Government

Up to 25 guests attended for part of the meeting.

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting and was especially pleased to see so many guests attending, including several members of staff.

Apologies were received from Michael Nugent and although Commissioner Annal joined the meeting for a few minutes, his connection was too poor for him to attend a substantial part of the meeting.

2 DECLARATION OF INTERESTS

There were no declarations of interest in the public part of the meeting.

3 BOARD MINUTES OF 14 MAY 2020

The Minute of the Meeting of 14 May 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 CEO was aware that his absence from the May Board meeting had caused concern and he wished to place on the record the following points:

- i) He appreciated the support expressed by the Board for the urgent work required on assistance for care homes during the COVID-19 crisis.
- ii) He wanted Commissioners to know that SMT had risen to the challenge of managing the organisation in his absence.
- iii) He clarified that Scottish Government would not call him back without his consent and that he should have discussed the request by government with the Board more widely than he had.
- iv) Although there was no Acting Accountable Officer appointed as cover during the CEO's absence, this had been offered by SG but the CEO decided, as he had confidence in the SMT and the move was temporary, he would not take up this offer.
- v) He apologised for the poor communication on his temporary move to the Board and for the disquiet it had caused.

The Convener agreed that lessons had been learnt and wished to put his thanks to the SMT on record, for their work during this period.

5 ROUND THE TABLE UPDATE FROM COMMISSIONERS

Commissioner Nielson thanked staff. He was impressed with the way staff were dealing with issues raised with him, via calls from crofters.

Commissioner Mackenzie agreed. She felt that telephone calls were increasing and customers beginning to expect more.

Commissioner Holt had taken some calls and found this has expanded his experience. He found it interesting and that many of the queries were about quite simple things.

Likewise, Commissioner Maciver thought calls were increasing and that sometimes it was a matter of people wanting someone to talk to.

Commissioner Campbell agreed that sometimes the queries received from callers were quite simple, which suggests more needs to be done to provide information but that pushing everything onto the website will not work for everyone.

Commissioner Mathieson reflected that staff had dealt swiftly with queries he had passed on from callers and the Convener found callers were still often quite apologetic, hoping not to inconvenience the Commission with their query, so it was good to be able to help.

6 UPDATE ON OPERATIONAL EFFECTIVENESS

The Convener introduced the item, explaining how his office is being used as the base for scanning mail at present, with a staff rota now established and this seems to be working well with current volumes.

The CEO was pleased that the Head of Operations & Workforce was able to circulate a weekly case activity report to Commissioners, which appears to show that we are keeping pace with the new work coming in. The organisation will need to be ready to cope if this picks up. As well as new applications, we continue to receive Notifications and to work with RoS.

At the start of the crisis, SMT activated the Business Continuity Plan and held daily meetings to begin with, which have now reduced to 2-3 times a week. The Convener has been attending some of these and a note of the Actions is forwarded each week to Commissioners.

Managers have been keeping in close contact with staff, to try to help establish as robust a system for homeworking as possible and to ensure staff are supported.

In answer to a question on the provision of new ipads, Head of Digital & Improvement confirmed that new equipment would be sent to Commissioners shortly and CEO explained that the organisation is presently considering issues around the use of personal devices.

7 CROFTING DUTIES: POLICY PROPOSALS

The item was introduced by the Head of Policy, who explained there had been a previous paper on duties at the March Board meeting and a paper and discussion on - at a subsequent strategy meeting that also touched on this subject. The paper for consideration included a number of Recommendations, the objective being to deliver more sustainable crofting communities

The main thrust of policy for the last few years has been to emphasise self-regulation, encouraging compliance with the residency duty in particular by ease of access to relatively long-term sublets. The paper takes the view that while this allow flexibility it does not deliver the best results for crofting and that the focus should be more closely on the legislative requirements set out in the Act. This would require an earlier introduction to the legislative process and a disciplined approach, to deal more directly with the requirements and timescales set out in the Act. This would probably entail that resources could not be as readily be removed from duties work, but that depends upon the priority such work is given.

Head of Policy explained that the paper recommends that sub-lets/short leases for non-resident crofters should normally be restricted to 5 years, unless there are specific reasons for granting a longer let. Based upon an example provided of how the current process might disadvantage someone seeking consent to be absent as opposed to a sublet, it was also recommended that greater consideration could be given to using the consent to be absent route as temporary dispensation from the residency duty.

The greater difficulties encountered in delivering on the croft land use duties was highlighted, with particular reference to the SLC findings in the *Malone -v- Pattison* case. An ad hoc summary of this case was provided as it could have particular implications for assessing what constitutes croft cultivation. It was recommended that the Commissioners should consider the detail of the case and that a working group be formed to examine, in particular, how the Commission pursues the land use duties.

Commissioners agreed that all 3 aspects of possible breach of duties need to be looked at: Residency, Neglect and Cultivation and that lack of progress was frustrating. The CEO confirmed that he understands this is a priority for the Commission and hopes that a working group could consider how best to harness resources to gain results. Commissioners confirmed they would like to see Assessors involved on the working group and that one be established as soon as possible.

Without dissent, the Board agreed to adopt the recommendations in the paper.

Decision	<i>The Commission agreed to establish a STWG and to adopt the Recommendations detailed in the paper.</i>
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8 WOMEN & THE BOARD: GENDER BALANCE LEGISLATION

Head of Compliance (who takes the lead on Equality & Diversity) introduced the paper, explaining that Scottish Government had issued Regulations at the end of May. These set out a timeline for sponsor divisions and public bodies to report to the public, with evidence of what they are doing to comply with the SG objective of achieving gender balance in public appointments by December 2022, as set out in the 2018 Act.

Although Scottish Government will issue guidance on reporting, it was felt that work needs to begin on this, as the deadline for reporting is April 2021. Any work completed by the Commission to promote and encourage more women to come forward to seek Appointment to public bodies would also help the organisation reach out to women to encourage more to stand for election to the Board in 2022.

As the duty rests equally with Sponsor Division and the Commission, it was agreed that there would need to be close liaison on this issue.

It was confirmed that there will be one new Appointment in 2022; Commissioners Mathieson and Scott both wishing to record that it is their intention to seek re-appointment in 2023.

Members agreed that a working group should be set up but did not want the questionnaire appended to the paper to be sent out in its current form. It could be considered by the working group and a new draft circulated to the Board before being distributed.

The Convener was pleased that two female Assessors attending the meeting as guests agreed to join the working group and that Commissioner Campbell would also join, as his experience with the land agent stakeholders would be important.

Decision	<i>Establish STWG to consider how to encourage more women to seek appointment to Board vacancies.</i>
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9 (ITEM DELETED – FOR DISCUSSION AT A LATER DATE)

10 DATE OF NEXT MEETING

The next meeting will be held by Skype on 24 August 2020, with a 9:00am start agreed.

11 AOB

No urgent business was notified.

The public part of the meeting was closed by the Convener at 13:03. He thanked everyone who had attended as a guest, especially the Assessors.

12 EXCLUSION OF PRESS & PUBLIC

The Convener then closed the meeting at 16:30, thanking everyone for their contributions.