

# **CROFTING COMMISSION**

## **MINUTE OF THE COMMISSION MEETING HELD VIA MICROSOFT TEAMS ON 20 OCTOBER 2020**

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Vice Convener
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal (until lunchtime)	Commissioner
	James Scott (until lunchtime)	Commissioner
	Bill Barron	Chief Executive
	Mary Ross	Head of Operations & Workforce
	Aaron Ramsay	Head of Digital & Improvement
	Joseph Kerr	Head of Regulatory Support
	John Toal	Head of Policy
	David Findlay	Commission solicitor
	Jane Thomas	Head of Compliance and minute taker
	G Jackson/Michael Nugent	Sponsor Division
	Members of the public and Assessors	

### **1 APOLOGIES AND WELCOME**

There were apologies from Commissioner Campbell, who had suffered a bereavement. On behalf of the Commission, the Convener sent his condolences. There were also apologies from Neil Macdonald, Head of Finance, who was on leave.

### **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. The Standards Officer told members that it was coming up to the time of year for them to review their standing Declaration of Interests and an email would be sent out to them shortly.

### **3 BOARD MINUTE OF 24 AUGUST 2020**

The Minute of the Meeting of 24 August 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**

There were no Matters Arising from the previous meeting.

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

Commissioner Mathieson began the round, relaying news of a meeting he had held with Commissioner Neilson and a crofter who is thinking about dividing a large croft, in order to create several new ones, for the benefit of the local community. Some of these will be woodland crofts. He had also spoken to a young couple who were having difficulty entering crofting, in part due to some owner-occupiers who appear reluctant to give up neglected crofts. This situation was not unique and reflects both the challenges of dealing with the problem of neglect and a lack of understanding of the powers of the Commission.

Commissioner Neilson agreed that the issue of purchasing crofts came up regularly and that there is demand. He also wished to record that he is pleased to be involved in a Short-Term Working Group relating to duties and enforcement and glad to see the meetings of these groups taking place.

Commissioner Holt referred to a similar situation of difficulties facing people wanting to get into crofting, coming up against the barrier of an absentee landlord of a vacant croft, which was no further forward. He found this frustrating and wanted to see action by the RALU team. The Convener shared this frustration and felt that the words, "no further forward" summed up the overall position. Commission solicitor explained that the owner or landlord of a vacant croft is not subject to the same Duties as a tenant or owner-occupier crofter but that the Commission can require the person to let the croft. The CEO noted the work that the RALU team had already been doing and hoped that in increasing its staffing, progress would be made on a wider range of cases.

Vice Convener Mackenzie agreed that she too meets people who believe the Commission will not terminate tenancies but she knows this is not the case and would like cases more widely publicised, to show that the Commission does take action.

Commissioner Maciver reported that livestock sales have been buoyant in his area, the Marts deserving a lot of credit for the way they have adapted to the virus restrictions, with a lot of stock staying in the islands. On the question of demand, raised earlier, he worried that people are being denied a future in crofting because of inflated prices.

The Convener agreed, saying he has had a lot more interaction with crofters over the last two months, online and with sales results good. He stressed the need to invest in people, as well as livestock.

Commissioner Annal asked why people in Orkney are trying to create new crofts, when decrofting is not allowed. It was pointed out that this is not the case. Decrofting applications can be made for a Reasonable Purpose.

## **6 CROFTING & CLIMATE CHANGE: PRESENTATION**

Commission solicitor introduced Professor Stewart Angus of NatureScot, explaining that the idea for today's talk went back to the external Board meeting in 2019 and that the Professor's research on the eco-systems of the Uists was of great significance to crofting communities.

Professor Angus explained that, while his presentation focused on south Uist, he would also touch on the situation in Tiree and Sanday and that, although Nature Scot's remit centres on the environmental impact of climate change, the adverse impact in a place like south Uist goes far beyond that.

He explained that global changes can have a disproportionate effect on a country the size of Scotland and that land level rise is being outpaced by rises in sea level across the whole country. The situation in the Uists is extreme, so if ways can be found to address the issues there, then lessons can be learnt that will help in other areas.

Professor Angus then went through a selection of datasets to show the situation, highlighting the importance of the kelp forests and the dune ridge as well as the series of old canals and stone drains built in the eighteenth century.

He explained the invasion of saline water and its impact on the water table was of particular concern to crofting, so everyone needs to work together to help manage the situation for the future. Land will be lost to the sea and this will be croft land, so crofters need a role in planning and adapting. A Resilience Strategy has been drafted and plans are underway and input from the Commission is welcomed.

The Convener thanked Professor Angus for his fascinating presentation (which would be emailed to Commissioners), reflecting on the scale of the problem and how useful it had been to see it in context. It was hoped the new outward-facing role for staff in the Western Isles would provide the Commission with opportunities to work with partner agencies on these issues.

## **7 REPORTS FROM HEADS OF TEAMS**

### **(a) IS Team**

Head of Digital & Improvement gave an update, focusing on three things: CIS, the move to the Cloud and the Firewall.

On the first issue, things are going more or less to plan, with testing still expected to take place in January, and the new version of CIS to go live in February. On the move to the Cloud, we have hit a problem with the compatibility of the Commission laptops and the new environment, and we are working on a solution to this. A more challenging issue has arisen about testing and CIS, so it has been agreed to dovetail the move to the Cloud with the release of the new version of CIS. This causes a slight delay but reduces risk.

On the Firewall update, things seem to have gone very well. The next step is further security testing.

After questioning from Commissioners on CIS, Head of Digital & Improvement explained that the new release would change lots of things in the background and allow GDPR changes to take effect. He was reminded that a Data Privacy Impact Assessment is still required for the move to the Cloud.

### **(b) RALU & Regulatory Support**

Head of Regulatory Support spoke about work at the Tier 2 and 3 level, with a Tier 3 meeting due to take place on 21 October. He explained that of four recent cases discussed at Tier 2, there had been positive responses from the crofters, which has meant they have not had to be escalated to Tier 3. The policy change on 10-year sublets has led to 3 cases at Tier 2, one of which has been escalated. Triaging is being developed further and working successfully.

A group has been set up to consider application forms and the move online, which Commissioner Neilson has joined. The focus is on assignment to begin with. The group is looking at the questions being asked on the form and meeting on a weekly basis, to keep up momentum.

Head of Regulatory Support also reported that more regular meetings are being held with RPID PAOs, which is good and that a new SLA is almost ready. There will be a paper coming to the Board in December on a new procedure for dealing with objections and the role of the RPID report.

On RALU, there have been two proposals on Skye which will see crofts going to new occupants and a meeting set up with an estate, to consider ways to deal with vacant crofts and unresolved successions, as well as the creation of new crofts.

### **(c) Operations & Workforce**

Head of Operations & Workforce explained that, after the initial period, the Regulatory Team has settled well into working from home. There are still some connectivity issues, but these are very individualised and being worked through with the IS team. Several staff who were off on medium/long-term sick leave are now back and attendance is better than for several years.

Several members of the team are helping on STWGs, with a balance between experienced and newer staff.

There are no reported delays to Registration cases and regular meetings are taking place with RoS.

There has been an increase in applications received but not to the level of this time last year. An analysis of cases older than 12 months has been carried out, with 66 of these cases requiring further Commission action to move them on, though this includes several where we are waiting for RPID reports. An increase in the B1 level staff resource may be required in the next couple of months but this is being kept under review.

The CEO confirmed that more staff would be put into the Regulatory team if this was required to avoid a build-up of cases.

### **(d) Grazings & Policy**

Head of Policy noted the recent draft of the National Development Plan for crofting and what this says about the importance of common grazings. He reflected that grazings are given prominence in the plan and wondered about the impact that removing the distinctive Grazings Section from the Commission structure had when the development role was established in the early 00s.

After tensions in the relationship between the Commission and grazings committees in 2014-2016 in particular, bridges have been built, the Regulation Template has been well received, as have meetings held in crofting communities. By way of measurement, in 2002, there were over 600 committees in office, but 15 years later that had fallen by a third. Lots of things contributed to this but the focus of the Commission was a factor, and this is one of the reasons for trying pro-actively in the last year or so to address this decline. As a result, numbers of committees in office increased by almost 80, to 495 at the end of March 2020 but that pro-active work of direct engagement is on hold due to current meeting restrictions.

However, the team continue to contact clerks and develop information materials to assist committees and have responded to over 200 individual enquiries relating to grazings since April. As agreed by the Commission, committees coming to the end of their term of office are given the opportunity to return to office, by Commission appointment. To date, over 100 have been contacted and over 50% have taken up the offer. It has been suggested that possibly online support and training could be provided to clerks and this is being looked at.

## **8 REPORTS FROM STWGs**

### **(a) Residency & Land Use**

This item was introduced by the Commission solicitor, who explained that three meetings of the group had been held so far. The next stage is to draw up a list of recommendations for the Board to consider. One of the RPID SAOs attended the last meeting, which was helpful. It was useful in the context of information gathering and the hope is that the Commission will be able to access some aerial images, which may help to identify areas of neglect. This should help the Commission to target action in areas of the worst cases of neglect.

The group is hopeful that the new officers appointed in the Western Isles will help with duties work on the ground by being visible and outward facing.

### **(b) Women & Board Membership**

Vice Convener Mackenzie chairs this group and gave an update. The group has met twice, with the next meeting scheduled for late November. The background to the formation of the group was explained and the aim of looking not only at encouraging more women to apply for Appointment vacancies but also more women to stand for election in 2022. The statistics from 2012 onwards show that there has consistently been a split of roughly 83% of applications from men and only 17% from women, so the group will work towards increasing the percentage of women coming forward to sit on the Board.

The Vice Convener explained that a stakeholder list has been populated, various blogs and articles planned, and engagement made with women's networks. One reflection was that once there is more female representation on the Board, more will follow, as there will be more role models for women to identify with. All of the Board members were encouraged to think of women who might be interested in sitting on the Board, as a direct approach was seen as good practice by the SG Equalities Unit.

### **(c) Remote working/home working**

The CEO summarised the work of the group so far, explaining that four meetings in total are planned before a report is made available to the Board. The group has quite a varied membership and the reflection on home working so far has been largely positive, with some challenges acknowledged. Going forward, after the pandemic is over, management will have to decide which posts and staff to deploy centrally in an office and the extent to which others can be based at home. This will have to be done fairly and according to business needs. The initial conclusion is though that an element of homeworking is here to stay.

On location/remote-working, the group is more cautious as it is felt that it is important for staff to be able to meet up in one location, as a hub or centre and that a totally disbursed workforce would not provide optimal business efficiency or the best welfare for staff.

## **9 RECRUITMENT & PROMOTING THE INTERESTS OF CROFTING**

The CEO wished to place on record the position on recruitment. He explained that the business cases for the two outward-facing posts are being brought to the SMT for approval and that the location for the remote posts is not being constrained. The post-holders will have a broad remit and will require help in prioritising actions.

Commissioners questioned why recruitment was taking so long. The CEO responded by explaining the context and timing and the current pressures on management. It was agreed that when the adverts for the vacancies are ready, they will be displayed together. It was also confirmed that the vacancies are FTEs, so job shares are possible.

## **10 DATES FOR BOARD MEETINGS 2021**

Commissioners were asked to consider a series of dates for the Board meetings in 2021. It was confirmed that it is likely that the February meeting will be held by video link and that, even when face-to-face meetings are possible, Commissioners will be able to choose to join them remotely, rather than having to travel.

The reason for asking the Board to agree dates so far in advance was both to allow lots of notice but also to dovetail with the AFC meetings. Commissioners agreed that school holiday periods should be avoided in the meeting dates put forward for 2022.

The dates for 2021 were approved and the Convener confirmed that the Strategy day scheduled for 4 Dec 2020 could be cancelled. Strategy Days would be held as and when necessary, going forward.

## **11 DATE OF NEXT MEETING**

The next meeting of the Commission will take place via Teams on 3 December 2020.

## **13 ANY URGENT BUSINESS**

Commissioner Neilson had asked for a discussion on the information gathered during the annual census, wondering if an additional question could be added to the Annual Notice, on how land is being used.

It was pointed out that it is now too late in the planning cycle to add questions to the census form for this year. Head of Digital & Improvement explained the timeline, with the cut-off for changes to the form being September. It was agreed to have a Board discussion on the census in March 2021.

## **14 EXCLUSION OF PRESS AND PUBLIC**

The Convener then thanked everyone for their input and closed the meeting at 16:45.