

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD AT BEAUFORT HOTEL, INVERNESS AT 9AM ON 12 MAY 2022

Present:	Malcolm Mathieson	Convener (via Teams)
	Rod Mackenzie	Commissioner (via Teams)
	Mairi Renwick Mackenzie	Vice Convener
	Colin Kennedy	Commissioner (via Teams)
	Iain Maciver	Commissioner
	David Campbell	Commissioner (Open Session)
	Duncan Gray	Commissioner
	Donald MacDonald	Commissioner
	Bill Barron	Chief Executive.
	Finlay Beaton	Head of Grazings
	Aaron Ramsay	Head of Digital & Improvement (via Teams)
	David Findlay	Commission solicitor
	Arthur MacDonald	Head of Development (until 12pm)
	Joseph Kerr	Head of Regulatory Support
	Heather Mack	Head of Operations & Workforce
	Jane Thomas	Head of Business Support & Compliance and minute taker
	Kirsteen Currie	Communications Officer (for item 12) (observing)
	Anne Williamson	(observing)
	Gordon Jackson	Scottish Government (via Teams)
	Aillen Rore	Scottish Government (via Teams)
	Michael Nugent	Scottish Government (via Teams)
	Staff and public for Open session (via Teams)	

### **1 APOLOGIES AND WELCOME**

The Convener welcomed everyone to the meeting, with a greeting in Gaelic, followed in English. Apologies were received from Neil MacDonald and James Scott.

### **2 DECLARATION OF INTERESTS**

No Interests were declared in the open session.

### **3 BOARD MINUTES FROM 31 MARCH 2022**

The Board Minute of 31 March had previously been circulated and approved and had been published. There were no comments or questions on the Minute.

### **4 REVIEW OF ACTION POINTS FROM 31 MARCH**

Head of Business Support and Compliance confirmed that all the Actions from the previous Board meeting had been discharged.

## **5 MATTERS ARISING**

There were no Matters Arising.

## **6 UPDATE ON MEETINGS WITH SPONSOR DIVISION**

The CEO confirmed there had been three meetings with Sponsor Division colleagues since the last Board meeting. Two of these were summarised in the paper, with the other being the more recent CC-Sponsor meeting on 3 May. The meeting involving Mi-Voice had comprised quite a long discussion on the Election Regulations, following the election in March, with a view to revising the regulations before 2027 to bring them more into alignment with other pieces of electoral law. This will be subject to a consultation period, which would provide an opportunity to return to the question of electoral constituencies.

The Convener gave an update on the meeting with the Cabinet Secretary on 22 April, reflecting that she is supportive and encouraging, wishing to learn more about the work of the Commission.

Both CEO and Convener agreed that there is a need to ensure the meetings with Sponsor Division have a strategic focus. The CEO explained the timeline for the Appointment of two new members to the Commission and that, because of this, Commissioner Campbell's position is likely to be extended until August, with formal confirmation of this to hopefully come shortly.

It was suggested that it would be helpful if more Board members could attend the Sponsor meetings and that they should be made aware of them. It was agreed that it would be useful to use the model of the observer rota used for AFC meetings, which should also be extended to new Board members. This will be taken forward.

The Convener's connection to the meeting via Teams became extremely poor at this point. He asked permission of the Board members to allow the Vice Convener, present in Inverness with most of the Board, to Chair the rest of the meeting, as his communication link was not stable. The Board unanimously agreed to this solution and the Vice Convener chaired the rest of the meeting.

## **7 AUDIT & FINANCE COMMITTEE REPORT**

### **(a) Update from Vice Chair of Committee**

The Committee met on 27 April. The Vice Convener went over the key issues covered at the meeting, including the Internal Audit assurance and the work on the Medium-Term Financial Plan, to bring it in line with the Deloitte Recommendation.

### **(b) Draft Minutes from 27 April 2022**

The Draft Minutes were circulated for information and would be approved at the next committee meeting. There were no questions.

## **8 PRINCIPLES FOR THE POLICY PLAN**

There had been a Strategy Day on 14 April, which had helped to provide a framework for the paper for consideration. The paper had been drafted by the CEO and the Commission solicitor, with input from several other senior colleagues. It highlighted scope for action, set out as ten sections on policy positions. It represented a condensed and focused document that the Commission could use as the basis of a Policy Plan.

Members agreed that it was useful to look at this as a kind of Policy Statement, which was permissive in its outlook, allowing people to use their crofts, within the law. It was felt that it would be beneficial to alter the language from the use of 'could' and 'should' to 'can' and 'will.' Some Commissioners felt there is a need to be as pro-active as possible, with field visits. Head of Development reported that this interaction was taking place now to a certain extent, with positive results. He would like to bring a paper to the Board at a future meeting, so that Commissioners can consider what some of the main reasons for misuse and neglect appear to be and what might be done about this.

The Convener welcomed the fact that the plan was being produced with more input from the Board, reflecting the Board's views. There was a discussion on the various uses that crofts could be put to and the importance of population retention and the need to factor in the views of Scottish Government. The important thing to focus on, it was agreed, is that crofts are used, and crofters must understand what is not permitted, e.g. neglect.

The Commission solicitor and senior colleagues then went through the paper, section by section, so that the agreement of Board members to each section could be noted, with any provisos.

There was a discussion on decrofting and the way that the law is framed so that the Commission must consider each application on its merits, which constrains policy. This led onto an in-depth discussion on the links between decrofting and the planning system, with the conclusion that the Commission needs to be more engaged with Planning Authorities at the Local Plan stage. Therefore, the relevant sections in the paper will be revised regarding planning, to make this more explicit.

The Convener thanked everyone for taking part in the discussion and for their clearly expressed views. All the sections in the paper were agreed on, with the proviso that the text is revised, to reflect the discussion on planning and that a new paper should be circulated by email to the Board as soon as possible, so that the tight timescale regarding the plan can be adhered to.

## **9 Q4 PERFORMANCE REPORT**

The CEO went through the report, explaining that it is displayed on the website and reflects a particularly challenging year. It is a frank assessment of the situation at the end of March 2022. He confirmed that the RAG status for each item is decided on by the head of the relevant business area before he checks the detail himself.

## **10 BUSINESS PLAN 2022-2023**

The CEO explained that the production of the Business Plan for this year is hampered because of the position regarding the Corporate Plan. The present Corporate Plan ends this year, with a new 5-year plan having to be signed off by the Minister in the Autumn/ Winter, when we will also have two new Appointed Members. So, the Business Plan for consideration today is based on the outgoing Corporate Plan. A new Business Plan will be drafted in the Winter, which will then better reflect the Board's position and priorities and the new Corporate Plan.

The Business Plan for 2022-23 had been approved in draft form by the Board in February 2022. Members agreed to accept the 2022-23 Plan, subject to the changes proposed by officials in an email the previous day, and look forward to the creation of a new Plan for 2023-24.

The Vice Convener commented on the plethora of plans which Commissioners have to be aware of and it was agreed that officers will create a guide to show how they are interlinked.

<b>Decision</b>	<b><i>The Board approved the Business Plan for 2022-23</i></b>
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## **11 2022 ELECTION TURNOUT AND CONSTITUENCIES**

The CEO gave members a brief background to the paper, explaining that turnout had been around 10 percentage points lower than in the previous election, which was troubling. On constituencies, there is concern that the size discrepancies may cause issues, as well as the boundaries, particularly the East and West Mainland boundaries. He reported that the original thinking behind the boundaries had been based on style of crofting rather than size.

There could be a variety of options for the government to consider, including size, boundary lines, an extra Appointed member or an extra elected member, or larger constituencies with more than one Commissioner.

Commissioners were concerned about the message the low turnout projected from crofters, wondering whether this reflected apathy or hostility to the Commission. All agreed the voting process was easy but wondered if the positive result from moving to the online only option for the Annual Notice presented an opportunity, and whether a switch to an online vote in the next elections could help the turnout figure to rise.

The situation in the Western Isles was discussed in some detail, with Commissioners agreeing that there should be better representation for North Uist, Benbecula, South Uist and Barra.

The CEO took the Board through the four questions posed in the paper. The Commission agreed there should be two members from the Western Isles. The CEO agreed to produce a summary of the discussion and the principles that are emerging and send this out for comment by the Board members, before drafting a letter to the Cabinet Secretary.

## **12 MEDIA STRATEGY**

The Communications Officer was present for this item and took the Board through the paper, explaining key points. She explained that print media took precedence, followed by social media and that the Commission had no control over deadlines for the former, which can be challenging, particularly where the local press is weekly.

She further explained that there is a current push to get out messages about the online applications project and Living Succession, working with Development Officers. Social media is useful and important to get quick or urgent messages to customers, if our phone lines are down, for instance. The CEO confirmed there would be a budget, within reason, for the creation of more short videos, if this was desired by the Board.

It was agreed that where possible, people would be encouraged to use Community Newsletters for adverts if this represented a cost saving. Commissioners were encouraged to provide photos to the Communications Officer, to build up a better portfolio and that these should illustrate modern, diverse crofting. It was also agreed to use social media to publicise statistics, to show numbers of cases discharged, particularly if this is a good news story.

The Convener and Vice Convener wanted to thank the Communications Officer for her presentation and for increasing the visibility of the Commission since her appointment.

### **13 OUTSTANDING CASEWORK UPDATE**

This will be a Standing Item on Board Agendas until the situation with the backlog is less challenging. Head of Operations & Workforce introduced the update, which is a follow on from a more detailed paper provided for the March Board meeting. The paper contained information on more recent cases and Commissioners were informed that case numbers had come down in April, in part because fewer cases had been received. The focus over the last few months and to date is on training and recruitment and both of these elements are going well. Two new B2 posts have been successfully recruited, with internal candidates gaining promotion. There have been four new B1 posts recruited and there will be another round of A3 recruitment soon, to fill five vacancies.

A key challenge at this time, given the delays to processing incoming applications, is to cope with rises in callers and customer queries. Various methods are being applied to cope and to improve customer service without too much disruption to the work of case officers who are trying to work through the backlog.

Commissioners were delighted to hear that the recruitment is going well and the training producing good results. The trainer has also been involved with the recruitment, which has been positive. The Board reflected that there are a lot of new staff coming in and they must be given time to understand the complex processes involved in crofting regulation but that the benefits will be seen perhaps more quickly than anticipated in the Glen Shuraig report, if things continue on the current path.

In answer to a question on what a Commissioner would do if they were unhappy with a report to the Board, the Convener clarified that the CEO is responsible for the quality of papers and information prepared for the Board and the CEO takes direction from the Board. Any dissatisfaction should therefore be conveyed by the individual Commissioner to the Convener, who would, as appropriate, bring it up with the CEO. A Commissioner could also, in line with the provisions in Standing Orders, ask for an item to be added to a Board Agenda. It is important that individual Commissioners go through the Convener and do not approach SMT members with queries and requests directly.

The CEO explained that if individual crofters approach Commissioners they should listen to concerns and direct the crofter to contact the Commission office or the CEO, if the matter was of particular urgency or sensitivity. The Standards Officer reminded Commissioners that it would be a breach of the Code of Conduct if they sought to use their position to gain preferential treatment, so it is important not to put officers in this position.

There was a brief discussion on how to identify whether a case or query was urgent, with the CEO stating that sometimes this will be objectively apparent, if someone has an urgent health-related matter for instance. At other times good judgement may be required. This was followed by a discussion on the variety of avenues to use when submitting a request, which are mainly the info@ box for emails, which is checked several times a day or by using the 'Contact us' form on the website. Head of Digital & Improvement agreed to check the latter and contact Board members with relevant information.

### **14 CHANGES TO THE SCHEME OF DELEGATION**

Head of Regulatory Support explained the background to the paper and the reason for needing agreement from the Board. If applications are received from members of staff or Commissioners, and if they are outside the parameters for Tier 1, then the case should be escalated to the full Board. This was agreed and will be added to the Scheme.

The second change proposed involves extending the range of staff who can sign orders. This was approved.

The third category of change relates to where parameters need to be extended so that decrofting applications from the same applicant are not looked at in a piecemeal fashion when they arise as part of a duties case. This change was agreed.

<b>Decision</b>	<b><i>The Board approved the three Recommendations in the paper to extend the Scheme of Delegation</i></b>
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## **15 UPDATE ON DELOITTE**

The CEO introduced the paper, explaining that not much has changed since the last update in March. In June, the Board will be asked to consider the last couple of outstanding points from the report, one of which is the production of a Code of Corporate Governance. Associated with this Recommendation, there is a further one at 3.5 which suggests the Commission should define what is means by “reasonable.” The CEO and SMT are not convinced this is useful or necessary. The Board agreed, feeling that we should simply use the dictionary definition.

The CEO alerted the Board to the review being conducted currently by Deloitte into how the Commission is discharging the recommendations in the report. When this is completed, the results will be shared with the Board.

## **16 2021 CENSUS REPORT**

Head of Digital & Improvement reported that the move to an online only annual notice this year was successful, with an increased return rate. The telephone calls to non-returners, handled by temporary staff, were also successful, though it is suggested that the same result could probably be delivered with one temporary worker rather than two.

The switch saved money and the Board agreed it should continue to be offered as online-only. There was a discussion on the window for competing the census, which is 3 months, with people feeling this is too long. However, the Act stipulates the time scale for completion so only a change in legislation can correct this.

Members heard that two more members of staff had been used helping customers who were calling because they were confused about how to submit an online return or a related query. It was agreed that this help was valuable and should continue. There was a further discussion on whether it would be of benefit to alter the time of year that the notice is issued but the Board decided they would prefer the timing to remain the same for the time being.

## **17 DIGITAL APPLICATIONS UPDATE**

Head of Digital & Improvement led the discussion on this paper, explaining that the project is to date showing mixed results. So far, there have been only six applications submitted online, no increase on the number reported at the last Board meeting. A small survey of agents shows that they state they are in favour of the move to digital applications, but they do not yet seem to be using the facility.

There might be several reasons for this, including old habits and perhaps having a supply of paper forms readily available. Website layout may be a factor so improvements are planned and will take place shortly. The Communications Officer is increasing the messaging on this, to encourage more people to use the online option. In answer to a query, Head of Digital & Improvement said it could be possible to use the telephone system to help, so he will investigate this.

It was agreed that the Black Isle Show presented an opportunity to demonstrate the new system and that, beforehand, a live demo would be arranged for the Board and Assessors, via Teams.

## **18 COMMISSIONER ROLE IN HOSTING PUBLIC EVENTS**

This item was brought to the Board because an event in the Western Isles, which had begun as something quite small scale and then grown, had been organised without a Commissioner with a particular interest being aware of it.

It was agreed that Commissioners should be made aware when officers are planning public meetings. The CEO apologised that this had not occurred in this instance and pledged that Board members would be apprised of plans for meetings in crofting communities in future.

In relation to a query on how Board members are to distinguish between what is operational and what is strategic, the Standards Officer explained that a Briefing Note on this put together by the Standards Commission, had been circulated to Commissioners with their March Board papers but that she would re-circulate it.

## **19 DATE OF NEXT MEETING**

The next meeting will be held in Great Glen House on Wednesday 29 June 2022. Remote participation via Teams would be arranged for those who did not wish to travel.

## **20 ANY URGENT BUSINESS**

There was no urgent business.

## **21 EXCLUSION OF THE PRESS AND PUBLIC**

The meeting was then closed at 3:30pm, with thanks for everyone's contribution from the Convener and the Vice Convener.