

# Framework Document

## CROFTING COMMISSION

December 2021 – November 2024

### Introduction

1. This framework document has been drawn up by the Scottish Government (SG) in consultation and agreement with the [Crofting Commission](#). It sets out the broad framework within which the Crofting Commission will operate and defines key roles and responsibilities which underpin the relationship between the Crofting Commission and the SG. While this document does not confer any legal powers or responsibilities, it forms a key part of the accountability and governance framework and should be reviewed and updated as necessary, and at least every 2-3 years. Any proposals to amend the framework document either by the SG or Crofting Commission will be taken forward in consultation and in the light of SG priorities and policy aims. Any question regarding the interpretation of the document shall be determined by the SG after consultation with the Crofting Commission. Legislative provisions, including the Crofters (Scotland) Act 1993, shall take precedence over any part of the document.

2. References to the Crofting Commission include any subsidiaries and joint ventures owned or controlled by the Crofting Commission. The Crofting Commission shall not establish subsidiaries or enter into joint ventures without the express approval of the SG.

3. The Framework Document shall be published on the Crofting Commission website.

### Purpose

4. The Crofting Commission is to contribute to the achievement of the SG's primary purpose of increasing sustainable economic growth by aligning its aims and objectives with the Programme for Government, Scotland's Economic Strategy and National Performance Framework.

### 5. The functions and duties of the Crofting Commission

The Crofters (Scotland) Act 1993, as amended, (the 1993 Act) gives the Crofting Commission the following:

- Functions of:
  - a) regulating crofting,
  - b) reorganising crofting,
  - c) promoting the interests of crofting, and
  - d) keeping under review matters relating to crofting, and such other functions as conferred on them by the 1993 Act or under any enactment;

- Duties to:
  - a) keep under general review all matters relating to crofts and crofting conditions, including, without prejudice to the foregoing generality, land settlement;
  - b) collaborate so far as their powers and duties permit with any body or person in the carrying out of any measures for the economic development and social improvement of the crofting counties;
  - c) advise the Scottish Ministers on any matter relating to crofts and crofting conditions which they may refer to them, or on which they may think fit to submit advice to them; and
  - d) exercise the powers conferred on them by the 1993 Act, in such manner as may seem to them in each case desirable.

### **The Crofting Commission's purpose, strategic aims and objectives, as agreed by the Scottish Ministers**

6. The Crofting Commission's overall aim is to secure a long term future for crofting and for communities in the crofting areas, achieved through: good regulation; promoting occupancy of crofts; active land use; and shared management by crofters as a means of sustaining and enhancing rural communities.

7. In doing so the Crofting Commission helps to deliver the Scottish Primary purpose of increasing sustainable economic growth and aligns with the [National Outcomes](#) The Crofting Commission contributes to many of the outcomes including:

- Our public services are high quality, continually improving, efficient and responsive to local people's needs;
- We have strong, supportive and resilient communities where people take responsibility for their own actions and how they affect others; and
- We live in well designed, sustainable places where we are able to access the amenities and services that we need.

8. The Crofting Commission also contributes to the Scottish Government's [strategic objectives](#), in particular:

- [Greener](#) – Improve Scotland's natural and built environment and the sustainable use and enjoyment of it; and
- [Safer and Stronger](#) – Help local communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life.

9. Through fair, transparent and consistent regulation and enforcement of the crofting duties, the Crofting Commission can support the long-term future of crofting and crofting communities. It can also help to enable the promotion of good crofting practice and of successful working relationships between crofters and landlords.

### **Relationship between Scottish Government and Crofting Commission**

10. Effective strategic engagement between the SG and Crofting Commission is essential in order that they work together as effectively as possible to maintain and improve public services and deliver improved outcomes. Both the SG and the Crofting Commission will take all necessary steps to ensure that their relationship is developed and supported in line with the jointly agreed principles set out in the statement on '[Strategic Engagement between the Scottish Government and Scotland's NDPBs](#)'.

## **Governance and accountability**

11. The Crofting Commission is established under the provisions of the [Crofters \(Scotland\) Act 1993](#) as amended by the [Crofting Reform etc. Act 2007](#), the [Crofting Reform \(Scotland\) Act 2010](#) and the [Crofting \(Amendment\) \(Scotland\) Act 2013](#) as an executive non-departmental public body (NDPB). For national accounts purposes the Crofting Commission is classified to the central government sector. The constitution and general functions of the Crofting Commission are set out in [Section 1 of the Crofters \(Scotland\) Act 1993](#), as amended. The Crofting Commission does not carry out its functions on behalf of the Crown.

## **Ministerial responsibilities**

12. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities and performance of the Crofting Commission and for its use of resources. They are not, however, responsible for day to day operational matters. Scottish Ministers' responsibilities include:

- Agreeing the Crofting Commission's strategic aims, objectives and key targets as part of the corporate planning process;
- Agreeing the Crofting Commission's policy plan on how they propose to exercise their functions;
- Agreeing the budget and the associated grant in aid requirement to be paid to the Crofting Commission, and securing the necessary Parliamentary approval;
- Carrying out responsibilities specified in the 1993 Act, including appointments and elections to the Board, approving the terms and conditions of Board members, appointment of the Convener, appointment of the Chief Executive, and approval of terms and conditions of staff; and
- Other matters such as approving the Board members' daily fees in accordance with Pay Policy for Senior Appointments, and laying of the Annual Report and Accounts before the Scottish Parliament.

## **The Crofting Commission Board's Responsibilities**

13. Crofting legislation prescribes that the Crofting Commission Board will have at least 5 and a maximum of 9 members, including the Convener. At least 2 Board members will be Ministerial appointments, and no more than 6 Board members elected directly by crofters, as set out in Schedule 1 (3) of the 1993 Act. All appointments are made in line with the [Commissioner for Ethical Standards in Public Life in Scotland Code of Practice. The next crofting elections are due to take place in March 2022.](#)

14. The role of the Board is to provide leadership and direction for the Commission, together with support and guidance, and to ensure the Crofting Commission delivers its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. When performance is falling short, the Board will call for remedial action from the CEO and may alert the Scottish Government.

15. The Crofting Commission Board has corporate responsibility, under the leadership of the Convener, for the following:

- Taking forward the strategic aims and objectives for the Crofting Commission as agreed by the Scottish Ministers;
- Ensuring that the Scottish Ministers are kept informed of any changes which are likely to impact on the strategic direction of the Crofting Commission or on the attainability of its targets, and determining the steps needed to deal with such changes;
- Approving the Annual Accounts and ensuring Scottish Ministers are provided with the Annual Report and Accounts to be laid before the Scottish Parliament. The Chief Executive as the Accountable Officer is responsible for signing the said accounts and ultimately responsible to the Scottish Parliament for his or her actions;
- Ensuring appropriate standards of corporate governance in the work of the Board and the organisation as a whole, including observance of collective responsibility for Board decisions;
- Promoting the efficient, economic and effective use of staff and other resources by the Crofting Commission consistent with the principles of [Best Value](#), including, where appropriate, participation in [Shared Services](#) arrangements;
- Ensuring that any statutory or administrative requirements for the use of public funds (i.e. all funds falling within the stewardship of the Crofting Commission) are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with the sponsor Directorate, in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the Board takes into account relevant guidance issued by the Scottish Ministers;
- Ensuring that effective arrangements are in place to provide assurance on risk management (including in respect of personnel, physical and cyber risks/threats/hazards), governance and internal control. (The board must set up an audit committee chaired by a non-executive member to provide independent advice and assurance on the effectiveness of the internal control and risk management systems- in accordance with the guidance on Audit Committees in the SPFM. Specific details of arrangements at the Crofting Commission in this regard are set out at para 16);
- Ensuring that the Board receives and reviews regular financial information concerning the management and performance of the Crofting Commission; is informed in a timely manner about any concerns regarding the activities of the Crofting Commission; and ensures that the Chief Executive provides positive assurance to the Board and, through or on behalf of the Board, to the sponsor Directorate, that appropriate action has been taken on such concerns; and
- Ensuring that the Crofting Commission has policies in place to deliver fair, reasonable and transparent decisions on regulatory matters affecting crofters, their landlords and any other parties with legitimate interests.
- Approving any structural changes to the senior management team, proposed by the CEO.

16. Specific details about the Crofting Commission's Audit and Finance (AFC) Committee are as follows:

- The Board has established an AFC as a Committee of the Crofting Commission Board to support it in its responsibilities for issues of risk, control and governance and associated assurance through a process of constructive challenge. The AFC will also provide support to the Board by detailed scrutiny of financial statements, budgets and other financial proposals.
- The AFC will comprise a minimum of three non-executive Board Members with a quorum of two. The Commission Convener or nominee shall Chair the AFC. Appointments to the AFC will be made by the Commission. The AFC will be provided with a secretariat function by the Chief Executive.
- Having the Convener in the Chair of the AFC, while in accordance with legislation, is directly against good practice, as the AFC should feel free to review the governance of the organisation as a whole. To address this conflict the AFC will therefore elect a Vice-Chair. The Convener offers a standing apology for non-attendance and nominates the Vice-Chair to chair all meetings.
- The AFC meet formally four times a year and will also agree subsequent additional meetings throughout the year based on need. This will be in accordance with the AFC work programme. AFC meetings will normally be attended by the Accountable Officer and the Finance Manager. External Audit has the right to attend any meeting of the Board or its Committees if it so requires.

17. Further guidance on how the board should discharge its duties is provided in appointment letters and [On Board – A Guide for Members of Statutory Boards](#).

### **The Convener of the Crofting Commission**

18. The Convener is appointed by Scottish Ministers, or Scottish Ministers delegate selection of the Convener to the full Board, as set out in Schedule 1 of the 1993 Act. The appointment/selection is made in line with the [Commissioner for Ethical Standards in Public Life in Scotland Code of Practice](#).

19. The Convener is accountable to the Scottish Ministers and, in common with any individual with responsibility for devolved functions, may also be held to account by the Scottish Parliament. The Convener shall ensure that the Crofting Commission's policies and actions support the wider strategic policies of the Scottish Ministers; and that the Crofting Commission's affairs are conducted with probity. The Convener shares with other Board members the corporate responsibilities set out in paragraph 15.

20. The Convener has a particular leadership responsibility on the following matters:

- Ensuring that the Crofting Commission fulfils the aims and objectives set by the Scottish Ministers;
- Formulating the Board's strategy;
- Ensuring that the Board, in reaching decisions, takes proper account of guidance issued by the Scottish Ministers;

- Advising the Scottish Government on appointments to the position of CEO; and assessing the performance of the CEO, jointly with the CEO's Scottish Government reporting officer;
- Promoting the efficient and effective use of staff and other resources;
- Encouraging high standards of propriety and regularity;
- Acting as an ambassador / spokesperson for the Crofting Commission, representing the views of the Board to the general public; and
- Promoting diversity throughout the organisation.

21. The Convener shall also:

- Ensure that the work of the board is subject to regular self-assessment and that the board is working effectively;
- Ensure that all members of the Board, as part of their induction, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate training, including on the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice;
- Ensure that succession planning takes place and advises Sponsor Team of the needs of the Crofting Commission when Board vacancies for appointed members arise, with a view to ensuring a proper balance of skills appropriate to directing the Crofting Commission business, in accordance with recognised good practice in corporate governance;
- Assess the performance of individual Board members on a continuous basis and undertake a formal appraisal at least annually. Support Board members in accessing any additional development or training identified as part of this process.

22. The Convener shall also ensure that, as the Crofting Commission conforms to the provisions of the Ethical Standards In Public Life etc (Scotland) Act 2000, there is a Code of Conduct, approved by Scottish Ministers, for Board Members in place; and that Board Members are fully aware of, and abide by, that Code of Conduct.

23. Communications between the Board and the Scottish Ministers shall normally be through the Convener. The Convener shall ensure that the other Board members are kept informed of such communications. In addition, communications between officials of the SG and the Crofting Commission shall be copied to the Convener, unless they are purely routine and have no strategic implications.

### **Individual Board Members' Responsibilities**

24. Individual board members should act in accordance with the responsibilities of the board as a whole and comply at all times with the code of conduct adopted by the Crofting Commission and with the rules relating to the use of public funds and to conflicts of interest. In this context, "public funds" means not only any funds provided to the Crofting Commission by the Scottish Ministers but also any other funds falling within the stewardship of the Crofting Commission, including trading and investment income, gifts, bequests and donations. General guidance on board members' responsibilities is summarised in their appointment letters and is also provided in [On Board- A Guide for Members of Statutory Boards](#).



## Crofting Commission Chief Executive responsibilities

25. The Chief Executive of the Crofting Commission is appointed by the Scottish Ministers after consultation with the Convener, and is normally a Scottish Government civil servant. Notwithstanding this, he/she is accountable to the board for, and reports to the board on, the performance of the Crofting Commission, as well as being the board's principal adviser on the discharge of the board's functions. His/her role is to provide operational leadership to the Crofting Commission and ensure that the board's aims and objectives are met and the Crofting Commission functions are delivered and targets met through effective and properly controlled executive action. His/her general responsibilities include the performance, management and staffing of the Crofting Commission. General guidance on the role and responsibilities of the chief executive is contained in [On Board- A Guide for Members of Statutory Boards](#). Specific responsibilities of the Chief Executive include:

- Advising the board on the discharge of its responsibilities - as set out in this document, in the 1993 Act (as amended) and in any other relevant instructions and guidance issued by or on behalf of the Scottish Ministers - and implementing the decisions of the board;
- Ensuring that financial considerations are taken fully into account by the board at all stages in reaching and executing its decisions, and that appropriate financial appraisal and evaluation techniques, consistent with the [Appraisal and Evaluation](#) section of the [Scottish Public Finance Manual](#) (SPFM), are followed;
- Ensuring that the Crofting Commission adheres, where appropriate, to the SG's [Programme and Project Management \(PPM\) Principles](#);
- Having robust performance and risk management arrangements – consistent with the [Risk Management](#) section of the SPFM - in place that support the achievement of the Crofting Commission's aims and objectives and that facilitate comprehensive reporting to the board, the SG and the wider public. Risk management arrangements should include full consideration of organisational resilience to physical, personnel and cyber risks/threats/hazards;
- Ensuring that adequate systems of internal control are maintained by the Crofting Commission, including effective measures against fraud and theft consistent with the [Fraud](#) section of the SPFM;
- Establishing appropriate documented internal delegated authority arrangements consistent with the [Delegated Authority](#) section of the SPFM, which are notified to all staff, together with a system for regularly reviewing compliance with these delegations;
- Establishing a robust performance management framework which supports the achievement of the Crofting Commission's aims and objectives as set out in the corporate and business plans; and which enables full performance reporting to the Board, the sponsor Directorate and the wider public;
- Ensuring that effective human resource management policies are maintained and that strategic human resource planning is related to the Crofting Commission's objectives;
- Preparing the Crofting Commission's corporate and business plans, in the light of the strategic aims and objectives agreed by the Scottish Ministers;
- Ensuring effective relationships with SG officials; and keeping the Convener informed of communications to and from SG officials;

- On behalf of and subject to the authority of the Board, informing the sponsor unit of the Crofting Commission's progress in helping to achieve the Scottish Ministers' policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- Ensuring that timely forecasts and monitoring information on performance and finance are provided to the sponsor unit; that the sponsor unit is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the sponsor division in a timely fashion.
- The Chief Executive may delegate the day-to-day administration of his/her Accountable Officer responsibilities to other employees in the Crofting Commission, but will ultimately remain accountable in all circumstances.

### **Crofting Commission Accountable Officer responsibilities**

26. The Principal Accountable Officer for the Scottish Administration (the Permanent Secretary of the SG) will designate the Chief Executive as the Accountable Officer for the Crofting Commission. Accountable Officers are personally answerable to the Scottish Parliament for the exercise of their functions, as set out in the [Memorandum to Accountable Officers for Other Public Bodies](#). These include:

- Ensuring the propriety and regularity of the Crofting Commission's finances and that there are sound and effective arrangements for internal control and risk management;
- Ensuring that the resources of the Crofting Commission are used economically, efficiently and effectively and that appropriate arrangements are in place to secure Best Value and deliver Value for Money for the public sector as a whole;
- Ensuring compliance with relevant guidance issued by the Scottish Ministers, in particular the SPFM;
- Signing the annual accounts and associated governance statements;
- A statutory duty to obtain written authority from the Board / Convener before taking any action which he/she considered would be inconsistent with the proper performance of the Accountable Officer functions. The Accountable Officer should also notify the relevant Portfolio Accountable Officer; and
- Giving evidence when summoned before Committees of the Scottish Parliament on the use and stewardship of public funds by the Crofting Commission.

27. The Chief Executive is responsible for informing the Sponsor Team about any complaints about the Crofting Commission accepted by the Scottish Public Services Ombudsman for investigation, and about the Crofting Commission's proposed response to any subsequent recommendations from the Ombudsman.

### **Joint and multiple accountability**

28. In respect of key responsibilities such as propriety, performance and stewardship of public funds, the board and Accountable Officer are both, independently, responsible. The Accountable Officer has a personal responsibility to the Scottish Parliament, and the Board likewise is responsible to the Scottish Ministers (and ultimately to the Scottish Parliament) for the efficiency and effectiveness of the Crofting Commission.



29. The Accountable Officer has three lines of accountability: he/she can be held to account for his/her decisions and actions by the Board, by the Scottish Government's Principal Accountable Officer, or by the relevant Committee of the Scottish Parliament.

30. It is incumbent on the Chief Executive to combine his/her Accountable Officer responsibilities to the Scottish Parliament with his/her wider responsibilities to the board. The board / Convener should be fully aware of, and have regard to, the Accountable Officer responsibilities placed upon the Chief Executive, including the statutory duty described above.

### **The Portfolio Accountable Officer**

31. The Director-General for Net Zero is designated by the Principal Accountable Officer for the Scottish Administration as the Portfolio Accountable Officer for parts of the SG including the sponsor Directorate for the Crofting Commission. The responsibilities of a Portfolio Accountable Officer are set out in detail in [the Memorandum to Accountable Officers for Parts of the Scottish Administration](#). He/she is personally answerable to the Scottish Parliament for ensuring that:

- The financial and other management controls applied by the SG are appropriate and sufficient to safeguard public funds and, more generally that those being applied by the Crofting Commission conform to the requirements both of propriety and of good financial management;
- The key roles and responsibilities which underpin the relationship between the SG and the Crofting Commission are set out in a framework document - and that this document is regularly reviewed;
- Effective relationships are in place at Director and Deputy-Director level between the SG and the Crofting Commission in accordance with the strategic engagement principles; and
- There is effective continuous assessment and appraisal of the performance of the Convener of the Crofting Commission, in line with the requirements of the Code of Practice for Ministerial Public Appointments in Scotland.

### **Scottish Government Director and Head of Division**

32. The Director for Agriculture and Rural Economy (ARE) and Head of Agriculture Policy Division have responsibility for overseeing and ensuring effective relationships between the SG and the Crofting Commission which support alignment of the Crofting Commission's business to the SG's Purpose and National Outcomes and high performance by the Crofting Commission. They will work closely with the Crofting Commission's Convener and Chief Executive and be answerable to the Portfolio Accountable Officer for maintaining and developing positive relationships with the Crofting Commission, characterised by openness, trust, respect and mutual support. They will be supported by a sponsor unit in discharging these functions.

33. The Director ARE, or the Head of the Agriculture Policy Division, shall be responsible for assessing the performance of the Crofting Commission's Convener at least annually. The Convener will assess the performance of the CEO, jointly with the CEO's Scottish Government reporting officer, which will be either the Director ARE or the Head of Agriculture Policy Division.

## Sponsor unit responsibilities

34. The Crofting Commission is accountable to Scottish Ministers and ultimately to the Scottish Parliament for the decisions it takes. The SG sponsor unit for the Crofting Commission is the Agricultural Development and Crofting Unit. It is the normal point of contact for the Crofting Commission in dealing with the SG. The unit, under the direction of the Head of Division, is the primary source of advice to the Scottish Ministers on the discharge of their responsibilities in respect of the Crofting Commission and undertakes the responsibilities of the Portfolio Accountable Officer on his/her behalf. Specific responsibilities include:

- Discharging sponsorship responsibilities in line with the principles and framework set out in the document '[Strategic Engagement between the Scottish Government and NDPBs](#)' and ensuring that sponsorship is suitably flexible, proportionate and responsive to the needs of the Scottish Ministers and the Crofting Commission,
- Ensuring that appointments to the Crofting Commission board are made timeously and, where appropriate, in accordance with the [Code of Practice for Ministerial Appointments to Public Bodies](#) in Scotland, and putting arrangements in place, as necessary, for the election of Crofting Commissioners and / or Convener;
- Proportionate monitoring of the Crofting Commission's activities through an adequate and timely flow of appropriate information, agreed with the Crofting Commission Board and management, on performance, budgeting, control and risk management;
- Addressing in a timely manner any significant problems arising in the Crofting Commission, alerting the Portfolio Accountable Officer and the responsible Minister where considered appropriate;
- Ensuring that the objectives of the Crofting Commission and the risks to them are properly and appropriately taken into account in the SG's risk assessment and management systems; and
- Informing the Crofting Commission of relevant SG policy in a timely manner.

## Internal audit

35. The Crofting Commission shall:

- Establish and maintain arrangements for internal audit in accordance with the [Public Sector Internal Audit Standards](#) and the [Internal Audit](#) section of the SPFM;
- Set up an independent audit committee of its board, in accordance with the guidance on [Audit Committees](#) in the SPFM to advise both the board and the Chief Executive in his/her capacity as the Crofting Commission Accountable Officer;
- Provide an annual assurance report summary within its Annual Report and Accounts; and
- Forward to the sponsor unit an annual report on fraud and theft suffered by the Crofting Commission; notify any unusual or major incidents as soon as possible; and notify any changes to its internal audit's terms of reference, its audit committee's terms of reference or its Fraud Policy and Fraud Response Plan.

36. The Scottish Government's Internal Audit Directorate has a right of access to all documents prepared by the Crofting Commission's internal auditor, including where the service is contracted out. The SG has a right to request access to all Crofting Commission's records and personnel for any purpose.

### **External audit**

37. The Auditor General for Scotland (AGS) audits, or appoints auditors to audit, the Crofting Commission's annual accounts and passes them to the Scottish Ministers who shall lay them before the Scottish Parliament, together with the Crofting Commission's annual report, the auditor's report and any report prepared by the AGS. For the purpose of audit the AGS has a statutory right of access to documents and information held by relevant persons.

38. The Crofting Commission shall instruct its auditors, if requested by SG, to send copies of all management reports (and correspondence relating to those reports) and responses to the Agricultural Development and Crofting Unit.

39. The AGS, or examiners appointed by the AGS, may carry out examinations into the economy, efficiency and effectiveness with which the Crofting Commission has used its resources in discharging its functions. The AGS may also carry out examinations into the arrangements made by the Crofting Commission to secure Best Value. For the purpose of these examinations the examiners have a statutory right of access to documents and information held by relevant persons. In addition, the Crofting Commission shall provide, in contracts and any conditions to grants, for the AGS to exercise such access to documents held by contractors and sub-contractors and grant recipients as may be required for these examinations; and shall use its best endeavours to secure access for the AGS to any other documents required by the AGS which are held by other bodies.

### **Annual report and accounts**

40. After the end of each financial year the Crofting Commission must publish an annual report of its activities together with its audited annual accounts. The report must also cover the activities of any subsidiary or joint venture under the control of the Crofting Commission. It should comply with the Government [Financial Reporting Manual](#) (FReM) and outline the Crofting Commission's main activities and performance against agreed objectives and targets for the previous financial year.

41. The accounts must be prepared in accordance with the Schedule 1 of the 1993 Act and other relevant guidance issued by the Scottish Ministers. Any financial objectives or targets set by the Scottish Ministers should be reported on in the accounts, and shall therefore be within the scope of the audit. Any subsidiary or joint venture owned or controlled by the Crofting Commission shall be consolidated in its accounts in accordance with International Financial Reporting Standards as adapted and interpreted for the public sector context.

42. The draft report and accounts shall be submitted to the sponsor Directorate for comment by 31 July each year and the final version shall be laid before the Parliament by the Scottish Ministers by 31 December in accordance with the statutory requirements contained within Section 2B and Schedule 1, respectively, of the 1993 Act. Whilst this statutory date for laying and publishing accounts audited by the AGS is by 31 December, following the close of the previous financial year, there is an expectation on the part of the Scottish Ministers that accounts will be laid and

published as early as possible. The accounts must not be laid before they have been formally sent by the Auditor General for Scotland to the Scottish Ministers and must not be published before they have been laid.

43. The Crofting Commission shall be responsible for the publication of the report and accounts, including on the Crofting Commission's website.

## **Management responsibilities:**

### **Corporate and business plans**

44. The Crofting Commission must ensure that a corporate plan, agreed with the Scottish Ministers, is in place and published on its website. The Crofting Commission shall agree with the SG the issues to be addressed in the plan and the timetable for its preparation and review. The finalised plan shall reflect the Crofting Commission's strategic aims and objectives as agreed by the Scottish Ministers, any indicative budgets and any priorities set by the Scottish Ministers. It shall demonstrate how the Crofting Commission contributes to the achievement of the SG's primary purpose of increasing sustainable economic growth and alignment with the SG's [National Performance Framework](#) (NPF).

45. The corporate plan for the Crofting Commission should include:

- The purpose and principal aims of the Crofting Commission;
- An analysis of the environment in which the Crofting Commission operates,;
- Key objectives and associated key performance targets for the period of the plan, the strategy for achieving those objectives and how these will contribute towards the achievement of the SG's primary purpose and alignment with the NPF;
- Indicators against which performance can be judged;
- Details of planned efficiencies, describing how the Crofting Commission proposes to achieve better value for money, including through collaboration and shared services; and
- Other matters as agreed between the SG and the Crofting Commission.

46. The corporate plan should inform the development of a separate business plan for each financial year. The business plan for the Crofting Commission should include key targets and milestones for the year immediately ahead, aligned to the NPF, and linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified. A copy of the Crofting Commission's draft business plan should be provided to the sponsor unit prior to the start of the relevant financial year.

47. Subject to any commercial considerations the business plan shall be made available on the Crofting Commission's website.

### **Policy Plan**

48. The Crofters (Scotland) Act 1993, as amended, requires the Crofting Commission to produce a Policy Plan, to be agreed with the Scottish Ministers, within 6 months of the date of a crofting election.

49. The Crofting Commission will liaise with the sponsor unit on preparation of the Policy Plan to facilitate approval by the Scottish Ministers. The Crofting Commission will also liaise with the sponsor unit if any subsequent variations to the Plan are required, either at the request of the Commission or at the request of the Scottish Ministers. Once agreed by the Scottish Ministers, the Policy Plan will be published on the Crofting Commission's website and distributed in accordance with section 2C(5) of the said 1993 Act.

### **Complaints Handling Procedure**

50. Other than exceptional circumstances, complaints about the Crofting Commission will be investigated and a response to the complainant provided by the Crofting Commission, overseen by the Chief Executive where appropriate.

51. The sponsor unit will liaise with Crofting Commission on complaints, for example, in order to provide information to the Scottish Ministers, if appropriate. There may be occasions, for example when a case involves individual Board members, when the Crofting Commission may require to identify independent external assistance in dealing with a particular grievance or disciplinary case and should discuss with the sponsor unit the potential for support from elsewhere in the public sector. The sponsor unit should approach the Scottish Government's Head of Human Resources for advice as required.

52. As noted at paragraph 29, the Chief Executive is responsible for informing the Director-General for Net Zero about any complaints about the Crofting Commission accepted by the Scottish Public Services Ombudsman for investigation, and about the Crofting Commission's proposed response to any subsequent recommendations from the Ombudsman.

### **Budget management**

53. Each year, in the light of decisions by the Scottish Ministers on the allocation of budgets for the forthcoming financial year, the SG will send to the Crofting Commission a formal statement of its budgetary provision, and a note of any related matters and details of the budget monitoring information required by the SG. The terms of that letter, referred to as the Budget Allocation and Monitoring letter, should be viewed as complementing the content of this document. The monthly monitoring is the primary means of in-year budgetary control across the SG. As such, bodies must comply with the format and timing of the monitoring together with any requests for further information. The statement of budgetary provision will set out the budget within the classifications of resource Departmental Expenditure Limits (RDEL), capital DEL (CDEL) and Ring-fenced (non-cash) (RfDEL). The Crofting Commission will inform the sponsor unit at the earliest opportunity if a requirement for Annually Managed Expenditure (AME) budget is identified. The SG should also be advised in the event that estimated net expenditure is forecast to be lower than budget provision. Transfers of budgetary provision between the different summary classifications require the prior approval of the SG Finance Directorate. Any proposals for such transfers should therefore be submitted to the sponsor unit. Transfers of provision within the summary classifications may be undertaken without reference to the SG, subject to any constraints on specific areas of expenditure.

54. If the trading and other resource income realised (including profit or loss on disposal of non-current assets) – scored as negative RDEL, or the net book value of disposals of non-current assets – scored as negative CDEL is less than included in the agreed budget the Crofting Commission shall, unless otherwise agreed with the SG, ensure a corresponding reduction in its gross expenditure. (The extent to which the Crofting Commission exceeds agreed budgets shall normally be met by a corresponding reduction in the budgets for the following financial year.) If income realised is more than included in the agreed budgets the Crofting Commission must consult and obtain the prior approval of the Sponsor Unit before using any excess to fund additional expenditure or to meet existing pressures. Failure to obtain prior approval for the use of excess income to fund additional expenditure may result in corresponding reductions in budgets for the following financial year. The only exception is where the income is from gifts, bequests and donations but this must be spent within the same financial year as the receipt, otherwise additional budget allocation will be required. In any event, income from all sources and all planned expenditure should be reflected in the monthly budget monitoring statement.

### **Cash management**

55. Any [grant in aid](#) (i.e. the cash provided to the Crofting Commission by the SG to support the allocated budget) for the year in question must be authorised by the Scottish Parliament in the annual Budget Act. Grant in aid will normally be paid in monthly instalments on the basis of updated profiles and information on unrestricted cash reserves. Payment will not be made in advance of need, as determined by the level of unrestricted cash reserves and planned expenditure. Unrestricted cash reserves held during the course of the year should be kept to the minimum level consistent with the efficient operation of the Crofting Commission – and the level of funds required to meet any relevant liabilities at the year-end. Grant in aid not drawn down by the end of the financial year shall lapse. Grant in aid shall not be paid into any restricted reserve held by the Crofting Commission.

56. The banking arrangements adopted by the Crofting Commission must comply with the [Banking](#) section of the SPFM.

### **Risk management**

57. The Crofting Commission shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with relevant aspects of generally recognised best practice in corporate governance, and should develop a risk management strategy, consistent with the [Risk Management](#) section of the SPFM. Reporting arrangements should ensure that the sponsor unit is made aware of relevant risks and how they are being managed. The Crofting Commission AFC is also required, at the earliest opportunity, to notify the relevant SG Audit and Risk Committee if it considers that it has identified a significant problem which may have wider implications.

### **Organisational security and resilience**

58. As part of risk management arrangements, the Crofting Commission shall ensure that it has a clear understanding at board level of the key risks, threats and hazards it may face in the personnel, physical and cyber domains, and take action to ensure appropriate organisational resilience to those risks/threats/hazards. It should have particular regard to the following key sources of information to help guide its approach.



## **Fraud management**

59. The Crofting Commission should adopt and implement policies and practices to safeguard itself against fraud and theft, in accordance with the [Fraud](#) section of the SPFM. Application of these processes must be monitored actively, supported by a fraud response plan and robust reporting arrangements. This includes the establishment of avenues to report any suspicions of fraud. In addition, the Crofting Commission should take risk-based and proportionate steps to appraise the financial standing of any supplier or other body with which it intends to enter into a contract or to provide funding.

## **Performance management**

60. The Crofting Commission shall operate management information and accounting systems that enable it to review, in a timely and effective manner, its financial and non-financial performance against the strategic aims, objectives, targets and milestones set out in the corporate and business plans. The results of such reviews should be reported on a regular basis to the Crofting Commission board and copied to the sponsor unit of the SG.

61. The Crofting Commission shall take the initiative in informing the sponsor unit of changes in external conditions which make the achievement of objectives more or less difficult, or which may require a change to the budget or objectives set out in the corporate or business plans.

62. The Crofting Commission's performance in helping to deliver Ministers' policies, including the achievement of agreed key objectives, shall be reported to the sponsor unit on a regular basis. The SG shall assess the Crofting Commission's performance, proportionately, on a continuous basis and hold a formal review meeting at least twice a year. The responsible Cabinet Secretary / Scottish Minister shall meet the Crofting Commission convenor at least once a year.

63. The Crofting Commission's performance against key targets shall be reported in the Crofting Commission's annual report and accounts. Other forms of reporting performance to the public should also be considered.

## **Crofting Commission Staff Management**

### *Broad responsibilities for NDPB staff*

64. The Crofting Commission can either use staff provided by the Scottish Ministers, or appoint its own employees. In any event, Crofting Commission shall have responsibility for the recruitment, retention and motivation of its staff, though for those provided by the Scottish Government, this will be within the structures and systems that apply to SG civil servants. The Crofting Commission's broad responsibilities toward its staff are to ensure that:

- The recruitment of its staff is based on fair and open competition and equal opportunities. Personnel policies, practices and systems<sup>1</sup> comply with employment and equalities legislation, and standards expected of public sector employers;
- The level and structure of its staffing, including grading and numbers of staff, is appropriate to its functions and the requirements of efficiency, effectiveness and economy (subject to the SG [Pay Policy for Staff Pay Remits](#));
- The performance of its staff at all levels is managed effectively and efficiently; they are satisfactorily appraised; and the Crofting Commission's performance appraisal and promotion systems are reviewed from time to time;
- Its staff are encouraged to acquire the appropriate professional, management and other expertise necessary to achieve the Crofting Commission's objectives;
- Proper consultation with staff takes place on key issues affecting them;
- Adequate grievance and disciplinary procedures are in place;
- Effective Whistleblowing policy and procedures consistent with the Public Interest Disclosure Act 1998 are in place;
- A code of conduct for staff is in place based on the document *Model Code for Staff of Executive Non-Departmental Public Bodies*. Staff supplied to the Crofting Commission by the Scottish Government will be expected to follow the civil service code of conduct ([Civil Service Code](#)).

65. The Crofting Commission is responsible for determining the number of staff required and the most appropriate organisational structure to deliver its remit economically, efficiently and effectively within the resources available to it. However, any significant changes in staff numbers or organisational structure must be approved in advance by the sponsor unit.

66. The SG, acting on behalf of the Crofting Commission (CC), ensures payment of the salaries to the Scottish Government staff working within the CC; and will provide these salaries in the form of direct payments made by the CC, paid directly into the employee's bank account from the CC bank account.

### ***Pay and conditions of service***

67. The Scottish Government staff provided to the Crofting Commission will retain the terms and conditions of Scottish Government staff.

68. For any staff employed directly by the Crofting Commission, it shall submit to the Scottish Government's Finance Directorate for approval (normally annually unless a multi-year deal has been agreed) a pay remit within the terms and conditions set out in the Scottish Government's Public Sector Pay Guidance and negotiate a pay settlement within the terms of the subsequently agreed remit.

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<sup>1</sup> For as long as it remains the case that all Crofting Commission staff are provided by the Scottish Government, personnel policies, appraisal and promotion systems, grievance and disciplinary procedures and the staff code of conduct will be those of the Scottish Government.

69. Proposals on non-salary rewards must comply with the guidance in the Non-Salary Rewards section of the SPFM. The Crofting Commission shall comply with the EU directive on contract workers "Fixed Term Employees Regulations (Prevention of Less Favourable Treatment)."

### ***Pensions, redundancy and compensation***

70. Scottish Government staff provided to the Crofting Commission will retain the same pension, redundancy and compensation rights as other Scottish Government staff.

71. Superannuation arrangements for staff directly employed by the Crofting Commission are subject to the approval of the sponsor unit. The Crofting Commission's directly employed staff shall normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (PCSPS).

72. Any proposal by the Crofting Commission to move from existing pension arrangements, or to pay any redundancy or compensation for loss of office, requires the prior approval of the SG. Proposals on compensation payments must comply with the [Severance, Early Retirement and Redundancy Terms](#) section of the SPFM. This includes referral to the SG of any proposed compensation payment being considered for an individual out with any existing approved scheme and before the individual is approached and any offer made either orally or in writing.

### **Asset and property management**

73. The Crofting Commission shall maintain an accurate and up-to-date record of its current and non-current assets consistent with the [Property: Acquisition, Disposal & Management](#) section of the SPFM. Non-current assets should be disposed of in accordance with the SPFM. The SG's Property Division should be consulted about relevant proposed disposals of property that the Crofting Commission holds for operational purposes (rather than investment) at the earliest opportunity so it may be advertised internally. An [Internal Advertisement](#) form must be completed and submitted at least 1 month prior to property being advertised on the open market. Any proposal to acquire land, buildings or other rights in property should comply with the SPFM. The Crofting Commission is also subject to the [SG Asset Management Policy](#), including the requirement for acquisition of a new lease, continuation of an existing lease, decision not to exercise a break option in a lease or purchase of property for accommodation / operational purposes to be approved in advance by Scottish Ministers. The Property Controls Team should be consulted as early as possible in this process. Information concerning the Crofting Commission should be accurately recorded and updated as necessary by the Crofting Commission on the Cabinet Office [electronic Property Information Mapping System](#) (e-PIMS).

### **Delegated authorities**

74. The Crofting Commission's specific delegated financial authorities - as agreed in consultation between the Crofting Commission and the SG - are set out in the attached **Appendix**. The Crofting Commission shall obtain the SG's prior written approval before entering into any undertaking to incur any expenditure that falls outside these delegations. The Crofting Commission shall also comply with any requirements for prior SG approval included in the SPFM and/or this document. Prior SG approval must always be obtained before incurring expenditure for any purpose that is or might be considered novel, contentious or repercussive or which has or could have significant future cost implications.

## **Income generation**

75. The Crofting Commission shall seek to optimise income – grant in aid does not qualify as income - from all sources, including from the [European Union](#), and ensure that the SG is kept informed. Proposals for new sources of income or methods of fundraising must be approved by the SG. Fees or charges for any services supplied by the Crofting Commission shall be determined in accordance with the [Fees & Charges](#) section of the SPFM.

76. Gifts, bequests or donations received by the Crofting Commission score as income and should be provided for in the agreed resource DEL and capital DEL budgets, updated as necessary in consultation with the SG. However, the Crofting Commission should be able to demonstrate that expenditure funded by gifts etc is additional to expenditure normally supported by grant in aid (i.e. SG core funding) or by trading and other income. Before accepting such gifts etc the Crofting Commission shall consider if there are any associated costs in doing so or any conflicts of interests arising. The Crofting Commission shall keep a written record of any such gifts etc and what happened to them.

## **Financial investments**

77. Unless covered by a specific delegated authority the Crofting Commission shall not make any financial investments without the prior approval of the SG. That would include equity shares in ventures which further the objectives of the Crofting Commission. The Crofting Commission shall not invest in any venture of a speculative nature.

## **Borrowing**

78. Borrowing cannot be used to increase the Crofting Commission's spending power. All borrowing by the Crofting Commission – excluding agreed overdrafts - shall be from the Scottish Ministers in accordance with guidance in the [Borrowing, Lending & Investment](#) section of the SPFM.

## **Lease arrangements**

79. Unless covered by a specific delegated authority the Crofting Commission shall not enter into any finance, property or accommodation related lease arrangement – including the extension of an existing lease or the non-exercise of a tenant's lease break – without the SG's prior approval. Before entering/ continuing such arrangements the Crofting Commission must be able to demonstrate that the lease offers better value for money than purchase and that all options of sharing existing public sector space have been explored. Non-property/ accommodation related operating leases are subject to a specific delegated authority. The Crofting Commission must have capital DEL provision for finance leases and other transactions which are in substance borrowing.

## **Tax arrangements**

80. Non-standard tax management arrangements should always be regarded as novel and/or contentious and must therefore be approved in advance by the SG. Relevant guidance is provided in the [Tax Planning and Tax Avoidance](#) section of the SPFM. The Crofting Commission must comply with all relevant rules on taxation, including VAT. All individuals who would qualify as employees for tax purposes

should be paid through the payroll system with tax deducted at source. It is the responsibility of the Crofting Commission to observe VAT legislation and recover input tax where it is entitled to do so. The implications of VAT in relation to procurement and shared services should be considered at an early stage to ensure that financial efficiency is achieved. The Crofting Commission must also ensure that it accounts properly for any output tax on sales or disposals.

### **Lending and guarantees**

81. Any lending by the Crofting Commission must adhere to the guidance in the [Borrowing, Lending & Investment](#) section of the SPFM on undertaking due diligence and seeking to establish a security. Unless covered by a specific delegated limit the Crofting Commission shall not, without the SG's prior approval, lend money, charge any asset, give any guarantee or indemnity or letter of comfort, or incur any other contingent liability (as defined in the [Contingent Liabilities](#) section of the SPFM), whether or not in a legally binding form. Guarantees, indemnities and letters of comfort of a standard type given in the normal course of business are excluded from this requirement.

### **Third party grants**

82. Unless covered by a specific delegated authority the Crofting Commission shall not, without the SG's prior agreement, provide grant funding to a third party. Such funding would be subject to the guidance in the [State Aid](#) section of the SPFM. Guidance on a framework for the control of third party grants is provided as an [annex](#) to the Grant & Grant in Aid section of the SPFM.

### **Impairments, provisions and write-offs**

83. Assets should be recorded on the balance sheet at the appropriate valuation basis in accordance with the FReM. Where an asset – and that includes investments – suffers impairment it is important that the prospective impairment and background is communicated to the SG at the earliest possible point in the financial year to determine the implications for the Crofting Commission's budget. Similarly any significant movement in existing provisions or the creation of new provisions should be discussed in advance with the SG. Write-off of bad debt and/or losses scores against the Crofting Commission's resource DEL budget classification and is subject to a specific delegated limit.

### **Insurance**

84. The Crofting Commission is subject to the SG policy of self-insurance. Commercial insurance must however be taken out where there is a legal requirement to do so and may also be taken out in the circumstances described in the [Insurance](#) section of the SPFM - where required with the prior approval of the SG. In the event of uninsured losses being incurred the SG shall consider, on a case by case basis, whether or not it should make any additional resources available to the Crofting Commission. The SG will provide the Crofting Commission with a Certificate of Exemption for Employer's Liability Insurance.

## **Procurement and payment**

85. The Crofting Commission's procurement policies shall reflect relevant guidance in the [Procurement](#) section of the SPFM and relevant guidance issued by the SG's Procurement and Commercial Directorate. Procurement should be undertaken by appropriately trained and authorised staff and treated as a key component of achieving the Crofting Commission's objectives consistent with the principles of [Best Value](#), the highest professional standards and any legal requirements. All external contracts over the value of £100,000 or any proposal to award a contract without competition (non-competitive action) over the value of £10,000 must be approved in advance by the SG, in line with the Crofting Commission's "Specific Delegated Financial Authorities" detailed in paragraph 73 of this document, and the attached Appendix.

86. Any major investment programmes or projects undertaken by the Crofting Commission shall be subject to the guidance in the [Major Investment Projects](#) section of the SPFM [and is also subject to a specific delegated authority]. The sponsor unit must be kept informed of progress on such programmes and projects and Ministers must be alerted to any developments that could undermine their viability. ICT investment plans must be reported to the SG's Office of the Chief Information Officer.

87. The Crofting Commission shall pay all matured and properly authorised invoices relating to transactions with suppliers in accordance with the [Expenditure and Payments](#) section of the SPFM, and in doing so shall seek wherever possible and appropriate to meet the SG's target for the payment of invoices within 10 working days of their receipt.

## **Gifts made, special payments and losses**

88. Unless covered by a specific delegated authority the Crofting Commission shall not, without the SG's prior approval, make gifts or special payments or write-off of losses. Special payments and losses are subject the guidance in the [Losses and Special Payments](#) section of the SPFM. Gifts by management to staff are subject to the guidance in the [Non-Salary Rewards](#) section of the SPFM.

## **Clawback**

89. Where the Crofting Commission has financed expenditure on assets by a third party, the Crofting Commission shall make appropriate arrangements to ensure that any such assets above an agreed value are not disposed of by the third party without the Crofting Commission's prior consent. The Crofting Commission shall put in place arrangements sufficient to secure the repayment of its due share of the proceeds - or an appropriate proportion of them if the Crofting Commission contributed less than the whole cost of acquisition or improvement. The Crofting Commission shall also ensure that if assets financed by the Crofting Commission cease to be used by the third party for the intended purpose an appropriate proportion of the value of the asset shall be repaid to the Crofting Commission.



## 90. State Aid

State aid is a European Commission term which refers to forms of public assistance, given to undertakings on a discretionary basis, which has the potential to distort competition and affect trade between Member States of the European Union. Any activity that the Crofting Commission undertakes itself, or funds other bodies to undertake, that can be offered on a commercial market for goods and services is subject to state aid rules. A state aid assessment is therefore required prior to disbursing any funding and would be subject to the guidance in the state aid section of the SPFM.

### Board expenses

91. Remuneration, allowances and expenses paid to board members must comply with the SG [Pay Policy for Senior Appointments](#) and any specific guidance on such matters issued by the Scottish Ministers.



Signed: Bill Barron  
Chief Executive  
Crofting Commission

Date: 25 January 2022

**CROFTING COMMISSION FRAMEWORK DOCUMENT: APPENDIX  
SPECIFIC DELEGATED FINANCIAL AUTHORITIES**

	<b>Delegated Limit</b>
External business and management consultancies	£100,000
Single-tender contracts	<b>£10,000</b>
Capital Expenditure	<b>Within overall limit of its provision and subject to appropriate appraisal the Crofting Commission may approve expenditure on capital purchases and projects up to the following limits:</b>
Capital Goods and Equipment	<b>£40,000</b>
Capital Works	<b>£25,000</b>
Revenue Expenditure	<b>Within overall limit of its provision and subject to appropriate appraisal the Crofting Commission may approve expenditure on revenue purchases and projects up to the following limits:</b>
Items other than those noted below	<b>£100,000</b>
Refund of Monthly Staff Costs to the SG	<b>£250,000</b>
Write-off of Losses	<b>The Crofting Commission has delegated authority to deal with, and write-off where appropriate, losses up to the following limits:</b>
Cash Losses – Losses of accountable stores, fruitless payments, and constructive losses	<b>£1,000</b>
Claims Waived or Abandoned	<b>£1,000</b>
Special Payments	<b>The Crofting Commission has delegated authority to make payments up to the following limits</b>
Extra-contractual and Ex-gratia payments to contractors	<b>£1,000</b>
Other Ex-gratia payments	<b>£2,000</b>
Compensation payments	<b>£1,000</b>
Extra Statutory and Extra Regulatory payments	<b>£1,000</b>
Gifts of stores and property	<b>£250</b>
Rewards for Return of Lost Public Property	<b>£250</b>