

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD BY SKYPE ON 24 AUGUST 2020

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner (until lunchtime)
	James Scott	Commissioner
	Bill Barron	Chief Executive
	David Findlay	Commission Solicitor
	Aaron Ramsay	Head of Digital & Improvement
	Joseph Kerr	Head of Regulatory Support
	Neil MacDonald	Head of Finance
	Jane Thomas	Head of Compliance and minute taker
	Betty Mackenzie	Communications Manager
	Finlay Beaton	Grazings Manager (until lunchtime)
	Pat Kenny	External Auditor (until 9:20)
	Darren Laing	BBC Alba
	Gordon Jackson	Sponsor Division
	Aileen Rore	Sponsor Division
	Michael Nugent	Sponsor Division

Assessors and members of staff (up to 24 participants for the public part of the meeting)

### **1 APOLOGIES AND WELCOME**

There were apologies from John Toal and Mary Ross, Head of Grazings & Policy and Head of Operations & Workforce. The Convener welcomed everyone to the meeting, in Gaelic followed by a welcome in English.

### **2 DECLARATION OF INTERESTS**

The Convener asked if anyone wished to declare an interest. No interests were declared in the public part of the meeting.

Before going further, the Convener announced that, following a ballot of members, Mairi Mackenzie had been chosen as Vice Convener and he looked forward to working closely with Mrs Mackenzie over the coming months.

### **3 BOARD MINUTES OF 5 MAY, 25 JUNE & 30 JUNE 2020**

The Minute of the Board Meetings of 5 May, 25 June and 30 June 2020 had been approved by email and, where appropriate, published on the website. The meetings held on 5 May and 30 June had been Special Board meetings. Copies of the Minutes were brought to the meeting for information.

It was noted that an Amendment was required to the wording of the final item in the Minute of 25 June, which would be taken later, as the meeting had not been in public.

### **4 MATTERS ARISING FROM PREVIOUS MEETING**

The Chief Executive referred to the setting up of three Short Term Working groups, which had been agreed at the last Board meeting. He confirmed two of the groups have already met and plans for the final one would be taken forward this week. All of the groups will report back to the Board.

### **5 ANNUAL REPORT FOR APPROVAL**

The 2019/20 Annual Report was brought to the meeting for formal approval and to arrange for the signing. External Audit explained the process by which this would happen via electronic signatures and confirmed it was a good report. The Commission approved the report.

### **6 AUDIT & FINANCE COMMITTEE REPORT**

#### **(a) Update from Malcolm Mathieson**

The Committee Vice Chair explained that the meeting of 12 August had been a very full one. He wished to pass on the thanks of the Committee to all those who had been involved in completing the Annual Report, under challenging circumstances. It was an excellent document.

He updated the Board on the results of the Deloitte Audit Report, which had overall been very positive, with the Commission being held up as an exemplar to others, in some areas of work. The Committee noted work is still needed to complete and update the Medium-Term Financial Plan and this will come to the AFC in November. With concerns over budgets going forward to 2022, in particular, sound financial planning is essential.

The AFC concurred with the auditors in wishing to see Finance as an integral part of the SMT, so it was pleasing to note this has been acted on and the Finance Manager welcomed to the Board meeting. The audit report also noted that the actions taken by Commissioners at the start of the crisis, which involved direct engagement in operational tasks, were appropriate as a short-term requirement and now the Board would return to its strategic role.

The Committee noted the importance of the Business Continuity Plan, which is due for renewal and was pleased to view the Lessons Learnt Log, which has been created. Management have given an assurance that this will return to the AFC after review, so that actions taken as a result can be confirmed.

It was good to note that although there are still 10 actions outstanding on the Internal Audit report, progress has been made and most of these are either minor or are in hand. On the Operational Risk Register, the Committee, though concerned about the delayed release of the new version of CIS because of competing pressures caused by the lockdown, were reassured by the plans in place.

On Finance, setting aside the budget for expanded operations, an overspend is still predicted but it is hoped this will be further reduced over the next few months and a close eye is being kept on it. The Commission noted the confirmation from Sponsor Division on the funding for an expanded role, which provides welcome clarity and flexibility. It confirms that the Commission is expected to create four new posts in the Western Isles and use the funding additionally to cover the topics described in the CEO's letter to Sponsor in April, to fulfil its role of promoting the interests of crofting.

The Board discussed the position of the Commission as co-locatees of Great Glen House and the possibility of savings versus extra costs associated with preparing the building for a return of staff or dealing with a Covid outbreak, with the CEO confirming that he is meeting with SNH on 25 August. Commissioners involved with the working group on remote working wished to see the current MOTU.

**(b) Draft Minute from 12 August 2020**

The Minute was brought to the meeting for information.

**(c) Q1 Performance Indicators**

The Key Performance Indicators had been considered by the Committee and were brought to the Board for information. There were no questions.

**(d) Annual Report on Committee activity**

The Board confirmed approval of the report and Commissioner Holt wished to record his thanks to the Commissioner members on the Committee for their hard work and diligence.

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

The Convener began the round-up by informing the Board that he has taken on an expanded role with Aberdeen & Northern Marts, as manager for Caithness and Shetland but that this will not interfere with his work with the Commission.

Commissioner Scott explained that he is also now busier with work and that this should be considered when meetings are arranged, with as much notice given as possible.

Commissioner Campbell welcomed the role to be undertaken by the Convener, believing it to be advantageous to the Commission to have a voice in the Caithness area. He spoke about still receiving calls from customers but often finding that they are not on matters for which the Commission is responsible.

Commissioner Mathieson agreed with the final point, having also taken calls, spending some time on them but concluding they are not for the Commission to take forward. It has given him an insight into what staff deal with on a routine basis and how much time this can take up.

Commissioner Holt agreed and said that the information was often on the website, but the caller chose a phone call as an easier option. So, if the access to information on the website could be simplified, this might help. There was a concern that expectations

have been raised by Commissioners taking calls and that customers perhaps expect this to continue. Though several Commissioners have no problem with this, some seeing it as inevitable, there is a need to draw a clear line between what is an appropriate interaction and what could tip over into something less clear cut, which may cause issues further down the line, if calls turn into cases.

It was agreed that Commissioners' email addresses should remain on the website, but they should no longer be identified with their mobile phone numbers as emergency contacts. The CEO agreed that it would be helpful to draft a policy on this, so that everyone is clear on what has been agreed.

Commissioner Annal wished to see more Guidance made available to solicitors on crofting and decrofting. Head of Regulatory Support confirmed that there is no moratorium on decrofting in Orkney or any other area but that this Board is refusing more decrofting applications if no Reasonable Purpose has been demonstrated by the applicant, for decrofting the land.

## **8 GAELIC LANGUAGE PLAN – Annual review**

Head of Compliance explained this is the final year of the current iteration of the Gaelic Language Plan, with a new plan submitted to Bòrd na Gàidhlig to take the Commission up to 2025, which it is hoped will be approved in the Autumn.

It was confirmed that staff surveys are carried out within the lifetime of each plan, to ascertain the level of competence of Gaelic speakers in the organisation and that the main telephone reception post is classed as essential for a Gaelic speaker. It was also confirmed that any request to complete application forms in Gaelic would be respected and dealt with and that this has not created an issue in the past.

Having reviewed the Monitoring Report, the Commission is content with the progress made over the last year and the Gaelic Language Officer will now submit a review to Bòrd na Gàidhlig.

## **9 REPORTS FROM HEADS OF TEAMS**

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

The Convener explained this is a new Standing Item for the Board and the CEO confirmed that there will not be a Finance report, as this is made to the AFC or a Compliance report, as a quarterly report is already forwarded to the Board.

Head of Digital & Improvement gave an update on progress, reflecting that there are still some connectivity issues for a minority of staff but most of these have been ironed out as far as possible. Internet congestion remains a problem at times, especially on Wednesdays. Cellular boxes are helping. More technical support is being bought in so that work on CIS can progress. The project currently being planned to move to the Cloud will provide greater resilience and will remove the need to use VPN's which slow down connections.

Plans are beginning on improvements to mapping systems and application forms, which should reduce the number of rejected forms. From May, Apportionment Orders have been available online and scanning of the 2020 Annual Notice is being outsourced, which should free up approximately 200 staff hours. It was confirmed that the change to interactive forms would be widely promoted and that the ability to submit Annual Notice returns digitally will also be promoted.

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

Head of Regulatory Support explained that regulatory staff are helping the IS team with the work on the interactive forms, looking at more than 16 forms. He explained that application forms are reviewed each year and that the focus now is on making the language used as accessible as possible, to help applicants.

Triaging was explained and it was confirmed that the Tier 2 and 3 meetings are working well. For RALU, Q1 has been challenging, due to staff resource issues in the current circumstances and with lack of access to census returns. On terminations, there have been some successes and Commissioners were keen to see these good news stories publicised, though it was emphasised that it can take around 20 months to process even a straightforward case under the enforcement provisions of the Act.

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

The Chief Executive gave an update, which had been provided by the Head of the team. For the regulatory staff, connectivity remained an issue for some, but all had now been set up with the necessary equipment for a home office, where this was possible. Volumes coming through now are at roughly 90% of the normal rates for the time of year, access to GGH twice a week allows for the mail out to be organised and this is working quite well. There is no current backlog of registrations, either within the Registration team or with RoS. Monthly statistics are now being provided to the Board, and the number of outstanding cases is being analysed to make sure this does not include numbers which should be closed.

There are some concerns about the capacity to cope if case numbers were to rise significantly but a close eye is being kept on this. 2019 census return updates are outstanding. The Convener expressed concern that the fragmentation of the workforce could have an increasingly negative impact on staff. The Head of Digital & Improvement was asked if retrospective trends analysis is possible and he will look into this.

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

The Head of team was not able to be at the meeting, so an update was provided by the Grazings Manager. He explained the main focus since lockdown has been on grazings committees. The numbers registered in office have gone down slightly but that is to be expected and hopefully we will see a rise again once it is easier to hold meetings. Quite a number of long-term out of office committees have contacted the Commission, which is positive. The team is quite busy dealing with general enquiries, with over 100 processed since lockdown. Shareholder investigations are recommencing now that there is access to the files.

There is an obvious desire on the part of committees to hold meetings and staff refer callers to local health board guidance on this. Other issues which are referred on include wild camping and straying stock. With SRUC, it is hoped online training may be delivered in the near future. The Convener thanked the team for their hard work and wished to see their successes highlighted in publicity.

## **10 REPORT FROM RALU WORKING GROUP**

The Commission Solicitor provided a summary of the two meetings of the group which have taken place so far. The group is considering how the RALU team can work most effectively, given the high priority afforded to its work by the Board. Discussions have included the annual notice and work on non-returners of the census, as well as those who self-certify that they may be in breach of duties. It is felt that more work could be done to explain the consequences of non-compliance to the crofting public and agents.

The group has agreed to invite RPID representatives to the next meeting and a paper on asking for Counsel's advice on grazings rights will come to the Board and also wonder if the policy on unused Apportionments needs to be reviewed. It was agreed that it would be useful to send information to estate agents to reduce the number of property transactions which seem to take place where the purchaser has little idea of crofting rights and obligations. It was agreed a Guidance Note is needed for the website. The Convener hoped the ideas being considered by the STWG could be turned into solutions.

## 11 DEVELOPMENT OF CROFTING

The CEO introduced the paper, which had been supplemented by a further email in the last few days. He reminded the Board that when the Cabinet Secretary made an announcement at the end of June, the focus had been on the creation of four posts in the Western Isles. Since that announcement, there have been numerous meetings with Commissioners and the management team, to develop a plan, which is now coming together and the Commission should formalise.

It was agreed that the Commission takes a holistic view of its duty to promote the interests of crofting and that it has acknowledged the need to prioritise grazings and duties work, with a desire to encourage more active townships and that the establishment of new posts in the Western Isles is not in conflict with the need to remain one Commission. The aim is for the outward facing work envisaged in the Western Isles to act as a pilot, for possible transfer to other areas.

The Commission discussed the short-term projects being developed within this financial year to put the organisation on a firm footing for future delivery. It was agreed that this is a challenging time to be developing new posts and time will be needed to establish the work and build the necessary partnerships to deliver results. There was a discussion on appropriate grades, and this will be considered further by the CEO. It was confirmed that the posts could be job shares and will be advertised externally as well as internally. A consensus was reached, and the paper approved.

<b>Decision</b>	<b><i>The Board agreed with the Summary contained in the CEO's paper of 7 August 2020</i></b>
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## 12 STRATEGIC RISK REGISTER

The CEO introduced the item and explained that quite a few of the issues highlighted in it had already been discussed. There was a new risk, which allowed the Board to see the Covid impact, but this was reducing and should continue to improve. Policy work on item 004 had been somewhat delayed by the crisis but was being picked up again with a meeting next week. There had also been a delay in achieving some of the planned progress on the Workforce Plan, but this is in hand.

## 13 REVIEW OF STANDING ORDERS

The Head of Compliance introduced the item, in her role as Standards Officer, explaining that the document had been amended in May, to reflect the necessity of meeting by electronic means and this was its annual review. Several clauses had been highlighted for the Board to decide whether wording should be revised. The Commission agreed to revise clauses 1.3, 2.3, 2.7 (though reversing the order to read 'Convener' before 'Chief Executive'), 3.9, 5.1 and 5.3, with two words to be deleted. It was also agreed that under 2.6, the words, "if need be" should be deleted.

The changes having been agreed, the document would be revised and displayed on the website.

**14 DATE OF NEXT MEETING**

The next meeting of the Commission will take place remotely on 20 October 2020.

**15 ANY URGENT BUSINESS**

No urgent business was discussed.

**16 EXCLUSION OF PRESS AND PUBLIC**

The Convener then drew the meeting to a close at 15:41 and thanked everyone for their contributions.