

## DELEGATED DECISION MAKING AND ESCALATING CASES

Where an application complies with the published Commission policy and delegation parameters; a decision may, generally, be taken by the Case Officer at Tier One of the delegated authority structure as approval of such applications has been delegated to those officials.

Cases which do not meet these guidelines, generally, require us to collect further information e.g. obtaining a SGRPID report. The decision making for such cases is escalated to a panel of three senior officials at Tier Two and potentially to a Casework Group of Commissioners at Tier Three.

As a result, these cases will tend to take longer for the Commission to consider. While escalated applications may be approved in their entirety, the Commission may also modify the boundaries or reduce the extent of the area to be decrofted. In addition, if escalated from Tier One, applications can be refused.

Applications to decroft part of a croft are generally escalated to Tier Two and/or Tier Three due to the failure to comply with one or both of the following:

### 1. Ensuring the purpose applied for is reasonable

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 99 that:</p> <p><b>"The Commission aims to protect land from being lost to crofting. A decrofting Direction irrevocably removes the land subject to the application from crofting tenure. The Commission takes a long term view when determining applications and will exercise its discretion to consider, amongst other factors, the advantages of retaining the croft (or part thereof) as part of the pool of croft land in the locality. Applications that are made only for the reason of taking the croft, or part of the croft, out of crofting tenure are unlikely to be approved."</b></p>	<p>The parameters for delegation require that:</p> <p><b>Any application which is not for a reasonable purpose in terms of section 20 of the Crofters (Scotland) Act 1993 should be escalated.</b></p> <p>Examples of reasonable purpose are set out at section 20 of the 1993 Act, these include (illustrative not exhaustive):</p> <ul style="list-style-type: none"><li>• The building of dwellings;</li><li>• Harbours, piers, boat shelters;</li><li>• Churches or other places of worship;</li><li>• Schools;</li><li>• Halls of community centres;</li><li>• Roads;</li><li>• The generation of energy;</li><li>• Purposes likely to provide employment for crofters and others in the locality.</li></ul>



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foisrachaidh Di-chroiteadh  
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[www.crofting.scotland.gov.uk](http://www.crofting.scotland.gov.uk)

## 2. Ensuring the size of the area is acceptable

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 98 that:</p> <p><b>“Where the stated purpose for decrofting is to use the land as amenity land to a dwelling house on or formerly on the croft, the Commission will not usually approve any applications in respect of which the amenity land and the decrofted statutory house site and garden ground (or, where relevant, the resumed area of the original dwelling house) exceed what would normally be considered in any particular area as an appropriate size for a dwelling house and garden area.”</b></p>	<p>The parameters for delegation require that:</p> <p><b>Any application where the combined area of dwelling house and garden ground was in excess of 0.20 (ha) should be escalated...</b></p>

## 3. Ensuring adequate access to the croft (and other croft land) remains

Policy	Tier One Parameter
<p>The Commission's Policy Plan states at paragraph 67 that:</p> <p><b>“When considering applications, the Commission will wish to ensure that suitable access arrangements are provided for any croft land or, where appropriate, common grazing. Such access must be suitable for agricultural or other machinery required for the cultivation and maintenance of the croft.</b></p> <p><b>Applications should ensure that access is clearly and unambiguously shown and, where appropriate, provide evidence that reflects such arrangements. Failure to meet such conditions is likely to result in an application being refused.”</b></p>	<p>The parameters for delegation require that:</p> <p><b>Cases should be escalated if access is included in the application but either no or inadequate access has been identified.</b></p>

A full list of the delegated decision making parameters for decrofting applications can be viewed on our website [www.crofting.scotland.gov.uk/decrofting](http://www.crofting.scotland.gov.uk/decrofting).

During the course of the processing of a case, an applicant will generally be given the opportunity to modify their application to comply with the foregoing policy guidelines and delegation parameters. If an applicant proposes such a modification, the case could still be dealt with at the Tier One level of decision making. It should be noted that modification of any application will not guarantee that the Crofting Commission will grant a decrofting Direction in respect of the modified proposal. If they do not propose a modification, the Commission will process the case on the applicant's understanding that it will be subject to escalation and potential refusal. Although, the Commission considers every application on its own circumstances and the evidence gathered during the processing of the case.

Also, the Commission is legally required to advertise every part or whole croft decrofting application in order to notify members of the crofting community of the application and provide them with the opportunity to comment on the proposed decrofting. Where negative comments are received, a decision on the application must be taken at either the Tier Two or Tier Three level.