

## 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 senior officials at Tier Two. In certain circumstances a case may be escalated to the full board of Commissioners to decide the case.

As a result, these cases will tend to take longer for the Commission to consider. Where the Commission has concerns about the boundaries of the proposed division, it may enter into discussions with the applicant with a view to modifying the proposed boundaries of the divided crofts. Where an applicant is unwilling to modify their application, it is likely that the case will be escalated to consider whether or not to approve the unmodified proposed division.

Applications for Commission consent to divide a tenanted or owner-occupied croft are generally escalated to Tier Two due to the failure to comply with one or more of the following:

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

Policy	Tier One Parameters
<p>The Commission's Policy Plan states at paragraph 64 that:</p> <p><b>"The Commission will scrutinise applications where it is proposed that an existing access from the public road will no longer be available to croft land or common grazings or where a new access is proposed from a public road that may not be suitable. Applications should ensure that any consent or approval sought would not result in croft land or common grazings being cut off from a public road. Failure to do so is likely to result in an application being refused."</b></p>	<p>The parameters for delegation require that:</p> <p><b>Any application should be escalated where the division will create any access issues for the new crofts created by the division and/ or to other croft or common grazing land.</b></p> <p>The Commission would look to have each new croft created by the division to have its own dedicated unfettered access arrangements, and not be reliant on having to be accessed through other croft or other common grazing land.</p>



Gheibhear tuilleadh  
foisrachaidh  
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Croitearachd](http://www.Coimisean na Croitearachd)

You can find more  
information on Division  
on our website:

[www.crofting.scotland.gov.uk](http://www.crofting.scotland.gov.uk)

## 2. Ensuring a croft is not fragmented into unsustainable units

Policy	Tier One Parameters
<p>The Commission’s Policy Plan states at paragraph 65 that:</p> <p><b>“It is the Commission’s policy to not generally allow the fragmentation of croft holdings into smaller units, where such fragmentation would result in a holding of a size that would be unlikely to attract financial assistance, grant or subsidy (where the original holding would be of a size that it could attract such support). Reference should be made to the relevant rules on eligibility for financial assistance and the minimum amount of land required for a crofter or farmer to be eligible to apply for subsidy. The Commission recognises that fragmentation of crofts can result in holdings that are of insufficient size to afford any incoming croft tenant with a range of realistic options as to how to use the land. It is the Commission’s policy to prevent this from happening.”</b></p>	<p>The parameters for delegation require that:</p> <p><b>Any application which creates concern about the creation of one or more unsustainable crofts should be escalated.</b></p> <p>As a guideline, in order to be sustainable, the Commission would look for any new croft to be created by the division to be a minimum of:</p> <ul style="list-style-type: none"> <li>• 3 hectares in extent (with or without an associated grazing right)</li> <li>• One hectare (with an associated grazing right)</li> </ul>

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

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 and 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. However, it should be noted that modification of any application will not guarantee that the Crofting Commission will approve an application.

If a modification is not proposed, the Commission will process the case on the applicant’s understanding that it will be subject to escalation and potential refusal. Although, the Commission will consider every application on its own circumstances and the evidence gathered during the processing of the case. Also, the applicant is legally required to advertise their division application in order to notify members of the crofting community of the application and provide them with the opportunity to comment on the proposed division. Where objections are received, even if an application has been modified to amend the proposed boundaries of the divided crofts, the case must be escalated for decision.