

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 4 MAY 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice-Convener
	David Campbell	Commissioner
	Arnie Pirie	Commissioner
	Marina Dennis	Commissioner
	William Swann	Commissioner
	Murdo MacLennan	Commissioner
	Catriona Maclean	Chief Executive
	Donna Smith	Deputy Chief Executive
	Joseph Kerr	Head of Regulation
	John Toal	Head of Policy
	David Findlay	Commission Solicitor
	Jane Thomas	Head of C&CS/Minute-taker
	Posy MacRae	Communications Manager
		BBC Alba

1 APOLOGIES AND WELCOME

Apologies were received from Michael Nugent, Scottish Government and Commissioner Kathleen Sinclair.

2 DECLARATION OF INTERESTS

The Vice-Convener declared an interest in the Mangersta Common Grazings case.

Commissioner MacLennan declared an interest in the Mangersta Common Grazings case, the Upper Coll Common Grazings case and all parts of Item 14 on the agenda.

Before continuing with the business of the meeting, the Convener read out a Commission Statement on grazings committees, following interest in the Upper Coll and Mangersta Grazings cases. The meeting was then suspended for 15 minutes to allow the statement to be released to the public by the Communications Manager.

Accompanied by Mr Lamont, Commissioner MacLennan left the room to provide BBC Alba with an interview. The meeting reconvened at 9:50am without Commissioner MacLennan.

3 APPROVAL OF DRAFT BOARD MINUTE OF 9 MARCH 2016

The Minute of the Meetings of 9 March 2016 and 11 March 2016 were approved subject to the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
6	b	10	Sentence to be deleted
7	b		Vice-Convener to be added to first sentence in Decision box and final paragraph of Decision box to be deleted.
12	3	1	First sentence amended to read, "The Commission agreed that the first four "musts" may have been met, subject to confirmation of the information provided on the audited accounts, which had still to be verified. Further discussion was held on item 5 around the dictionary definition ..."

4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meetings on 9 and 11 March 2016 were reviewed:

- Page 8 Decision box (Convener Kennedy declared an interest and left the room at 9:55am). Commissioner Swann confirmed that he had drafted grounds and these would now go to Commissioners, excluding the Convener and Commissioner MacLennan, who have declared an interest.
- The Chief Executive confirmed that Finlay Beaton's secondment to RPID had ended but he would continue to work on a small number of outstanding cases for them for around a month.
- Head of Regulation explained that the rectification form has been received for the Kilvaree case so it can now be completed.

Commissioner MacLennan and Mrs MacRae, Communications Manager returned to the room at 10:00am.

5 ADVANCED PAPERS FOR APPROVAL

(a) Who can object to decrofting applications

Commissioners had considered the Paper by e-mail and approved it without amendment.

Decision	Commission agreed to adopt Option C – only submissions from parties with a right to appeal against the Commission giving a decrofting direction may be considered as objections to decrofting proposals.
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(b) Investigation into breach of grazing regulations 47(8)

Commissioners approved the Recommendation in the Paper, which provided a Workflow indicating how an inquiry/action would be dealt with under Section 47(8).

Decision	Commission agreed to adopt an approach to dealing with reports of grazings clerks or members of grazing committees failing to properly carry out their duties, as set out in Paper 5(b).
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(b)(i) Section 47(8) Augmentation

Commissioners approved the Paper subject to replacing the words “fixed period of time”, with “appropriate period of time”, to allow greater flexibility.

Decision	Commission agreed that, under Section 47(8), if a committee is found to be failing to carry out their duties, they will be given an appropriate period of time to rectify the matter, such time to be determined on a case by case basis. Failing this, they will be removed from office. If removed from office, the first obligation of any new committee will be to implement the findings of the Commission investigation and make good anything resulting from that which led to the removal, should this not already have been done.
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6 SHORT TERM WORKING GROUP UPDATES

Lettings Group

Commissioner Campbell provided an update on the review of the letting process undertaken by the group, which had considered the issue of landlords failing to let their own crofts. The group had worked positively to develop a robust and fair process, including the criteria by which applications will be measured. The criteria focus on applicants meeting their duties and favours new entrants, except where the tenancy is for a share only.

A Paper will now be prepared for the June Board meeting, following which it may be possible to consider the first lets in August.

The Convener wished to formally record his thanks to those on the group for their work.

Apportionment Group

Staff dealt with outstanding issues following the last Board meeting and are now working through the implications of proposed changes and will request input from Commissioners as part of the review of the changes, prior to implementation.

7 REPORT FROM COMMISSIONERS-EVENTS PLANNED AND/OR ATTENDED

Convener Kennedy attended several Board Teleconferences, the Crofting Law Conference, a meeting in Roy Bridge, a Rural Affairs Food & the Environment event, STWG parameters group by teleconference, Crofting Stakeholders forum, Complaints Quality Assurance Committee by teleconference and a Governance event in Edinburgh. In the coming weeks visits have been arranged to Upper Coll, Mangersta, Tiree and Kilvaree.

Vice Convener Macdonald attended Board Teleconferences, the Complaints Quality Assurance committee meeting, the STWG on Letting and plans to attend a Soil Association event in Skye on 10 June.

William Swann attended Teleconferences, a meeting of the HIE Board, chaired the Audit and Finance committee meeting and had a meeting with the grazings clerk in Sleat regarding Sleat Community Trust proposals on re-wilding. A meeting with landowners on new croft creation is planned.

Arnie Pirie attended a Board meeting by Teleconference and a ploughing match organised by the Orkney Agricultural Society.

Marina Dennis attended three Teleconferences and in mid-May will attend a meeting in Lewis.

David Campbell attended Teleconferences, the Crofting Law conference and a Roadshow on historic environmental architecture. He will be in Lewis with the Commission in mid-May and attend a Hearing in Tiree.

Murdo MacLennan attended Teleconference meetings, the Crofting Law conference, a meeting in Roy Bridge, as the appellant in Land Court Hearing re Scarp/Hushinish first registration challenge and plans to attend a Hearing in Tiree.

The Chief Executive confirmed that the JCC of Comhairle nan Eilean Siar has invited the Commission to a private meeting to consider the implications of present common grazings cases on village development. It was agreed that this would be followed up after the parliamentary elections, that at least two people would attend and that this was a positive opportunity to explain the position taken by the Commission in relation to Crofting Law and common grazing committees, rather than to engage in a discussion on specific cases.

Decision	The Commission agreed to accept an invitation to meet privately with Comhairle nan Eilean Siar
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8 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Commissioner William Swann

Commissioner Swann introduced items brought to the Audit and Finance committee, drawing attention to positive reports from Audit Scotland. Internal Audit work-plans are in place and Scott-Moncrieff will be conducting a review of cybersecurity arrangements and the complaints handling process later in May.

(b) Draft Minutes from 13 April 2016

The draft Minute was approved.

(c) Risk Register

Commissioner Swann drew attention to the resources required in the Registration process and to the HMRC review of the VAT position.

(d) Key Performance Indicators

Commissioner Swann provided context for the setting of targets, explaining that these can now be reviewed in the light of experience from the previous year's estimates.

(e) Audit Scotland Financial Reporting and Scrutiny

This pack had been included with the Board papers, to make Commissioners aware, from a governance point of view. As a result of the guidance, there would be minor changes to the formatting of the Annual Accounts.

9 COMPLAINTS QUALITY ASSURANCE COMMITTEE UPDATE

(a) Update from Chairperson

Vice-Convener Macdonald explained the meeting of the committee in April had been the first under the new Terms of Reference, approved by the Board in March, with the focus now on quality assurance and learning lessons from complaints. Commissioners were pleased to see this change of emphasis and hoped it would result in improved customer service.

(b) Draft Minutes from 13 April 2016

The Action Points from the draft Minute were highlighted and Mrs Thomas explained why the quarterly statistics for Q3 2015/16 had been amended.

The Commission considered an Action Point relating to the need for agreed parameters for the contents of RPID reports compiled during the casework process. Commissioner MacLennan wished to record that he had no concerns over the content of reports from the Stornoway office. It was agreed that the Head of Regulation would bring forward a Paper on this to the next Board meeting.

It was also agreed that, following the North Erradale case, it would be helpful to provide Area Offices with guidance on conflict of interest.

The draft Minute was approved.

(c) Q4-Complaints statistics

The Vice-Convener explained the majority of complaints received at the frontline stage were on the census and of the six complaints at Stage 2, two were from the same person and another two were on the same issue. He was pleased to report that there have been no Stage 2 complaints so far in Q1 of the new reporting year.

(d) Ex-Gratia payments

A Paper on adopting a protocol on ex-gratia payments, made under provisions available to the Chief Executive as Accountable Officer, had been considered and approved by the committee and now came before the Board, with a recommendation to approve.

The Vice-Convener explained that the issue had come to the committee because claims for compensation had formed part of the complaint in several recent cases. The Chief Executive confirmed that any consideration of a claim for an ex-gratia payment as part of the complaints process would need to clearly demonstrate an additional cost had been incurred by the complainant due to an error by the Commission.

The Paper was approved and the Complaints Handling Procedure would be updated.

Decision	Protocol on ex-gratia payments approved.
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10 PUBLIC INTEREST

The Chief Executive explained this was a topic that would benefit from greater clarity in terms of what acting in the public interest looks like for the Commission. The Act specifically mentions 'public interest' so it has particular relevance to the customer-facing work of the Commission.

After discussion, the Commission agreed the following outcomes, which would be reflected in a statement to be placed on the Commission's website:

Acting in the Public Interest for the Crofting Commission means;

- Having a well-regulated crofting system
- Identifying problems with the legislation and working to solve them
- Ensuring our processes are appropriate, transparent and fair
- Ensuring that applicants have used the appropriate processes to demonstrate that they have considered the public interest - e.g. planning
- Being willing to highlight and address areas of bad practice
- Having clear policies and guidance which are widely publicised
- Being open and consulting and involving stakeholders in policy decisions
- Acting with integrity and ensuring decisions are, and are seen to be, taken in a way that is above reproach
- Maintaining client confidentiality.

The Commission further agreed that acting in the public interest is not:

- Allowing the general public to participate in a regulatory application process
- Allowing the general public to unduly influence the Commission to the point where it affects the delivery of our functions
- Taking decisions for personal gain or benefit.

The Convener wished to record his thanks to the Chief Executive for her work on this issue.

Decision	Commission agreed the above outcomes represent the interpretation of Public Interest for the organisation and that a statement to that effect should be placed on the website.
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11 BOARD MEETINGS – PROGRAMME FOR FUTURE MEETINGS

Donna Smith explained that, with the development phase of the Commission's work largely completed, this was a good time to consider a programme of Board meetings for 2016 and the future.

After discussion, Commissioners agreed to keep to the present schedule of meetings for 2016 but with scope for the December meeting to be used as a training or strategic meeting, rather than a normal business meeting.

For 2017, it was agreed to hold the last formal business meeting of the present Board in February and that an informal meeting should be held in late March, after the crofting elections, between the outgoing and incoming Commissioners. No Board meeting would take place in April but the Board would be invited to an Induction Day in Great Glen House. It was agreed that there would need to be a transition period after March, to allow the new Board to become familiar with their role and the work of the Commission.

Decision	Commissioners approved a programme for Board meetings in 2017, with the caveat that this is subject to change by the new Board.
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12 DATE OF NEXT MEETING

22 June 2016 – Great Glen House

13 AOB

Commissioners expressed concern at continued delays in farm payments and agreed the Chief Executive would write to the Minister after the parliamentary elections.

14 EXCLUSION OF THE PRESS AND PUBLIC

The Convener thanked Commissioners for their contributions and closed the meeting at 12:55pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 22 JUNE 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice Convener
	David Campbell	Commissioner
	Marina Dennis	Commissioner
	Kathleen Sinclair	Commissioner
	Murdo MacLennan	Commissioner
	Catriona Maclean	Chief Executive
	Donna Smith	Head of Information Systems
	David Findlay	Commission Solicitor
	Joseph Kerr	Head of Regulation
	John Toal	Head of Policy
	Posy MacRae	Communications Manager
	Jane Thomas	Head of C&CS/Minute-taker
	Trudi Sharp	Sponsor Division
	Lucy Carmichael	Sponsor Division

1 APOLOGIES AND WELCOME

Apologies were received as follows:

Arnie Pirie

The Commission welcomed Ms Sharp and Ms Carmichael to the meeting and thanked them for their attendance.

2 DECLARATION OF INTERESTS

There were no interests to declare in the public part of the meeting.

3 APPROVAL OF DRAFT BOARD MINUTE OF 4 MAY 2016

The Minute of the Meeting of 4 May 2016 was approved subject to the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
1	Attendees		Insert space between officers and BBC Alba
1	2	Last sentence	Add "without Commissioner MacLennan" to end of sentence.
2	4	Last sentence	Add 'Communications Manager' after 'Mrs MacRae'.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 4 May 2016 were reviewed:

- Chief Executive confirmed that we await word from Registers of Scotland on availability of resources for continuation of Grazings Registration work. As far as a handling strategy is concerned, Ms Carmichael offered the help of Sponsor Division in the wording of final letters
- Chief Executive confirmed a letter has been drafted but not yet sent to Scottish Government on continuing concerns regarding late farm payments. Ms Sharp confirmed this issue was a top priority for the department and that she would make sure the communications material being issued regularly by RPID is forwarded to the Commission. The concerns of the Commission, particularly on how delays were affecting young people, would be taken back to Sponsor Division.

5 ADVANCED PAPERS FOR APPROVAL

(a) Apportionment

Commissioners discussed and confirmed approval of the paper previously circulated by e-mail. They were pleased that it articulated the commitment to support communal working.

The Chief Executive confirmed there is a right to apply for an apportionment order but no automatic right of approval, as the merits of the case need to be examined and balanced.

The Commission discussed reasons for the prevalence of communal working in some areas rather than others, suggesting that recognition of such differences was perhaps an issue for future legislation.

Decision	The Commission agreed to give further consideration to its apportionment procedure, with reference to the implementation of the apportionment order issuing at point of decision and effected at registration and any other amendments considered appropriate.
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(b) Re-letting

Head of Regulation explained that a working group had been set up to consider this issue. From a policy perspective, the only deviation from the general policy to favour those without a croft is in cases of deemed crofts with a grazings share. This would be in order to associate the share with the croft.

The Commission approved the paper.

Decision	The Commission approved a revised process of letting vacant and owner-occupied crofts based on the recommendations in the paper.
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(c) Succession

Commission solicitor provided the background to the paper and explained how proposed changes to the law may affect crofters. It is possible for the Commission to make a submission to the Civil Law Reform Unit in early July. Ms Sharp reflected that the agricultural sector generally was under-represented in the consultation, so a submission by the Commission would be a positive move, especially focused on distinguishing the differences between crofting and 'normal' succession.

Decision	Commission agreed that the Commission solicitor draft a submission to the consultation, for circulation to Commissioners by early July and that the Civil Law Reform Unit should be invited to a future Board meeting to allow these matters to be discussed.
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6 UPDATE ON GRAZINGS REGISTRATION

This issue was brought to the public meeting of the Board after previous discussion in May. Head of Information Systems sought to confirm whether the Commission wished to agree Option 1 of the paper and cease all pro-active work on the registration of grazings, due to lack of resources.

After discussion, it was agreed that, in cases where registration is sought and the process is almost complete, the Commission will continue to the conclusion of the process and that, in order to do so, the Chief Executive, as Accountable Officer, will draft a paper for the Audit & Finance Committee, as budgets will have to be adjusted accordingly. She confirmed that this is un-budgeted expenditure and Head of Information Systems confirmed there are over 100 cases that may fall into the category agreed above.

Ms Carmichael reflected this had been a learning exercise for Scottish Government, given the original target of 100% registration. Chief Executive confirmed it had always been a concern to the Commission (including the previous Commission) that the new duties imposed by the 2010 Act could not be delivered on a cost-neutral basis. All agreed the objective is to assist grazings and Ms Sharp undertook to work with the Chief Executive on what is deliverable.

Decision	Commission agreed to continue to process Grazing Registrations which are almost complete and seek budget adjustments via a paper to the Audit & Finance Committee.
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7 SHORT TERM WORKING GROUPS

Head of Regulation reported that there are currently two groups (one reviewing application forms and the other looking at the apportionment process) but neither had met recently because the work agreed by the groups was being progressed by officers.

8 EVENTS PLANNED OR ATTENDED

Vice Convener Macdonald had attended four tele-conference meetings in all but had not been able to attend a meeting with the Soil Association as planned.

Commissioner Dennis had attended three tele-conferences, a meeting in Lewis in May and at the end of June would attend a meeting of the Woodland Croft group in Inverness, as an observer.

Commissioner Sinclair attended one tele-conference and a show meeting, and had been busy with croft business in Shetland.

Commissioner MacLennan attended various tele-conferences, a special meeting of the Board, a Hearing in Tiree, a JCC special meeting with the Chief Executive, a meeting with Point/Sandwick Power on turbines on common grazings and the Pairc Community Buy-Out opening event. He would be attending the cross-party group next week in Edinburgh.

Commissioner Campbell had attended various Commission meetings, the Hearing on Tiree, a meeting in Lewis, the Scottish Land and Estates conference in Edinburgh and planned work with the Assynt Foundation, in the course of which he may declare an interest if this becomes necessary.

Convener Kennedy had been to Lewis twice and to Tiree on Commission business and also had meetings with Scottish Government, four tele-conferences and Commission meetings in Inverness, with the cross-party group meeting in Edinburgh to come shortly.

9 COMPLAINTS AUDIT REPORT

Head of Corporate & Customer Services explained that as part of the Commission's obligations under the Public Services Reform Act, the organisation must have a procedure in place for dealing with complaints from members of the public. This procedure had recently been subject to a week-long audit by Scott-Moncrieff. The resulting report showed the Commission has robust controls in place, only highlighting minor housekeeping issues, which have now been actioned.

Commissioners thanked all concerned for the progress made in this area and were pleased that the procedure has received such a positive report.

10 DATE OF NEXT MEETING

The next meeting of the Commission will be 17 August 2016 in Great Glen House. At this meeting Commissioners will be asked to sign off the Annual Report and Accounts. Head of Corporate & Customer Services confirmed a draft would be sent to Sponsor Division and Commissioners shortly.

11 AOB



Due to the resignation of William Swann, Vice Convener Macdonald formally proposed Commissioner MacLennan as Chair of the Audit & Finance Committee. This was seconded by Commissioner Dennis. Chief Executive confirmed she would write a letter of thanks to Mr Swann on behalf of the Commission, thanking him especially for the valuable contribution he made to the work of the Audit & Finance Committee.

Decision	Commissioner MacLennan was appointed Chair of Audit & Finance Committee.
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12 STANDING ORDERS

Head of Policy explained this was a late paper drawn up because it had become apparent that two amendments are required to bring the Standing Orders up-to-date.

Point 13 referring to the holding of meetings needed to include reference to meetings held by video and tele-conference. It was agreed to amend Standing Orders to clarify that properly constituted meetings of the Commission can include those by video and tele-conference. The additional amendment at Point 16 was also approved.

Decision	Commission approved amendment of Standing Orders to show that properly constituted meetings of the Commission can include those conducted by video and tele-conference methods and that discussion can be by e-mail.
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13 EXCLUSION OF PRESS AND PUBLIC

14 URGENT BUSINESS UPDATE

APPROVAL OF DRAFT MINUTE OF SPECIAL MEETING 9 MAY AND 7 JUNE 2016

Commissioners approved the draft Minute of 9 May 2016, subject to an amendment on page 2 in the Decision Box, [REDACTED]

Commissioners approved the draft Minute of 7 June 2016, subject to an amendment on page 5, [REDACTED]

[REDACTED] Commissioners also wished to see a Post-Meeting note added to page 4, [REDACTED]

The Convener closed the meeting at 12:30pm, thanking all for their contributions and efforts.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 17 AUGUST 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice Convener
	David Campbell	Commissioner
	Kathleen Sinclair	Commissioner
	Murdo MacLennan	Commissioner
	Arnie Pirie	Commissioner
	Catriona Maclean	Chief Executive
	Donna Smith	Head of Information Systems
	David Findlay	Commission Solicitor
	Joseph Kerr	Head of Regulation
	John Toal	Head of Policy
	Posy MacRae	Communications Manager
	Jane Thomas	Head of C&CS + Minute taker
	Asif Haseeb	Audit Scotland
	Gordon Jackson	Scottish Government
	Lucy Carmichael	Scottish Government
		BBC Alba
		BBD Alba

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting, noting apologies from Commissioner Dennis.

2 DECLARATION OF INTERESTS

Commissioner Macdonald declared an interest in Mangersta. Commissioner MacLennan said he may have an interest to declare in the later private session.

3 ANNUAL REPORT AND ACCOUNTS

Asif Haseeb from Audit Scotland introduced the item, to seek the Board's approval of the Annual Report and Accounts. He was pleased to report there had been a clean audit, which had already been reported to the Audit and Finance committee. After today, the report would be forwarded to the Auditor General for formal clearance and it would then be cleared to lay before parliament.

As Vice Chair of the Audit and Finance Committee, Commissioner MacLennan wished to formally record his thanks to Mr Haseeb for all the assistance and advice he has provided to the committee and the Commission for the past five years, as this marked his last engagement with the organisation. This was echoed by the Convener and Chief Executive. The Convener also wished to pass on his thanks to everyone who had been involved in the production of the report, which represents a considerable piece of work.

The Commission approved the Annual Report and Accounts, which were signed by the Chief Executive and Mr Haseeb.

Mr Haseeb then left the meeting.

4 APPROVAL OF DRAFT BOARD MINUTE OF 22 JUNE 2016

The Minute of the Meeting of 22 June 2016 was approved with no amendments.

5 MATTERS ARISING FROM PREVIOUS MEETING

There were no Matters Arising from the previous meeting.

6 ADVANCED PAPERS FOR APPROVAL

(a) Evidence of Crofting Community

The Paper was accepted by e-mail, noted and approved.

Decision	The Commission will seek to establish whether a crofting community exists by examining evidence for a potential township when assessing relevant decrofting applications. The Commission recognises that a decrofting application for a reasonable purpose may take place on other land. Therefore the potential benefits or otherwise of the decrofting should be considered.
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Commissioner Campbell requested that the papers brought to the Board for homologation are collated into a reference resource, as this would be a useful aid to decision-making. Staff will take this forward.

(b) Retention Policy

Chief Executive asked if Commissioners could please respond when emailed papers are sent out, as it is important to collate the views of the whole Board and responses had become patchy.

Commissioner MacLennan had asked for this emailed paper to be discussed. He wished to clarify what the plans were for dealing with files which may contain information of historical value. Chief Executive reassured the Board that the retention and disposal schedule recommended in the Paper relates in the main to the routine paper files and that separate arrangements will have to be agreed with the Board in due course for the historical case files, which are not included in the Paper.

On this basis, the Paper was approved.

Decision	The Commission approved the recommendation agreed by senior management for the retention and disposal of records.
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7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Vice Convener Macdonald had taken part in a film made for a Transgrass project, in association with the James Hutton Institute. He also attended the Complaints Quality Assurance committee meeting by tele-conference. He had also been speaking to crofters in Wester Ross and Sutherland, who had expressed concern about absenteeism and the misuse and neglect of crofts. He is aware of the resource constraints but highlighted the need to do all we can to put Duties work on the agenda.

Commissioner Sinclair had attended the Cunningburgh Show and the Audit and Finance committee meeting.

Commissioner Pirie attended the Orkney Agricultural Show in Kirkwall.

Commissioner MacLennan had attended the Audit and Finance Committee, the first cross-party group meeting of the new parliament, the Pairc Community buy-out launch, and wished to comment on the SCF meeting held recently in Stornoway. It was disappointing that no-one from the Commission had been invited to the meeting, which received a lot of press coverage. Following the meeting, local crofters have expressed concerns to him regarding recent decisions made by the Commission, relating to grazings committees.

Commissioner Campbell had attended the Complaints Quality Assurance committee meeting by tele-conference, the Audit and Finance committee meeting and had been at various lamb sales, where people had also been critical of the Commission, following recent press coverage.

The Convener attended the Complaints Quality Assurance committee by tele-conference, a meeting in Edinburgh, the Queen's Garden Party at Holyrood and planned to attend the Lochaber Show. He had received no critical comments on the Commission from crofters in his area.

8 PARAMETERS FOR CONTENT OF RPID REPORTS

Head of Regulation introduced the Paper, explaining that it sets out how the Commission engages with RPID colleagues as processes or procedures change.

Following a particular case, regulatory staff now have a better understanding that we are responsible for information we have sought, so where we have asked for comments, for instance in an Area Office Report, it is important that the information received is objective and verifiable. If Commissioners are aware or have any concerns about comments in reports, Head of Regulation will take this forward as a training exercise with staff, to ensure the guidance is embedded.

RPID have some concerns over changes to the apportionment function, which Head of Regulation will explore further. If necessary, this will be brought back to the Board.

The Note on changes to the policy on decrofting will be written up as a procedural guidance note for RPID after today's meeting.

Chief Executive explained that we are aware there have been concerns of possible conflicts of interest where RPID is the landlord of crofting estates/croft land and we will work with the department to try to resolve any issues. Ms Carmichael offered to help in any discussions. Head of Regulation wondered if reconvening the working group that had previously considered the case-paper was a way of taking this forward and this was agreed.

Decision	Commission approved content of Paper and procedure for providing further guidance to RPID.
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9 AUDIT AND FINANCE COMMITTEE REPORT

(a) Update from Commissioner MacLennan

Commissioner MacLennan was pleased to report that the Commission has been given a clean audit for 2015-16. One of the key issues brought before the committee was the discussions on VAT which have taken place between HMRC and SG. A Note has been added to the Annual Report and Accounts to cover this point. There are financial implications for the organisation, which is why it is important to work with Scottish Government on this, to make sure the risk is managed.

Commissioner MacLennan was pleased to report that almost all staff have completed a Declaration of Interest form, the Chief Executive explaining that this was over and above what they are required to do as civil servants and so she too is very grateful that staff have engaged with this exercise.

Commissioner MacLennan thanked staff for their work in support of the committee over the last year and for all of the work that goes on behind the scenes to ensure we have a clean audit report.

(b) Draft Minutes from 5 August 2016

The draft Minutes had been tabled and were approved. Three members of the committee, who had attended the meeting, were present. The three other Commissioners accepted the Minute.

(c) Risk Register

Commissioners considered the Risk Register which had been reviewed by Senior Management prior to discussion with the Audit and Finance committee, to ensure current risks are included. Chief Executive drew attention to increasing workloads, which increase pressure on staff and also to the effect on risk of external perceptions of the Commission. The pressure caused by reputational issues is considerable and Commissioner MacLennan asked if the Board is content that the Chief Executive seeks assistance in this area. This was agreed.

Decision	Commission agreed content of Risk Register and gave authority to the Chief Executive to seek assistance to allow the organisation to manage current reputational issues.
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(d) Key Performance Indicators

Head of Information Systems introduced the tables which show two targets at Amber. She explained these were not a particular concern at present and that there are some positive indicators on turnaround times. She explained that a staff satisfaction survey had been carried out and a target would be developed to hopefully improve on the result, as part of the Corporate Workplan.

The statistics show that there has been an increase in applications over the quarter, particularly with assignments, which may in part be due to the 2015 Census. General Enquiries have also gone up and decrofting applications. As well as a response to the Census, this may also be caused by a raised profile on social media, on succession for example. Though this is positive, in reflecting the Commission's desire to see crofters self-regulate, the increase shows forward planning is required before the 2016 Census is issued.

Commissioners discussed the work being completed by Head of Information Systems to ascertain unit costs, which is providing the Commission with much-needed evidence to take to SG on the future resource requirements of the Commission. Ms Carmichael suggested this could be part of the discussion with the Cabinet Secretary on 21 September.

10 COMPLAINTS QUALITY ASSURANCE COMMITTEE UPDATE

(a) Update from Chairperson

Vice Convener Macdonald explained that, as per the Terms of Reference for the committee, the Chair is passed to him for meetings, though the Convener is present.

He drew the Commission's attention to the note on Ex-Gratia Payments, which had been approved by the Board in May and was now part of the Complaints Handling Procedure. There is an appeal against the Commission's handling of a complaint with SPSO and the result of this will be forwarded to the Board once it is known. It was good to report that there had been no Stage 2 complaints in Q1 of 2016-17. The Vice Convener stressed that the work of the committee is now focused on learning from complaints and that the Lessons Learnt table is shared with staff and available on the website for the public.

(b) Draft Minutes from 27 July 2016

The draft Minute was approved and the Convener thanked everyone involved for their efforts in this area, which showed excellent progress.

11 GRAZINGS COMMITTEES – A PRACTICAL APPROACH

Revised draft Guidance had been tabled. Chief Executive introduced the item, explaining that it could only be a guide to good practice because the Act is largely silent in this area. The Commission can therefore recommend processes but cannot enforce them. Given the differences of scale and activity in grazings across the crofting counties, it is a challenge to come up with a set of guidelines to cover all situations. It is important not to include too much in the Regulations themselves or they will be too inflexible and prescriptive. The principle of keeping the Regulation Template as simple as possible was accepted.

Chief Executive stressed that the Commission has to regulate what committees have included in their Regulations, once they are approved.

Commissioners wished to see early discussions with key stakeholders to agree Guidance to grazings committees and, after further discussion on the tension between what the Act says in this area and the different circumstances that may pertain in a variety of committees, it was agreed that the initial focus for a stakeholder meeting would be on guidance pared back to what the Act says. This is in keeping with the approach the Commission has taken on other regulatory issues, taking things back to the fundamentals. Otherwise, the danger is that committees will take whatever is in the Guidance as an invitation to include everything in their regulations.

It was agreed that the Commission would set up a Stakeholder Group with the aim of engaging the group in helping to build a set of guidelines from this starting point. The Commission agreed it was important to include voices on the group who have been critical of recent actions, to help build a consensus going forward.

It was agreed to complete a re-draft of the Paper, in light of this discussion and try to arrange a small stakeholder meeting as an initial step, if possible before the meeting with the Minister on 21 September and before the Board visit to Brora. The group should involve 2-3 Commissioners, 2 Assessors, an SCF and NFUS representative and any other individuals as appropriate.

(The members of the press left at the end of this item)

Decision	The Commission authorised setting up a stakeholder group as soon as possible to consider re-drafted practical guidance for grazings committees.
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12 STAKEHOLDER MAPPING

Chief Executive explained what the Stakeholder Map represented. It was agreed that Community Land Scotland should be added and that NFUS should appear alongside SCF.

13 DATE OF NEXT MEETING

28 September 2016 – Royal Marine Hotel, Brora.

14 AOB

There was no other business.

15 EXCLUSION OF THE PRESS AND PUBLIC

The Convener closed the meeting at 14:30.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT BRORA GOLF CLUB ON 28 SEPTEMBER 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice Convener
	David Campbell	Commissioner
	Kathleen Sinclair	Commissioner
	Arnie Pirie	Commissioner
	Murdo MacLennan	Commissioner
	Marina Dennis	Commissioner
	Donna Smith	Deputy CEO
	Joseph Kerr	Head of Regulation
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Posy MacRae	Communications Manager
	Jane Thomas	Head of C&CS + Minute-taker
	Trudi Sharp	Scottish Government
	Lucy Carmichael	Scottish Government
		BBC Alba
		BBC Alba

5 members of public

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Brora and paid tribute to the work of Catriona Maclean on behalf of the Commission, as this would have been Ms Maclean's last Board meeting as Chief Executive, before she leaves to take up a new post with Scottish Government.

Ms Maclean had sent her apologies as she was unable to attend, due to suffering an injury after being in an accident and was currently on sick leave.

2 DECLARATION OF INTERESTS

Commissioner MacLennan informed the Convener that he had two matters he wished to raise; one related to an Interest and the other related to the Convener's own position.

Commissioner MacLennan explained that he had previously declared an interest in Mangersta and Upper Coll. As circumstances had changed, he had sought guidance from the Standards Commissioner on whether it was necessary to maintain this position. The advice from the Standards Commissioner is that the connection is now so remote or insignificant that it does not represent an interest. Therefore, Commissioner MacLennan wished to receive any papers circulated to Board members on these cases and would take part in any discussion on them.

The Convener questioned what had changed and stated that he wished to see a statement in writing from the Standards Commissioner. Commissioner MacLennan enquired if the Convener doubted the word of the Standards Commissioner. The Convener repeated that he wished to see the Standard Commissioner's ruling in writing before making a decision on Mr MacLennan's withdrawal of interests. Commissioner MacLennan asked if the Convener doubted the word of a fellow Commissioner. He asked if the Convener was denying the elected member from the Western Isles the right to see papers. The Convener repeated that he wanted to see documentation. At this point the Convener drew attention to Commissioner MacLennan's registered interest in the Bethesda charity and indicated that this body was mentioned in a paper to come before the Board. Commissioner MacLennan confirmed his Registered Interest in Bethesda. The Convener stated that he did not accept that Commissioner MacLennan could relinquish the previously declared interest. He did not accept that Commissioner MacLennan could raise this issue at the Board meeting.

The Deputy CEO read out a statement from the CEO, as Accountable Officer, confirming the position as stated by Commissioner MacLennan:

"Commissioners given the controversy around conflicts of interest I have taken advice from the Commissioner for Ethical Standards who has provided guidance on this matter.

I will separate the issue into two examples which are relevant to the current situations. The first is where the individual has declared an interest and then circumstances have changed. In the view of the Commissioner for Ethical standards it is acceptable for a declaration of interest to become concluded. The example that he gave me was that if a Board member had shares in Tesco bank and the Board were considering a contract to Tesco bank then the Board member should declare that interest and remove themselves from the decision making process. If however the Board member then sells their shares and the Board are considering a contract to Tesco bank then the circumstances are different and the Board member can reasonably explain that they had declared an interest but that on the sale of the shares the interest is concluded and they are therefore able to participate in decision making. Ultimately it is for the individual to decide."

The Convener maintained his opposition to the item being accepted at the Board meeting.

As Standards Officer, the Head of Corporate and Customer Services explained that it was in order for Commissioner MacLennan to make Commissioners aware of a change in a previously declared interest at this point in the Board Meeting, as Declaration of Interests appears as Item 2 on all Board Meeting Agendas. She further confirmed that it is appropriate for Commissioners to communicate any changes in interests in this way and for the Board to accept such public notification of a change.

The Convener then adjourned the meeting to discuss the issue in private with the Standards Officer. The Convener, Standards Officer and Deputy Chief Executive left the room. On their return, the Convener announced that he was bringing the meeting to a close and was leaving the meeting.

At this point, Commissioner Campbell said that he would write to the Accountable Officer requesting that a Special Meeting of the Commission be held.

The Convener then left the meeting at 9:45am.

The Board then progressed to conduct further business with the same people present apart from the Convener. At the time this was seen as a Special Meeting but the Board believes it should correctly be regarded as a continuation of the Board meeting.

A notice was placed on the Commission website and the Board meeting recommenced at 10:15am. This was communicated to the Convener straightaway. As Deputy CEO, Mrs Smith re-opened the meeting and asked the Board to nominate a Chair. IG Macdonald was asked to fulfil the role and agreed to do so. This was proposed by Commissioner MacLennan, seconded by Commissioner Campbell and agreed by the remaining Commissioners.

1 APOLOGIES AND WELCOME

Commissioner Macdonald re-opened the meeting and apologies were noted from Catriona Maclean.

The Convener was not present.

2 DECLARATION OF INTERESTS

Commissioner Macdonald maintained his declared interest in Mangersta.

Commissioner MacLennan explained that he had previously declared an interest in Mangersta and Upper Coll but, as circumstances had changed, he sought and received guidance from the Standards Commissioner; the advice being that the connection was now so remote that it was of no significance. Therefore, Commissioner MacLennan wished to receive any papers on Upper Coll and Mangersta that he had been excluded from because of the previously declared interest and asked for time to read them, as necessary. This was agreed.

Commissioner MacLennan informed the Chair that he had an urgent item of business to raise. He explained that the Convener had received two letters the previous day, from himself and from Commissioner Campbell, asking him to resign. Commissioner MacLennan informed the Board that he had a Motion to put to the meeting and the Motion had a Secunder. The Chair considered when the item should be discussed, agreeing that it could be taken under Item 14 on the Agenda.

3 APPROVAL OF DRAFT BOARD MINUTE OF 17 AUGUST 2016

The Minute of the Meeting of 17 August 2016 was approved with no amendment.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Campbell highlighted Item 5 on page 8 of the Minutes and requested that Commissioners receive information on the dates of the papers referred to by the Convener, as there was not a paper presented to the Board Meeting referenced.

Head of Regulation gave an update on the development of a protocol with RPID.

5 ADVANCED PAPERS FOR APPROVAL

(a) *Audit & Finance Committee 2015-16 Statement of Activity*

Head of C&CS explained this paper represented a summary of the committee's activity in the previous financial year. It was provided to the Board each year. Five Commissioners had responded by e-mail accepting the paper, one Commissioner had not responded (a nil response being taken as acceptance) and the Convener had requested a discussion by the full Board.

Commissioner MacLennan, as Chair of the committee, explained that the report had been submitted by Commissioner Campbell due to the resignation of William Swann, the previous Chair of the committee. Commissioner Sinclair, as the other member of the committee, confirmed she was content with the report. It was therefore accepted by the Board.

6 MEETING WITH CABINET SECRETARY ON 21 SEPTEMBER 2016

With the exception of Commissioner Pirie, all members of the Commission met with Cabinet Secretary, Fergus Ewing, on 21 September. Prior to the meeting, Commissioners had received a copy of a letter from the Cabinet Secretary, setting out the issues he wished to discuss. This made it clear that he required the Commission to make a public apology over the way certain recent grazings cases had been handled. Commissioner Macdonald read out the following sentence from the Cabinet Secretary's letter: *"I would be grateful if, before we meet, you and the Commissioners could consider the position that the Crofting Commission has taken to date in relation to these points generally in relation to Upper Coll, and to decide whether a public apology might serve to restore the equilibrium."* At the meeting on 21 September this position was confirmed by the Cabinet Secretary, who requested that the apology come from the Convener, on behalf of the Commission.

The Deputy CEO explained that Commissioners met informally on 27 September to discuss the position and prepare a draft statement. Commissioner Macdonald read out the following statement, which would be issued to the press, placed on the Crofting Commission website and communicated to the relevant grazings shareholders:

"The Crofting Commission wishes to apologise for the way it has handled recent grazings committee cases.

Three unprecedented cases have been considered by the Commission under section 47(8) of the Crofting Act and resulted in committees being put out of office. The decisions taken by the Commission have created a poor result for everyone involved. The actions taken in these cases did not enable communities to work together for the benefit of crofting and, in fact, have had an adverse impact on the crofting community. The Commission acknowledges that the recent decisions have caused prolonged uncertainty and anxiety, not only for the three communities involved but for all crofters, and for this we are sorry.

The Commission continually seeks ways to ensure it is delivering in the best interests of crofters and will ensure that the lessons learned from the cases can inform future procedures and decision-making. We will also continue to engage with Scottish Government to look at greater flexibility in crofting legislation.

The Crofting Commission will continue to work alongside stakeholders to develop good practice guidance for grazings committees. We would like to reassure crofters that, as the regulator of crofting, our main focus continues to be securing the future of crofting through effective regulation and we look forward to working constructively with crofters, grazings committees and crofting stakeholders.”

Commissioner MacLennan explained that he wished to disassociate himself from the statement, not because he disagreed with the sentiments expressed but because of his belief that the failures referred to in the statement lie with the Convener and that, while the current Convener is in place, the Commission cannot move on.

Commissioner Campbell wished to record that he fully supports a full and meaningful apology to the crofting communities concerned but agrees that it will not be possible to move on with the current Convener in place.

Commissioners Macdonald, Dennis, Pirie and Sinclair confirmed their support for the statement and there was a short break to allow the Communications Manager to issue the statement to the press.

7 CIS UPDATE

Deputy CEO tabled a paper providing current information on CIS processing. She explained there had been a few teething problems with the new system, which was to be expected but that, given the significance of the change, things had gone well. A User Group has been established and this is proving an effective way to progress issues and improvements.

Along with bedding in the new system, the Commission is experiencing a significant rise in applications, probably caused by the Crofting Census. Even in the second year of the Census, over 4000 changes to the RoC were notified by crofters and had to be examined.

A comparison exercise has been carried out between the old CADS system and CIS, which found that CIS is quicker and provides staff with more information. As Head of Information Systems, Mrs Smith will ensure a further review is carried out in 3 months to monitor progress. She would report back on any apportionment applications more than 2 years old.

Commissioners wished to thank Mrs Smith personally for her work on managing the switch to the new system, which has gone more smoothly than was perhaps envisaged.

8 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Commissioner Macdonald had attended an Assessor Workshop, livestock sales, met with individual crofters, who would like the Commission to place more emphasis on Duties work, had participated in the Stakeholders meeting on grazings regulations on 20 September, which he saw as a very positive step forward, a DDM meeting on part croft decrofting and the meeting with the Cabinet Secretary on 21 September.

Commissioner Campbell had taken part in the meeting on grazings regulations, which he agreed was positive and helpful, a SLE sub-group meeting, had met a community landowner on the creation of new crofts, attended livestock sales and the meeting with the Cabinet Secretary.

Commissioner Dennis had a meeting on 16 August with an interested party, a DDM meeting, a Casework meeting, the Assessor Workshop and the meeting with the Cabinet Secretary.

Commissioner Pirie had attended two or three sales and hoped to get to the Scottish Ploughing Championships.

Commissioner MacLennan had attended livestock sales, the Cross-party group and the meeting with the Minister.

Commissioner Sinclair had attended the Yell Show, lamb sales in Shetland and the meeting with the Cabinet Secretary. She had a LAG meeting coming up and a local NFUS meeting.

Commissioners wished to record that this level of activity illustrates that 4 days per month is not an accurate reflection of the time actually spent on Commission business.

9 MEDIA PROTOCOL/INFORMATION SECURITY

This item had been brought to the Board purely as a reminder to adhere to the agreed Media Protocol and Information Security policy. It was, for instance, important that Commission work was not saved to personal e-mail addresses.

10 INSTRUCTIONS TO THE LEGAL TEAM (Item 10 taken in private due to it containing legal advice)

11 AREA ASSESSORS – PANEL UPDATE

Commissioner Dennis introduced a brief paper. She explained that the term of the current Assessor Panel comes to an end in October 2017. Commissioners were asked to consider whether to confirm this or to recommend to the new Commission Board that the panel term is extended by a further 12 months, to allow the new Commissioners time to become familiar with their role.

Commissioners agreed to recommend to the new Board that the Assessor panel is extended by a further 12 months.

Following the meeting with local Assessors the previous evening, Commissioners agreed that there had been insufficient engagement by the Commission with the panel and that every effort should be made to improve communication, training and engagement, as Assessors are an underutilised asset to the organisation. Care should also be taken when planning the location of local meetings, to allow the maximum number to attend.

Decision	Commissioners agreed to recommend to the new Board of Commissioners that the term of the current Assessor Panel is extended by 12 months.
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12 DEEMED CROFTS (taken in private because discussion and paper contain legal advice)

13 DATE OF NEXT MEETING

9 November 2016– Great Glen House

14 AOB

Commissioner Campbell had an issue that was dealt with under Item 15.

As expressed earlier, Commissioner MacLennan had an urgent issue he wished to bring to the public part of the meeting.

He explained that at an informal meeting of Commissioners yesterday the Convener had been handed two letters, from himself and from Commissioner Campbell, asking him to resign. The Convener had declined to read the letters so Commissioner MacLennan had conveyed the contents of his letter to Commissioners at the meeting on 27 September, including the Convener. Commissioner Campbell had done likewise. Both had made it clear that a Motion calling on the Convener to resign would be brought to the Board meeting on 28 September.

Commissioner MacLennan wished to place a Motion before the Board:

“That the Commission thank Mr Colin Kennedy for his period as Convener of the Crofting Commission. Nevertheless, given the current reputational damage attached to the Commission, for the advancement of crofters, the crofting community and the future of the Crofting Commission, including staff, you are requested to tender your resignation to the Cabinet Secretary with responsibility for crofting, forthwith.”

The Motion was seconded by Commissioner Campbell.

Commissioner Macdonald asked if there were any counter motions or amendments and it was confirmed that the Motion represented a request to the Convener, not an instruction, as the Board does not have the power to remove the Convener.

There was no counter motion or amendment and, as Chair, Commissioner Macdonald received confirmation from all Commissioners present that they supported the Motion, which was therefore carried unanimously.

This concluded the business taken in public.

15 EXCLUSION OF THE PRESS AND PUBLIC

There was then a break for lunch, following which Commissioner Macdonald returned to the room. The Commission then went on to discuss Item 10, which it was agreed should be taken in private.

The Chair thanked Commissioners and officers for their input throughout the day and closed the meeting at 4:05pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 14 DECEMBER 2016

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice-Convener
	David Campbell	Commissioner
	Arnie Pirie	Commissioner
	Marina Dennis	Commissioner
	Murdo MacLennan	Commissioner
	Kathleen Sinclair	Commissioner
	Bill Barron	Chief Executive
	Joseph Kerr	Head of Regulation
	John Toal	Head of Policy
	David Findlay	Commission Solicitor
	Posy MacRae	Communications Manager
	Trudi Sharp	Scottish Government
		BBC Alba
		BBC Alba
	One member of public	

The Convener welcomed everyone to the meeting.

The Convener proposed to move item 3 and item 4 to the Exclusion of the Press and Public. Commissioner MacLennan questioned why it was to be moved to the private section of the meeting when it is to discuss minutes of a public meeting. The Convener informed Commissioner MacLennan that this was due to legal advice being discussed as part of the item.

Commissioner MacLennan announced that under Standing Orders Section 12(1) he wished to be granted a fair hearing on a number of matters he would like to raise relating to the Special Meeting held on 9 December 2016. Commissioner MacLennan questioned why a Special Meeting was held two working days before a Board meeting and the costs associated with holding the meeting. Commissioner MacLennan also asked why the letter he sent to the Convener and Chief Executive detailing his reason for not attending was not read out at the public part of the meeting as requested. Commissioner MacLennan proceeded to read out the letter.

The Convener stated that proper notification had not been received and therefore he did not accept it as an item on the day.

Commissioner MacLennan moved on to question who commissioned the legal advice regarding the status of the Special Meeting held in Brora on 28 September 2016. The Commission Solicitor confirmed that the Chief Executive had commissioned the advice after e-mailing Commissioners for approval. The Chief Executive stated that the Commission's Solicitor worked with the Chief Executive to formulate the questions in respect of which legal advice was sought.

Commissioner MacLennan asked the Convener if there was a threat of legal action against the Board, individual Commissioners and the Cabinet Secretary. Convener Kennedy stated that there is no legal threat at this moment in time. The Convener stated that there should be no need for concern provided that they remain within the agreed code of conduct.

Commissioner Campbell stated that he had e-mailed the Convener three times requesting two items to be added on to the agenda for today's Board meeting and questioned why the items are not on the agenda. The items were in relation to members of the Board discussing issues in the press, breaching media protocol and the Board's position on a Commissioner publicly declaring their intention to stand for re-election in the 2017 Crofting Elections.

The Convener confirmed that the request had been discussed the previous day with the Chief Executive. The Chief Executive stated that some of the items had been discussed at the Special Meeting on 9 December as part of the discussion around tensions within the Board but unfortunately had not been carried over to the agenda for the Board meeting. The Convener stated that it is at the discretion of the Convener what goes on the agenda.

Commissioner Campbell asked the Convener to clarify the threat of legal action following comments made in the press. The Chief Executive stated that he had asked the Convener to confirm that there were no legal threats against the Commission and Commissioners and that there never would be. However, the Convener had not been willing to confirm this and therefore the Chief Executive could make no guarantees to Commissioners.

Commissioner MacLennan proposed waiting for the outcome of the current governance review of the Commission before holding any further Board meetings. Commissioner Dennis asked when the outcome of the review will be available. Deputy Director, Trudi Sharp, stated that it is a report to Scottish Government and they are due to have an informal meeting with the review team the week commencing 19 December 2016.

Commissioner Sinclair stated that the Board has a duty to crofters to move forward with day to day business.

Commissioner MacLennan expressed concern about the process by which legal advice on the status of the Brora meeting had been obtained. He felt that as one Commissioner was challenging the Commission's position on the validity of that meeting, it was anomalous for that same Commissioner to be involved in advising on the questions on which legal advice was sought. The Chief Executive confirmed that the final decision on the framing of those questions had been taken by himself with the Commission's solicitor, after considering all points raised by Commissioners.

1 APOLOGIES AND WELCOME

Apologies were received from Donna Smith, Deputy CEO and Jane Thomas, Head of Corporate and Customer Services.

1.1 STATEMENT FROM CEO

The Chief Executive read out the following statement:

"We've heard apologies for absence from Donna Smith, my deputy, and Jane Thomas our Head of Corporate and Customer Services. They've asked me to explain why they're not attending. This is about Fairness at Work and I and my other SMT colleagues support them on this. For many months they feel that the normal business of the Commission has been regularly undermined by a failure to adhere to decisions taken, and there have been occasions when blame has been unfairly made of staff, who don't have the right of reply. This has culminated in an e-mail we received yesterday which advises that Mr Kennedy intends to challenge the conclusions the Board reached at its Special Meeting on Friday.

Secondly, I want to recap the conclusions we reached in our Special Meeting on Friday. Most of it was in the press statement we issued following that meeting:

The Board also discussed the status of the meeting held in Brora in September and how to move forward. The Board decided that there was one meeting in Brora which took place in two valid parts, the meeting previously referred to as a Special Meeting being a continuation of the scheduled Board meeting. Any consequences from this will be considered at their Board meeting on Wednesday 14 December 2016.

We also discussed two more things that you may wish to pick up today. One of these was the question of whether the Board can revisit its own decisions. For a regulatory decision, once notified to the applicant that generally isn't possible – others will have acted on our decisions and moved on. However, for regulatory decisions that have not yet been notified, and for other types of decision such as about our policies or procedures, the Board is at liberty to revisit its decisions whenever it sees fit to do so. I hope that won't often be necessary, but it's important that you know that you have that flexibility.

The other thing we discussed on Friday was the way in which the item of Any Other Business was called at Brora, and there are doubts about whether this was properly done. We can discuss that when we look at the Minutes of the Brora meeting, but the suggestion is that we record in the Minutes that this may not have been a correctly-called item of business.

Finally, can I note that our press statement on Friday said this:

"The Commissioners present reaffirmed the importance of working together effectively in the final months of their terms."

For my part, I and my colleagues will do our best to give you the best possible advice on all the matters that you need to consider.

For yourselves as Commissioners, I think the key to this will be what happens between meetings, and especially if there is disagreement within the Board. You have to be able to take decisions and act on them as a Board. If one or two Commissioners disagree with a decision, they can have their dissent made known in a low key way, and it can be recorded in the minutes; depending on what the issue is, it may be a matter that can be revisited; but in the meantime they must uphold and not undermine the Board's position.

The other key to working together will be the respect you show for each other, for the staff and for crofters, crofting communities and stakeholders. This Board often has to grapple with difficult issues and I understand that feelings can be strong, but it will help if we can focus as much as possible on the issues rather than the personalities."

Commissioner Campbell stated that it is extremely disturbing to him that two members of staff feel unable to be present at the meeting and unable to work with the Board in a public forum.

Commissioner MacLennan expressed concern over not having a governance adviser present at the meeting and the reasons staff feel they are not able to come to the Board meeting.

The Convener commented that the Minutes from Board meetings are consistently not implemented and that might be at the heart of the issue. Commissioner Campbell stated that he has not been made aware of this issue and questioned why it had taken this action for the matter to be raised. The Vice-Convener confirmed that some of the issues had been discussed at the Special Meeting.

2 DECLARATION OF INTERESTS

The Convener declared an interest in Barrachoile Common Grazings.

The Vice-Convener declared an interest in the Mangersta Common Grazings.

Commissioner MacLennan declared an interest in the Mangersta Common Grazings.

Commissioner Dennis declared an interest in Bohuntin Common Grazings.

3 APPROVAL OF DRAFT BOARD MINUTES OF 28 SEPTEMBER 2016

To be discussed under Exclusion of the Press and Public.

Commissioner MacLennan dissented against moving item 3, review of public Board Minutes, to Exclusion of Press and Public.

4 MATTERS ARISING FROM PREVIOUS MEETING

To be discussed under Exclusion of the Press and Public.

5 ADVANCED PAPERS FOR APPROVAL

(a) Parameters in Delegated Decision Making (DDM)

The Head of Regulation informed Commissioners that the paper in respect of parameters for Apportionment and Part Croft Decrofting had been e-mailed and now came to the Board for formal approval.

The Commission approved the Paper.

Decision	The Commission approved the Paper
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6 SHORT TERM WORKING GROUP UPDATES

Vice-Convener Macdonald stated that there had been two meetings of the grazings stakeholder group which is looking at grazings regulations.

The Head of Regulation informed the Board that there is still a STWG looking at DDM section 50B applications with the next meeting taking place in January 2017. There will also be a review of the decrofting function in the New Year.

7 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Vice-Convener Macdonald attended three of the Crofting Roadshows at Connel, Gairloch and Skeabost, and attended a meeting held by the Commission with Skye Solicitors.

Commissioner MacLennan attended the Cross Party Group meeting, attended the Crofting Roadshows in Stornoway and Benbecula and two meetings with Upper Coll shareholders.

Commissioner Pirie attended the Crofting Roadshows in Kirkwall and Thurso.

Commissioner Dennis was unable to attend the Newtonmore Crofting Roadshow due to bad weather.

Commissioner Sinclair attended the Crofting Roadshow in Lerwick.

Commissioner Campbell attended the Crofting Roadshows in Bonar Bridge and Thurso, the Convention of the Highlands & Islands, the Cross Party Group meeting and the two grazings meetings with the Vice-Convener. Also had a tele-conference on the Quality and Assurance Committee, attended the Audit & Finance Committee, a legal services training session in Glasgow and ongoing meetings with Assynt Foundation.

Discussion took place about the lack of engagement with Assessors and developing the role.

Convener Kennedy attended the Cross Party Group meeting and the Quality and Assurance Committee meeting.

8 EQUALITY AND DIVERSITY POLICY

The Chief Executive presented the Paper. The Commissioners approved the paper and agreed to recommend it to the new Board.

Decision	The Commission approved the paper and agreed to recommend it to the new Board.
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9 DRAFT CORPORATE PLAN

The Chief Executive presented the paper and explained that the Deputy CEO is consulting with a number of stakeholders. It is an initial draft and there will be further revision but initial comments were invited from the Board at this stage. The plan is to be finalised ahead of the new Board and implemented from April 2017.

Commissioner Campbell requested that page 37 includes reference to transparency.

An updated draft will come to the February Board meeting. The Board approved the paper.

Decision	The Commission approved the paper with an updated draft to be on the agenda for the February 2017 Board meeting. Page 37 to include reference to transparency.
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10 AUDIT AND FINANCE COMMITTEE REPORT

(a) Update from Committee Member

Commissioner MacLennan provided an update to Commissioners on the work of the Committee and talked through the Risk Register.

(b) Approval of Draft Minutes from 19 October 2016

The Board noted the draft minutes.

(c) Risk Register

Vice-Convenor Macdonald asked that the wording was changed on item 150 'Controls in Place' from 'new Board to receive media training' to 'new Board receive further training'.

Commissioner MacLennan highlighted that the Commission had agreed to look at a 'decentralisation' paper for the Commission by placing staff outside of Inverness and a paper was discussed at the AFC meeting. Commissioner MacLennan requested that the paper comes to the next Board meeting.

Vice-Convenor Macdonald asked that the Framework document is highlighted to the new Board.

(d) Key Performance Indicators

Commissioner MacLennan talked through the KPIs.

(e) Approval of Commission Policies

The Audit & Finance Committee reviews a number of Commission policies on an annual basis as part of its agreed Work Plan. The Board reviewed and approved the updated policies:

- Board Scheme of Financial Delegation
- Commission Standing Financial Instructions
- The Audit & Finance Committee Terms of Reference
- Commission Whistleblowing Policy

Decision	<p>Risk Register item 150 'Controls in Place' wording to change from 'new Board to receive media training' to 'new Board receive further training'.</p> <p>The Board noted the draft Minutes from 19 October 2016.</p> <p>A 'decentralisation' paper looking at placing Commission staff outside of Inverness to be presented at the next Board meeting.</p> <p>Vice-Convenor Macdonald asked that the Framework document is highlighted to the new Board.</p> <p>The Board approved the Commission policies:</p> <ul style="list-style-type: none">• Board Scheme of Financial Delegation• Commission Standing Financial Instructions• The Audit and Finance Committee Terms of Reference• Commission Whistleblowing Policy
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11 COMPLAINTS QUALITY ASSURANCE COMMITTEE UPDATE

(a) Update from Chairperson

Vice-Convenor Macdonald provided an update to the Board of the Complaints Quality Assurance Committee meeting which took place on 5 October 2016.

(b) Approval of Draft Minutes from 5 October 2016

The Convener commented that there is a complaint that he has been made aware of which doesn't feature in the complaint statistics. The Convener is to provide details to the Head of Regulation to look into the matter.

Decision	Convener to provide more information to Head of Regulation on a complaint he is aware of that he believes is not included in the complaint statistics.
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12 DATE OF NEXT MEETING

8 February 2017 at 10.15am in Great Glen House.

13 ANY URGENT BUSINESS

Commissioner MacLennan advised Commissioners that he was stepping down as media spokesperson. It was agreed that the Chief Executive would be the spokesperson for the Commission until the next Board meeting when the position can be formally discussed.

Commissioner MacLennan requested that cuttings which have appeared in the press since the Brora meeting in September be included on the agenda for the next Board meeting.

Commissioner Dennis asked when the announcement will be made about the two appointed Commissioners. SG Deputy Director stated that the announcement will be made in the New Year.

Commissioner Campbell requested to discuss Standing Order 10.3 and the process of agreeing how matters are to be discussed under public or private sections of the agenda. Vice-Convenor Macdonald suggested that the Standing Orders in full are reviewed and a paper is brought to the next Board meeting.

The Commission's Solicitor agreed that the Standing Orders do not detail how it is agreed that matters are decided as being 'sensitive'.

The Convener asked who was in favour in discussing the agenda items 3 and 4 in private or public. The Board agreed to discuss the items in private

Decision	Chief Executive to be Commission's media spokesperson until the next Board meeting in February 2017 and for the matter to be included on the agenda.
	Standing Orders to be reviewed and a paper brought to the next Board meeting.

14 EXCLUSION OF THE PRESS AND PUBLIC

The Vice-Convenor thanked everyone for their attendance and closed the meeting at 15:50hrs.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 8 FEBRUARY 2017

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice-Convener
	David Campbell	Commissioner
	Marina Dennis	Commissioner
	Murdo MacLennan	Commissioner
	James Scott	Commissioner
	Malcolm Mathieson	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	Joseph Kerr	Head of Regulation
	Posy MacRae	Communications Manager
	Jane Thomas	Head of C&CS and Minute-taker
	Gordon Jackson	Scottish Government
		BBC
		BBC
	One member of the public	

1 APOLOGIES AND WELCOME

Apologies were received as follows:

Apologies received from John Toal and Trudi Sharp. Commissioner Pirie had suffered a family bereavement and sent his apologies. The office would send condolences on behalf of the Board. Commissioner Sinclair's flight from Shetland had been diverted to Aberdeen so she would not be able to make the meeting.

The Convener welcomed the two newly appointed members of the Commission, Mr Scott and Mr Mathieson, to their first meeting and handed over to Commissioner Dennis to say a few words on the passing of Mr Donnie Ross, former Commissioner, who died recently. Commissioner Dennis spoke for the whole Commission in reflecting that Donnie Ross had been a true friend of crofting and highland culture, whose death was a sad loss not only to his local community, which he knew so well but to the whole of crofting life.

2 DECLARATION OF INTERESTS

The Vice-Convener maintained the interest he has declared in Mangersta since 2012, as he has a family connection with Finlay Macleod.

Commissioner MacLennan declared an interest in Mangersta because of a current Standards Commission investigation.

Commissioner Dennis declared an interest in Bohuntin because of a family connection with a shareholder in the common grazings.

Commissioner Campbell questioned whether he had a conflict of interest caused by communications received from Mr Kennedy's solicitors which may threaten legal action against the Board. The Convener declared an interest and left the room at this point (10:30). Commissioners agreed to the Vice-Convener taking the Chair.

See Annex A affixed as a contemporaneous explanatory note.

The Convener then returned to the room (10:50).

Commission solicitor declared an interest in 31 Camuscross, as he had previously acted for one of the parties.

3 APPROVAL OF DRAFT BOARD MINUTE OF 14 DECEMBER 2016

The Minute of the Meeting of 14 December 2016 was approved subject to the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
1	1	Final	Commissioner MacLennan requested the insertion of the following wording on legal advice:

“Commissioner MacLennan expressed concern about the process by which legal advice on the status of the Brora meeting had been obtained. He felt that as one Commissioner was challenging the Commission’s position on the validity of that meeting, it was anomalous for that same Commissioner to be involved in advising on the questions on which legal advice was sought. The Chief Executive confirmed that the final decision on the framing of those questions had been taken by himself with the Commission’s solicitor, after considering all points raised by Commissioners.”

At 10:55 the Convener adjourned the meeting to discuss an issue with CEO. The CEO and Convener left the room, joined by the Commission solicitor, returning at 11:03.

Due to the absence of elected Commissioners Pirie and Sinclair, the Board could not be quorate if an elected member declared an interest and left the room (Standing Orders 11.4). This meant no business could be conducted by the Board until it was again quorate. It was therefore agreed that the discussion which took place in the absence of the Convener would not form part of the Minute of the meeting but would be annexed to the Minute as a contemporaneous explanatory note.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner MacLennan referred to page 2 of the Minute of 14 December and questioned whether Colin Kennedy was aware of emails sent from his solicitor prior to the Board meeting in December, as the Minutes stated there was no legal threat at that time. Commissioner MacLennan asked if this is a true statement, that there was no legal threat, “at this moment in time”. The Convener confirmed the situation was as stated in the Minute. He then declared an interest and left the room at 11:11. The meeting was no longer quorate.

See Annex B

The Convener returned to the room at 11:16 and made a statement on the personal conduct of members of the Board, which he stated was bordering on disorder. He reminded Commissioners that under item 14 of Standing Orders, the Convener has the discretion to close a meeting.

Commissioner MacLennan received confirmation from the Chief Executive that e-mails from solicitors acting for Mr Kennedy had not been withdrawn.

In answer to a request made at the December Board meeting, the Head of Corporate and Customer Services explained that hard copies of press cuttings which had appeared since the Board meeting of 28 September 2016 were available for Commissioners to peruse. They were being held by the Communications Manager.

5 SHORT TERM WORKING GROUPS UPDATE

There had been no meetings of Short Term Working Groups.

6 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Vice-Convener Macdonald had attended the Complaints Quality Assurance committee meeting and would attend a Hearing in March and a Muirburn event in March.

Commissioner MacLennan attended a meeting of the Audit & Finance committee and will be at the Elections count in Stornoway in March.

Commissioner Dennis attended an interview at St Andrew's house to select the new Chief Executive and will attend a Hearing in March.

Commissioner Campbell attended the Audit & Finance committee, the Complaints Quality Assurance committee meeting, the Cross-party group and a Scottish Land & Estates meeting.

The Convener had attended the Complaints Quality Assurance committee meeting and will be at the Hearing in March, which Commissioner Mathieson will also attend as an Observer.

7 CASEWORK UPDATE

The Deputy Chief Executive presented the paper, explaining that quite a lot had been worked on since this was last considered by the Board. The report shows that the highest incidence of cases in the over 3 month category are Croft Registration cases.

Commissioners discussed suggestions for improving reports and the continuing issue of third party delays which impact on Commission statistics. Head of Regulation confirmed that steps are being taken to prioritise cases over 24 months old. Deputy Chief Executive explained lots of things impact on casework, including turnover of staff, if new staff need to be trained but that there are only a very small percentage of cases outstanding at 24 months and that average turnaround times are not increasing, despite an increase in the number of applications.

8 ENVIRONMENTAL OBLIGATIONS

The Commission solicitor provided the context for this paper, explaining that environmental law does impact on crofting and we need to ensure the Commission is compliant with the law. A lot of croft land is subject to environmental designations and the new Board of Commissioners will need to consider an SEA as part of their deliberations on a Policy Plan.

The Commission discussed interaction with SNH on developments on croft land and the responsibility of the individual applicant to ensure consents are in place. Head of Regulation confirmed that application forms have been revamped to put the onus on the applicant.

It was agreed that a further paper should be brought to the new Board, with advice in advance from SG on the SEA and the Policy Plan and that the Commission solicitor should provide examples of various scenarios to aid the Board discussion.

9 LOCATING JOBS IN THE WESTERN ISLES

The Chief Executive presented the paper, explaining the options outlined, suggesting this was a provisional discussion ahead of the election of the new Board.

Commissioner MacLennan clarified that it was a Board decision to consider this matter and it should be seen in the context of the turnover of staff in recent years. Stornoway has been used as an example but the point was to ask whether it is right for the economic benefit of the Commission to reside in Inverness, when crofting activity is largely located in peripheral areas, which would proportionately benefit more if high value jobs were placed there.

Commissioners accepted there is merit in decentralising where possible but that this has to be balanced by the need to pool resources and achieve value for money.

It was agreed that the Chief Executive would consider the issue further and bring a paper to the new Board in due course.

10 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Chairperson

Commissioner MacLennan introduced the papers, confirming that the audit plans are running to time. He explained that the Commission is still waiting for the internal audit report into Governance and Risk Management and that this, along with the SG Governance Review, is expected soon. In due course, as part of the Annual Report and Management Accounts, the Governance Statement covering the last year will be important.

(b) Approval of draft Minutes

The Board noted the draft Minutes.

(c) Risk Register

The Chair explained that all items marked in green on the Risk Register indicated changes. Item 150 was highlighted as standing at the maximum risk score but the committee was reassured by the confirmation on indemnity from sponsor division. The Chair explained that in light of the legal action then being threatened by the Convener, the Chief Executive had clarified that any legal costs of action against the Commission or Commissioners, would be met by the Crofting Commission. The Chief Executive was thanked for this clarification and the Chair asked that this be highlighted to the new Commissioners, in terms of financial indemnity, given that the Commission has lost its status of having Crown Immunity.

The Commission discussed the 2016 Census and were disappointed that third party errors had caused extra work for staff and confusion to customers. It was confirmed that the costs associated with the errors were being borne by the third party, excluding the staff costs.

(d) Key Performance Indicators

Deputy Chief Executive presented the paper, highlighting items which now had an amber tag and reflecting that the Commission is now starting to achieve some of the Milestones set by the indicators. It was unfortunate that one target now sat at red (delayed FOI responses).

(e) Approval of Crofting Commission 2017/18 budget

The Chief Executive explained details of the budget for 2017/18 and the division between core and pressure funding, further explaining that the real questions were over what the budget will look like for 2018/19. Senior managers are meeting to consider options based on a variety of scenarios.

The Commission approved the budget for 2017/18.

Decision	The Commission approved the budget for 2017/18
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11 COMPLAINTS QUALITY ASSURANCE COMMITTEE UPDATE

(a) Update from Chairperson

Vice-Convener Macdonald took the Commission through the items considered by the Complaints Quality Assurance committee, which met for the last time under the present Board in January.

Since the meeting, the SPSO had concluded their investigation into the 14 Glen case and had not upheld the complaint against the Commission.

The Commission appreciated the efforts made by staff to resolve complaints, noting it was good to see over 20 members of staff come forward to receive training on complaints handling recently.

On lessons learnt, the Commission would feedback to RPID that delays in receiving reports from area offices continue to result in complaints from our customers.

No new Stage 2 complaints for investigation had been received in the present quarter.

The Convener wished to record his thanks to Commissioner Macdonald and Commissioner Campbell for their work on the committee and appreciated the improvements that had been made in this area of business over the last few years.

(b) Approval of draft Minutes from 25 January 2017

The draft Minute was noted by the Board.

12 CORPORATE PLAN

Deputy Chief Executive presented the revised plan, explaining the timing since the last Stakeholder feedback. The Plan will need to go to the Minister with the inclusion of some high level indicators, to be agreed. It will be submitted with the Business Plan. This was agreed.

13 BUSINESS PLAN

This was due to be tabled at the meeting but is still being worked on and will be considered with the revised Corporate Plan. It will be forwarded for discussion at the Board meeting in March.

14 DATE OF NEXT MEETING

29 March 2017 – Great Glen House

The Chief Executive explained the format for the final meeting of the Board will be different because the elections to the new Board take place on 17 March. New members will therefore be invited to join the current Board members on the day. There will be a limited amount of business, which they will observe, followed by informal discussions.

15 ANY URGENT BUSINESS

- **Deemed crofts**

Commissioner Sinclair had requested this item was brought back for further discussion. However, other members of the Board and officers thought it had been dealt with in September. The Chief Executive would therefore clarify the points Commissioner Sinclair wished to raise.

- **Crofting Roadshows**

This had also been requested by Commissioner Sinclair. Updates had been given from each area where a Roadshow took place and the Communications Manager had pulled together an Evaluation report, which she would forward to Commissioners. She would speak to the officer who accompanied Commissioner Sinclair to the Roadshow in Shetland, to see if the Evaluation covered the issues raised by the Commissioner.

- **Grazings Census**

The Grazings Census is ready for committees to complete. The Commission confirmed this should go live before the end of March.

Decision	The Board agreed that Grazings committees should be alerted that the Grazings Census is now ready for completion
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The Board broke for lunch and Commissioner Scott offered his apologies for the rest of the meeting.

16 EXCLUSION OF PRESS AND PUBLIC

The Chief Executive alerted the Commission to the publication of the Scottish Government's Governance Review of the Commission, which would be made public on 10 February.

The Convener then closed the meeting, wishing the new Board every success in their term and thanked everyone for all their efforts over the last 5 years.

Contemporaneous Explanatory Note – Annex A (see Item 3)

The Chief Executive confirmed that the emails referred to had not been withdrawn but concluded they did not raise a particular threat against Commissioners. He confirmed he had written to ask for the emails to be withdrawn. Commissioner Campbell's concern centred on his ability to take part in the meeting in a fair, open and equitable way if Mr Kennedy was also taking part and had not instructed his solicitor to withdraw the threat of legal action.

The advice of the Standards Officer was that the Commissioner may wish to consider his position when the meeting reached item 16(b) on the Agenda, if there was any debate on the item.

Commissioner MacLennan also wished to record his concern regarding the emails received from Mr Kennedy's solicitor on 7 and 13 December, as a material fact. The Chief Executive confirmed that Commissioners were not made aware that the emails had been received until 16 December. Commissioner MacLennan felt there may be a potential conflict if the Convener is present for item 10 on the Agenda, as well as item 16 (b).

The Chief Executive confirmed that the emails referred to the Board meeting of 28 September.

Mr Jackson gave an assurance regarding the indemnity which would cover Board members in the case of legal action in these circumstances. Commissioners reflected that these are complex issues but agreed they felt a duty to carry on and take part in the meeting.

Contemporaneous Explanatory Note – Annex B

In the absence of the Convener, who had declared an interest and left the room, Commissioners discussed page 2 of the Minute of December 2016 and concerns regarding whether or not there was a legal threat against the Board.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 29 MARCH 2017

Present:	Cyril Annal	Commissioner
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Rod Mackenzie	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of C&CS, Minute-taker
	Gordon Jackson	Scottish Government
	Public- 6 + press	

1 APOLOGIES AND WELCOME FROM CHIEF EXECUTIVE

There were no apologies.

The Chief Executive welcomed everyone to the first meeting of the full Board, following elections on 17 March 2017. He looked forward to working with all members and getting to know everyone. He explained that this would be a busy period, with learning on both sides and that a programme of support had been put in place to assist Commissioners in their new roles.

The selection of a Convener is being considered by Scottish Ministers so in the meantime, the CEO will act as Chair at Board meetings.

2 DECLARATION OF INTERESTS

The Standards Officer explained that Declaration of Interests appears as a Standing Item at the beginning of all Board meetings and that Commissioners, having considered the Agenda for the meeting and any papers, should state at this point if they are aware they have an interest in any items to be discussed. They should state, "I declare an interest" and provide the Standards Officer with enough information to record the interest in the Minute.

In answer to a statement from a Commissioner, the Standards Officer confirmed that anyone present could declare an interest at any point during the meeting, as soon as they become aware they may have an interest in an issue being discussed. Whether this meant the individual must then leave the room would depend on the circumstances.

Interests in items covered under Exclusion of press and public should be declared when the meeting went into private session.

3 APPROVAL OF DRAFT BOARD MINUTE OF 8 FEBRUARY 2017

Three members of the current Board had attended the meeting on 8 February. The Minute of the Meeting of 8 February 2017 was approved with no amendments.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Chief Executive explained that substantive papers on items 8 and 9 of the Minute would be brought to the Board later this year.

5 ADVANCED PAPERS FOR APPROVAL (a) & (b) Delegated Decision-making

Head of Regulation explained that in certain circumstances issues are discussed in 'Policy in Development' meetings. This allows officers and Commissioners to have a discussion, often on a policy issue and agree a way forward. Any papers arising from such meetings, where the issue has been agreed, will then be e-mailed to Commissioners prior to the next Board meeting and will be formally ratified in public at the Board meeting. This saves Commissioners having to go over issues they have already discussed and reached agreement on.

Head of Regulation explained the content of the papers on Delegated decision-making and confirmed that a substantive paper will be prepared for Commissioners to consider in May, looking at whether the system of delegated decision-making should be taken further.

Commissioners approved the recommendations in paper (a) and (b).

Decision	Commission approved parameters for dealing with applications on section 50B cases and agreed extending the list of functions under delegation.
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6 BUSINESS PLAN

Deputy Chief Executive took Commissioners through the draft Business Plan, explaining that a final version would come to them for the Board meeting in May. In order to review how the KPIs are calculated, feedback from Commissioners was requested on the proposed targets. The KPIs on regulatory casework, for instance, do not necessarily reflect the complexity of the situation, especially where there are delays outside the control of the Commission. In order to make this more visible, a 'stop the clock' feature was mentioned, which could address some of the difficulties associated with first Registration.

The Chief Executive reflected that there are a number of plans for Commissioners to become familiar with, including the Business Plan, which is linked to the Corporate Plan and the Policy Plan, which has a different function. The former two are more closely linked with the daily operational work of staff in the Commission, while the latter will articulate the Commission position as approved by the Board on a number of policy issues.

7 AUDIT & FINANCE COMMITTEE MEMBERSHIP AND MEETING DATES

Deputy Chief Executive explained that this is the only statutory committee of the Commission. It oversees financial performance and information, contact with internal and external auditors, budgets, the organisation's Risk Register and a number of governance functions.

One anomaly of the legislation is that it stipulates the Convener of the Commission must Chair the committee but this goes against good practice guidelines and Scottish Government have approved a situation where the Convener sends a standing apology to committee meetings, thereby delegating the Chair.

Therefore three Commissioners are needed to join the committee and attend the quarterly meetings, which are also attended by representatives from the internal and external auditors and relevant members of staff.

Malcolm Mathieson, David Campbell and Rod Mackenzie were nominated by fellow Commissioners and accepted, with Commissioner Mathieson agreeing to act as Chair. Deputy Chief Executive would liaise with Commissioners and the Finance Manager to agree dates for the quarterly meetings and arrange for the first meeting to be held in April.

Decision	Malcolm Mathieson, Rod Mackenzie and David Campbell agreed to join the Audit & Finance committee, with Mr Mathieson as Chair.
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8 CONFIRM BOARD MEETING DATES

Board meeting dates had been agreed for 2017 by the previous Commissioners but now required to be confirmed to ensure they were suitable for the majority of the new Commissioners.

Commissioner Scott gave his apologies for 4 May, which will be a training day.

The following dates were confirmed:

- 27 April – Induction Training
- 3 May – Board meeting
- 4 May – training
- 21 June – Board Strategy day
- 22 June – training
- 16 August – Board meeting
- 20 September – Strategy day
- 1 November – Board meeting
- 13 December – Strategy.

It was explained that one meeting each year is held outside Inverness and that Commissioners would choose the location for this meeting (which will be held in September) when they meet in May.

The schedule for the first few months includes training to assist Commissioners in their new roles and the whole schedule has been designed to alternate Business meetings with an opportunity to discuss more strategic issues.

9 POLICY PLAN

Head of Policy introduced the paper, explaining that the Board has 6 months to agree a Policy Plan. This must be presented to Scottish Ministers by 18 September 2017.

The General Themes were found on page 27 of the paper and Head of Policy explained that the current version is the third iteration of the plan and that there is an obligation to consult on a new plan with HIE and local authorities where there are crofts.

The Commission agreed that a broader consultation was necessary and that this should be done at the outset, rather than waiting for a draft to be circulated. The timescale was challenging and the Commission wished to see as much engagement as possible with interested groups and individuals. Given the amount of negative press the Commission has suffered over the last year, Commissioners wished to see active positive engagement with crofters and crofting communities.

The Options for producing the plan set out on page 30 were discussed, with the Commission favouring Option 1 and stressing the need to use local media and local networks including the Assessor Network, to encourage engagement on the Plan consultation. It was recognised that the language of the full Plan could be off-putting and that something accessible should be produced. Officers were asked to investigate whether there are any campaigns due to be launched by partner organisations, which the Commission could utilise. It was agreed that there was a need to engage on broad principles but seek out particular issues people may have and also that there is a need to challenge the perception that the Commission is able to act without restriction.

Ultimately, it is for the Commission to take a direction on policy, within the limits imposed by the Act, and this should be reflected in the Plan, with the scope for further individual policies to be adopted in slower time once the Plan has been approved. What legislation will allow and what people want may not always coincide but it was agreed consulting on the Plan would be a useful exercise.

10 CONFIRM GAELIC SPOKESPERSON

The Chief Executive explained that it is a statutory requirement to select a Gaelic Spokesperson for the Commission. Commissioner Maciver agreed to take on this position.

11 DATE OF NEXT MEETING

3 May 2017, Great Glen House

12 AOB

(i) Deputy Chief Executive explained there are a number of stakeholder groups which the Commission is involved with and asked if anyone is interested in attending meetings of any of the following:

- Cross Party Group
- Convention of the Highlands and Islands
- Crofting Stakeholder Group.

Commissioner Neilson currently attends the Cross Party Group and asked if this represents an Interest and whether he could continue to attend. The Commission agreed it was in order for him to continue to attend and this does not represent an interest as the meetings are open to all.

Malcolm Mathieson, Rod Mackenzie and James Scott all expressed an interest in attending the Cross Party Group.

(ii) Head of Regulation explained that it was to be expected that crofters and others would bring issues to the attention of Commissioners, especially locally and this was in order. However, Commissioners should not become involved in individual cases as they may end up being involved in the decision on the case and would be potentially compromised by earlier involvement with the applicant or objector.

If Commissioners are contacted or approached about cases or problems a party/parties is/are experiencing, which should be dealt with by officers, the enquirer should be advised to contact the Commission offices or the Commissioner should pass comments on to the CEO.

If people require help to complete submissions to the Commission they should either seek their own advice or seek help from organisations such as the Citizens Advice Bureau.

13 EXCLUSION OF PRESS AND PUBLIC

Chief Executive then closed the meeting, confirming that a press statement would be issued at the end of the Board meeting and that Commissioners would be joined by several of the previous Commissioners for lunch.