

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 9 MAY 2019

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| 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 |
| | Heather Mack | Head of Operations & Workforce |
| | David Findlay | Commission Solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Jane Thomas | Head of Compliance, Minute-taker |
| | Betty Mackenzie | Communications Manager |

Three officers from HIE joined the meeting at 13:00.

1 APOLOGIES AND WELCOME

Everyone was present. The Convener opened the meeting with a welcome in Gaelic and English and especially welcomed Heather Mack to her first meeting as the new Head of Operations & Workforce.

2 DECLARATION OF INTERESTS

Members were asked to consider whether anything on the Agenda required them to declare an interest. No interests were declared.

3 APPROVAL OF DRAFT BOARD MINUTE OF 21 MARCH 2019

The Minute of the Meeting of 21 March 2019 had been approved by e-mail and published on the website. It was brought to the meeting for information only.

4 MATTERS ARISING FROM PREVIOUS MEETING

The CEO explained that two items mentioned at the previous meeting required papers to be brought to the Board. These are on electoral constituencies and external meetings. Both will be added to the Board Agenda for June.

The Convener told members that the Communications Manager had made up a list of publications to which the Commission would be submitting articles or blogs in the coming months. He asked Commissioners to get in touch if they are able to volunteer to cover any of these.

5 **AUDIT & FINANCE COMMITTEE REPORT**

(a) Update from Malcolm Mathieson

The Vice-Chair of the AFC gave a verbal update on the meeting held on 24 April 2019. A comprehensive range of items had been covered by the committee, including confirmation of Scott-Moncrieff as the Internal Auditors and a committee workplan for the year. Progress against past audit recommendations had been considered and revised and it was agreed that the committee will look at Workforce Planning at their next meeting. Consideration had been given to the Operational Risk Register, particularly any items shown as Amber. Finally, a report from Scott-Moncrieff on the organisation's Business Continuity Plan had been discussed, with the management team now working on the audit recommendations, with a view to renewing the analysis, completing a revised plan and testing it, within the next 18 months.

(b) Draft Minute from 24 April 2019

There were no questions on the draft Minute.

(c) Key Performance Indicators Q4

The AFC report comprised various papers and the majority of Commissioners were viewing the Board papers electronically. They were disappointed not to be using the new software for electronic papers, nor to have had the training on it. Management hoped to arrange training on the use of electronic Board papers before the next Board meeting in June.

The Audit & Finance committee had looked at the KPI report, focusing on those items with an Amber marking. Commissioners wish to see an enhanced RoC online available to the public as soon as possible, to facilitate quicker access to information. They considered the roll-out of this to be taking too long. The CEO apologised for the delay, explaining that there are many information system areas which need to be considered, to ensure the correct balance of priorities matches the resource available.

Commissioners wished to see positive messages communicated to customers, explaining why there may be delays; this being preferable to continued references to backlogs.

There was a concern over a particular Apportionment record, which Head of Regulatory Support will investigate, and the level of staff sickness for the quarter. In answer to the latter, the CEO explained that though short-term sickness absence had increased for the quarter, long term absences had fallen and that, overall, the Commission's figures on absences were running below the Scottish Government average. Commissioners agreed that, despite this, staffing concerns remain a high-risk area.

(d) Complaints Handling Report

There were no questions on the Complaints Handling Report.

(e) Board Evaluation Questionnaire

The committee Vice-Chair explained that the questionnaire was first issued in 2017/18 and now reconsidered, with the CEO providing a comparison report for the Board. Overall, the results were encouraging but there was concern over a number of 'don't knows', for instance on the relationship between the Commission and Sponsor Division. There was also concern that the results may indicate a lack of consensus on the organisation's risk appetite. It was agreed to look at the survey results further at the next Board meeting.

(f) Operational Risk Register

As discussed previously, Commissioners agreed that the risk register highlights the main operational risk to be staffing. It was hard to see, in the current environment, how all risks could be mitigated to such an extent that they could be shown as 'green' and, as a consequence, the Commission may see a rise in the number of complaints in the future.

6 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

The Convener reported that he had attended various meetings in the Commission over the past few weeks and had also attended a very worthwhile meeting of the Cross-Party Group, held in Great Glen House. It was excellent to see staff at this meeting, giving them access to strategic level discussions. The Convener and CEO had also had a good meeting with Kate Forbes MSP, who showed an interest in the work being undertaken on online applications and the Commission's interaction with RoS. Succession planning for the Board had been discussed and it was agreed that the Board should look at options for the involvement of young people at Board meetings. Officers will bring an options paper to the Board for consideration.

Commissioner Maciver reported that he has been answering lots of queries from individual crofters, for instance on applications and this experience was shared by other Commissioners.

Commissioner Campbell had attended an annual seminar organised by Harper Macleod. The theme had been renewables and he had found this very interesting, noting that 72% of UK renewable energy is produced in the Highlands & Islands. Commissioners discussed the wider issue of renewables in the crofting counties.

Commissioner Neilson had attended a Tier 3 meeting in April and been involved in issues relating to a common grazings in Taynuilt. He explained that he would be travelling to Mull soon, as part of a group looking at a drop in lambing percentages on the island.

Commissioner Scott had had contact with several crofters and was quite concerned that there may be a misconception that working with an agent removes any need to interact with the Commission. This will not always be the case, though the agent may understand the system better.

Commissioner Mackenzie had attended an interesting meeting with the NFU in Inverness, which led on to a discussion about certain crofts on Skye. She had also attended a meeting in Skye organised by RoS, which unfortunately attracted no members of the public, given the time of year.

The meeting then went into Closed Session at 10:05am for discussion of item 14(e).

The meeting then returned to the public session.

7 CROFTING BILL TEAM PROPOSALS AND JOINT TENANCIES OF CROFTS

The Commission solicitor introduced the paper, explaining that this was an opportunity to explore the issue of joint tenancies, as well as Phase One of the Bill and the potential impact of the proposed changes on the work of the Commission. The key background to the issue of joint tenancies comes from a Women in Agriculture report, which considered whether there is discrimination against women in the agricultural sector. This led to a view that not allowing joint tenancies could have a discriminatory effect and the Scottish Government wishing to address this by allowing joint tenancies and for this to be included in Phase One of the new Act.

The Commission discussed some of the practical challenges that could arise from this change, including the danger that it could ultimately lead to the fragmentation of the crofting system. Possible solutions, such as joint tenants forming partnerships (with the partnership then being identified as the tenant) were discussed. It was agreed that Commissioners would be provided with a report aiming to show the difference in numbers between male and female tenants currently on the RoC.

Commissioners appreciated the aim of the change to allow joint tenancies and felt the change could be welcomed by couples aspiring to become crofters but there was concern that the many complexities that would arise as a result of the change needed to be thought through, before a change in the law took place. It was therefore agreed to write to the Scottish Government, and the CEO would speak to Sponsor Division, to explain that it would be difficult to complete the thinking on this issue if it was included in Phase One of the Bill. In the letter, the Commission would include a range of suggestions, such as limiting joint tenancies to two people. It was agreed there needs to be a thorough review of the implications of the change on other parts of the Crofting Act and there is too little time to achieve this, if joint tenancies are included in Phase One.

Commissioners also discussed the complexities surrounding deemed crofts, again agreeing in principle with the Government aim of preventing the creation of new deemed crofts but concluding that more thinking is required to work through the complexities that arise. As with joint tenancies, the Commission will write to the Scottish Government to suggest deemed crofts should be included in Phase Two of the Bill, rather than Phase One.

The Commission solicitor will draft a letter and circulate it to Board members by the end of the month and the CEO will speak to sponsor.

8 CEO MEETINGS

There was nothing to report under this item.

9 BUSINESS PLAN 2019/20

The CEO introduced the latest iteration of the plan, explaining that Commissioners had discussed the draft in some depth at the March Board meeting. He explained that the missing information covering the end of the previous year has now been added to the draft and the forward-facing element of the plan augmented with more details of the range of targets and milestones. Text has also been added to make it clear that 2020/21 will see a big push for improvements to operational performance, such as turnaround times.

Commissioners approved the plan, subject to final editing by officials.

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| Decision | Commission approved the 2019/20 Business Plan |
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10 UPDATED COMMS STRATEGY

The CEO highlighted the current priorities set out in the strategy for 2019 and explained that the document provides a way of understanding what the Communications Manager is covering, day-to-day. Following a recommendation by the auditors, the stakeholder mapping had been updated. Commissioners wished to see various additions to this, including SNH, SRUC, RSPB, Forestry Commission and other advisory bodies.

The CEO confirmed that a new suite of videos had been produced and initial versions would be ready to view in the near future. They will run for a maximum of three minutes.

Commissioners returned to the question of writing articles or blogs to appear in local/regional publications, with the CEO hoping one of the Assessors could prepare something. He will discuss further with Commissioners what the key messages are that we wish to promote.

11 STRATEGIC RISK REGISTER

It was agreed to circulate the register and invite comments from Commissioners by e-mail.

12 DATE OF NEXT MEETING

The next Board meeting will take place on 27 June in Great Glen House. It will be followed by a training day for Commissioners with David Nicholl on 28 June. Commissioner Mathieson asked for his apologies to be noted.

13 ANY URGENT BUSINESS

There was no urgent business brought to the meeting.

14 EXCLUSION OF PRESS AND PUBLIC

The meeting then broke for lunch, with Commissioners and staff being joined by three officers from HIE. The meeting resumed at 13:35pm.

15 HIE – JOINT PAPER

The Convener thanked Ms Buxton, Mr Cowan and Mr Ross for coming along and closed the meeting at 15:05.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 27 JUNE 2019

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| Present: | Rod Mackenzie | Convener |
| | Andy Holt | Commissioner |
| | Mairi Mackenzie | Commissioner |
| | Iain Maciver | Commissioner |
| | James Scott | Commissioner |
| | David Campbell | Commissioner |
| | Billy Neilson | Commissioner |
| | Cyril Annal | Commissioner |
| | Bill Barron | Chief Executive |
| | Aaron Ramsay | Head of Digital and Improvement |
| | David Findlay | Commission Solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Jane Thomas | Head of Compliance, Minute-taker |
| | Heather Mack | Head of Operations & Workforce |
| | John Kerr | Head of Agriculture Policy Division SG |
| | Michael Nugent | Senior Crofting Policy Advisor SG |
| | Aileen Rore | Crofting Policy Advisor SG |
| | Neil Davidson | Rural & Environmental Science & Analytical Services SG |
| | Michael O'Neill (by telephone link at 11:50) | Crofting Bill Team Leader SG |

1 APOLOGIES AND WELCOME

The Convener welcomed everyone and opened the Board meeting in Gaelic and English. A particular welcome was given to colleagues from Scottish Government (SG) attending the meeting.

Apologies were received from Malcolm Mathieson.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting.

3 APPROVAL OF DRAFT BOARD MINUTE OF 9 MAY 2019

The Minute of the Meeting of 9 May 2019 had been approved by e-mail and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

There were several matters arising from the last meeting:

- The CEO referenced item 6 from the May Board Minute, regarding an Options Paper on involving young people in the work of the Board. Commissioners were satisfied that this could be dealt with by e-mail, rather than a paper coming back to a meeting.
- Head of Digital and Improvement apologised for the delay in rolling out the software for digital Board papers and went through various options to address the matter, explaining that hardware needs to be installed directly and this takes just a little time. Commissioners agreed to make time for this to be done.
- CEO and Convener confirmed there has been no further contact with HIE following the May Board, except for the Commission solicitor meeting with HIE’s counterpart to discuss a single issue. After discussion, it was agreed that the meeting with HIE had been useful, in that it clarified that that organisation’s priorities are not necessarily an easy match for crofting enterprises.
- CEO explained that a letter to SG on joint tenancies had been sent, as referenced in the Minute. He had been asked by NFUS to share the letter with them. The Commission agreed to make the letter public by putting it on the website.
- CEO apologised that the action on Blogs was outstanding and the Strategic Risk Register had still to be e-mailed to Commissioners. As some of the day’s discussion may be relevant to the latter, the register would be e-mailed after today’s meeting.

5 DELEGATED DECISION-MAKING – AMENDMENTS TO PARAMETERS FOR DIVISION AND DECROFTING (REASONABLE PURPOSE) APPLICATIONS

Head of Regulatory Support introduced the paper, which was in two sections, explaining the reasoning behind it.

The aim of section 1 was to minimise the level of subjective judgement required by officers. The Commission discussed the rationale behind terms such as sustainability and how this differs from viability. The suggestions in section 1 of the paper were seen as a streamlining of the process, to act as a sieve. Commissioners agreed that flexibility is needed in any policy on Division because of the variety of different circumstances that may pertain in individual cases.

The recommendation was agreed.

On section 2 of the paper, Head of Regulatory Support reflected that the Commission had discussed demand previously, agreeing that it can be relevant but also hard to measure, given that the asset may not ‘exist’ at the time evidence of demand is sought.

It was agreed that cases could expose a variety of complex issues and therefore the parameters would not be changed at this point.

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| Decision | <i>The Commission accept the changes to parameters for Division of a tenanted croft and Division of an owner-occupied croft, as set out in section 1 of the paper.</i> |
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6 ROUND THE TABLE UPDATES FROM COMMISSIONERS

As this was the first Board meeting he had attended, the Convener asked the new Head of Digital and Improvement, Aaron Ramsay, to introduce himself to Commissioners. Mr Ramsay is looking forward to bringing his experience of performance management and improvement to his new role.

Commissioner Holt had visited one of the Shetland Assessors recently, spending a very interesting day in north Unst.

Commissioner Campbell had attended Tier 3 casework meetings and wished to record that the process is working well, and the standard of papers is excellent. As the information they contain is so comprehensive, Commissioners rarely need to ask for further information, making this an efficient process. He had been doing work in quite a remote rural crofting community, which represented the crofting system working well, with a diverse range of activities being undertaken and people living and working in the community.

Commissioner Annal asked if it was possible to see statistics on finance in crofting. The CEO explained this would partly be covered in the presentation after lunch.

Commissioner Neilson had made visits to around 40 different units recently, in his Farm Assurance role. From this, it was clear how much investment on the croft is dependent on external funding. He reported that people often approach him if they have difficulties with form-filling, which should be kept in mind when considering any changes to application forms, as some people find it hard to complete forms online. He had attended the Cross-Party group in June, which had been interesting.

Commissioner Maciver reported that he is also regularly approached by crofters seeking basic help and advice. He had taken part in Tier 3 meetings, which he felt were a very interesting aspect of the work of a Commissioner. He had attended a crofting book launch and hoped crofters and estate offices would find the new publication useful.

Commissioner Mackenzie had attended a Tier 3 meeting and had been to Skye with the Convener to meet a group of international journalists. She had also attended the Highland Show and met the SG Policy team there. From the SCF tent, she had reports of difficulties getting through to the Commission by phone, with the organisation saying they are now documenting the number of complaints they receive on this issue. It was also reported that Voicemail messages are out of date in some instances. Head of Operations & Workforce said she would look into this and remind staff to keep messages up to date. However, Commissioners wanted to note that the general feedback from customers and stakeholders, such as the SCF, is that when they do get through to an officer, the service they receive is excellent.

Commissioner Scott wondered if there was merit in looking at shared services to help overcome the switchboard difficulties. He agreed with previous statements about the quality of the Tier 3 process and papers and compared this to the Board paper organisation, which he found poor.

The Convener had spent a day in the office, answering phones and found the queries covered a variety of issues. He aims to do this again. He found the meeting with foreign journalists revealing, in terms of the perception of crofting by people from outside the region.

7 COMMISSIONER ELECTORAL AREAS

Head of Policy introduced the paper, explaining the background to the consultation undertaken by SG previously. Although Option 2 had been favoured by most respondents, SG decided not to adopt this, due to a variety of factors, including the low response rate. However, the current situation exposes difficulties, in terms of democratic accountability, given the geographic concentration of crofting communities in certain areas. In this context, the Island (Scotland) Act is relevant. The Commission considered what the rationale was for moving to a system of elected Commissioners, discussing the relevance of the Shucksmith report's proposals on Area Boards and the resultant consultation, which did not support using Boards to replace the Commission, leading to the creation of the new Commission with six elected members and a continuing panel of Assessors.

The paper reflected the movement to an environment in which Assessors have been removed from a decision-making role (but given a new direction) and proposed several options aimed at recognising local distinctiveness and encouraging greater engagement at a local level.

Commissioners welcomed the paper and discussed the options for the future, as well as current issues which arise because of the electoral area split, agreeing that a new infrastructure would be needed to support any radical departure from the present situation.

Commissioners agreed that the questions raised in the paper require an in-depth discussion by the Board and that an agreed view should then be relayed to SG. John Kerr requested that the discussion should include a cost benefit analysis of options, so that the government is presented with a clear argument on the benefits and value of the option preferred by the Commission. It was agreed to bring the item back to the Board for a substantive discussion.

8 EXTERNAL MEETINGS

It was agreed to push this item forward to the August Board meeting, to allow for feedback from participation in the various Agricultural shows the Commission will be attending over the summer.

9 SELF-ASSESSMENT QUESTIONNAIRE

CEO referred to the number of 'don't know' responses in the returns from Commissioners and asked that this be picked up as part of the training day on 28 June, with David Nicholl. This was agreed.

10 DEEMED CROFTS

Michael O'Neill from the Bill Team joined the meeting by telephone for this item.

Commission Solicitor explained that a substantive paper on this topic would come to the Board meeting in August and a short update be provided in the meantime. This was given by Mr O'Neill on behalf of the Bill Team.

He explained some of the criticisms of deemed crofts and the strong views held by some on the negative impact caused to townships. The Bill Team therefore wish to do something to reduce the difficulties. As well as looking at the Crofting Register and the Right to Buy, there is a hope that some issues could be managed via administrative changes (rather than legislation).

The Commission commented on the need to get across the concept that there is a Right, rather than the deemed croft necessarily being a physical entity. The terminology was therefore creating part of the difficulty. Mr O'Neill agreed there is a strong case for doing something on the terminology now, if that is possible.

Mr O'Neill left the meeting at 12:10pm. The Convener then moved to item 12, as the discussion on item 11 would take place after lunch.

12 DATE OF NEXT MEETING

19 August 2019 in Great Glen House.

13 AOB

There was no urgent business to discuss.

14 EXCLUSION OF PRESS AND PUBLIC

The meeting then went into private session to discuss items 14(b) and 14(c) on the agenda.

The solicitor then returned to the room.

The Commission agreed that, as the court hearing on the section 50(B) cases on Lewis had been held in public, the item at 14(b)(i) on the agenda should also be held in public. The legal update was of a general nature, summarising what had taken place in open court. Therefore, it was agreed that it was in order for Commissioner Maciver, who has previously declared an interest in 50B case on Lewis, to remain in the room. It was stressed that no Decisions were to be taken by the Commission at the meeting.

The Convener therefore took the next item in public session.

PUBLIC SESSION

14 (b)(i) Legal Update on 50B cases from Lewis

The Commission Solicitor gave a general update explaining that Senior Counsel for the Appellants held that the applications had to be determined with reference to Section 58(A)(7). The Commission solicitor had asked the Court to consider what parliament had intended, with reference to Section 50B(2). The Appellants argued that the Commission should not have considered late objections, but the Commission held that it is entitled to do so on the merits of the case because the proposed use applied for must not be detrimental to the landlords' interest. The SLC will now consider the case and make a Ruling in about a month.

The Commission wished to record its thanks to the solicitor for all of his hard work on this case. The public session was then closed, and the meeting reverted to a Closed Session.

PRIVATE SESSION

The meeting then broke for lunch, resuming at 13:40 in public session.

PUBLIC SESSION

11 FINDINGS ON THE SG SURVEY OF ECONOMIC CONDITIONS OF CROFTING AND THE COMMISSION CROFTING CENSUS SURVEY

Neil Davidson presented a summary of the findings from the SG survey, which had yielded around 900 responses from a mail-out to 4000 crofters. The results of the Commission's survey which was sent out with the 2018 Crofting Census were tabled. It was explained that IPSOS MORI had conducted the SG survey on behalf of the government. It was encouraging to see a very high return rate of the Commission survey sent out with the census.

The results of both surveys were discussed. It was interesting to note that around 40% of the respondents to the Commission survey report that they are engaged in conservation activity and less encouraging to note that in both surveys 50% of crofters have no Succession plans in place for the croft.

Mr Davidson highlighted two key conclusions from the SG survey; the continuing gradual diversification of crofting activities, and the greater polarisation in terms of economic return, with some crofters generating much more but more crofters making little or no profit from their crofting activities.

It was suggested that the Commission continue to issue a survey with the crofting census, perhaps once every 2 years, as a way to track trends and agreed that SG would consult with the Commission before compiling the questions for the next economic survey, to avoid duplication and maximise the usefulness of data. It was agreed that the NFUS would be included as a possible source of advice in the next Commission survey.

Commissioners felt that responses from tenants and owner-occupier crofters could be quite different, so it would be worth bearing this in mind when framing the next SG survey.

Commissioners made the point that they welcomed the variety of Task Groups set up over time by the government but would also welcome an opportunity to contribute to those relevant to crofting areas. SG colleagues agreed to take this point back.

It was agreed that both surveys provide useful information for the Bill team and for discussions on future support mechanisms and SG colleagues confirmed the government is looking at a new Agricultural Bill, called the Rural Financial Support Bill.

The meeting then went back into private session for the final item on the agenda.

PRIVATE SESSION

The Convener thanked everyone for their contribution and closed the meeting at 3.25pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 19 AUGUST 2019

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|----------|-------------------|-------------------------------------|
| Present: | Cyril Annal | Commissioner |
| | Andy Holt | Commissioner |
| | Mairi Mackenzie | Commissioner |
| | Malcolm Mathieson | Commissioner |
| | Iain Maciver | Commissioner |
| | David Campbell | Commissioner |
| | Billy Neilson | Commissioner |
| | Rod Mackenzie | Convener |
| | Bill Barron | Chief Executive |
| | Mary Ross | Crofting Regulatory Support Manager |
| | Aaron Ramsay | Head of Digital & Improvement |
| | David Findlay | Commission solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Jane Thomas | Head of Compliance, Minute-taker |
| | Betty Mackenzie | Communications Manager |

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the Board meeting, giving a welcome in Gaelic and English.

Apologies were noted from Heather Mack, Head of Operations and Workforce and from James Scott. The Commission wished to convey its condolences to Mr Scott.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting. Mr Scott had forwarded information on an interest to the Convener. The Standards Officer confirmed this would be added to Mr Scott's Registered Interests.

3 APPROVAL OF DRAFT BOARD MINUTE OF 27 JUNE 2019

The Minute of the Meeting of 27 June 2019 had been approved by e-mail and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Neilson requested an update on the situation regarding joint tenancies and deemed crofts, in relation to new legislation. Deemed crofts was on the agenda for discussion and the CEO advised there would be a meeting with the Bill Team on 29 August, following which there would be a report back to the Board.

Head of Policy explained that, further to the discussion on electoral boundaries at an earlier Board meeting, Scottish Government have requested early feedback from the Commission. He will be contacting Commissioners shortly on this before writing back to SG.

5 E-MAIL PAPER FOR APPROVAL: GAELIC LANGUAGE PLAN

Head of Compliance explained the GLP Commitments are reviewed annually by the Board, ahead of an annual Review by Bòrd na Gàidhlig, which must be submitted in September. Next year will see the third iteration of the Commission's GLP and it is hoped that a draft will come to the Board for consideration in November.

The paper had been e-mailed to Commissioners. No negative comments had been received and the Board was asked to formally ratify approval of the paper.

The paper was approved.

Commissioners did, however, raise a query over the practical implications of the requirement for the Board to have at least one Gaelic-speaking Commissioner, asking what the position would be if either no Gaelic speaker was elected or the Gaelic speaker on the Board resigned. CEO confirmed he would raise this issue with Sponsor Division.

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| Decision | <i>The Board approved annual review of Gaelic Language Plan.</i> |
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6 ANNUAL REPORT & ACCOUNTS

Vice Chair of the Audit & Finance Committee introduced the item, explaining that the committee had considered the report at their August meeting and found it to be comprehensive and informative. He wished to pass on thanks to the Finance Manager and Communications Manager for the quality of the report and for all the hard work that had gone into producing it.

Commissioners approved the report and it was formally signed off.

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| Decision | <i>The Board approved the Annual Report for 2018/19.</i> |
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7 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson explained the committee had considered the management accounts, which were very well presented. The results show a likely overspend, due to budget cuts and extra costs, such as pensions, staff pay increases and an unexpected rise in costs paid to SNH, as the building factors. Due to a considerable increase in the number of applications received, there has also been a knock-on effect, increasing statutory advertising costs. Commissioners discussed the implications of this funding environment, going forward and were particularly concerned about the rise in building costs. The CEO explained this was being looked into and would be followed up.

The budget is very tight, with limited opportunities for adjustments in non-staff costs. Commissioners were concerned that if operational costs fluctuate, this may affect performance. Commissioners agreed there was a need to think innovatively about solutions and that the key to this in the longer term was good workforce planning and succession planning, as the service provided by the Commission relies on the knowledge of specialist staff. With this in mind, Commissioners want to see a detailed Succession Plan.

CEO reported that work with the Improvement Project team from SG has begun. Commissioners wished to see the Terms of Reference for this work.

Commissioner Mathieson also gave an update on the Scott-Moncrieff internal audit report, which had not raised any major issues, but which included several items that have been outstanding for some time, and which the committee wished to see discharged.

(b) Key Performance Indicators

Nothing critical was reported on the KPI's, though several items were standing at Amber and would be monitored.

(c) External Auditors Report

Commissioner Mathieson explained this was the first external audit report following an expansion in the scope of such reports, on the instructions of Audit Scotland. It looked at much more than purely financial governance and he advised Commissioners to read the report with the associated management comments.

In particular, attention was drawn to the need for a Medium-Term Financial Plan, along with the Workforce and Succession plans. The Auditor recommends that the Finance role is more closely involved in the SMT. The CEO would consider what practical changes could be made to present arrangements.

(d) Report on Annual AFC Activity 2018/19

The Commission considered the report and were happy to approve the record of the committee's activities for the year.

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| Decision | <i>The Board approved the Report on Annual Activity of the Audit & Finance Committee.</i> |
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8 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

The Convener began the update. He has had regular meetings with the CEO and attended an interesting meeting with the Short-term lets working group. It was encouraging to see the Commission involved in this consultation. The Convener also attended several shows, feeling that this brings the Commission closer to its customers in a positive way. In order to plan for the future, he requested input from staff and Commissioners on the shows attended. It was agreed that this would be discussed at the next Board meeting, with comments to be forwarded to the Communications Manager.

The Convener reported that he had enjoyed an informal meeting with the Cabinet Secretary at the Black Isle Show.

Commissioner Neilson had visited around 100 units recently, in his QMS role. This generates lots of questions from crofters, which he finds staff are often able to help with. He too had visited shows and thanked the staff who had attended. He had been part of a Citizen's Panel on land use, organised by SG in March, for which the report had just been published. It had been an interesting experience.

Commissioner Mackenzie had been to the Skye show and talked to a lot of people. She had also been involved in a very productive meeting with an estate on Skye with staff, with a view to having three long-term vacant crofts occupied and used.

Commissioner Campbell had visited various shows and the Lairg sale. He commented on the tendency for the media to inflate the scale of some sales and hoped there could be more realism, as livestock sales tell a story. It is encouraging to see prices going up and good quality produce needs to be highlighted, as well as the impact that crofting has on population retention in remote areas. In relation to this, he would like to see closer links between the Highland Council and the Commission, as budgets follow people and there is a concern that HC may be too Inverness-centric.

Commissioner Mathieson had been to the Appin show and would be at the Lochaber show at the weekend. He too had found the meeting with the short-term lets group interesting.

Commissioner Maciver had continued to receive many requests locally for guidance on crofting issues. People are often asking about succession planning. He had attended shows and was keen to have the views of staff as to the benefits of their attendance.

Commissioner Holt had written an article for the Commission and attended the Cunningburgh show.

Commissioner Annal had attended the County show and spoken to several crofters there.

9 CYBER RESILIENCE

This paper was introduced by Head of Digital & Improvement, who explained the Commission had gained Cyber Essentials accreditation last year, what this entailed and the approach to gaining Cyber Essentials Plus accreditation in 2020/21.

He explained the role of the National Cyber Security Centre and how the Commission is engaging with the work being brought forward there.

He also gave an update on the introduction of InTune, which makes our operating environment safer. As there are a few devices which have not yet been updated, he urged Commissioners to let the IS team have these as soon as possible so the environment for using remote devices is as safe as possible.

Commissioners thanked Head of Digital & Improvement for the update and agreed they are happy with the approach being taken on gaining the next level of cyber security accreditation.

10 STRATEGIC RISK REGISTER

The paper was introduced by the CEO, who gave some context to the scores against each item. Item 005 represents a real challenge for the Commission and addressing this is a priority. On 003, it was explained that over 600 General Enquiries have been cleared in the last 3 months, as a consequence of developing a new way of handling them. The number of applications received continues to be high. On grazings, at 002, there is good progress to report, with the number of in-office committees rising.

Head of Digital & Improvement reported that for item 003, the Commission is now further ahead than the register records, due to the work on the Improvement Project. Head of Policy was also positive that the pro-active work on grazings, such as providing a template for grazings regulations, was now beginning to bear fruit and he could foresee the risk level continuing to decline.

Commissioners asked whether improvements could be made to the croft registration process, to reduce the burden on Commission staff. A meeting had been held with RoS the previous week and Commissioners would be kept informed of progress. There was concern over staff turnover, with news of two members of staff leaving for promoted posts shortly but there was also recognition of the changed culture of the job market and greater opportunities to work in Inverness now, in posts which would earlier have been based in the central belt.

The Convener confirmed that the Board will see the Strategic Risk Register four times a year.

11 PHASE 2 – INITIAL APPROACH

The paper was introduced by Head of Policy, who provided the context to what the Convener referred to as the start of a journey. He explained that the Commission needs to understand the evolving policy environment and come to an agreement on the major issues for crofting and what could be corrected or improved by legislation or government action.

Head of Policy suggested that the Board and the selected Assessors schedule four Strategy Days over the next 12-months, to consider the issues and build up a clear and comprehensive view to put to government. To begin with, it was agreed to devote the strategy day after the November Board meeting to this issue, with the Assessors to be invited to join the Board's deliberations.

The Convener asked Commissioners to focus on what they thought was most important for 21st century crofting, such as tackling absenteeism and neglect and considerations of community input to decisions. They discussed the many consequences of the Right to Buy legislation, some of which may not have been foreseen at the time and the different experiences of crofting in different areas, agreeing that it is vitally important to work with other agencies to make it attractive and accessible for young people to live and work in crofting areas. It was also recognised that there may be opportunities in the near future, which will make the crofting system more attractive, such as the growing emphasis on environmental sustainability and the desire to reduce food miles.

The Commission agreed to develop a Plan, co-ordinated by the Head of Policy, to present to government, with a positive emphasis on the solutions that crofting can be part of, if integrated with thinking on wider issues, such as transport, to show the relevance of crofting in the 21st century.

12 DEEMED CROFTS

The Commission solicitor explained the background to the paper, which comes to the Board ahead of a meeting with the Bill team on 29 August. He explained that the Annex to the paper had been drafted by a member of the Bill team, looking at various options. The Annex suggests moving away from using the term, 'deemed croft', referring instead to a grazings share. Any such administrative changes would not need to be included in new legislation.

On policy, he explained the damage that could result from separating grazings rights from the croft; problems which have been seen in several concrete examples, such as on Jura.

The Commission agreed that the term 'deemed croft' had no meaning to the majority of crofters, while it is easier to understand a grazing right, held in a grazings share, as a right of use rather than occupancy, though there remain further complexities, such as the distinction between Section 3(4) and Section 3(5) of the Act.

The solicitor thought that the Bill group may decide on administrative changes alone on 29 August, to help reduce the current confusion on the issue. All agreed that the issue seemed too complex to be included in the Phase 1 legislative changes and hopefully this message is now more fully understood, along with the desire of the Commission to see the muddle over the issue sorted out.

Commissioners considered various scenarios, including the question of the difference between crofting duties on the one hand and a share carrying no burdens on the other, which illustrated the number of factors to be clarified before any change in legislation should be carried through. The Scottish Government stance currently supports moves to make people more aware of grazing rights and apportionments, so that they do not walk into situations that create 'deemed crofts' unintentionally. The whole issue is tied in with owner-occupier status and property rights, so should be part of a much wider debate.

13 EXTERNAL MEETINGS

The Convener introduced the item, asking if there was a more worthwhile way to organise engagement than the yearly external Board meeting. The Communications Manager had given her informed opinion, with attendance at shows coming out top for good value, with public surgeries in crofting communities next, followed by public meetings and lastly, the external Board meeting.

Commissioners felt direct engagement with crofting communities is important, and that as a public body, it is something the Commission should continue to do.

After discussion, it was agreed that greater value could be delivered if three external meetings were organised each year, with representation split between Commissioners and staff. It was agreed that these would take the form of a public meeting and a surgery, that there should be 2-3 Commissioners at each, plus a member of senior management and two other members of staff. Assessors would also be invited.

After discussing various areas to visit, the Commission agreed there will be two external meetings arranged for February 2020, with a further one later in the year and that meetings would also be arranged wherever possible on the back of Hearings.

14 DATES FOR 2020 BOARD MEETINGS

Commissioners considered the dates detailed in a paper drawn up by the CEO. With the addition of an extra Strategy day on 15 May 2020, all of the dates in the paper were agreed.

15 DATE OF NEXT MEETING

The next meeting will be held in Argyll on 7/8 October 2019. Itineraries are being developed and will be forwarded to Commissioners shortly.

16 AOB

There was no urgent business.

17 EXCLUSION OF PRESS AND PUBLIC

As there were no questions, the Convener thanked everyone for their contribution and closed the meeting at 3.35pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT THE SPORTS HUB PAVILION, TAYNUILT, ARGYLL ON 8 OCTOBER 2019

| | | |
|----------|------------------------|-------------------------------------|
| Present: | Rod Mackenzie | Convener |
| | Andy Holt | Commissioner |
| | Mairi Mackenzie | Commissioner |
| | Malcolm Mathieson | Commissioner |
| | Iain Maciver | Commissioner |
| | David Campbell | Commissioner |
| | Billy Neilson | Commissioner |
| | Cyril Annal | Commissioner |
| | James Scott | Commissioner |
| | Bill Barron | Chief Executive |
| | Mary Ross | Head of Operations & Workforce |
| | Aaron Ramsay | Head of Digital & Improvement |
| | David Findlay | Commission solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Fiona MacDonald | Compliance Officer and minute taker |
| | BBC Reporter | |
| | Representative | SGRPID |
| | Representative | NFUS |
| | Four members of public | |

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the Board meeting, giving a welcome in Gaelic and English, stating that the meeting was taking place in beautiful surroundings. He also welcomed members of the public, and NFUS and SGRPID representatives to the meeting.

Apologies were noted from Jane Thomas, Head of Compliance.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting.

3 BOARD MINUTE OF 19 AUGUST 2019

The Minute of the Meeting of 19 August 2019 had been approved by email and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioners asked for an update on the Crofting Bill which was an item in the previous minutes.

CEO advised there was a meeting that Solicitor and himself had attended which had a lot of discussion about three key items the Government wanted to put in the Bill. However, a short time after that, there was an announcement by the Cabinet Secretary that because of all the Brexit work forthcoming, there may not be time to do a Bill in this Parliament at all.

Cabinet Secretary is meeting with crofting stakeholders this week in Edinburgh and CEO will be attending to hear about the way ahead.

CEO reported that at the earlier meeting, there had been good quality discussions about joint tenancies, Standard Securities and deemed crofts. on joint tenancies, there had been some support, especially from crofting solicitors, for the Commission's stance that it would present difficulties, and Government had agreed to take it back to rethink this. Also talked about Standard Security proposal where it was quite clear that lenders would not have automatic right to decroft a piece of land. It was suggested that what to offer to lenders was that if it ended up in default and had to be repossessed, it could be reassigned without Commission consent. Those present at the meeting had felt this was an acceptable way out for lenders.

However, Commissioners were not happy to agree to this, arguing that the controls on assignments should be retained even in the case of repossession.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Commissioner Scott attended a workshop on Strategic Transport Review by Jacobs Engineering in Glasgow. This was very environmentally focused. He believed the freight workshop would be more beneficial to the crofting communities. The presentation is available if anyone wishes to see it.

Commissioner Mathieson attended the Lochaber Show and suggested that attendance next year at the Appin Show with a small stand would be beneficial. He had also enjoyed the Commissioners and staff golf tournament.

Commissioner Annal dealt with some crofting complaints. These take time but he had managed to sort them all satisfactorily. Would be good to have a paper explaining the rules for transfer of croft land made available to Solicitors as they are not aware of crofting restrictions surrounding this.

Commissioner Maciver attended the Western Isles Council Crofting JCC. Usual topics i.e. deer, geese, eagles; and also housing. Since last meeting a lot of people outwith estate seeking advice, being redirected to the appropriate office i.e. Crofting Commission, Tìree/Area office. Looking forward to attending meeting with grazings clerks in the hope that out of office committees will be encouraged to return.

Commissioner Campbell has been heavily involved in an SEC project for new power line from Bonar Bridge to near Lairg which crosses croft land. Has been speaking to people who will be affected by this, which in turn leads to talking about crofting matters and he has found it helpful to be out speaking to crofters on the land. Attended the Lairg sale where livestock numbers were lower than the previous year.

Commissioner Mackenzie was in Kinlochbervie on a fact-finding visit for a Tier 3 case. Also attended a meeting of the RSABI who are worried about the Brexit fallout for crofters' and farmers' mental health. An emergency meeting will be put in place to discuss this.

Commissioner Holt dealt with a couple of queries re financial assistance, including a question about registration which was forwarded to the office. Also dealt with a landlord who was very upset about a croft being sold to an absentee, this was also forwarded to the office. Asked to comment on 71 different maps in connection with local development planning. Advised that this would not be possible but made the point that Commission policy is not to allow decrofting of good agricultural land. Attended Agricultural Support Group meeting in Lerwick. Next meeting will be addressed by Steven Thomson on 29 November and although he would like to attend, this clashes with the Board's Strategic meeting.

Commissioner Neilson has travelled round Lochaber, Kilchoan and two or three markets. Interesting visit in Skye for a week. Environmental issues was on the agenda. Had taken notes of problems which he has referred back to office staff to deal with. People asking for opportunities to get crofts. Hoping to attend future Agricultural College meetings.

Convener Mackenzie, along with Commissioners Campbell and Mackenzie, Head of Policy, CEO and Solicitor attended a meeting of the Scottish Land Commission. Crofting Commissioners and staff had a useful discussion with Board members and staff of the Scottish Land Commission on areas of mutual interest to crofting and land reform. This included discussions regarding diversity of land tenure.. Land Commission members will be invited back to a future Crofting Commission Board meeting. Convener Mackenzie had also taken part in the Tier 3 visit to north-west Sutherland. Encouraged by price of sheep at sales in Shetland. SRUC are doing a study on lone working and has been invited to comment on lone working crofters/farmers in connection with mental health with SRUC possibly setting up a help station. Impressed with resilience of crofters/farmers carrying on working, albeit with the uncertainty of Brexit.

6 ENVIRONMENTAL ISSUES

Solicitor introduced the paper stating that it was not an academic paper but more to raise awareness of how certain issues e.g. climate change could impact on crofting. He highlighted the following points:

- It is recommended that the Board uses this as a stepping-stone to liaise with other organisations regarding commissioning further research and to invite Professor Stewart Angus, SNH who does important work connected to coastal ecology in South Uist and its relation to crofting, to come to a future Board meeting to do a presentation.
- Rising sea levels associated with climate change pose a threat, especially in South Uist. North Uist, parts of Benbecula and potentially Tiree are all potentially vulnerable as well. The antiquated drainage system in South Uist is in danger of being inundated with sea water through storms etc and gradual levels rising, which could result in the land being infertile due to increasing salinity. Professor Angus Stewart, for instance, sees crofting as an important way of managing change, particularly through machair management.
- Carbon sinks consisting of peatland/peatbogs in Scotland are nationally important. There is potential opportunity here for crofting to argue it is contributing to the maintenance of vulnerable habitat and also important carbon sinks. It would be useful to have further research regarding this.
- Neglected land can result in certain species increasing in number in an unbalanced way and therefore finding a balance is important. People using the land productively and maintaining grassland ties in with Commission's duties re neglect of land. There was discussion as to whether common grazings that are neglected could be brought back into productive use?

- If crofting can establish the importance of crofting to sustainable land use, as well as delivering all the other benefits (such as population retention and contribution to the rural economy) then the Commission and other stakeholders could more easily argue the case for financial assistance.

Discussion followed by Commissioners agreeing that this was an excellent paper and very thought-provoking and informative. There was discussion as to how the Commission should communicate more clearly the environmental benefits associated with crofting, and how further information and research (with other bodies and organisations) could assist the Commission in making a case for the environmental benefits associated with crofting.

Solicitor to draw up an Action Plan and report back to a future Board meeting. Board will also consider asking relevant experts to present short papers directly to the Board.

7 REVIEW OF STANDING ORDERS

CEO introduced the paper on behalf of Head of Compliance. He advised that Head of Compliance checks all policies annually and has highlighted two changes to the Standing Orders.

The first addition is at No 7: Place of Meetings as follows:

Alternatively, the Commission will hold public meetings in the Crofting Counties, in addition to public Board meetings in Inverness.

Commissioners made the point that there wasn't much difference between the meetings talked about in the previous paragraph, compared to the additional one proposed. It was agreed that Head of Compliance would change the wording to distinguish between the two types of meeting.

The second one is paragraph 18 in connection with how the minutes are processed. The new text says:

A draft copy of the minutes will be circulated to members by email, for comment and suggested amendment. A final version of the minutes will then be circulated to members as the approved minute of the meeting and will be made available to the public on the Crofting Commission's website. A copy of the approved Minute will be available to members at the next Board meeting, for information and reference.

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| Decision | Approval of amendments/additions with Head of Compliance to change the wording to distinguish between the two types of meeting at No 7. |
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8 UPDATE ON IS AND IMPROVEMENT PROGRESS

Head of Digital & Improvement introduced the paper, stating that he would touch briefly on each point:

- 1 Intune – all devices have been rolled out, which is still in learning mode. The goal is not to make it restrictive, so functions such as stopping installation of apps will not be turned on unless it is deemed needed. Once the software has policies enforced full documentation will be issued which will include information on any requirements, such as specific password length etc. Currently the only difference being is that if you don't comply with some basic security essentials you will be informed that you are not complying, for example being asked to set a stronger password.

- 2 Next CIS release – the System Architect has gained promotion in another government body. A plan in place to deliver the next rollout of CIS and support go live, with steps being taken to replace the System Architect. The next version should enter testing in November 19. CIS documentation – testing phase in place first and will be picked up once the new System Architect is in place.
- 7 Building resilience – IS team are working towards putting in place a knowledge repository of everything they do to move away from specialised skills. Exploring employing an external company to manage the servers, firewall and other physical hardware, which will let IS team concentrate on other aspects.
- 3 Online decrofting directions – Head of Digital & Improvement gave a presentation on the model template and is pleased to announce that they are now ready to go online after board approval. He went through the template and showed everyone how to access decrofting directions. After testing, it was found there were some inaccuracies which will be investigated once back in the office before turning the service on. The next big milestone will be apportionments, which will include a lot more manual work.

Commissioners wished to pass on their congratulations to everyone involved in the work.

- 4 Electronic payments – One of other parts of the work is to look at changing the way payment is made for registering crofts. Head of IS presented the different options and it was suggested that Worldpay would be preferred. Financially, the worst case scenario would incur circa £4000 in fees to the Commission, but savings would be made in staff time and also improve the service we offer to the crofter.

The question was asked as to whether we could redirect the processing of payments to RoS but legislation states the Commission has to take payment. Commissioners suggested that RoS should be doing more in the process and that a long term future solution needs to be agreed with RoS.

- 5 Online digital applications – Within IS team, the business analyst has produced a draft paper exploring the different options available to the Commission. Was hoping this would have been implemented by end of year but this is not going to be the case as there are a lot of restrictions and guidelines affecting this. It is looking like 2-3 years to complete this task and will be very costly (£250,000-£400,000 estimate). An interim solution may be possible meantime by taking the paper forms and changing them to smart pdfs, however further planning work is needed around this and it may still cost an estimated £10k-£15k.

Commissioners asked if a private contractor had been consulted. It was advised that the Commission as working with the ARE Digital Transformation Team, who are consultants; contractors have to be sourced specifically tailored to our needs. The expectation is that Scottish Government funding will be available to assist with the costs.

- 6 New Apple update not gone well and the IOS requires some patching before robust. If Commissioners are asked to upgrade to IOS13, they are advised not to go ahead until informed to do so.

New iPads – Business Analyst looked at iPads -v- Windows Option. Commissioners will collectively get the choice but iPads seem the better option. Estimated cost to replace is £7,700; agreement to wait until next financial year for the iPads however keyboards will be purchased now for anyone who wishes one.

- 8 Disposal of old Commission hardware – as stated in paper.

- 9 Performance Improvement Project Update – a working group spent a whole day with ARE’s team where 21 improvements were identified throughout the office. Work ongoing on these improvements now. Additionally, a workshop was run in Inverness which was shared with other local bodies to share the methodology and allow us to run future improvement exercises ourselves.

Commissioners congratulated Head of Digital & Improvement on an excellent paper which was easy to understand and wished congratulations to be passed on to the team.

Meeting adjourned at 1200hrs for Donald Harrison’s presentation, followed by lunch at 1250hrs.

Meeting resumed at 1335hrs.

9 LAND REFORM REPORT UPDATE

Solicitor introduced the paper by saying he had attended the Land Commission Board meeting in Longman House, Inverness. There had been a productive discussion touching on the many difficulties faced on the small scale control of land and participation in land rights. Also how crofting is relevant towards the ongoing work of the Land Commission. Discussion about neglect and the possibility to make this a liability. This would be explored further by the Land Commission.

Commissioners Campbell and Mackenzie stated that many of the Land Commission’s concerns and objectives were similar to the Crofting Commission’s. Many of the problems could be addressed by approaches akin to crofting regulation. It was suggested that neglected land and a reminder of the 1919 Act’s initiative to make land available for use to crofters should be among the items on the agenda for the next joint meeting.

Land Commission will be invited to a future Board meeting to discuss the different issues raised by Commissioners.

10 FUTURE OF CROFTING

Convener asked for reflections from the previous evening’s public meeting.

Commissioners made the point that it would be good to get the views of the public attending the meeting who had been there the previous evening at the public meeting.

The views were as follows:

Assignment of shares – thought shares transferred automatically – it was good to learn this and will pass this information to other crofters.

Good to meet people at the Board and know you can get in touch with any queries.

From a member of the public that wasn’t present at the previous evening meeting – on Future of Crofting Discussion, is it envisaged that it will be fed into the Scottish Government’s thinking about a National Development Plan for Crofting? Although the two pieces of thinking will run concurrently, Convener thought there would be limited overlap between them.

Commissioners raised the point made from the public meeting that land availability was a popular subject and that owner-occupied crofts may not be the best long term solution.

Member of the public asked if the question on the Census form could be changed from 'Do you work your croft' – Yes/No be expanded more for the 'No' answer. CEO advised that Duties team were concentrating on this aspect of the form. Maybe a softer question would be more appropriate e.g. if the answer is 'No', would you be willing to give up your croft to a new entrant? Commissioners suggested that a short preamble at the top of the form to explain duties might be helpful. This would be taken away for consideration but will be too late to be incorporated into this year's census.

Commissioners agreed that environmental benefits have a good connection to activity on crofts. Where environmental actions are connected to keeping livestock, this would make it more attractive for people.

Convener asked the guests attending if there were any more issues they would like progressed.

Member of the public asked that the Commission stop thinking about schemes as it is going to be much more farmer led, with radical changes being put in place on forms. Representative from NFUS stated that SNH are looking at community-based agri-environmental schemes, which is based on some of the work in the islands and is being headed up by Ross Lilley.

Convener thanked the public for their input and for coming along to the meeting today.

11 DATE OF NEXT MEETING

28 November 2019 – Great Glen House

12 ANY URGENT BUSINESS

Commissioners raised the issue of transfer of shares in the common when a croft is transferred and CEO said that a solution is being sought.

The matter of joint tenancies was raised and Solicitor said that the Land Court has indicated they could be receptive to a reference being put to them. Next stage is to contact the Land Court for more detail and find out the costs. Could Government funding be sought? It was thought that it could. Is there scope for another external solicitor (SG)? This would be investigated.

There were no interests declared for the private part of the meeting.

13 EXCLUSION OF PRESS AND PUBLIC

Convener touched on the response by the Cabinet Secretary to his letter in which the Cabinet Secretary praises the early successes of the RALUT. He also read out a part of the response, stating that he would e-mail the Board with a copy on his return.

Head of Policy touched on the point Donald Harrison had made about the funding supplied for grants and Bill Dundas, RPID had stated that CCAGS was under review and asked should the Commission be consulted on this before RPID report to Ministers? It was agreed that this would be brought to the attention of Sponsor Division at their meeting later on in the month.

Minute taker asked that thanks be recorded for Karen Johannesen, who had organised the external Board meeting and this was agreed.

As there were no questions, the Convener thanked everyone for their contribution and closed the meeting at 1520hrs.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 28 NOVEMBER 2019

| | | |
|----------|-------------------|----------------------------------|
| Present: | Cyril Annal | Commissioner |
| | Mairi Mackenzie | Commissioner (by telephone) |
| | Malcolm Mathieson | Commissioner |
| | James Scott | Commissioner |
| | David Campbell | Commissioner |
| | Billy Neilson | Commissioner |
| | Rod Mackenzie | Convener |
| | Iain Maciver | Commissioner |
| | Bill Barron | Chief Executive |
| | Aaron Ramsay | Head of Digital & Improvement |
| | David Findlay | Commission solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Jane Thomas | Head of Compliance, Minute-taker |
| | Mary Ross | Head of Operations & Workforce |
| | Betty Mackenzie | Communications Manager |

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic and English. He explained there were apologies from Commissioner Holt and that Commissioner Mairi Mackenzie could not make the meeting in Great Glen House but would take part via a tele-conference link.

The Convener was pleased that the Minister had formally announced the re-appointment of Commissioners Scott, Campbell and Mathieson. This was good news.

2 DECLARATION OF INTERESTS

No interests were declared in the public part of the meeting.

3 APPROVAL OF BOARD MINUTE OF 8 OCTOBER 2019

The Minute of the Meeting of 8 October 2019 had been approved by email, publicly displayed and was brought to the meeting for information only.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Nielson mentioned the question on the Crofting Census that had come up at the last Board meeting, raised by a member of the public. The CEO confirmed that it was too late to change the census form for this year, but re-wording of questions could be considered in 2020.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Commissioner Scott began the discussion. He had attended a meeting of the Moorland Forum, where the discussion was quite pertinent to the Board's consideration of the Future of Crofting, with work on future food and farming moving on apace.

He had also led an interesting training course with a mix of crofters and non-crofters, where 'the crofting way of life' had come up as a justification for support, concluding that the Board needs to work on getting the message across to crofters that the story needs to be more about public benefits gained for all via crofting. Similarly, a clearer message could go out about local food opportunities, to ensure the focus is targeted in the right direction.

Commissioner Mathieson had attended a meeting attended by NFUS on Mull and raised concerns that one of the messages from this seemed to support an automatic right of owner-occupier crofters to decroft. He hoped this would not become official policy. The Convener suggested that Commissioner Mathieson accompanies him to the next meeting with NFUS.

Commissioner Campbell had attended the Kyle Question Time with Head of Regulatory Support, which had been a good meeting, with maybe 20 crofters present. There general view from all Commissioners is that we need to make the most of opportunities for joint meetings, both in order to spread costs but also to engage with wider audiences. SRUC have a programme of meetings, so the Commission should look at opportunities.

As Commissioner Mackenzie was having trouble following the meeting by speaker phone, Commissioner Campbell wished to raise the issue of the communications infrastructure in Great Glen House. Staff would take this back to SNH.

Commissioner Annal spoke about the financial position of crofters, saying that crofts are disappearing in Orkney because crofting does not pay, and would-be crofters cannot borrow to purchase crofts. He stressed there needs to be a modern way of crofting, which the Convener agreed would be looked at in the strategic meeting on 29 November.

Commissioner Neilson had been involved in discussions on the future of crofting, at a meeting in Mull and looked forward to the following day's discussion. He was keeping busy with QMS visits and wanted to draw attention to feedback from crofters on the excellent work of Lynne Hendry from the Grazings team, who had been out speaking to committees recently. Commissioner Neilson mentioned his and Commissioner Maciver's attendance at a meeting of a Law Society of Scotland subgroup which is examining crofting law reform (together with the Commission solicitor and, for a while, the CEO).

The Convener had attended a Stakeholder Forum in Great Glen House but again the VC links had not worked well. He had attended a COHI meeting at the Town House in Inverness, where population retention had been a key topic. The next meeting will be in Lewis, in March so it will be important to have a high profile for crofting there. He had attended training meetings for grazings committees in Stornoway in conjunction with SRUC, which had been very good and wanted to thank Finlay Beaton and Lynne Hendry for their excellent contribution.

The Convener had also given a presentation at a RoS event and was interested to hear there about challenges also faced by the Land Registry. Finally, he was at a meeting in Uist recently and wanted to draw attention to the continuing disconnect between crofters understanding of the Commission and the reality, concluding that the Commission has to be out in communities to directly address misunderstandings and get the message across.

Commissioner Maciver had attended Tier 3 meetings, and was in Uist with the Convener, where the Commission's lack of resources was noted. A member of the public had expressed concern that the Commission is not adequately resourced to meet demand or expectations. He has given crofters advice on Succession and advice to Grazings Clerks. He also attended 3 of the training meetings for grazings committees, where it was good to have the presence of Grazings Team staff. He wished to pass on the thanks of the clerks to Finlay Beaton and Lynne Hendry.

Commissioner Mackenzie has had several interesting meetings, including one with the area office last week and at Bettyhill with the CEO on Saturday, where muirburn was an issue. She has been aware of some planning issues recently and will attend a rural housing conference in the New Year. Commissioners reflected that feedback from crofters was that a Saturday meeting in winter was popular.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Vice Chair, Commissioner Mathieson gave an update of the committee meeting in October, explaining that several policies had been reviewed and approved. There had been a wide-ranging discussion on the Workforce Plan, which is in draft form. The CEO confirmed this will be worked on further and then go to the AFC, and on to the Board, with more work needing to be done of the Succession Planning element.

The AFC wish to draw the Board's attention to concerns on the future financial pressures on the Commission, for this year and next. SG have given the CEO some comfort regarding the likelihood of a small overspend at the end of this year, especially if related to legal costs, as these are very difficult to predict.

The larger concern is for next year's budget, with any cut being hard to manage, as non-staff costs have already been stripped down, leaving the potential impact of any considerable shortfall to rest on staff costs. The Committee urged the CEO to ensure Sponsor Division were aware of these concerns and the risks.

The CEO explained that SG have an unusual problem at the moment, of not being able to set budgets until after the election. Commissioners agreed the CEO should write again, being clear what we are asking for and what we will deliver.

In response to concerns expressed by Commissioner Campbell, the Head of Digital & Improvement confirmed that the Commission has taken advantage of the SG offer to look at process improvements and work is continuing with ARE. The work is based on LEAN principles. The CEO also explained, with regard to the results of the spring staff survey, that action is being taken to address negative results, in collaboration with the staff engagement group.

(b) Draft Minutes from 23 October 2019

Minutes for information

(c) Revised Risk Management Policy

The Commission approved the revised policy

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| Decision | <i>The Commission approved the revised Risk Management Policy</i> |
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(d) Review of committee Terms of Reference

These were agreed.

(e) Review of Q2 Performance Indicators

No questions

(f) Review of Q2 Complaints Handling Report

No questions

(g) Annual Report on committee activity

Vice Chair explained this had already come to the Board.

7 STRATEGIC RISK REGISTER

Commissioners had hard copies of the register, as well as the electronic version. The CEO introduced the item and invited each of the 'owners' of the risks detailed to give the Board an update.

Head of Regulatory Support explained that staff resources in the Residency & Land Use team are depleted. Work is continuing on crofting census non-compliance, corresponding with people who have self certified on their census forms that they are in breach of one or more of their statutory duties. This is beginning to feed through to possible terminations of tenancies, with 2 cases being considered at the Tier 3 Casework meeting the following week..

On Intestate Succession, work is continuing, to take 25 cases forward, liaising with RPID. Checks are also planned on a sample of non-returners of the census forms, for people who appear from the Register of Crofts to be non-resident and the team will start to write to people before the end of the reporting year..

Commissioners were concerned to hear about the lack of staff resources for this work and want to see this a focus of requests for funding from SG, but also want to investigate the possibility of joint working, with the Land Commission, for instance, to get land back into use.

Head of Regulatory Support explained that the RALU team want to work with Assessors, if a meeting can be arranged in the spring and, as a result of Tier 3 work, 30 cases have been identified for enforcement action; 17 of which are already in the RALU system, with the other 13 being ranked in an order of priority.

On the Grazings risk, Head of Policy explained that the Grazings team is quite stable at the moment, with their earlier work now beginning to bear fruit, allowing them to be more pro-active.

Head of Digital & Improvement explained the emphasis on both wanting to reduce costs and improve services, as demonstrated by the work on online resources for the public. The decroftings are online and work is going well on the Apportionment plans, with more planned improvements for the online applications project. This could represent a large time saving for the Commission but must be planned carefully.

Head of Operations and Workforce explained that turnaround times are still being looked at carefully and was pleased to report that a backlog of General Enquires has been dealt with and is now under control, with work being progressed as it comes in.

Head of Policy reflected that tomorrow's discussion would touch on working with others, such as HIE. Commissioners heard that information is being sourced for HIE, to help them make progress with a large key project and hoped to see this reciprocated.

8 DRAFT GAELIC LANGUAGE PLAN 2020-2025

Head of Compliance & Board Support introduced the item, as the Commission's Gaelic Language Officer, explaining that this is the third iteration of the Commission's GLP, and that it has to be submitted to BnG by September 2020. The draft was being brought to Commissioners at this early point, to give plenty of time for public consultation.

It was confirmed that staff would have an opportunity to comment on the draft, before it goes out to the public and this would be done before Christmas, with the public consultation following in the New Year. The final version of the Plan will then come to the Board for approval in early summer.

There were no questions on the content of the draft.

9 THE CROFTING BILL – WHAT NOW?

The CEO explained that since the last Board meeting, the position had changed, with the Minister confirming that it will not be possible to follow the intended timescale for the introduction of Phase One of the Crofting Bill.

Within the Bill Group discussion, the Commission had communicated to the Minister that it still favoured a Phase One and Two approach if and when time allowed.

Commissioners would have liked more input into the deliberations of the Bill Team but could also see that the extra time was an opportunity for more thinking about crofting law reform before a Bill was introduced.

10 GRAZINGS – DELEGATED DECISION MAKING AND REVISIONS TO STANDARD REGULATION TEMPLATE

Head of Policy introduced the item, explaining it is a technical paper, setting out powers as they currently stand and suggesting revisions. The relevant parts of the Act affecting grazings are Section 47-49, and it is in this context that issues sometimes come to Tier 3 meetings and where some delegation of authority to staff could be beneficial.

Head of Policy explained that this approach would help the Grazings Team in their more pro-active work and also mean less pressure on Tier 3 meetings. There are situations where the legislation and issues such as the Duty to Report have not acted as a stimulus for the creation of grazings committees and having to pay for advertising when a committee is going out of office creates another possible disincentive. Therefore, it is proposed to allow delegated decision making in cases where there are only 2-3 shareholders, so that instead of compelling the committee to advertise, at a cost, the Commission would handle the appointment.

Annex A of the paper sets out the level of delegated decision making suggested and would cut out some time-consuming processes. Commissioners agreed this is a practical route and a sensible approach, focussed on reducing unnecessary burdens on committees. The positive feedback from the exercise with grazings clerks in Lewis has shown the value of pro-active work and should be rolled out to other areas.

The question of getting out of sheep stock clubs was raised, with Head of Policy explaining that was a bigger issue, which merits future consideration but rests with shareholders.

The Commission agreed to adopt the parameters for delegated decision making set out in the paper.

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| Decision | <i>The Commission agreed to adopt the level of delegated decision making on grazings as set out in the paper.</i> |
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11 SHOWS AND EXTERNAL MEETINGS

This item was introduced by the Convener, who stressed that engagement with crofters and crofting communities is of paramount importance. The CEO explained how the paper had been put together, to provide evidence to the Board, on the different types of engagement undertaken in the last year, so that decisions can be taken for the future, explaining that we would all like to do more but there are direct and indirect costs to bear in mind.

The paper asks 5 questions, including whether the external Board meeting represents value for money and, if Shows are to be visited, which should be prioritised for 2020? There is no specific budget allocated to this activity, so a clear steer as early as possible would be helpful.

Commissioners favoured getting out and about as much as possible and want to see more joint events, to help reduce costs. They did not feel it was helpful to compare the cost of external visits with staff costs.

It was agreed that there will be an external Board meeting in 2020, in Lairg, as this area has not been visited before. The feeling was that the Board meeting shows the Commission in action, as befits a public Board.

On Shows, it was agreed to give priority to attendance at the following:

- Sutherland
- Dunvegan
- Black Isle
- Appin
- Lochaber
- North or South Uist
- Westside or Carloway in Lewis

It was agreed that the CEO would take this away, investigate costs and bring it back to the Board and that, when in an area, we should remember to reach out to the relevant area office.

12 DATE OF NEXT MEETING

The next meeting of the Board will take place on 6 February 2020 in Great Glen House.

13 ANY URGENT BUSINESS

Commissioner Campbell wished to bring up concerns he had with the Board papers. He had cleared this item with the CEO prior to the Board meeting taking place, as per Standing Orders.

He questioned whether the papers are being released early enough to Commissioners. The CEO confirmed they should be available around 8 days before the meeting, though there are occasionally glitches, for which he apologised. The number of Board meetings held each year (7) means that the production of papers for them is quite an industry of itself, so perhaps Commissioners would consider a move to fewer Board meetings in 2021.

He explained that currently the software being used to create the electronic version of the Board papers is causing some difficulties and more work than was previously the case when printed papers were produced – the opposite of what had been anticipated when the Commission moved to using electronic copies. He confirmed not everyone uses the digital papers, with some people using an App, some viewing in hard copy and some using a pdf, which is simplest to create. The Convener asked if individual papers could be circulated early, if they were ready. This could be done, though it was pointed out that the CEO has to approve all papers before they are prepared for distribution, and using the example of the current agenda, no papers were approved ahead of schedule.

Head of Digital & Improvement explained that he had recently forwarded a short survey, to look at satisfaction levels with basic functionality of the software and he will explore alternatives, with costs (as the current system has a substantial cost). Commissioners were surprised to hear this, as they had believed moving to digital papers would have negligible costs.

It was agreed that the Head of Digital & Improvement would carry out an evaluation and bring the results back to the next meeting, also bearing in mind, in the pros and cons, that we do not want to create a process which increases the staff resources needed to deliver it. It was also confirmed that anyone standing for appointment or election to the Commission self-certified that they were IT literate, as this was a requirement.

14 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their contributions and closed the meeting at 3:30pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 6 FEBRUARY 2020

| | | |
|----------|--------------------|-------------------------------------|
| Present: | Rod Mackenzie | Convener |
| | Andy Holt | Commissioner |
| | Mairi Mackenzie | Commissioner |
| | Malcolm Mathieson | Commissioner |
| | Iain Maciver | Commissioner |
| | David Campbell | Commissioner |
| | Billy Neilson | Commissioner |
| | Cyril Annal | Commissioner |
| | James Scott | Commissioner |
| | Bill Barron | Chief Executive |
| | Mary Ross | Head of Operations & Workforce |
| | Aaron Ramsay | Head of Digital & Improvement |
| | David Findlay | Commission solicitor |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Jane Thomas | Head of Compliance and minute taker |
| | Betty Mackenzie | Communications Manager |
| | Gerry McGarry | Staff member |
| | Jacqueline MacBean | Staff member |

1 APOLOGIES AND WELCOME

There were no apologies and the Convener welcomes everyone to the meeting, in Gaelic followed by a welcome in English.

2 DECLARATION OF INTERESTS

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

3 BOARD MINUTES OF 28 NOVEMBER 2019

The Minute of the Meeting of 28 November 2019 had been approved by email and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioner Nielson drew attention to part of the Minute (item 13) which stated that Commissioners had “self-certified” that they were IT literate when standing for election to the Commission, believing this to be inaccurate.

It was confirmed that the Scottish Government website states that IT skills are “highly desirable” for anyone taking up an appointment. The Commission agreed this did not necessarily make it a pre-requisite. The Standards Officer agreed to try to locate copies of the skills matrixes completed by Commissioners.

Head of Regulatory Support had an update on an issue discussed at the last Board meeting but, as this had been covered in the closed session, the update was given at item 14.

5 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Prior to the meeting taking place, the Convener had asked Commissioners to use this section of the Board meeting to articulate their personal vision for crofting.

The Convener reflected that the current Board has been together for 3 years now and that it took time at first to become familiar with the operations and functions of the Commission and the role of an NDPB. With 2 years remaining, the time was right for focusing on the future. There are notable challenges for crofting and for the Highlands & Islands, but crofting can be part of the solution.

Rather than a fundamental change, perhaps crofting needs to be rebranded, with an emphasis on what it can deliver on food miles, population retention, climate change and progress towards a carbon neutral future, with sustainably managed crofts and opportunities for small scale renewable energy projects.

Solutions are already there in terms of the impact on biodiversity of extensive livestock systems and opportunities in the form of nature tourism. But as well as positives to promote, there are problems in crofting to tackle, such as misuse and neglect of crofts, which is why duties work is so important. If land is crofting's biggest asset, it needs to be treasured and the Commission should take a lead in promoting its future to Scottish Ministers.

Commissioner Mathieson agreed with everything the Convener had highlighted. He wished to emphasise the problem of unproductive crofts at a time when we should be growing more food and reducing food miles. He pointed out that Scotland produces 167% of its lamb requirements but the cost of exporting lamb will rise, so this will have a negative impact on crofters. By contrast, beef production is much lower and beef from grass-fed cattle is rising in popularity. This represents an opportunity but will be hampered if grass has to be imported. Veganism may be a growing market, but a lot of plant-based food is imported, so there may be a media backlash. Crofting is changing but who is championing crofting? This should be the Commission's role but to do so requires the Board to be bold and make sure its priorities are correct. As an example, Commissioner Mathieson noted that, when staff resources are short, experienced officers are moved from duties work to help in other areas of regulation.

Commissioner Maciver had a positive vision of crofting as a system of active land use, vibrant culture and heritage, with crofting embedded into the heart of rural communities. But he saw that, as a land use system, those actively crofting need a champion and asked if the Commission could be that champion. He asked whether communities have enthusiasm for the future and for crofting and wondered whether it needs to be part of one's DNA to make it work.

Commissioner Nielson emphasised the need to be flexible, not to be too prescriptive or to put crofters into a straitjacket. If a course of action becomes set in stone, it can have negative consequences. A vision evolves and it is often expensive to put right mistakes. He reflected that it was depressing to see the role of the Commission diminish when it lost the Development role and is keen to see this return, so that the organisation can encourage active crofting. The issue of sustainability on crofts is connected to the problem of neglect. In his view, crofters look to the Commission for protection. But to do this the organisation needs to be properly resourced. It needs to be bigger. And he believes the people with a lot of solutions are the Commission staff, so that any future legislation should start with close consultation with the staff. He sees the role of Commissioners as ambassadors connecting with stakeholders, including assessors. On

the ground, there are important skills gaps in crofting communities. This hampers population retention. Small scale agriculture is under pressure, with the cost of food much lower in the UK than in New Zealand, for example. Lastly, he drew attention to the fact that 80% of crofters are not represented by a membership body, which is why the leadership role of the Commission is so important.

Commissioner Annal wondered if crofting has lost control of itself. In his view, small crofts do not make a living for the crofter and there are no young people to gather the sheep, so how can they be retained in crofting communities. If they cannot make a living from the croft, they need access to industry and support mechanisms. He expressed concern about how difficult it has become to sell crofts because of a problem with collateral since the 2010 Act. What he wants to see is a way to release the ambitions of crofters.

For Commissioner Mackenzie, crofters are climate-friendly people who wish to preserve the landscape for future generations, chiming in with the government's agenda. The way they use the land preserves biodiversity and their livestock practices have a positive impact. We need to encourage sheep and cattle to stay on the hills and think about the industry's use of plastics and it is time for the Commission to be part of the climate change debate. Back in 2011, she noted another body called for the creation of thousands of new crofts but nothing has happened on this. While that may have been unrealistic, we should concentrate more on duties work in order to ensure more current crofts are actively occupied and worked. As part of the climate change agenda, we should be encouraging the planting of more shelter belts on crofts to aid production and help the environment. We should be supporting woodland regeneration with strict environmental guidelines and moving to carbon monitoring on crofts. Like other Commissioners, she wished to see young people engaged in crofting but understood their need or desire to move away for work or education. It is important to understand that the oil worker, for instance, can still make a positive contribution to crofting.

For the future, the way agriculture is seen has to change, with a move away from subsidy, towards environmental support.

Commissioner Scott's vision would see crofting so well regulated that there would be no need for the Commission to exist. He urged colleagues to consider how crofting is different and not to put too much emphasis on things which may be fashionable only in the short-term. The real difference crofting can make is in managing land for environmental benefits. It is difficult for the organisation to agree a uniform vision, as we come from different areas, with different views and experiences. This context makes it challenging for us as a regulator. There are plenty of good ideas out there and ways to make a difference, for instance, if it was possible for croft owners to create new crofts that could only be tenanted, removing the right to buy, we might see significantly more being created. Finally, he questioned the value for the future of the kind of 'good life' view of crofting, wondering if there is a tendency to hang on to what has gone before.

Commissioner Holt divided his vision for crofting into 4 headings:

- The law
- Tradition
- The market
- Crofters

The law protects but limits crofting and is in urgent need of simplification. Tradition is a great strength, providing continuity across generations, which creates an attachment to the land and communities. The market is relevant to crofters, who have shown that if they want to succeed, they have to be entrepreneurial opportunists. And they will continue to adapt. Much of the land in the Highlands & Islands is under the stewardship of crofters and large estates, for good or ill. At the moment, crofters feel besieged by a variety of 'movements' (green, vegan, rewilding), which creates a pressure.

Commissioner Holt reflected that he sees growing speculation in house sites and a deterioration in communities, with more absenteeism. The land has become a commodity, priced too highly with expensive tenancies, which are out of reach for young people. What he would like to see is a system where crofters have to live on or near their holdings and the restoration of a balance between income and food prices. Crofters and their produce should be valued. We need a speedier process for dealing with duties work, to free up crofts for people who want to work them rather than them being in the hands of people who do nothing with them. He would also like to see greater emphasis on education about crofting, both from a practical point of view, with more courses, and also more academic work. And with a raised profile for crofting, there should be a land matching service, to help new entrants.

For the Commission itself, Commissioner Holt favoured renaming the organisation, with a return to it being the Crofters Commission and internal restructuring, with a core based in cheaper offices in Inverness and 4-5 local offices in crofting areas, perhaps sharing with RPID teams, arguing that this would reduce staff turnover and increase knowledge sharing.

Finally, Commissioner Campbell questioned whether crofting is currently delivering enough to match the effort put in, crofters being a small proportion of the Scottish population. No other sector is so heavily regulated and so the Commission should be taking its vision from the crofters themselves, not the 9 people around the table.

If the Commission takes its role from the Act, it tells us what the government wants, which is population retention in peripheral communities. Land ownership gives power, but occupancy also gives power. Crofters often hold power in their communities because they hold the land.

If the Commission really wants to make a difference it must be prepared to be radical. The crofting system and society are moving in different directions; crofting has not kept pace. Collectively, we need to use crofting to support and protect services in communities, to help make a fairer society, so that people can live and thrive in Unst, as well as in Edinburgh. The Commission needs to be much more supportive of diversity, promoting smaller crofts, working with Planning Authorities to create housing and business opportunities, moving away from the fixation on livestock. Crofters need to be empowered to help their communities and duties action needs to be prioritised. Commissioner Campbell explained his vision was for a team of 15 staff to work for 5 years to tackle the problems of residency and land use. This should be resourced from a separate budget to tackle the problem of people holding land and not using it and the Commission should focus on sustaining people in communities. But, at present, the organisation is too small to make a difference. Properly resourced, however, the Commission could help the government to achieve its vision for crofting.

On common grazings, Commissioner Campbell felt not enough was being done with what is a huge asset. He asked what action we are taking against inactive shareholders. On the internal structure of the organisation, he suggested the Commission be divided, with offices in Ullapool and Stornoway, which would in itself create a different vision.

The Convener thanked everyone for their stimulating reflections, and agreed the ideas raised would be considered and the discussion returned to.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson took members through the main points covered by the Audit and Finance committee at its meeting on 23 January 2020. He explained that a self-assessment questionnaire would be forwarded shortly and urged everyone to complete it, as it will show trends over time.

He explained that key accounting policies were reviewed by the committee and that the committee considered a report from the internal auditors, Scott-Moncrieff, on GDPR compliance measures. The audit had been positive and gave the Commission assurance on the way GDPR had been planned and approached by the Commission, with several areas of good practice being identified.

Commissioner Mathieson commended the Workforce Plan, which was discussed at the meeting and now included a Succession Plan. This has been emailed to the Board. He wished to bring to Commissioner's attention that there was a 'red' risk in the operational risk register, around resilience in connection to the IS team and CIS. The Head of Digital & Improvement is looking at ways to mitigate the risk, but it does remain at a high level.

The committee had noted in the Complaints quarterly report a continuing downward trend in complaints.

For the current year, the budget forecast is for the Commission to break even and, given the budget concerns this year, the organisation was to be commended for the level of performance achieved. Commissioner Mathieson stressed the need for Commissioners to submit T&S claims timeously, so they can be paid in the current year. He explained that the Medium-Term Financial Plan had not yet been distributed to Commissioners, but it is in draft and will be circulated once further sections have been added and the 2020/21 budget is known.

(b) Draft Minute from 23 January 2020

After a question on the budget, it was confirmed that if the budget was not increased, that effectively acted as a cut, as wages would rise and so would pension contributions. On a question concerning cleaning costs, it was explained that these had risen in 2019/20, due to the awarding of a new contract. However, it is anticipated that these will return to a more normal level next year.

(c) Q3 Performance Indicators

These were forwarded for information, with no comments made.

(d) Draft budget 2020-2021

Information on the draft budget will come to the March Board meeting for approval. There is also an additional AFC meeting to discuss the budget in early March.

7 STRATEGIC RISK REGISTER

Commissioners had copies of the register. The CEO explained that the scoring for each item remained static. He explained that the risk score on the Future of Crofting was static because this was a focus for work over the next few months.

8 DRAFT BUSINESS PLAN

The CEO introduced the paper, explaining that the final version will come before the Board for approval in March. He asked Commissioners to consider the draft and email comments before the end of the month, explaining that the performance measures have not changed very much, as it is important to view trends. An extra measure has been added to the grazings section. The CEO drew attention to the Milestones and asked for input on these and emphasised the need to consider the detail for Outcome 3 and 4, especially the future of crofting. There are quite big milestones here. It was agreed that plenty of time would be set aside at the March Board meeting for a full discussion of the Plan.

9 MANAGEMENT/VIEWING OF BOARD PAPERS

The CEO explained that there are two aspects on Board papers for the Commission to decide on; one concerning the question of print and electronic copies of Board papers and the other on what form of electronic papers to use, if any.

The Audit & Finance committee was working well using only digital papers, but the CEO reflected this was more difficult for a larger group that met in public. He suggested carrying on with an App for digital papers but had a few suggestions for streamlining the production, such as giving up the master copy with consecutive running page numbers from start to finish, which takes time to format and produce, and providing numbered separate papers instead. We would also stop printing spare copies for meetings but display papers on the website in advance of meetings, alongside the meeting agenda.

This was agreed.

There was a concern that the Commission had made a collective decision to move to electronic papers, to help meet Scottish Government environmental targets and this was not being adhered to by all. However, it was appreciated that it was important to enable everyone to contribute in meetings and therefore discretion was needed. The main practice would be to use electronic papers. It was also agreed to trial using the large screens available in meeting rooms, to display papers during Board meetings.

Head of Digital & Improvement then gave a presentation on the different options for viewing papers digitally, explaining that if the Commission carried on using the current App, there would be a cost of several thousand pounds per year. There was concern that this had not been clear when the earlier decision to move to a digital option had been discussed. However, Head of Digital & Improvement was able to demonstrate an alternative version, which could be made available at no cost. This version is called OneNote and is available on smartphones, iPads and laptops.

Commissioners agreed to move to using OneNote as the solution for digital Board papers and also wished to use it for the Tier 3 casework meeting papers. It was agreed to trial this and that general tuition in its use would be made available to any Commissioner on request. The CEO confirmed that this represented the Board reviewing an earlier decision.

On the issue of communications, Commissioners were urged to remember to respond to emails from staff. A further question on communications via non-Commission phones and the risks associated with Cloud storage would be considered by officers.

10 CROFTING CONSTITUENCIES

Head of Policy introduced the paper, providing Commissioners with the background. The previous Board decision was explained, along with the response from Sponsor Division, who have said that any change would require a further public consultation. It was pointed out that one of the previous consultation responses was from the Electoral Boundary Commission, who had commented that the crofting constituency boundaries fall below the electoral parity which they apply to their own work. Essentially, this entails that two-thirds of the electorate receives one-third of the representation.

The CEO clarified that time for a further approach to SG on this is getting short, so a decision is quite urgent. The previous consultation response rates had been quite low but that is not unusual for a technical consultation such as this.

The CEO further clarified that new legislation would not necessarily be needed to change the number of constituencies because this could be done by Regulation.

There was a concern from Commissioners that a case had already been put to Sponsor Division and nothing had happened and that there are dangers in taking a predetermined stance before a consultation. However, Commissioners restated their view that more proportionate constituencies would be desirable.

After further discussion, it was agreed to write to the Minister, detailing the case for a move to 7 constituencies.

11 DEVELOPMENT OF CROFTING – ROLE FOR THE COMMISSION?

The CEO introduced the item, explaining that there would be more time to consider this substantial topic at the March meeting. As yet, no decision has been made by the government, but the Commission must be prepared and have an agreed approach to this.

The CEO had outlined several headings to stimulate thinking on what a development role for the Commission might encompass. It could mean:

- increased duties work
- an educational role
- working on the carbon neutral/ environmental agenda
- succession and the turnover of crofts to new entrants/young people
- new croft creation
- help with branding of croft produce.

Commissioners discussed the need to ensure that whatever role the Commission played was properly resourced, to allow for the job to be well done and for it to sit appropriately with the Commission, rather than another agency. Part of this had to be about providing feedback to government about where the present gaps are but it was agreed that any proposals from the Commission must be costed and outcome-based, with measurements attached and that partnership working could be considered.

Commissioners discussed the need to be forceful, with a clear vision but would also need to know what government thinking is and the kind of resources that would be made available. Without this kind of information, it would be difficult to make informed judgements. On a question on whether legislative change would be needed if the Commission reprised its development role, it was felt this should not be necessary, given the remit of the current Act. The CEO confirmed that, after a more substantive discussion in March, any proposal would be confirmed by the Board before being submitted to Sponsor Division.

12 DATE OF NEXT MEETING

The next meeting of the Commission will take place at Great Glen House on 19 March 2020 and the Strategy day would be used for substantive discussions.

13 AOB

There was no urgent business

Communications Manager left at lunchtime.

14 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for engaging in the meeting and closed the meeting at 2.05pm, asking that compliments received on good customer service recently be passed on to staff.

DUE TO THE OUTBREAK OF CORONAVIRUS, SCOTTISH GOVERNMENT ADVICE ON REDUCING TRAVEL AND SOCIAL DISTANCING AND CONCERNS REGARDING POSSIBLE RESTRICTIONS TO ACCESS TO GREAT GLEN HOUSE, THE MAJORITY OF COMMISSIONERS JOINED THE BOARD MEETING VIA SKYPE

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE AND BY SKYPE ON 19 MARCH 2020

| | | |
|----------|-------------------|--------------------------------|
| Present: | Rod Mackenzie | Convener |
| | Andy Holt | Commissioner, by Skype |
| | Mairi Mackenzie | Commissioner, by Skype |
| | Malcolm Mathieson | Commissioner, by Skype |
| | Iain Maciver | Commissioner, by Skype |
| | David Campbell | Commissioner |
| | Cyril Annal | Commissioner, by Skype |
| | James Scott | Commissioner, by Skype |
| | Bill Barron | Chief Executive |
| | Mary Ross | Head of Operations & Workforce |
| | Aaron Ramsay | Head of Digital & Improvement |
| | David Findlay | Commission solicitor, by Skype |
| | John Toal | Head of Policy |
| | Joseph Kerr | Head of Regulatory Support |
| | Betty Mackenzie | Communications Manager |

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting. Apologies for absence were received from Commissioner Neilson, who was unable to attend either in person, because of restraints, and by Skye because of IT issues of connectivity, and Jane Thomas, Head of Compliance.

The Convener noted that most Commissioners and the Commission solicitor were attending remotely, as a precaution in the light of the Covid-19 pandemic. He noted that Great Glen House was already half empty, as Scottish Natural Heritage and some tenant organisations had largely stopped using the building. Some Commission staff were already working from home but the majority were in the office, though managers and staff were urgently considering, in consultation with Scottish Government, whether and for how long this should continue. The Commissioners **commented** that the safety and wellbeing of Commission staff was their primary concern and priority.

Regrettably, it was not possible for members of the press or public to attend the meeting, because the building had been closed to the public for health reasons. Nevertheless, the majority of the meeting still has the status of a public meeting, with the agenda and papers published in advance and the minutes to be published once they have been approved.

Because several members were attending remotely for the first time, it was agreed to change the order of the published agenda. These minutes record the business in the order it was conducted on the day.

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| ADDENDUM TO MINUTE | <i>Please note, at their meeting on 14 May 2020, the Commission wished to replace the word “commented” in bold above, with the word, “stated.”</i> |
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2 DECLARATION OF INTERESTS

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

3 BOARD MINUTES OF 6 FEBRUARY 2020

The Minute of the Meeting of 6 February 2020 had been approved by email and published on the website. It was brought to the meeting for information only. There were no questions.

4 MATTERS ARISING FROM PREVIOUS MEETING

At the previous meeting, it had been agreed that the issue about the constituencies would be raised and discussed at the meeting with Fergus Ewing proposed for June 2020. However, given the current situation with Covid-19 it is possible that this meeting may not take place. Commissioner Maciver suggested we take time over the next few weeks to revisit this issue and make sure we have a unified vision. CEO said that if the Commission wished to make representations on the issue ahead of the 2022 elections, it would need to do so within about the next 6 months.

5 DRAFT BUSINESS PLAN

CEO advised that since the Board's consideration of the previous draft in February, he had added the foreword. After discussion the Board agreed to approve the document for publication, once final details such as statistical baselined have been added, provided that a caveat was included to explain that this plan predated the pandemic, and that implementation may deviate as a result of Covid-19.

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| Decision | <i>The Board approved the Business Plan subject to final adjustments</i> |
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6 ANY URGENT BUSINESS: Budget 2020-21

Commissioner Mathieson introduced the draft budget for 2020/2021. He explained that considerable work had been invested by the AFC and Finance Manager to draw together this budget. All non-staff expenditure had been cut back, keeping it to an absolute minimum. Payroll costs would need to be reduced during the year if the budget was to be met. Commissioner Mathieson suggested approval of the budget recognising that any further cuts may have an effect on regulatory performance.

The Board noted the challenging budget and asked about potential cost implications of Covid-19. CEO said he had already alerted Scottish Government to the likelihood of additional costs as a result of working from home and other indirect effects of the pandemic. But management would respond flexibly as the situation developed.

Commissioners were of the view that it was important to fulfil their statutory duties and agreed the budget for 2020/2021 in line with Commissioner Mathieson's recommendation.

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| Decision | <i>The Board approved the Draft Budget for 2020-21</i> |
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7 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Commissioner Mathieson advised he understood that the SG were paying IACS payments in Pounds Stirling and there was no longer an option for payments to be made in Euros. He said this would create problems for some claimants. Commissioner Campbell confirmed this was also his understanding. CEO confirmed that he would establish the position with SG.

Commissioner Mathieson advised he found the recent Cross Party meeting very interesting.

Commissioner Holt advised that he had been in contact with Matt Roberts from Shetland Amenity Trust. The Trust has made an application to the National Lottery Climate Action Fund to progress a project on Climate Literacy with a view to making crofting more environmentally friendly.

Commissioner Annal said he believed the Board should meet once a week or fortnightly and the meetings should be shorter.

Commissioner Maciver said the current situation with Covid-19 has affected his planned trip to Uist. He also said he thought it would be a good time to develop the proposal to deploy staff to the Western Isles.

Commissioner Scott said his private business had taken a hit. There are no 'face to face' meetings taking place and this is very difficult as it is an essential part of his business.

Commissioner Mackenzie said it was an anxious time for crofters. Covid-19 is causing difficulty and crofters' mind sets have changed.

On the other hand, looking to the future, Commission Mathieson said that there was an interesting article in the Glasgow Herald (19/03/2020) about local food production and mobile abattoirs. Commission Mackenzie said she believed that Covid-19 would provide some opportunities for local food production and the sharing of food.

Commissioner Campbell added that rural areas may be best placed to deal with the Covid-19 issues. It is an opportunity for us to be promoting the crofting lifestyle. He also advised that he had recently been appointed to the board of the SG Rural Action Team.

Convener advised that this week's scheduled meeting of the Convention of the Highlands & Islands had been cancelled. He and the CEO had been intending to present a paper about crofting, population retention and land use. Commissioner Campbell said, as a Board, we will all have plenty of time over the next 12-14 weeks to discuss these issues.

Commissioners agreed that it would be valuable and important to have contact with Assessors during the Covid-19 crisis, to take part in teleconferences about crofting issues.

Commissioner Mackenzie asked were livestock sales going ahead? Some auctions were being carried out digitally and others were proceeding. Commissioner Campbell said that livestock sales would need to go ahead as they were vital for the food chain.

8 DEVELOPMENT OF CROFTING – ROLE FOR THE COMMISSION?

CEO invited comments on the draft Development Role letter to be sent to SG.

Commissioners welcomed the draft letter, and felt that stakeholders would support the Commission taking on a development role. The Board agreed that the letter should now be sent to SG, after further minor revisions, including more clarity about the headlines.

Commissioners noted that the practical implementation of some of the ideas, in particular about peat restoration on common grazings, would need further thought.

The Board approved the letter to Scottish Government, subject to minor revisions.

9 RALUT

(a) Residency and Land Use Team – Report

This item was not taken. It will be discussed at the next Board meeting.

(b) Policy relating to Sublets and the Enforcement of Duties

Head of Policy introduced the paper on the policy relating to Sublets and the Enforcement of Duties. He advised that a Board decision in 2014 had effectively encouraged subletting for up to 10 years in cases where crofters were not meeting their duties. While it had been claimed that this would provide the opportunity to sublet to new entrants to crofting, statistics showed that this rarely happened. In practice, what happened was existing crofters enlarged their pool of croft land, which the report on support for crofting commissioned last year had suggested was detrimental to the delivery of government policy for crofting. The paper questioned whether, from a strategic perspective, the Commission was content to continue with a process that may be contributing to the decline of a system it was there to promote.

The paper seeks consent to review the decision taken in 2014 by the previous Board.

Commissioners agreed that the ready availability of long-term sublets and the trend towards aggregation of croft holdings meant there could be far fewer opportunities for new entrants. Commissioner Holt said this was evident in Shetland. He added that there were other issues with enforcement of duties such as that crofters do not like to report their neighbours.

Commissioner Campbell noted that a recent Tier 3 decision had refused an application to sublet a croft because there was no plan for the absent crofter to return to their croft.

On the other hand Commissioner Scott noted that, when a croft is being sublet, then the land will be worked. He questioned whether the paper was focusing on the most important priority.

Head of Regulatory Support said there could be issues with attempting to refuse applications based on a change of policy only. Would we be able to establish grounds for refusal in cases where there were no objections from the community and the only negative was our policy?

Head of Policy agreed that each application would need to be considered on its merits and that there may well be cases where a longer term sublet is justifiable. However, the facts were that there have been cases where the Commission has granted subletting applications for 10 years when the absent crofter had been refused consent to be absent for 4 years. The fact that such applications can be refused but longer term sublets can be approved at the first tier of delegated decision-making, did not appear consistent. He added that there could also be a major issue with the process being employed in the duties' cases. Currently when notification of a breach of duty is received, the crofter is told how that may be rectified, with subletting the most obvious choice. However, the Act indicates that the crofter should receive a notification of a breach from the Commission. By using the steps indicated by the Act, the Commission would have much more control of the process and could ensure that undertakings are in place that would provide realistic timescales for the genuine resolution of duties. At the same time this could prevent some of the problems that are seen as possible if sublet applications, irrespective of their time period, are refused.

The paper also pointed out that the duties enforcement powers were an important part of the 2010 Act and were viewed as one of the tools for reducing speculation on croft land. Looked at in the context of enabling affordable entry to crofting – an important subject in the Commission’s proposed strategy development – there appears to be little attempt to use these powers in a manner that makes crofts more readily available and consequently more affordable.

Commission Maciver said he has sympathy with the paper but felt that over-inflated prices for croft assignments was a wider problem. The Commissioners noted that the known high prices of many crofts interfered with expressed demand and made it hard to be categorical about the level of demand. In response, Head of Policy suggested that the high price of croft land was itself indicative of high demand.

All Commissioners agreed the paper and its recommendation that these issues needed to be re-examined. Head of Policy confirmed that a further paper would make concrete proposals, regarding sublet policy and related issues including policy on consent to be absent.

The Board requested a further paper on this issue to analyse the options for policy change.

10 DATE OF NEXT MEETING

The next meeting of the Commission will take place using remote technology on 14 May 2020.

11 AOB

The one item of urgent business had been taken earlier in the meeting (point 6 above).

The Board thanked the Head of Digital & Improvement and his colleagues for getting Skype up and running at such short notice.

12 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for engaging in the meeting and closed the meeting at 3.30pm.