

**CROFTING COMMISSION MEETING
NOSS & RUM, GREAT GLEN HOUSE
29 JUNE 2022 AT 0900 hrs**

AGENDA

1 APOLOGIES	<i>Oral</i>	<i>Standing Item</i>
2 DECLARATION OF INTERESTS	<i>Oral</i>	<i>Standing Item</i>
3 MINUTES FROM 12 MAY 2022 (<i>already published</i>)	<i>Minutes</i>	<i>For info</i>
4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING (of 12 May 2022)	<i>Paper</i>	<i>For info</i>
5 MATTERS ARISING FROM PREVIOUS MINUTES	<i>Oral</i>	<i>Standing Item</i>
6 UPDATE ON MEETINGS WITH SPONSOR DIVISION	<i>Paper</i>	<i>Standing Item</i>
7 REVIEW ON PROGRESS AGAINST STRATEGIC OUTCOMES	<i>Paper</i>	<i>For info</i>
8 STRATEGIC RISK REGISTER	<i>Paper</i>	<i>For info</i>
9 OUTSTANDING CASEWORK UPDATE	<i>Paper</i>	<i>For info</i>
10 UPDATE ON DELOITTE	<i>Paper</i>	<i>Standing Item</i>
11 DRAFT WORKFORCE PLAN	<i>Paper</i>	<i>For approval</i>
12 DRAFT CODE OF CORPORATE GOVERNANCE	<i>Paper</i>	<i>For approval</i>
13 VICE CONVENER AND AUDIT & FINANCE COMMITTEE MEMBERSHIP 2022	<i>Oral</i>	<i>For discussion</i>
14 CENSUS 2021 CROFTING SURVEY	<i>Paper</i>	<i>For discussion</i>
15 DATE OF NEXT MEETING Thursday 18 August 2022 – Noss & Rum		
16 ANY URGENT BUSINESS		
17 EXCLUSION OF THE PRESS AND PUBLIC		

APOLOGIES – ORAL

DECLARATIONS OF INTEREST – ORAL

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT BEAUFORT HOTEL, INVERNESS AT 9AM ON 12 MAY 2022

Present:	Malcolm Mathieson	Convener (via Teams)
	Rod Mackenzie	Commissioner (via Teams)
	Mairi Renwick Mackenzie	Vice Convener
	Colin Kennedy	Commissioner (via Teams)
	Iain Maciver	Commissioner
	David Campbell	Commissioner (Open Session)
	Duncan Gray	Commissioner
	Donald MacDonald	Commissioner
	Bill Barron	Chief Executive.
	Finlay Beaton	Head of Grazings
	Aaron Ramsay	Head of Digital & Improvement (via Teams)
	David Findlay	Commission solicitor
	Arthur MacDonald	Head of Development (until 12pm)
	Joseph Kerr	Head of Regulatory Support
	Heather Mack	Head of Operations & Workforce
	Jane Thomas	Head of Business Support & Compliance and minute taker
	Kirsteen Currie	Communications Officer (for item 12) (observing)
	Anne Williamson	(observing)
	Gordon Jackson	Scottish Government (via Teams)
	Aillen Rore	Scottish Government (via Teams)
	Michael Nugent	Scottish Government (via Teams)
	Staff and public for Open session (via Teams)	

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting, with a greeting in Gaelic, followed in English. Apologies were received from Neil MacDonald and James Scott.

2 DECLARATION OF INTERESTS

No Interests were declared in the open session.

3 BOARD MINUTES FROM 31 MARCH 2022

The Board Minute of 31 March had previously been circulated and approved and had been published. There were no comments or questions on the Minute.

4 REVIEW OF ACTION POINTS FROM 31 MARCH

Head of Business Support and Compliance confirmed that all the Actions from the previous Board meeting had been discharged.

5 MATTERS ARISING

There were no Matters Arising.

6 UPDATE ON MEETINGS WITH SPONSOR DIVISION

The CEO confirmed there had been three meetings with Sponsor Division colleagues since the last Board meeting. Two of these were summarised in the paper, with the other being the more recent CC-Sponsor meeting on 3 May. The meeting involving Mi-Voice had comprised quite a long discussion on the Election Regulations, following the election in March, with a view to revising the regulations before 2027 to bring them more into alignment with other pieces of electoral law. This will be subject to a consultation period, which would provide an opportunity to return to the question of electoral constituencies.

The Convener gave an update on the meeting with the Cabinet Secretary on 22 April, reflecting that she is supportive and encouraging, wishing to learn more about the work of the Commission.

Both CEO and Convener agreed that there is a need to ensure the meetings with Sponsor Division have a strategic focus. The CEO explained the timeline for the Appointment of two new members to the Commission and that, because of this, Commissioner Campbell's position is likely to be extended until August, with formal confirmation of this to hopefully come shortly.

It was suggested that it would be helpful if more Board members could attend the Sponsor meetings and that they should be made aware of them. It was agreed that it would be useful to use the model of the observer rota used for AFC meetings, which should also be extended to new Board members. This will be taken forward.

The Convener's connection to the meeting via Teams became extremely poor at this point. He asked permission of the Board members to allow the Vice Convener, present in Inverness with most of the Board, to Chair the rest of the meeting, as his communication link was not stable. The Board unanimously agreed to this solution and the Vice Convener chaired the rest of the meeting.

7 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Vice Chair of Committee

The Committee met on 27 April. The Vice Convener went over the key issues covered at the meeting, including the Internal Audit assurance and the work on the Medium-Term Financial Plan, to bring it in line with the Deloitte Recommendation.

(b) Draft Minutes from 27 April 2022

The Draft Minutes were circulated for information and would be approved at the next committee meeting. There were no questions.

8 PRINCIPLES FOR THE POLICY PLAN

There had been a Strategy Day on 14 April, which had helped to provide a framework for the paper for consideration. The paper had been drafted by the CEO and the Commission solicitor, with input from several other senior colleagues. It highlighted scope for action, set out as ten sections on policy positions. It represented a condensed and focused document that the Commission could use as the basis of a Policy Plan.

Members agreed that it was useful to look at this as a kind of Policy Statement, which was permissive in its outlook, allowing people to use their crofts, within the law. It was felt that it would be beneficial to alter the language from the use of 'could' and 'should' to 'can' and 'will.' Some Commissioners felt there is a need to be as pro-active as possible, with field visits. Head of Development reported that this interaction was taking place now to a certain extent, with positive results. He would like to bring a paper to the Board at a future meeting, so that Commissioners can consider what some of the main reasons for misuse and neglect appear to be and what might be done about this.

The Convener welcomed the fact that the plan was being produced with more input from the Board, reflecting the Board's views. There was a discussion on the various uses that crofts could be put to and the importance of population retention and the need to factor in the views of Scottish Government. The important thing to focus on, it was agreed, is that crofts are used, and crofters must understand what is not permitted, e.g. neglect.

The Commission solicitor and senior colleagues then went through the paper, section by section, so that the agreement of Board members to each section could be noted, with any provisos.

There was a discussion on decrofting and the way that the law is framed so that the Commission must consider each application on its merits, which constrains policy. This led onto an in-depth discussion on the links between decrofting and the planning system, with the conclusion that the Commission needs to be more engaged with Planning Authorities at the Local Plan stage. Therefore, the relevant sections in the paper will be revised regarding planning, to make this more explicit.

The Convener thanked everyone for taking part in the discussion and for their clearly expressed views. All the sections in the paper were agreed on, with the proviso that the text is revised, to reflect the discussion on planning and that a new paper should be circulated by email to the Board as soon as possible, so that the tight timescale regarding the plan can be adhered to.

9 Q4 PERFORMANCE REPORT

The CEO went through the report, explaining that it is displayed on the website and reflects a particularly challenging year. It is a frank assessment of the situation at the end of March 2022. He confirmed that the RAG status for each item is decided on by the head of the relevant business area before he checks the detail himself.

10 BUSINESS PLAN 2022-2023

The CEO explained that the production of the Business Plan for this year is hampered because of the position regarding the Corporate Plan. The present Corporate Plan ends this year, with a new 5-year plan having to be signed off by the Minister in the Autumn/Winter, when we will also have two new Appointed Members. So, the Business Plan for consideration today is based on the outgoing Corporate Plan. A new Business Plan will be drafted in the Winter, which will then better reflect the Board's position and priorities and the new Corporate Plan.

The Business Plan for 2022-23 had been approved in draft form by the Board in February 2022. Members agreed to accept the 2022-23 Plan, subject to the changes proposed by officials in an email the previous day, and look forward to the creation of a new Plan for 2023-24.

The Vice Convener commented on the plethora of plans which Commissioners have to be aware of and it was agreed that officers will create a guide to show how they are interlinked.

Decision	<i>The Board approved the Business Plan for 2022-23</i>
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11 2022 ELECTION TURNOUT AND CONSTITUENCIES

The CEO gave members a brief background to the paper, explaining that turnout had been around 10 percentage points lower than in the previous election, which was troubling. On constituencies, there is concern that the size discrepancies may cause issues, as well as the boundaries, particularly the East and West Mainland boundaries. He reported that the original thinking behind the boundaries had been based on style of crofting rather than size.

There could be a variety of options for the government to consider, including size, boundary lines, an extra Appointed member or an extra elected member, or larger constituencies with more than one Commissioner.

Commissioners were concerned about the message the low turnout projected from crofters, wondering whether this reflected apathy or hostility to the Commission. All agreed the voting process was easy but wondered if the positive result from moving to the online only option for the Annual Notice presented an opportunity, and whether a switch to an online vote in the next elections could help the turnout figure to rise.

The situation in the Western Isles was discussed in some detail, with Commissioners agreeing that there should be better representation for North Uist, Benbecula, South Uist and Barra.

The CEO took the Board through the four questions posed in the paper. The Commission agreed there should be two members from the Western Isles. The CEO agreed to produce a summary of the discussion and the principles that are emerging and send this out for comment by the Board members, before drafting a letter to the Cabinet Secretary.

12 MEDIA STRATEGY

The Communications Officer was present for this item and took the Board through the paper, explaining key points. She explained that print media took precedence, followed by social media and that the Commission had no control over deadlines for the former, which can be challenging, particularly where the local press is weekly.

She further explained that there is a current push to get out messages about the online applications project and Living Succession, working with Development Officers. Social media is useful and important to get quick or urgent messages to customers, if our phone lines are down, for instance. The CEO confirmed there would be a budget, within reason, for the creation of more short videos, if this was desired by the Board.

It was agreed that where possible, people would be encouraged to use Community Newsletters for adverts if this represented a cost saving. Commissioners were encouraged to provide photos to the Communications Officer, to build up a better portfolio and that these should illustrate modern, diverse crofting. It was also agreed to use social media to publicise statistics, to show numbers of cases discharged, particularly if this is a good news story.

The Convener and Vice Convener wanted to thank the Communications Officer for her presentation and for increasing the visibility of the Commission since her appointment.

13 OUTSTANDING CASEWORK UPDATE

This will be a Standing Item on Board Agendas until the situation with the backlog is less challenging. Head of Operations & Workforce introduced the update, which is a follow on from a more detailed paper provided for the March Board meeting. The paper contained information on more recent cases and Commissioners were informed that case numbers had come down in April, in part because fewer cases had been received. The focus over the last few months and to date is on training and recruitment and both of these elements are going well. Two new B2 posts have been successfully recruited, with internal candidates gaining promotion. There have been four new B1 posts recruited and there will be another round of A3 recruitment soon, to fill five vacancies.

A key challenge at this time, given the delays to processing incoming applications, is to cope with rises in callers and customer queries. Various methods are being applied to cope and to improve customer service without too much disruption to the work of case officers who are trying to work through the backlog.

Commissioners were delighted to hear that the recruitment is going well and the training producing good results. The trainer has also been involved with the recruitment, which has been positive. The Board reflected that there are a lot of new staff coming in and they must be given time to understand the complex processes involved in crofting regulation but that the benefits will be seen perhaps more quickly than anticipated in the Glen Shuraig report, if things continue on the current path.

In answer to a question on what a Commissioner would do if they were unhappy with a report to the Board, the Convener clarified that the CEO is responsible for the quality of papers and information prepared for the Board and the CEO takes direction from the Board. Any dissatisfaction should therefore be conveyed by the individual Commissioner to the Convener, who would, as appropriate, bring it up with the CEO. A Commissioner could also, in line with the provisions in Standing Orders, ask for an item to be added to a Board Agenda. It is important that individual Commissioners go through the Convener and do not approach SMT members with queries and requests directly.

The CEO explained that if individual crofters approach Commissioners they should listen to concerns and direct the crofter to contact the Commission office or the CEO, if the matter was of particular urgency or sensitivity. The Standards Officer reminded Commissioners that it would be a breach of the Code of Conduct if they sought to use their position to gain preferential treatment, so it is important not to put officers in this position.

There was a brief discussion on how to identify whether a case or query was urgent, with the CEO stating that sometimes this will be objectively apparent, if someone has an urgent health-related matter for instance. At other times good judgement may be required. This was followed by a discussion on the variety of avenues to use when submitting a request, which are mainly the info@ box for emails, which is checked several times a day or by using the 'Contact us' form on the website. Head of Digital & Improvement agreed to check the latter and contact Board members with relevant information.

14 CHANGES TO THE SCHEME OF DELEGATION

Head of Regulatory Support explained the background to the paper and the reason for needing agreement from the Board. If applications are received from members of staff or Commissioners, and if they are outside the parameters for Tier 1, then the case should be escalated to the full Board. This was agreed and will be added to the Scheme.

The second change proposed involves extending the range of staff who can sign orders. This was approved.

The third category of change relates to where parameters need to be extended so that decrofting applications from the same applicant are not looked at in a piecemeal fashion when they arise as part of a duties case. This change was agreed.

Decision	<i>The Board approved the three Recommendations in the paper to extend the Scheme of Delegation</i>
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15 UPDATE ON DELOITTE

The CEO introduced the paper, explaining that not much has changed since the last update in March. In June, the Board will be asked to consider the last couple of outstanding points from the report, one of which is the production of a Code of Corporate Governance. Associated with this Recommendation, there is a further one at 3.5 which suggests the Commission should define what is means by “reasonable.” The CEO and SMT are not convinced this is useful or necessary. The Board agreed, feeling that we should simply use the dictionary definition.

The CEO alerted the Board to the review being conducted currently by Deloitte into how the Commission is discharging the recommendations in the report. When this is completed, the results will be shared with the Board.

16 2021 CENSUS REPORT

Head of Digital & Improvement reported that the move to an online only annual notice this year was successful, with an increased return rate. The telephone calls to non-returners, handled by temporary staff, were also successful, though it is suggested that the same result could probably be delivered with one temporary worker rather than two.

The switch saved money and the Board agreed it should continue to be offered as online-only. There was a discussion on the window for competing the census, which is 3 months, with people feeling this is too long. However, the Act stipulates the time scale for completion so only a change in legislation can correct this.

Members heard that two more members of staff had been used helping customers who were calling because they were confused about how to submit an online return or a related query. It was agreed that this help was valuable and should continue. There was a further discussion on whether it would be of benefit to alter the time of year that the notice is issued but the Board decided they would prefer the timing to remain the same for the time being.

17 DIGITAL APPLICATIONS UPDATE

Head of Digital & Improvement led the discussion on this paper, explaining that the project is to date showing mixed results. So far, there have been only six applications submitted online, no increase on the number reported at the last Board meeting. A small survey of agents shows that they state they are in favour of the move to digital applications, but they do not yet seem to be using the facility.

There might be several reasons for this, including old habits and perhaps having a supply of paper forms readily available. Website layout may be a factor so improvements are planned and will take place shortly. The Communications Officer is increasing the messaging on this, to encourage more people to use the online option. In answer to a query, Head of Digital & Improvement said it could be possible to use the telephone system to help, so he will investigate this.

It was agreed that the Black Isle Show presented an opportunity to demonstrate the new system and that, beforehand, a live demo would be arranged for the Board and Assessors, via Teams.

18 COMMISSIONER ROLE IN HOSTING PUBLIC EVENTS

This item was brought to the Board because an event in the Western Isles, which had begun as something quite small scale and then grown, had been organised without a Commissioner with a particular interest being aware of it.

It was agreed that Commissioners should be made aware when officers are planning public meetings. The CEO apologised that this had not occurred in this instance and pledged that Board members would be apprised of plans for meetings in crofting communities in future.

In relation to a query on how Board members are to distinguish between what is operational and what is strategic, the Standards Officer explained that a Briefing Note on this put together by the Standards Commission, had been circulated to Commissioners with their March Board papers but that she would re-circulate it.

19 DATE OF NEXT MEETING

The next meeting will be held in Great Glen House on Wednesday 29 June 2022. Remote participation via Teams would be arranged for those who did not wish to travel.

20 ANY URGENT BUSINESS

There was no urgent business.

21 EXCLUSION OF THE PRESS AND PUBLIC

The meeting was then closed at 3:30pm, with thanks for everyone's contribution from the Convener and the Vice Convener.

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Review of Action Points from 12 May 2022

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE
1	Attendance at Sponsor meetings – open up to Board on rota basis as with AFC observers (+ start new AFC rota for new members)	Bill	SG Sponsor content. Fiona MacDonald will action.
2	Produce a guide for Board to show how all of the various plans we have are inter-linked	Bill	DONE
3	Work on revised draft of Policy Plan and circulate to Board, include more thought on engagement with LPAs on Local Plans	David etc	ASAP for revised draft – CEO will circulate by e-mail and bring back to August meeting.
4	Summarise what seems to be the Board's views on the constituency question, principles emerging, and circulate to Board	Bill	DONE
5	Arrange for a statistical report of cases discharged to be included in website.	Heather	Now – HM to meet with Comms. More useful to show working timelines. Agreed that this should be displayed as a section within website rather than social media.
6	Confirm to Board best source of Contact for customers (entry point) to use, e.g. is it info@ or website contact form?	Aaron	Now – Action Point for Aaron/Anne: Action point for Anne to send Board an update.
7.1	Demo of Online Application Process: Black Isle Show.	Aaron	August for Show
7.2	Arrange TEAMS meeting for Board and Assessors to demonstrate live system.	Aaron	Now
8	Ensure Commissioners are aware whenever CC plans a public meeting so that they can attend as appropriate	Bill (FM/SMT)	Now – CEO confirmed will update in future during Closed Session agenda item 'CEO update to Board'.
9	Arrange a Strategy day to discuss what the Board want to see in Crofting Bill	Bill	Autumn (26 Oct) at Convener's request
10	Offer appellant opportunity to discuss Shullishadder case, without prejudice.	DF	Cleared

MATTERS ARISING FROM PREVIOUS MINUTES – ORAL

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Report on meetings with Sponsor Division

SUMMARY

This paper lists meetings since the last Board meeting, which have involved both CEO and Sponsor Division.

BACKGROUND

Among other themes in the Deloitte report was the need to improve the reliability of communications between Sponsor, CEO/SMT, the Convener and the Board, to ensure that the Board as a whole were kept informed of all relevant developments. As part of this, a brief summary of recent meetings involving the CEO and Sponsor is included on the agenda for each Board meeting.

The CEO has had no meetings with Sponsor Division since the Board meeting on 12 May. For completeness, the table lists the Sponsor liaison meeting held on 3 May, which was reported orally at the 12 May meeting.

RECENT MEETINGS INVOLVING CROFTING COMMISSION CEO AND SPONSOR DIVISION

<i>Topic & Date</i>	<i>Commissioners attending</i>	<i>Lead SG officer(s)</i>	<i>Agenda items</i>	<i>Key outcomes</i>
Sponsor – CC liaison meeting	Convener and Vice Convener	Gordon Jackson, Michael Nugent	Backlog, Improvement Plan and Recruitment progress. National Development Plan including CC proposals for the Croft Availability Network.	CC to give further consideration to whether/how incomplete applications are counted in the monthly counts of outstanding cases. Regular stats on new entrants to be produced for SG. Action Tracker simplified. Sponsor meetings to be held quarterly in future. Subsequently it was agreed other Commissioners will support Convener and Vice Convener on rotation.

IMPACT

Regular provision of these reports will ensure that all Commissioners are informed of discussions between the CEO and the SG Sponsor Team.

RECOMMENDATION

The Board is invited to note this report.

Date 16 June 2022

Author Bill Barron, CEO

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Report on Progress against Strategic Outcomes

SUMMARY

This paper invites the Board to consider an overview of progress against the aims set out in the Corporate Plan.

BACKGROUND

In February 2020, Scott-Moncrieff (later renamed Azets) submitted a generally favourable review of Best Value in the Crofting Commission. However, the report recommended that *“In addition to the regular reporting of performance measures and milestones, management should report into the governance structure on the overall progress against the strategy, utilising the corporate outcomes as a basis for reporting.”* The Commission has accepted this recommendation and it has been agreed to report the overall progress against the Corporate Strategy to the Board, every six months.

The Commission’s Corporate Strategy is set out in the Corporate Plan, which has to be produced every five years and must be agreed by the Cabinet Secretary before it is published. The current Plan, which runs to 2022, was initially approved in 2017, and revised in 2019 to better reflect the then Board’s priorities, including their emphases on residency and land use and on communications with crofters.

A new corporate Plan to reflect the current priorities of the Board will be developed during winter 2022/23. After that, it has been suggested that more frequent, perhaps annual, reviews of the Corporate Plan may be useful to ensure it keeps pace with the changing priorities, opportunities and challenges for the Commission and the Scottish Government.

The 2019-22 Plan identified a number of success factors for each outcome, and these are the basis for the attached report.

Of course, the Plan made no mention of adapting to Covid-19 or of the expanded development role, as it pre-dated both.

PROGRESS AGAINST CORPORATE OUTCOMES

The attached report (**Annex A**) describes overall progress against the aims set out by the Board in the Corporate Plan. This is the 4th such report, and we have reflected on progress made throughout the last two years, as well as the latest 6-month period, and quoting from the 2021-22 KPIs as appropriate.

IMPACT

The priorities and aims set out in the Corporate Plan provide the context for the allocation of the Commission's resources on an ongoing basis.

RECOMMENDATION

The Board is invited to comment on the report and give any steer on the priorities for the next 18 months.

Date 17 June 2022

Author Bill Barron, CEO

PROGRESS AGAINST CORPORATE PLAN OUTCOMES AND SUCCESS FACTORS

<i>Outcome and Success Factors from 2019 Corporate Plan</i>	<i>Overall Progress to June 2022</i>
<p>Outcome 1: Crofts are occupied and managed</p> <ul style="list-style-type: none"> • We see reported breaches of duty being resolved successfully with a positive outcome • We see a reduction in the number of vacant crofts • We see higher rates of residency and cultivation of crofts • We see a high return rate on the annual Crofting Census 	<p>Since 2019, there has been sustained work by the RALU team to resolve breaches of duty, by consensus where possible but where necessary by enforcement. This work was to some extent disrupted by Covid and the overall pressures on the Commission, but is again building up pace. In 2021-22, the Commission initiated correspondence with a further 140 crofters/owner-occupier crofters who were suspected to be in breach of duty;125 as a result of the 2020 Census returns (this does not include the pilot in the Western Isles writing to resident non-cultivating tenants), and 15 as the result of receipt of reports of suspected breach of duty. We extended the work of the team to include engaging with two new categories of census returners; resident non-cultivating crofters and non-resident owner-occupier crofter. In 2022-23 we will extend the census work further by initiating correspondence with census non-returners whose address details would indicate that they are in breach of the duty to be ordinarily resident.</p> <p>In 2021-22, 8 breach of duties case were resolved by the crofter taking up residence, 14 by the crofter obtaining consent to assign the croft tenancy, 12 by the crofter obtaining consent to sub-let the croft tenancy, and 22 by the crofter obtaining consent to be absent. Further, the Commission made 18 decisions under section 26C(5) of the Crofters (Scotland) Act 1993 (“the 1993 Act”) that a duty was not being complied with and accepted 8 Undertakings under section 26D of the 1993 Act from crofters requiring them to comply with the breached duty within a timescale considered reasonable by the Commission.</p> <p>In June 2022 the Commission terminated the tenancy of a croft in Sutherland under section 26H of the 1993 Act, prior to doing so, the Commission were satisfied that it was fair to divide the croft under section 26G of the 1993 Act to enable the crofter to retain occupancy of an undecrofted dwelling house on the croft.</p> <p>In terms of vacant crofts, in 2022/23 the Commission will extend its work further to deal with reports of non-residence and non-use of croft land by landlords of vacant crofts by utilising the letting requirement provisions set out at section 23(5) of the 1993 Act.</p> <p>Census response rates have held up well since 2018, particularly for the 2021 census which achieved a 77% response.</p>

Outcome and Success Factors from 2019 Corporate Plan	Overall Progress to June 2022
<p>Outcome 2: Common grazings are regulated and shared management practices continue</p> <ul style="list-style-type: none"> • We see an increase in adoption of the new grazings regulations • We see an increase in the number of regulated common grazings • We see an increased number of common grazings registered on the Crofting Register 	<p>Since 2019, the Grazings Team has reversed the historic decline in number of grazings committees, and the increase was sustained through the covid period. The number of Grazings Committees in office at the start of the pandemic was 498 and so the Grazings team have prioritised this work to maintain the numbers of active committees throughout this difficult period to ensure the continued business of the common grazings.</p> <p>The current number is 491 however the team have plans in place to follow up with 25 committees who have not come back into office during the pandemic period and have a project planned for North Uist to encourage/support out of office committees to come back into office in the next 9 months.</p> <p>The numbers of Grazings committees adopting the new grazings template has been low, due to difficulties relating to the pandemic and a lack of resource within the Grazings team. However, we currently have 9 proposed new regulations which are currently in progress and 2 Committees who wish amendments to be added. It's hoped these will be completed in the coming 9 months when our full staff compliment is resumed.</p> <p>The team continue to provide practical assistance and guidance to grazings committees and shareholders both through individual contact and provision of on line training courses throughout the crofting counties.</p> <p>No resource currently allocated for this task.</p>

Outcome and Success Factors from 2019 Corporate Plan	Overall Progress to June 2022
<p>Outcome 3: Crofting is regulated in a fair, efficient and effective way</p> <ul style="list-style-type: none"> • We see improved turnaround times for Regulatory applications • We see improved quality of applications and improved Customer Satisfaction rates • When our decisions are challenged, the great majority of them will be upheld by the Land Court • We see an increase in services available to crofting communities and other stakeholders through digital delivery • Empowerment of staff to take decisions at the appropriate level, continues to enhance customer service 	<p>Turnaround times have unfortunately all seen moderate increases due the increase in outstanding casework through 2021-22 which was linked to the departures of several experienced staff from the team. For 2021-22 median turnaround times for Tier 1 cases have gone from 10.7 to 12.9 weeks for assignments; 13 to 13.9 weeks for croft house site decroftings and 22.6 to 25.3 weeks for part croft decroftings.</p> <p>Customer satisfaction rates have been monitored through feedback forms as well as through customer enquiries and complaints. Customer satisfaction has struggled through the reporting year 2021-22 in line with the increase in outstanding casework. Additionally the lack of resilience for the regulatory team alongside staffing changes has meant some cases being held until there was staff available to progress them and some cases being passed to several different staff members.</p> <p>Since 2017, there have been just 4 Commission decisions quashed following appeal to the Land Court, and in two of these cases there was an agreement with the other party to have the decision quashed and remitted back to the Commission following negotiation which secured an acceptable outcome for the Commission, both in terms of the decision itself and any expenses. In one of the cases the Court refused to award the appellant expenses due to the appellant's conduct, and in one of the cases the Commission agreed to meet the other side's reasonable expenses.</p> <p>The digital applications portal is now live for Assignment, Subletting and Short Term Let applications. The digital portal ensures a higher quality of accuracy for applications by using advanced validation where possible and minimising the use of free text entries. The Application form page of the internet has also been updated to incorporate a wizard that guides applicants to the correct form, minimising the risk of an incorrect application form being submitted.</p> <p>This year the Commission ran a successful digital only census, where all responses were captured digitally. This had significant cost and resource savings, as well as helping to reduce the carbon footprint of the Commission.</p> <p>The Commission is also rolling out Digital Applications available online, with 3 types available to date and more planned over the coming months until all main application types are available entirely digitally.</p> <p>Regulatory training for the Customer and Corporate services team has been valuable in ensuring that enquiries are dealt with effectively and allowing casework administrators and officers to prioritise the processing of casework. Training provision is critical due to the numbers staff in new roles and it has seen continual improvement due to the experience of the training officers and ongoing refinements. The delegated decision making framework has been further extended allowing for further streamlining and for cases to be dealt with at an appropriate level.</p>

Outcome and Success Factors from 2019 Corporate Plan	Overall Progress to June 2022
<p>Outcome 4: The future of active crofting is supported by well-informed engagement with stakeholders</p> <ul style="list-style-type: none"> • We see an increase of collaborative working with Highlands & Islands Enterprise and other stakeholders, on joint initiatives. • Crofters and others engage with Commissioners and assessors in an open and constructive debate about the future of crofting. • There is continued recognition of the value of crofting in sustaining biodiversity and reducing food miles 	<p><i>Going forward, the Development Team has an expanded set of priorities, based on the National Development Plan and specially to promote turnover of crofts. However, the 2019-22 Corporate Plan emphasised engagement with stakeholders as a means to promote the value of crofting. The ambitions set out at that time have been achieved, by the Development Team and others.</i></p> <p>The Development team has seen several changes in manager since last reporting with the team currently being managed by Mr Arthur MacDonald who is employed on an agency basis. Mr MacDonald has previously worked with the Commission on Community development, croft entrant scheme and duties enforcement.</p> <p>The development officers are now allocated specific areas throughout the crofting counties which match the areas served by corresponding grazing officers.</p> <p>Moving forward, it is anticipated the development team will obtain office space in both Stornoway & Benbecula to progress the Commissions development work.</p> <p>The team have been working with the following stakeholders:</p> <ul style="list-style-type: none"> • HIE/Naturescot/Peatland Action who have expertise on Peatland restoration peatland codes and carbon trading. • Engagement with FONE – Farming opportunity for new entrants. • Engagement with the ECCR advisory group. • Farm Advisory service specifically linking with the Grazings team to support new appointed grazing committees and clerks. • Assessors have been contacted with a view to be included in future development work to support crofters and grazings committees. Although there has been very little contact with Assessors during the public health situation, they are keen to be involved. • The team organised a specific landlord information event in Galson, Western Isles using the Commission Solicitor and Head of Regulatory Support to lead discussion on matters pertinent to crofting landlords. It is anticipated to offer this type of event to a wider Landlord audience in other parts of the crofting counties.

<i>Outcome and Success Factors from 2019 Corporate Plan</i>	<i>Overall Progress to June 2022</i>
	<p>The Commission website has been updated with new general information on the following subjects:</p> <ul style="list-style-type: none"> • Diversification and signposting to sources of funding and advice • Succession • Peatland restoration and factors associated with carbon trading. <p>In addition, the development team have:</p> <ul style="list-style-type: none"> • Created regulatory flowcharts working jointly with the SAC (as per national development plan) • Engaged with Estate Agents marketing crofts to encourage prospective new crofters to be fully informed as to what crofting means • Responded to a number of consultation requests ranging from SG Short term Holiday Lets to Digitalisation in Crofting Communities with James Hutton Institute • Reached out to newly appointed Grazings Committees (73 to date).

<i>Outcome and Success Factors from 2019 Corporate Plan</i>	<i>Overall Progress to June 2022</i>
<p>Outcome 5: Our workforce has the right skills and motivation to perform well, and our governance processes are best practice</p> <ul style="list-style-type: none"> • We see proactive Workforce Planning used within the organisation • Continued investment in the development of staff and the Board • We see increased job satisfaction across the organisation • We see robust risk management in line with best practice 	<p>An initial Workforce Plan for the Commission was approved by the AFC in January 2020, and has been improved and expanded since then. Our approach to recruitment, training & development, retention and support of staff has been informed by successive versions of the Plan. In addition, our staffing structure and complement is currently being substantially enhanced following an independent report into our staffing needs in November 2021.</p> <p>Training for staff and Board members has been a continued focus, especially regarding (a) improving training for recruits into the regulatory team and (b) joint training for commissioners, SMT and Sponsor.</p> <p>Despite the pressures of backlogs and covid, morale has increased over recent years, as reflected particularly in the favourable staff survey responses in April 2021. Responses dipped somewhat in the October 2021 survey, but the additional recruitment following the Glen Shuraig report and Business Case has led to a recovery of morale. Turnover of staff has generally been modest, with the exception of the latter half of 2021. It remains the case that most leavers from the Commission do so to promoted posts elsewhere.</p> <p>Risk management policies and processes have been reviewed more than once. Following audit recommendations, the risk registers were revised and new training provided to commissioners and SMT, during 2021/22.</p>

Risk ID	Risk Description	Controls in Place	Current Impact	Current Likelihood	Current Risk Score	Change to Risk explanation	Actions Planned	Controls Confidence Level	Target Impact	Target Likelihood	Target Risk Score	Target Date	Risk Owner
S1	Outcome 1: The Commission is seen as ineffective in tackling breaches of duty	New suite of RALU policies agreed by the Board. RALU team will be expanded by 2022/23 to 7 B1s to deliver these policies in priority order. The scope of the work of the team was extended within existing resources in 2021/22 to include engaging with non-resident owner-occupier crofters and resident non-cultivating tenants.	25	5	125	Static	Further expansion of RALU team, to 7 B1s. Corresponding expansion of enforcement activity. To extend the work of RALU team in 2022/23 to (i) engage with non-census returners (both tenants and owner-occupier crofters) whose address would indicate that they are in breach of the duty to be ordinarily resident, and (ii) occupiers of vacant crofts who are not residing on or near the vacant croft or cultivating or using the vacant croft for another purposeful use.	Reasonable	25	2	50	Mar-23	Joseph Kerr
S2	Outcome 2: Active use of common grazings declines	Support and guidance, coupled with online training courses are being provided to members of grazing committees. Reminders are being sent out to committees whose term of office will expire guiding them on the process of appointing a new committee. We will begin carrying out special projects to target long term out of office situations. The Development team are making contact with every new committee which goes into office to promote activity/development and diversification opportunities. Regulations work will be reactive until staffing situation returns to normal level	25	4	100	Static	The team remain below its staffing level and so are focusing on the appointment of new committees, especially with the changing Covid situation. A high number of queries are being received on various common grazings items and so focus is currently on providing timely responses to customers. An online Clerks surgery meeting is taking place once a month following a successful pilot. Regulations work will be required to be put on hold until the team returns to a full compliment. The Development team continue to work closely with a wide range of stakeholders. The team are now taking responsibility for specific areas within the crofting counties and are focusing on a number of development initiatives with landlords, committees, crofters and assessors.	Reasonable	25	2	50	Mar-23	Finlay Beaton
S3	Outcome 3: The regulatory backlog becomes unmanageable and continues to grow	Recruitment of 13 staff into new regulatory posts has taken place between January and May 2022, ensuring the team has the staffing resources it needs. Training for staff in new roles is working effectively due to designated training officers. Overtime is being offered and the case folders are being proactively managed and monitored. An extra step to acknowledge receipt of applications and apologise for the anticipated delay remains in place. Customer enquiries and complaints are being managed to ensure that customers are kept informed and that casework officers and administrators have the majority of their time to focus on processing cases.	50	4	200	Static	Recruitment of two B2 senior casework officer posts is underway and when in post will help reduce pressures on existing Casework Officers and the regulatory support team, allowing cases to progress more efficiently. Further recruitment of 8 permanent Casework Administrators is taking place over summer 2022, which will complete the staffing of the newly expanded team (although they will be in training for a year). Improvement work is underway led by the new post of Operational Improvement Manager and streamlining of processes such as the case paper is planned. The new release of CIS is planned for summer 2022 and a new process for CIS improvements is being developed as well as the recruitment and training of an extra developer.	Reasonable	25	2	50	Mar-23	Heather Mack

Risk ID	Risk Description	Controls in Place	Current Impact	Current Likelihood	Current Risk Score	Change to Risk explanation	Actions Planned	Controls Confidence Level	Target Impact	Target Likelihood	Target Risk Score	Target Date	Risk Owner
S4	Outcome 4: It gets even harder for young people to access crofts.	Website highlights the options available for those no longer wishing or able to use their crofts. RALU work expanded to tackle more breaches. For those crofts which do become available for the Commission to let, we adopt a proactive policy to prioritise new entrants. Building links between Grazings and Development Teams to increase the interest in and availability of crofts for new entrants. Development team initiatives to promote 'living succession'.	10	4	40	Static	Further expansion of RALU team and its work. Liaising with SG and community landlords, and other willing landlords, to improve adherence to duties by their crofting tenants. Mobilise assessors and grazings committees across the crofting counties to take opportunities to promote residency and use of crofts.	Reasonable	10	3	30	Mar-23	Arthur MacDonald
S5	Commission loses credibility because of Governance issues outlined in Deloitte report	39 of 41 Deloitte recommendations implemented and incorporated into Commission Governance Framework.	10	3	30	Fallen	Remaining recommendations (1.4 Revision to Workforce Plan & 3.4 Code of Corporate Governance) scheduled for June 2022 Board Meeting. Deloitte follow up audit has commenced and a summary report will be presented to AFC on 27 July 2022.	Substantial	10	1	10	Jun-22	Neil MacDonald

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Outstanding Casework Update

SUMMARY

High numbers of outstanding cases remains a concern for the Commission and is being closely monitored. Recruitment for replacement and expanded staff to the regulatory team is well underway with 13 new appointments made since January 2022. Training is also a key area for the expanded team and is a lengthy process for new staff. The improvements from recruitment and training will take some months to come to fruition, although we are already seeing the benefits of the progress that has been made thus far. Customer service has been a challenge in terms of current cases that have been negatively affected by the backlog pressures, particularly from staff turnover – as many as 80% of current regulatory staff have taken up their current role since June 2021.

BACKGROUND

High numbers of outstanding casework continue to be a challenging issue for the Commission. Previous reports on the issue (March 2022 and May 2022 Board papers) have explored the reasons behind this increase and what steps have been taken to mitigate the effects and to reverse the trend.

This paper presents the most up to date figures on outstanding casework and outlines the recent progress made to improve the position. The key approach to improve the situation is the recruitment and training of new staff to fill vacancies and create an expanded team. The allocated resources for the Regulatory team staffing increased from 20.5 to 28.5 full time equivalent staff in April 2022, which was enabled by the additional funding from the Scottish Government in response to the business case submitted by the Commission.

Outstanding casework update

As shown in Figure 1(a), the increase in outstanding cases has shown signs of levelling out. Outstanding cases peaked in March 2022, came down considerably in April and went back up in May. This variability is to be expected due to fluctuations in cases received and cases discharged which is affected by several factors. Figure 1(b) shows that cases discharged declined steadily from May 2021 through to January 2022 and since February 2022 this has seen an overall increase.

The fact that the outstanding casework has peaked is encouraging and hopefully the ongoing increases in output from staff currently in training will prevent any further significant increases in outstanding cases. Further fluctuations in both cases received and discharged are to be expected and it is likely that fluctuations will be seen in the outstanding cases, especially whilst there is still considerable recruitment and training to bring the team into a more productive and resilient position. One aspect to note that has increased the number of cases received in May 2022 is that 40-50 cases have been created in response to the census results.

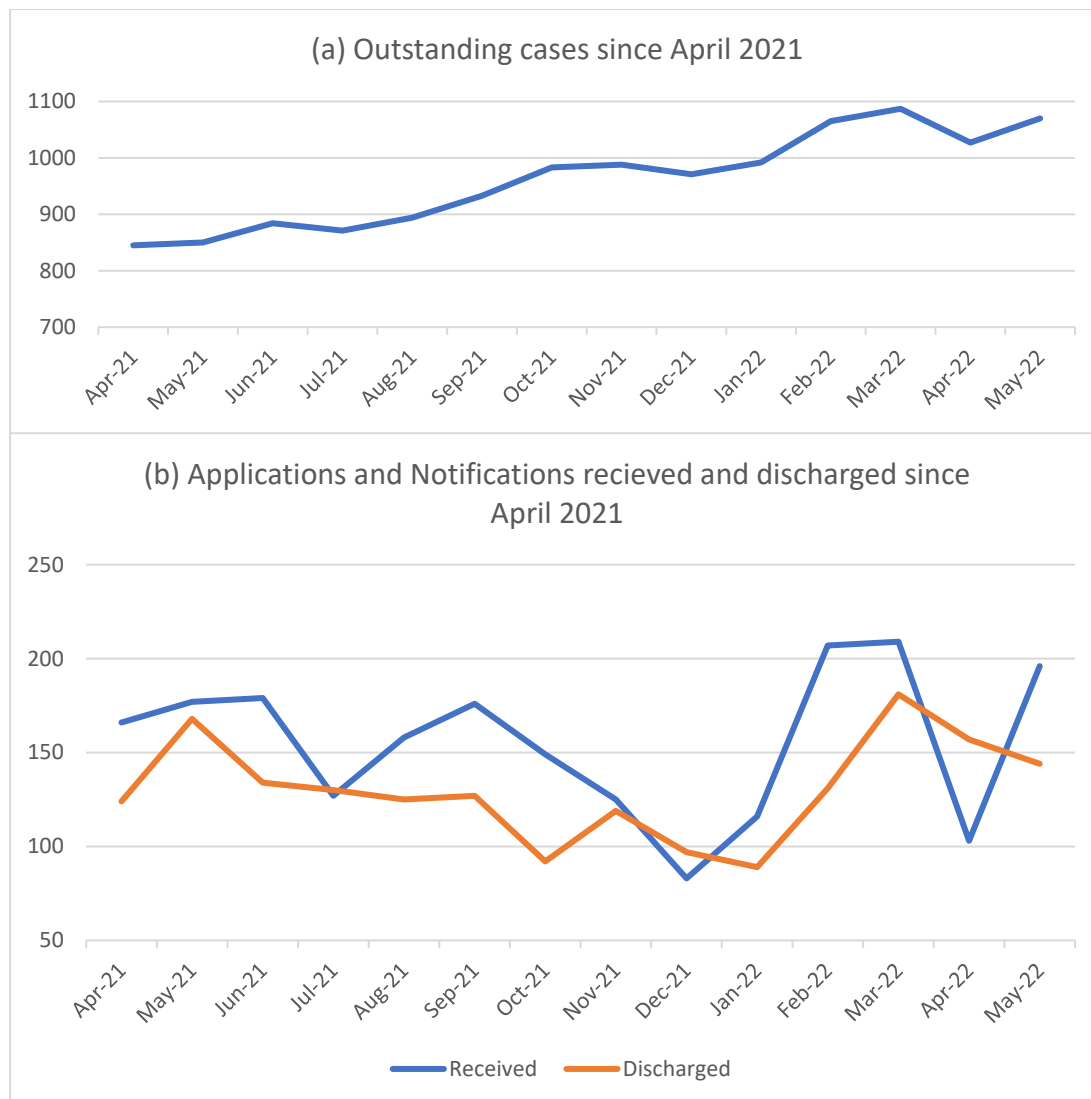


Figure 1 – (a) Outstanding cases since April 2021; (b) Applications and notifications received and discharged since April 2021.

Recruitment

Recruitment continues at a considerable pace. The two new B2 Senior Casework Officer posts are being advertised at the time of writing with the interviews planned for June. These posts are promotion opportunities for internal staff and will strengthen the regulatory work quality and streamline the escalation of enquiries to the Regulatory Support Team, as well as provide a dedicated resource for the most complex cases.

Permanent posts for several A3 Casework Administrators are now on the system ready to be advertised. These posts will be advertised widely within the crofting counties. The main office remains Inverness and we have been liaising with RPID to secure alternative office locations which is looking very promising. The recruitment will be for 8 posts which will cover existing vacancies, new vacancies due to recently promoted staff and extra contingency.

Two C1 posts to form the new Senior leadership team are also currently being advertised. The Director of Operations and Policy will provide welcome support to the team and will enable more resource to go into improvements.

Recruitment has been very successful thus far and it is well on track. Thirteen appointments have been made of new staff into the team since January 2022, which is a major step to bring the team into a stronger position. The recent recruitment of the two B2 manager posts has brought some much needed stability to the team. The staffing for the regulatory team is currently 24.5 WTE. The remaining posts will be filled when appointments commence and by current recruitment to bring the total to the complement of 28.5.

Departures of staff from the team has been minimal since January 2022, which is very encouraging. This may be related to the increased investment in the team which has resulted in opportunities and staff are encouraged that there will be more staff to take on the work which is very demanding at present.

Training

Training continues to be demanding for the training officers and staff that are in new roles. The newest casework administrators in the team have completed croft house site and garden ground decrofting, part croft decrofting and registration training. We are seeing the benefits of this as these case types are particularly up to date with only 10 of these case types waiting to be taken on by a casework administrator at the time of writing.

Training is well underway for two of the staff who secured the Casework Officer posts as they were already in the role on a TRS (temporary responsibility supplement) basis. Training has just started for one of the new staff who was already trained as a casework administrator.

The intense training requirements will continue for the next year as new casework administrators and casework officers come into post. Whilst considerable progress has been made to the training set up, we are limited by the rate at which training can be delivered, which is a particular issue when there are so many staff at different levels in their training. There are no shortcuts to the regulatory training as it is crucial to ensure that cases are being processed correctly. One step that is being taken however is using experienced staff to help with some of the consolidation part of the training and answering queries about casework. Some of the more complex case types, such as apportionments, are a long way into the training programme, which is a concern as these case types will still build up. For these we are trialling teaming up an experienced casework administrator with a casework officer to process these, despite not having had the training but allowing them to learn as they go with good support.

Customer enquiries

Customer enquiries and complaints continue to be a challenge to the team to find the right balance between time spent on this and time spent on processing casework. We are working closely with the customer services team to ensure they have the required information to give updates on cases and are developing a more streamlined process for frontline complaints. One of the new Casework Officers who is experienced as a Casework Administrator has been allocated time to focus on customer enquiries and complaints which should alleviate pressure on the Operational Delivery Manager and allow us to give a better service.

Improvements

The new Operational Improvement Manager role has now been in place some months and has been slowly devoting more time to the role as she works through ongoing cases from her previous Casework Officer role. Considerable progress has been made on discussing and designing a workable process for CIS improvements in addition to the governance documentation that will form the foundations for an effective system.

There has also been good progress on updating the case paper, which is the document used to compile all the key information on a case in order that it can be presented at a Tier 2, 3 or 4 meeting for decision. The improvements will make this document more streamlined and easier to use, which will benefit all involved in this process and will allow it to become more efficient.

Progress of current cases

The difficulties experienced over the last year have had a negative impact on cases to varying extents, particularly in the latter half of 2021. These included cases being put on hold or passed to different staff members because of staff leaving. Recovering from those difficulties is taking time to address, and steps have been taken to mitigate this such as prioritising the progress of cases that are currently underway over starting new cases. Also by keeping some staff not allocated to specific geographical areas so they could pick up cases that have been left from where staff have left the organisation. This means they can be allocated by experience of the staff member which has been a particular consideration over the last few months due to several staff that are in training. Another step taken is a more pro-active management of case allocation particularly with respect to cases processed by former members of staff.

The sustained impact of so many staff leaving the team (8 staff between June 21 and January 22) has been huge, particularly since the regulatory casework job requires so much learning. It has been a massive challenge to keep the work going through this time and a big credit to the staff that have helped organise the work and ensure that there is as much continuity as possible for existing cases. As the team becomes more settled and stable through this year and the improvement work picks up pace, we can expect considerable improvement in the customer service that we are able to give to applicants.

CONCLUSION

The outstanding case numbers continue to be high with some indication for greater stability since March 2022, rather than the steady increase that was seen toward the end of 2021. Considerable progress has been made towards recruitment and training of an expanded regulatory team but due to the numbers of existing posts to fill and the long training time it will take several more months before the team are in a strong position. Improvements have begun for regulatory and CIS processes but there is a lot to do and this is limited by staff time.

We continue to see the negative impacts of the outstanding cases and the high staff turnover through 2021-22. This includes cases that have been delayed, changed hands or been waiting in a queue of cases. Staff are working hard to deal with the customer enquiries and complaints whilst maintaining as much processing of casework as possible. Allocation of resources and prioritisation is a particular challenge at this time and needs pro-active management.

Impact:	Comments
Financial	Ongoing staffing costs for the Regulatory team.
Legal/Political	Wider impacts of casework delays and reputation issues for the Commission.
HR/staff resources	Ongoing pressures on staff from high volumes of work in the regulatory team and knock on affects to other teams. Considerable resource is being put into recruiting and training, taking staff time away from other duties.

RECOMMENDATION

That the Board note the issues surrounding the outstanding casework and the recent developments and progress.

Date 9 June 2022

Author Heather Mack, Head of Operations

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Update on Deloitte

SUMMARY

This paper invites the Board to note progress with the implementation of the recommendations from the May 2021 Deloitte report.

BACKGROUND

In early Spring 2021, Deloitte indicated to the Commission that they intended to undertake a comprehensive 'Wider Scope' audit of the Crofting Commission. Their report was finalised on 28 May 2021. This was considered by Audit Scotland, and in October the Auditor General for Scotland published his own take on the issues in a "Section 22" report. Both reports can be found on the Audit Scotland website.

From June 2021 onwards, the Crofting Commission's Board, AFC and management took a proactive approach to implementing the 41 recommendations in the Deloitte report. 39 of the 41 had been implemented by May 2022. The two outstanding recommendations were:

- 1.4: Subject to the findings of the independent review into the Commission's workforce, the Commission should revise its Workforce Plan to clearly set out how the Commission intends to make any transition from the current structure to the proposed structure.
- 3.4: The Commission should consider whether it needs an overriding Code of Corporate Governance, bringing together its interpretation of its governing legislation, Scottish Government guidance as it applies to the Commission, and the Commission's Framework Document.

CURRENT POSITION REGARDING THE TWO OUTSTANDING RECOMMENDATIONS

Drafts of a revised Workforce Plan and a new Code of Corporate Governance are being presented to the Board at today's meeting. If both are approved, the initial implementation of all the Deloitte recommendations will be complete. However, some of the recommendations will required to be revisited from time to time, such as training for commissioners and SMT when new Commissioners and SMT members join.

NEXT EXTERNAL AUDIT

Preparations have been made for the 2022 External Audit by Deloitte, which begins during week commencing 20 June. Information on the implementation of the 2021 recommendations has been provided for Deloitte to consider over the course of the 2022 Audit.

Impact:	Comments
Financial	N/A
Legal/Political	The Commission will continue to face the possibility of additional scrutiny by Parliament, journalists and crofters, until the lessons from the 2021 Deloitte audit are seen to have been taken on Board fully, with further audit comment to confirm this.
HR/staff resources	Board, AFC and SMT are continuing to give some time to the issues raised in the 2021 Audit.

RECOMMENDATION

The Board is invited to note the progress with implementing the Deloitte recommendations.

Date 16 June 2022

Author Bill Barron, CEO

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Workforce Plan

SUMMARY

This paper invites the Board to approve the substantially revised Workforce Plan (see Annex A) which has been drawn up by officials following a 2021 Audit recommendation.

BACKGROUND

One of the recommendations in the 2021 Deloitte report was:

1.4: Subject to the findings of the independent review into the Commission's workforce, the Commission should revise its Workforce Plan to clearly set out how the Commission intends to make any transition from the current structure to the proposed structure.

The Glen Shuraig report of November 2021 set out a full set of recommendations about capacity in regulatory, a revised Senior Management team, additional administrative support, and reassessing the grading of junior posts. Based on that report, and its own thinking, the Commission submitted a business case to the Scottish Government for an enhanced staffing structure with 14 additional posts. This was accepted and is being funded by the Scottish Government from 2022/23. The current changes therefore show how the Commission will move to a much improved structure in the immediate future. This is reflected in the Workforce Plan.

However, the Workforce Plan also considers further enhancements which could be made if resources were expanded further, and also discussed how the Commission might cope with a reduced budget if and when that happens. In addition, it discusses a range of matters about the manner in which our staff resource is supported, developed and maintained.

Impact:	Comments
Financial	N/A
Legal/Political	N/A
HR/staff resources	The Workforce Plan sets out a blueprint for how we will improve the management, deployment and development of our staff.

RECOMMENDATION

The Board is invited to approve the revised Workforce Plan.

Date 17 June 2022

Author Bill Barron, CEO

WORKFORCE PLAN 2022-2027



CROFTING COMMISSION **COIMISEAN NA CROITEARACHD**

Version 0.1

Last Review June 2022
Next Review March 2023

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Our purpose is “to regulate the crofting system fairly, and to protect and strengthen it for future generations”

Purpose of this Plan

This is our 2022 Workforce Plan which is designed to sit alongside our Corporate Plan, to be rewritten and reissued later this year, our annual Business Plans, and our Medium-Term Financial Plan – which includes scenario planning for the future size and grading of our workforce, and addresses how we deploy our staffing to achieve the Commission’s objectives and contribute to the Scotland’s National Outcomes.

This Workforce Plan describes our current workforce structure and how we want this to develop over the next 5 years. It also describes how we will **support, develop and deploy our workforce** to deliver the commitments we make in our Corporate Plan.

The Crofting Commission

The Crofting Commission’s functions are set out in the 1993 and 2010 Acts and are summarized in our organisational Purpose, set out in our Corporate Plan and quoted above.

The Acts set out in considerable detail the responsibilities of the Commission for regulating crofting, including the registration of crofts and crofters in the Register of Crofts and the Crofting Register. The greater part of the regulatory function is a demand-led service, in which the Commission responds to applications from crofters for assignation, sublet, decrofting, apportionment, or other changes.

The Commission’s role in protecting and strengthening crofting for future generations is less precisely defined, but no less important to the Scottish Government, the Commission’s Board, and crofting stakeholders. It includes proactive regulatory activity to enforce crofters’ duties, direct support for the system of common grazings committees, proactive interventions by the Commission’s development team, and advising the Scottish Government on the issues facing crofting and how it can be strengthened for the future. It includes 20 Action points set out in the Scottish Government’s *National Development Plan for Crofting* (March 2021) in which the Commission has responsibility to lead or to contribute.

The Commission draws all of its funding from Grant-in-Aid from the Scottish Government, and its budget is set annually by the Scottish Government with the agreement of the Scottish Parliament.

Our Corporate Plan

Membership of the Board of the Crofting Commission is subject to substantial change every five years, given the quinquennial elections for two thirds of the Commissioners. The Commission develops and publishes a 5-year Corporate Plan after each election, which is then subject to annual review. The current Corporate Plan is for 2019-2022, but a new Plan for 2023-2027 will be developed by Winter 2022-23.

The current plan sets out 5 outcomes that the organisation seeks to deliver, each of which has workforce implications as set out in the following table:

Corporate Plan 2019-22 Outcome	Priorities for Workforce Plan 2022-26
Crofts are occupied and managed	The Residency & Land Use Team has been expanded since 2019 and it is a priority to expand it further, to protect active crofting communities.
Common grazings are regulated and shared management practices continue	Since 2019, the Commission's small grazings team has seen more grazings committees in office, reversing an historic decline. The Commission would like to expand this team in the coming 5 years, to support more active townships and more active use of common grazings land.
Crofting is regulated in a fair, efficient and effective way ¹	<p>A workforce review in 2021 observed that turnover of front line staff was a major threat to the work of the regulatory team, and that it should be substantially expanded to compensate for turnover and to prevent casework backlogs. A top priority for 2022 is to recruit and train many more front-line staff.</p> <p>More resource has also been allocated for Improvement work, with a new role created for Operational Improvement Manager. This will allow for dedicated time to be prioritised for developing the governance and processes for the main casework system (CIS) and to improve the quality and efficiency of case processing.</p> <p>At the same time, the Commission will continue to expand its Information Services team to ensure that systems and tools for regulatory casework develop in accordance with technological developments and the needs of the business.</p>
The future of active crofting is supported by well-informed engagement with stakeholders	In 2021, the Commission recruited two Development Officers based in the Western Isles. A further Development Officer is being recruited in 2022, probably in Inverness. An ambition for the next five years would be to recruit Development Officers in other parts of the crofting counties.
Our workforce has the right skills and motivation to perform well, our governance processes are best practice	In 2022/23, the Commission's Board and management will implement a new structure for a Senior Leadership Team.

¹ For business planning purposes, including for this Workforce Plan, this outcome refers to the *responsive* regulatory work, assessing and taking decisions on regulatory application by crofters. However, other aspects of the Commission's work, including the residency and land use duties enforcement, and much of the work on common grazings, is also part of the Commission's regulation of crofting. The aspiration to regulate *fairly* applies to all the regulatory work of the Commission.

Our Workforce

Our workforce is by far our biggest resource with over 80% of our budget allocated to staffing.

The Crofting Commission has the right either to draw its staffing from the Scottish Government or to recruit its own staff on its own pay and conditions, or a mixture of the two. However, the Commission has never chosen to recruit its own staff, as both management and staff see benefit in being part of the Scottish Government for all HR purposes. This means that all established CC staff are Scottish Government staff, appointed to work for the Commission, and the whole range of SG Human Resources policies (on pay, conditions, welfare, recruitment, promotion etc) applies to the staff of the Crofting Commission as to other SG staff.

SG Human Resources policies therefore have a direct effect on the way the CC manages its workforce.

The Crofting Commission supplements its established staff with temporary staff on agency terms. Normally we keep this to a minimum, to avoid the premiums payable to the agency, but the use of agency staff provides flexibility to take people on at short notice or for specific purposes that cannot easily be covered by staff on SG terms and conditions. An example is that in Spring 2022, the Commission recruited seven administrative staff to work from home across the crofting counties, for up to 23 months, in response to the urgent need for more regulatory staff, and taking account of temporary difficulties in recruiting permanent staff.

Locations and hybrid working

Prior to 2020, all Commission staff were based in Great Glen House, Inverness with a few staff authorised to work partially from home. As with other organisations, the covid-19 pandemic in 2020 and 2021 required the Commission to enable all staff to work from home where possible. In addition, in July 2020, the Commission agreed a Scottish Government request to recruit 4 permanent staff in the Western Isles. Consequently, the Commission will now have three office locations, and a variety of arrangements for home working.

In accordance with the Commission's and the SG's policies, the Commission is now developing a policy for 'hybrid working' – i.e. a mix of office and home working. The size of floorplate in Great Glen House is being reduced in anticipation that no more than 36 CC staff will use the building at any one time.

Benefits of working at the Commission

Being part of the Scottish Government gives our employees a strong set of working conditions and support. The Crofting Commission already holds a [Living Wage Employer](#) accreditation. Commission employees benefit from all the benefits of working for the Scottish government with generous sick pay, maternity pay etc. The Commission is also very accommodating for staff who want to work on a part time pattern, which means that the Commission is an attractive place to work especially for staff with children or other caring responsibilities. Flexi time is also used within the Commission for staff on permanent and fixed term contracts, to the benefit of employees and the employer. Now that access to Great Glen House is re-established, Inverness-based employees can again benefit from being located in a modern, award-winning building with access to pleasant open spaces, changing rooms and showers, a gym¹, a locked bicycle shed and a café², all of which makes for a good working environment.

¹ not yet re-opened following the pandemic

Current and future staffing structure

Glen Shuraig Report

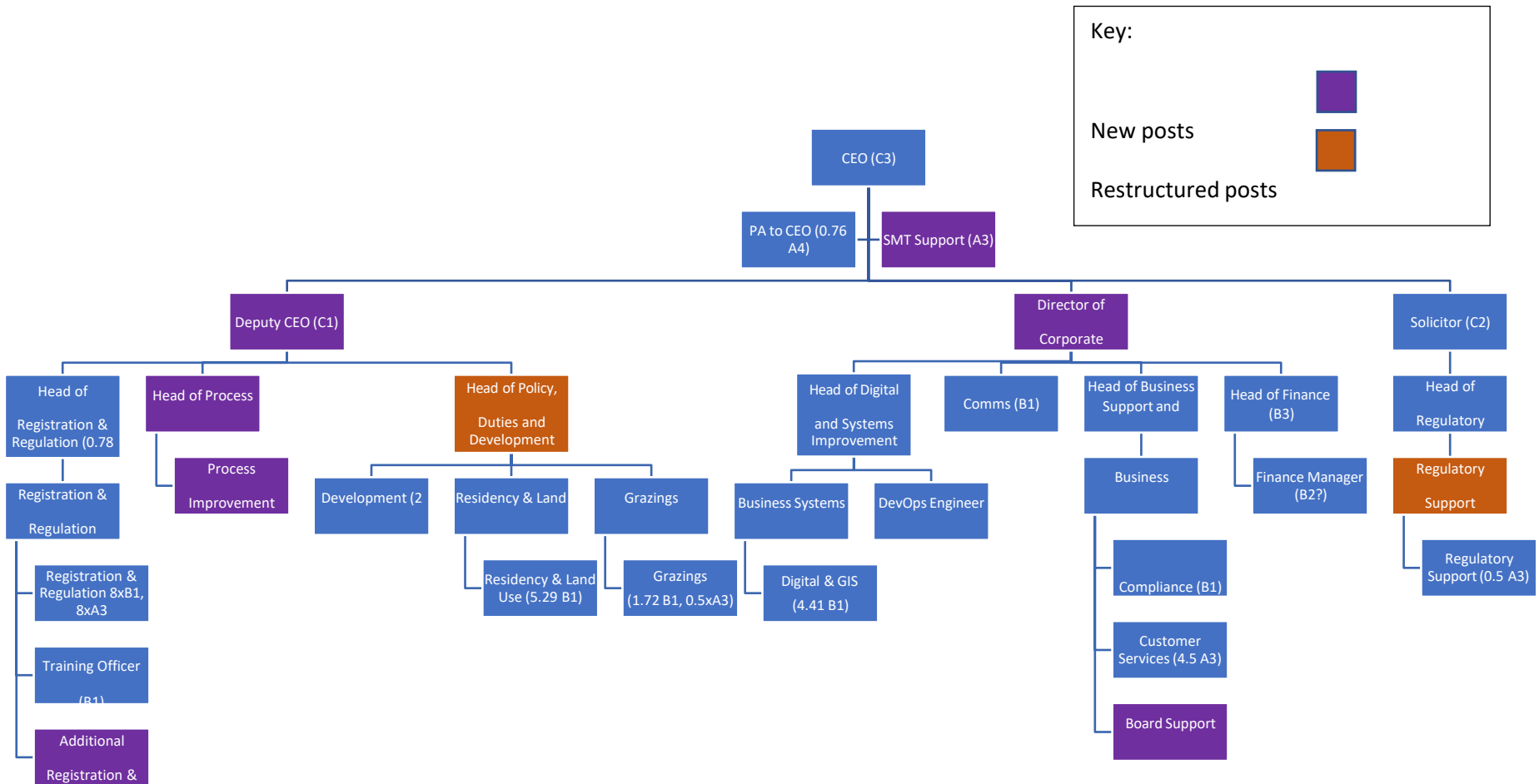
In Spring 2021, two audit reports recommended action in respect of the Commission's staffing. A report by internal auditors Azets recommended enhancements to our planning, control and delivery of improvements to our case processing system, CIS. At the same time a report by external auditors Deloitte recommended an independent review into the optimal workforce structure for the organisation.

To fulfil the latter recommendation, in Autumn 2021 Glen Shuraig Consulting undertook a study of the Commission's workforce. They identified weaknesses and vulnerabilities in the Commission's staffing and recommended that improvements in the following areas should be priorities for the period 2022-2024:

- 8 additional regulation/registration posts to put the responsive regulatory work onto a secure footing
- 2 C band posts to form a new leadership team along with the CEO and Solicitor
- 2 new posts for administrative support to the Board and SMT
- 2 new posts to focus on improvement of processes and systems
- Reassessment of the grading of certain posts and/or other initiatives to reduce turnover of junior staff

The changes to the structure recommended by Glen Shuraig are set out in the following diagram, taken from their report:

Annex D: Proposed new structure of Crofting Commission 2022-23



Key:

- New posts (represented by a purple square)
- Restructured posts (represented by a brown square)

Note that some boxes cover multiple posts

Glen Shuraig also acknowledged that there could be a case for expanded staffing in development, grazings or RALU teams but advised that consideration of these should be held back until Autumn 2023. They commented:

We have considered whether additional staff are needed for these areas of work. At this stage, there are some uncertainties which make this difficult to assess. The Commission has recently recruited staff to two additional development posts, and the impact of this increased capacity is not yet fully understood. In addition, it is difficult to know what the full benefit will be if the Commission does not have to disrupt the work of staff in these teams in a reactive way to tackle regulatory casework. For these reasons, we are not proposing that further additional posts should be added for development and duties work at this stage – not because we don't see the importance of this work, but because we think the Commission needs to prioritise the clearing of the regulatory case backlog and the bedding in of the recently-added posts first before assessing what capacity is required. We are proposing that there be a formal review point in autumn of 2023 when the Commission would assess and discuss with SG how successful the steps it has taken have been and what further changes to staff structure would be required to ensure the Commission's future success.

The Commission's workforce objectives

Building on the Glen Shuraig report, the Commission developed a Business Case for enhanced staffing, which was approved by the Scottish Government in April 2022. This Business Case set out plans for recruitment of 14 additional posts, which will raise the Commission's WTE complement from around 60 WTE to around 75 WTE. The Business Case also set out the required funding for both 2022/23 and 2023/24. The key elements are as follows.

- 8 additional regulation/registration posts to put the responsive regulatory work onto a secure footing; elevation of two caseworker posts to become B2 senior caseworkers
- 2 new C band posts to form a new leadership team along with the CEO and Solicitor
- One new post for administrative support
- One additional Crofting Development Officer
- One additional post for the RALU team
- One additional coder for the Information Services team
- Reassessment of the grading of the Commission's A3 posts

The additional coder, together with an Improvement Manager/Product Owner post which was created prior to the Business Case, will enable the Commission to meet the recommendations of the Azets review on CIS.

The above changes represent the Commission's priority staffing needs, and they should all be implemented during 2022. By Autumn 2022, the structure should be as follows:

Crofting Commission Organisational Structure, Autumn 2022

Showing permanent staff positions only, and also the temp B3 post

C3	Bill Barron (plus Fiona MacDonald as PA)											
C2	David Findlay (solicitor)											
C1	Director of Operations and Policy						Director of Corporate Services					
B3	Joseph Kerr Head of Regulatory Support		Arthur MacDonald, Head of Development & Policy (part-time, temp)	Finlay Beaton (TRS) Head of Grazings & Planning	Heather Mack Head of Operations		Aaron Ramsay Head of Digital		Jane Thomas Head of Business Support & Compliance		Neil MacDonald Head of Finance	
B2	Garry Laws	Mary Ross; Jacqueline MacBean (80%)	Karen Macrae; Lynne MacMillan 3 rd Development Officer	vacant	Stuart Hogg; Claire Maclean & 2 senior caseworkers		Christopher Dickinson; Second developer	Anne Williamson		Jacqueline MacBean (20%)	-	Jo Mackay
B1/A band staff	7	½	1	2½	3	9 B1s and 15½ A bands	-	3	2		5½	-
	RALU	Regulatory Support	Development, Policy & Comms	Grazings & planning	Registration	Regulation	IS (coding etc)	IS (other)	GIS	Records Management	Compliance, Corporate & Customer Services	Finance

Further enhancement of the Commission's workforce will only be possible with a further increase in resources and/or efficiency savings in other parts of the organisation. However, if resources permit, the Commission has agreed the following ambitions for further enhancement of our capacity:

- A second new post on improvement
- A second new administrative post
- Further consideration of options for reassessing grading
- Further expansion of the RALU and/or development and/or grazings teams, in accordance with the policies of post-2022 Board of the Commission. If this includes expansion of the development team, the new posts should be spread across different parts of the crofting counties.
- A second communications post.

The net result of all these improvements, would be a 2026 staffing structure based on the Glen Shuraig recommendations but also including:

- A B1 or B2 coder working with the DevOps Engineer
- A B2 head of comms
- Development expanded to 5 B2s supported by an A4 administrator
- RALU expanded to 8 B1s supported by an A4 administrator
- Grazings expanded to 4 B1s and 2 A3s

The Commission will continue to progress towards the enhanced staffing structure set out in this Plan, if resources permit.

Options for a reduced budget

For the longer term, the Commission needs to be prepared for whatever budget the Scottish Parliament sets for it. Beyond 2023-24, the level of workforce that is affordable may continue to increase or may level off; but given the pressures on the economy and the Scottish Government's budget¹, the most likely scenario is that it could reduce.

Should this transpire, it is unlikely that there would be any scope for finding new sources of income. The reasons for this are set out in our Medium Term Financial Plan 2022-2027. Instead, The Commission would need to examine its budget to consider where resource savings could be made with minimum loss to our objectives. Our strategy would focus on the following 4 options for resource savings, in this order:

1. **Identify efficiency savings in the non-staff budget.** We have already achieved savings in non-staff budgets in recent years, but as technology and work practices develop there may be scope for further savings in IT provision and connectivity, travel, etc. It is also possible that a future Crofting Bill (expected by 2026 at the latest) will create scope for savings by e.g. removing the need for a census every year, or giving more flexible options for regulatory advertising.

¹ see the recent SG Resource Spending Review at <https://www.gov.scot/news/resource-spending-review/>

2. **Identify any staff roles that are no longer required.** For example, in 2022 the regulatory team is being expanded to a size sufficient to rapidly reduce the backlog of casework that built up in 2020 and 2021. Once the backlog is eliminated, we may not need as large a team. Similarly, it is possible that when most applications are made electronically, there could be some resource saving because scanning and checking of applications received may be avoided or streamlined. We continually examine the scope for process simplifications, which could be a further potential source of efficiencies. Any posts no longer required for such reasons could be redeployed elsewhere or if necessary, removed.

3. **Identify any spare management capacity.** The introduction of 2 new Senior Leadership posts in 2022 is necessary. The deficiency of our leadership structure was highlighted by external audit, and the need for two additional posts was a key recommendation by Glen Shuraig, and has been agreed by the Commission's Board and the Scottish Government as our funders. Nevertheless, it represented a substantial additional investment in the management tier. Should there be the need for staff savings in future, how these new posts have complemented and dovetailed with existing management roles at B3 and B2 would be closely examined, and it is possible that some spare capacity could be identified within these grades.

The higher unit cost of more senior posts is demonstrated by the following table, showing the estimated 2022/23 annual cost to the Commission (including employer national insurance and pension contributions) of permanently contracted staff at the top of their scale:

Grade	£000s per annum
C3	112
C2	107
C1	89
B3	67
B2	51
B1	42
A4	36
A3	33

4. **Reduce capacity in crofting development or RALU.** If further reductions are required after the above three options have been exhausted, we would unfortunately require to make reductions in our front-line teams. These reductions could not be in the Regulatory, Registration, GIS or Customer Services teams which are essential for responding to regulatory applications and avoiding future backlogs¹. Instead, they would have to be in the areas of development, RALU or possibly grazings. While the work of these teams is no less a statutory function, they are less demand led.

¹ The alternative, as noted by external auditors, would be for the Commission to accept lengthier turnaround times as the norm; but this would not be acceptable to the Commission or their clients.

We understand that some public sector bodies have chosen to see **all** voluntary exits by staff as an opportunity for budget savings, with the presumption that recruitment to replace them will take place only in exceptional cases. For the Commission, given the priority currently being given to crofting and the Commission's work, such an approach would be inappropriate. *However, when staff do leave, the Commission's management will continue to consider whether this provides opportunities for changes that would secure an overall increase in the efficiency of how we deliver our functions, with the objective of creating as much budget headroom as possible. The option of not replacing the member of staff is always considered as part of such a review.*

Key challenges for our Workforce Planning

Budget level and uncertainty

The Crofting Commission was created in 2012 as a successor body to the Crofters' Commission, taking on a range of new or increased duties in relation to the registration of crofts and common grazings, the annual census, and a substantially redesigned system for enforcing residency and land use. It is doubtful whether the Commission's subsequent budget has been sufficient to fulfil these new duties adequately. It is hoped that the increase in resources to permit an increase in the regulatory team in 2022 will substantially resolve the issue of resource for regulatory casework, but other historic tensions look set to continue.

Moreover, in common with other public sector bodies, the Commission is normally notified of its budget for the next financial year, in December of each year. As a result, the Commission has to be ready to adapt at short notice should there be any unexpected change in the level of our budget.

Unpredictable workload

The greater part of the Commission's work is demand-led. The Commission has little control over the number of regulatory applications made, nor the processes which the law requires us to follow in responding to them.

Skills and specialisms

The vast majority of posts in the Crofting Commission require the post holder to have a high level of skill. Although it is several years since an assessment of Commission posts was made, it is believed that the demands on the majority of CC posts may be towards the upper end of the normal requirements for the pay band across the Scottish Government. If so, this may account for the fact that more CC staff succeed in securing promotion into the rest of SG, than are promoted from SG into the CC.

In 2022 we will commission a review of the grading of all our A3 posts. Depending on the outcome of that exercise, we will consider further initiatives to ensure our staff are properly rewarded for the work that they do.

Even more significant is the high level of specialist knowledge required in several of our posts, ranging from the knowledge of crofting law required of our regulatory, regulatory support, registration, grazings and RALU staff, to the technical/professional skills required of our Finance, IS, GIS, comms and compliance staff. This degree of specialism poses a challenge for flexibility within the organisation – the ability for people to cover for each other, and an additional degree of difficulty for moving between posts (either to meet the needs of the organisation or to broaden their experience as an aid to progression). For the most specialized and critical skill sets, it imposes on management a need to consider retention and succession planning for individual posts.

Introduction of Senior Leadership Team

Changes made at SMT level since spring 2019 resulted in a flat top management structure which has a large number of managers reporting directly to the CEO. In 2021, Glen Shuraig noted that the structure was not working well. The lack of a tier between the CEO/Solicitor and the B3 team leaders meant that senior management and operational leadership was very stretched, with governance roles that would normally be carried out by Directors split between them, and consequently an over-reliance on one individual in several key posts.

In 2022, a new Senior Leadership Team is to be created, with two new C band Director posts complementing the existing CEO and Solicitor positions. This should resolve the structural deficiencies noted by external audit and Glen Shuraig, but bedding in the new posts will lead to major changes in the way the Commission's top management works, with implications for the CEO, the B3s, and staff across the organisation.

Staff turnover

With the exception of 2020, the perceived high level of turnover of staff has been a concern for the Board, management and staff for some time.

The rate of turnover for A band and B1 staff is of particular concern. In the calendar year 2021 eleven permanent staff left, six on a level transfer or higher paid posts within the Scottish Government in Inverness, one to the UK civil service fast track scheme, and four retirements. Each departure represents a loss of skills that are important to the organisation – for example, it takes up to 12-18 months for new staff to become proficient with the complexities of regulatory casework. Where the former postholder is replaced by someone from within the organisation, the knock-on consequences may be that several teams lose an experienced pair of hands.

High staff turnover is not conducive to a robust workforce as it means staff output is lost due to the need to train employees and an investment of time for the recruiting officers. This is particularly acute in the Commission because of the specialised and complex nature of work in the majority of the posts; which means that employees gain experience and training over an extended period, to become fully skilled to do the job.

Staff absences

In 2021/22, our average working days lost through sickness absence was 7.8 days per person (slightly over the Scottish Government average of 7.3). Further analysis highlights that 60% of the 7.8 days relates to colleagues on long term absence. Given the relatively small size of the Commission, longer term absences puts additional pressure on the remaining staff.

Individual line managers continue to liaise with those affected and identify whether there are any work-related issues arising from any particular individual's sick leave. This is reported back to the SMT who identify whether it is necessary to make any changes to working practices.

Staff dis-satisfaction

The Commission takes part in a staff survey in October each year, as part of the survey of all Scottish Government staff. Until 2021 we also undertook an additional one in the spring when some of the questions were tailored to focus on particular issues facing the Commission.

Despite the pressures of covid and a growing backlog of regulatory casework, the staff survey results in April 2021 were remarkably positive, with the highest ever measure of our engagement index. The results for October 2021 were less favourable, reflecting the strain on the organisation from 18 months of growing backlog pressure and the disorientation caused by the pandemic.

Priorities for Staff Wellbeing

Health and Safety

The Commission has a statutory responsibility for the Health & Safety of its staff, which is discharged by the CEO, supported by a Health & Safety Officer and a Health & Safety Committee. This work has increased in scope since the arrival of the covid-19 pandemic, with a strong focus on protecting staff from exposure to covid at work, and on supporting the mental health of staff working alone at home. The CEO reports quarterly to the Audit & Finance Committee on developments, progress and the organisational response.

Support

The Board and management team of the Commission are fully committed to the wellbeing of our staff, and ***we will continue to work with staff, particularly through the Staff Engagement Group and Trade Unions to improve the experience of working for the Crofting Commission and to resolve any issues.*** The Staff Engagement Group meets regularly; these meetings have generated initiatives such as regular training hours and wellbeing events, and SEG works with managers to address the concerns raised in the staff surveys.

We will continue to use annual staff surveys to gather systematic feedback from staff on issues, concerns and morale, and when staff leave we will continue to invite them to give an exit interview to gather further feedback. In addition, we offer private interviews with continuing members of staff, so that we do not have to wait until they leave to invite their considered thoughts.

Priorities for Workforce Development

Integrating multiple sites

In 2021, the Commission appointed 4 new staff to be based at offices in the Western Isles though initially they, like Inverness-based staff, are working from home. The island posts and home working both present challenges for the cohesion of the team, and also opportunities for different ways of working and greater proximity to crofting communities.

In 2022 we have appointed more staff based in remote locations and working from home, on agency terms.

The Commission has taken care to support staff working at home, both with practical IT support and also a range of business-related and social initiatives designed to retain connectedness across all staff.

In 2020, a Short-Term Working Group of Management, Commissioners, Staff, Trade Unions and Scottish Government HR considered the options for a geographically dispersed workforce in the longer term, and made recommendations which continue to be considered by management. Options to be considered for the future include further recruitment on a location-flexible basis within the crofting counties, to enhance the pool of potential recruits and establish a Commission staff presence in more areas in the crofting counties. ***In 2022, the Commission will develop a policy for a more geographically spread workforce, by agreement with Scottish Government HR.***

Induction

In recent years, the majority of our recruitment has been to the A3 grade. We now have a well-established method of external recruitment to this grade, with fair and open competition to take up permanent A3 positions, in the regulatory, registration or corporate services teams. Once they have passed probation, staff are able to compete for level transfer or promoted posts anywhere across the Scottish Government. We believe recruitment into the Commission on these terms is a very attractive option for skilled people wanting to work in the public sector, and this is evidenced by the high number of quality applicants that these recruitments attract.

The creation of non-Inverness posts and the greater use of home working have implications for the induction of new recruits. In 2021 we reviewed and updated our Induction Pack to ensure it meets the needs of new recruits in all teams and all locations.

Training

Training was highlighted within the 2019 staff survey as a key area of frustration for staff. In 2020 we made improvements to our procedures to address these concerns: we continue to promote Personal Learning for all staff as a responsibility of staff, supported by their line manager and by the Commission's Local Learning & Development Support Officer; and we have reviewed and strengthened job-specific training, particularly for Regulatory staff. For regulation, the training offered is a combination of briefings by Regulatory Support colleagues, application-based training delivered by the Regulatory training officers, instruction by IS in the use of the IT systems, and peer-to-peer training.

In 2022 we will again review training needs across the organisation and we will continue to support both coordinated and bespoke training as appropriate.

Career progression

The Commission is a fairly small body which means that opportunities for career progression within the organisation can be limited. In recent years there have generally been many opportunities to progress through our administrative grades to executive positions at B1, but progression to B2 and beyond has proven difficult as there is a much slower change in staffing at this level. The expansion of the Commission in 2022 has brought some welcome opportunities for promotion above B1, but in the long term the structural issue will remain.

Furthermore, the B1 posts which come available have tended to require particular skills and knowledge, so it is very often easier for those already working in the same area to secure the promotion.

A number of colleagues have been promoted into other parts of the Scottish Government, and while this is a loss to the Commission it is of benefit to the individuals as well as to the teams they join. Conversely, we know that other staff regard the Commission as their long term employer and wish to continue here.

In order to enhance Commission staff's prospects for progression, we continually consider whether we can broaden the opportunities for staff to gain experience by taking on different posts, or different roles, within the Commission. We also support staff who wish to gain experience through secondment to other organisations, especially those with connections to crofting. For example, at the time of writing, an officer is undertaking a 6-month secondment to the John Muir Trust.

In addition, we expect line managers to give their staff personal support when competing for a promoted post whether within the Commission or not.

Performance management

The Commission uses the Scottish Government's performance management system, as all our permanent staff are on Scottish Government terms and conditions. Operating within this system, we will set out clearer expectations on the behaviours and skills that will support delivery of the Corporate Plan; focus on continuous improvement; and provide a clearer link between performance management and individual development. This will strengthen an environment where our staff know that their development is encouraged and valued.

Equalities

The Commission undertakes to develop all staff, and positively values the different perspectives and skills each brings to our work. Our Equality and Diversity Plan (available on our website www.crofting.scotland.gov.uk) outlines our continued commitment to delivering our functions in a manner that encourages equal opportunities and aims to eliminate unlawful discrimination and other conduct prohibited by equality legislation.

Resilience and flexibility

The small and specialised nature of the Commission means that resilience is a very important consideration especially in the face of limited budgets. This has become very apparent in recent years when the Commission has had to deal with challenging situations with backlogs of work meaning that staff had to be temporarily reallocated to address this. The size of the organisation means that our specialist teams are also small and key skills and knowledge may only be possessed by limited numbers of staff. The continuity of key skills and knowledge is an important consideration to ensure that the organisation is equipped to deliver its functions.

Equally, as a small organisation, we need our staff to be able to take on diverse roles. An example is our commitment to create an Environment Team within the Commission during 2022/23, which will meet quarterly and spearhead the Commission's response to the climate and biodiversity emergencies. This team will be drawn from existing staff from various teams.

Skills Development and Succession Planning

Some of the posts in the Commission are so specialised that, should a postholder leave, it is highly likely that we would need to recruit a replacement externally. Examples include the Commission solicitor, DevOps Engineer, finance professional, and bilingual telephone receptionist. In 2021, we also used external recruitment to secure postholders in the Western Isles, and a communications officer, and in 2022 we used external recruitment as part of our strategy to increase the number of B1 caseworkers. From time to time we have also secured incoming staff at all levels from the Scottish Government, other government departments or externally.

However, for most of our posts, a substantial knowledge of crofting and its regulation is important, and very often the successful candidates for such posts are from within the Commission. Thus, although we are a small organisation, it is important to have a strategy for skills development of existing staff, to enable them to compete for and successfully progress to promoted and specialist posts within the Commission.

Some of the key skill sets required at a senior level within the Commission are set out in the following table, with comments on how staff are able to develop these skills.

Regulatory Support (i.e. regulatory decision making in difficult cases)	The Commission needs a chief regulatory decision-maker, currently the Head of Regulatory Support. Several Commission staff have the opportunity to work on complicated casework, and there are several B2 posts in Regulatory Support, Regulation, RALU and Grazings.
Operational management	While RALU and Grazings managers have operational responsibility, by the greatest operational management challenges are the B3 and B2 posts overseeing the regulatory work. There has been some difficulty filling these posts since the departure of the former Deputy CEO in 2019. A restructure of the management roles for this work, including the creation of an additional B2 post to focus on CIS product ownership and improvement, is strengthening the team and providing more opportunities for developing the skills. In addition, B band staff wishing to strengthen their operational management skills will be supported to undertake relevant training courses.
IT strategy and delivery	Since the re-establishment of a full-time Head of Digital role in 2019, the IS team has progressed a broader range of projects than before (including remote working, cloud-based systems, online applications, digital census, as well as CIS and workflows). The Head of Digital has strongly encouraged development and training for all members of the team. The leader of the team requires the ability to lead a broad digital service for the organisation and the members of the team are exposed to this type of work as far as possible.
Crofting policy and development	The current Board has emphasised the importance of strengthening crofting for future generations, focusing on the RALU team, grazings team and development officers. Many officers in the Commission, in these teams and elsewhere, have a good knowledge of crofting policy issues and the challenges the crofting system faces. They have opportunities to deepen their knowledge through engagement with commissioners, assessors and other crofters, and through internal seminars about the work of the various teams. There is likely to be a restructuring of the teams in this area when the temporary Head of Policy and Development leaves the Commission, and closer collaboration between development, grazings and RALU staff would help individuals in all those teams to broaden their knowledge.

	In addition, there is a policy skill set – how to influence changes through public sector organisations and Government – which relatively few in the Commission have direct experience of. This may need to be strengthened through the expanding work of the development team, SG-based training courses, and occasional secondments.
NDPB Governance	For some years the Commission has relied heavily on two people, the Head of Business Support and Compliance and the Head of Finance, to keep on top of all the legal and constitutional requirements of an NDPB and to promote good practice. It will be desirable for more staff to have exposure to this work, although the skill sets can if necessary be brought in through external recruiting.

It is a difficult balance to strike between encouraging staff to specialize and retaining flexibility so that one team can help out another that is under pressure. Therefore, ***we will develop the range of opportunities that are offered to staff in terms of training and working within different roles.***

Crofting Commission

June 2022

Action plan

Action	Target Date	Lead officer
<i>The Commission will continue to progress towards the enhanced staffing structure set out in this Plan, if resources permit</i>	ongoing	CEO
<i>When staff do leave, the Commission's management will continue to consider whether this provides opportunities for changes that would secure an overall increase in the efficiency of how we deliver our functions, with the objective of creating as much budget headroom as possible. The option of not replacing the member of staff is always considered as part of such a review.</i>	ongoing	SMT
<i>In 2022 we will commission a review of the grading of all our A3 posts.</i>	Launch the review in June 2022	SMT
<i>We will continue to work with staff, particularly through the Staff Engagement Group and Trade Unions to improve the experience of working for the Crofting Commission and to resolve any issues.</i>	ongoing	CEO and SEG lead
<i>In 2022, the Commission will develop a policy for a more geographically spread workforce, by agreement with Scottish Government HR.</i>	Nov 2022	DCS
<i>In 2022 we will again review training needs across the organisation and we will continue to support both coordinated and bespoke training as appropriate.</i> <ul style="list-style-type: none"> <i>We will introduce a talent management framework, setting out more clearly the routes and options for staff to develop and progress</i> 	Nov 2022	DCS
<i>We will develop the range of opportunities that are offered to staff in terms of training and working within different roles.</i>	Ongoing	DCS

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

Proposed Code of Corporate Governance

SUMMARY

This paper presents a draft of a possible overarching Code of Corporate Governance, which was suggested in the 2021 Deloitte report. The Board is invited to consider whether the Commission needs such a Code, and if so, whether the current draft is suitable.

BACKGROUND

One of the recommendations in the 2021 Deloitte report was:

3.4: The Commission should consider whether it needs an overriding Code of Corporate Governance, bringing together its interpretation of its governing legislation, Scottish Government guidance as it applies to the Commission, and the Commission's Framework Document.

The report gave little explanation of what Deloitte saw as the purpose of such a Code. In the preamble to this recommendation the report commented that *"The Commission's governance documents, their enacting legislation and general Scottish Government guidance are sufficiently clear on how governance arrangements within the Commission should work."* It also noted that *"It is not possible, nor should the Commission attempt to formally agree a protocol to deal with every eventuality that may arise in terms of governance. The arrangements have to have a level of flexibility and function to a degree on the knowledge and strength of relationships between key parties in interpreting the governance framework in place."*

The report also said that in Deloitte's view, there had been governance failures by various parties. Their chief recommendations to help remedy this included revisions to the Framework Document and joint training. These have been implemented. Deloitte further suggested (though this fell short of an actual recommendation) that an 'overriding' Code of Corporate Governance might help bring the various bits of guidance together and help clarify how they complemented each other.

At its meeting in May 2022, the Board agreed officials' recommendation that there was no need for *more* guidance that would add to or 'override' the existing suite of guidance documents. On the other hand, there might be merit in an 'overarching' or introductory Code that would describe the governance system as a whole in a summary form.

A draft of such an Overarching Code of Corporate Governance is attached. It does not add to the existing governance documentation, but it describes the main pieces of guidance and contains links to them. It has been kept brief, with the needs of newcomers to the Board or SMT in mind.

Impact:	Comments
Financial	N/A
Legal/Political	N/A
HR/staff resources	The work of updating the Code, if adopted, on an annual basis, would not be extensive.

RECOMMENDATION

The Board is invited to decide whether an Overarching Code of Corporate Governance would be useful, and if so, to approve – or ask for changes to – the attached draft.

Date 17 June 2022

Author Bill Barron, CEO

Crofting Commission

Draft Overarching Code of Corporate Governance

1. This Code is an introduction to and summary of the rules and principles about how the Crofting Commission works. These rules and principles are set out in detail in several other, longer, documents which this Code references.

Functions of the Crofting Commission

2. The [Crofters \(Scotland\) Act 1993](#) is the legal basis for the Crofting Commission. This Act sets out that the Crofting Commission must exist, how it shall be constituted, and what its functions are. The Act gives the Crofting Commission the functions of regulating crofting, reorganizing crofting, promoting the interests of crofting, and keeping under review matters relating to crofting. The Commission also has the duty to advise the Scottish Ministers on any matter relating to crofts and crofting conditions.
3. The [Crofting Reform \(Scotland\) Act 2010](#) sets out further responsibilities of the Commission specifically around registration of crofts and common grazings.

Non-Departmental Public Body (NDPB)

4. The Crofting Commission is an NDPB. This means that while the Scottish Government is ultimately responsible for the Commission, the Commission is led by a Board which has a substantial degree of independence from Government.
5. It is therefore the job of the commissioners, collectively, to exercise leadership for the Crofting Commission, in terms of its aims, objectives, strategies and priorities. Within the framework set out by the legislation and the Scottish Government, the Board decides what are its priorities and how the Commission will deliver its functions.
6. Besides the Crofting Acts, there are many other Statutes which set out the legal responsibilities of NDPBs, including the Commission. These Acts cover many issues, ranging from accounting practices to Freedom of Information and to consideration of the interests of Scotland's Islands.

Leadership – Board, Management and Sponsor Division

7. Responsibility for the Crofting Commission is shared between:-
 - a. The Scottish Ministers (or Scottish Government), who are represented on a day to day basis by the Sponsor Division (or Sponsor Team)
 - b. The Board of the Commission
 - c. The CEO and Senior Management Team of the Commission.

8. The way in which these three parties inter-relate is set out in the Commission's [Framework Document](#) and supplemented by various bits of guidance, especially [On Board](#). In brief:
 - a. The **Scottish Ministers** (represented by the Sponsor Team) are ultimately accountable to the Scottish Parliament for the activities and performance of the Crofting Commission and for its use of resources. They are not, however, responsible for day to day operational matters. They agree the Commission's objectives, Policy Plan and Corporate Plan. They provide the funding for the Commission and specify what they expect to be delivered with this funding. The 1993 Act gives them the power (though rarely used) to make Directions to the Commission which the Commission must follow.
 - b. The role of the **Board** is to provide leadership and direction for the Commission, together with support and guidance, and to ensure the Crofting Commission delivers its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. When performance is falling short, the Board will call for remedial action from the CEO and may alert the Scottish Government. Although the Board's decisions are taken by majority, the **Convener** has a key role in ensuring good communication between the Commission and the Scottish Government.
 - c. The **Chief Executive** of the Crofting Commission is appointed by the Scottish Ministers after consultation with the Convener, and is normally a Scottish Government civil servant. Notwithstanding this, he/she is accountable to the board for, and reports to the board on, the performance of the Crofting Commission, as well as being the board's principal adviser on the discharge of the board's functions. His/her role, with the support of the Senior Management Team, is to provide operational leadership to the Crofting Commission and ensure that the board's aims and objectives are met and the Crofting Commission functions are delivered and targets met through effective and properly controlled executive action.
9. Good communication between Sponsor Team, the Convener and the CEO is essential to make sure that all parties understand each other's priorities and perspectives, and that any contentious issues are identified and addressed. This is underpinned by quarterly meetings between the Sponsor Team, Convener, Vice Convener and CEO / Senior Management Team.
10. It is not always easy for a Board (or Management) to judge the dividing line between the strategic responsibilities of the Board and the operational responsibilities which should normally be left to the CEO and Management. While the Board is accountable for every aspect of the Commission's performance, the Board should only take the main strategic decisions itself, while leaving operational decisions to the Chief Executive. A description of this distinction is attached as an Annex. In addition, the Standards Commission has produced a [guidance note](#) clarifying this boundary.
11. The Chief Executive's primary accountability is to the Board, but he/she is also the Commission's *Accountable Officer*, and thus directly accountable to the Scottish Government & Parliament for the probity and effectiveness of the Commission's use of public money.

Formalising the Commission's objectives, and forward planning

12. Following each quinquennial election, two key documents are produced and agreed between the Commission and the Scottish Government. While there can be adjustments later in the Board's term in the light of changing circumstances and opportunities, these documents are important in establishing an early agreement between Board, Management and Sponsor regarding the Commission's forward programme. These documents are:
 - a. [The Corporate Plan](#). This sets out the Commission's objectives in terms of the Outcomes it intends to achieve and the measures by which performance will be assessed over a 5-year term. It also sets out how the Commission's Outcomes contribute to the Scottish Government's own overarching Outcomes (objectives) for the Scottish public sector as a whole.
 - b. [The Policy Plan](#)¹.
 - c. This is required by Statute and must be submitted for Scottish Government approval within 6 months after the election, after consultation with certain other organisations. It must set out how the Commission intends to fulfil its functions and may also set out the Commission's vision and ambition for crofting.

13. Based on the Corporate Plan, and in the light of the Board's developing views on the priorities and opportunities, the Commission produces two key documents on an annual basis, which have to be agreed between the Board and Management. These are:-
 - a. The Commission's [annual budget](#). There is always some – albeit limited – flexibility for how spending can be apportioned between the Commission's different workstreams. The Board engages with Management throughout the budget-planning process to ensure that the allocation of resources matches its priorities.
 - b. Annual [Business Plans](#). These set out in some detail the Milestones (specific actions with a target date) and Measures that the Commission aims to deliver during the coming year. They are based on the Corporate Plan but go into more detail.

14. Longer term planning is further supported by two planning documents which are updated with the approval of the Audit & Finance Committee or Board each year – the [Medium-Term Financial Plan](#) and the [Workforce Plan](#)².

Monitoring performance, audit and assurance

15. Alongside setting the strategic aims and objectives, a key responsibility of the Board is to monitor performance and ensure that action is taken to remedy any problems. The key mechanism for this is management's regular reports to the Board and Audit & Finance Committee:-
 - a. At the end of each quarter, management produce a Key Performance Indicators (KPIs) report showing progress against each of the Milestones and Measures in the Business Plan, and rating progress Green, Amber or Red.

¹ The [Policy Plan](#) is currently under consideration by the Board.

² The [Workforce Plan](#) is on the June 2022 Board Agenda for approval.

- b. At the same time, management will update the Strategic Risk Register (SRR) which analyses the main risks that might thwart the Commission's achievement of its key objectives; scores them according to the severity of the risk; and outlines the controlling actions that have already been taken or are planned.
16. In 2022, because of the severity of the regulatory casework backlog, management are also providing an analysis of casework for the Board (and Sponsor Team) on a *monthly* basis.
 17. Some of the detailed performance management is handled by the Audit and Finance Committee (AFC) instead of the full Board. The AFC receives quarterly reports from management on:-
 - a. Spend against planned budget; and
 - b. The Operational Risk Register. Structured similarly to the SRR, this itemises risks of various types that might threaten the success of aspects of the Commission's work, or overall.
 18. Further checks on progress and resilience are provided to Board and management through internal and external audit. The external auditors select their own programme of audits, according to the policies of Audit Scotland. The programme of internal audits is agreed between AFC, Management and the internal auditor, and the Board can ask for audit scrutiny on any aspect where there are concerns.
 19. Twice a year management presents to the AFC an updated "Assurance checklist" which aims to expose which parts of the Commission's work are thoroughly covered by audit or other forms of assurance, and which are less well scrutinized.

Regulatory Decision-Making

20. The Commission is responsible for all the decisions in response to regulatory applications or resulting from proactive regulatory work such as RALU enforcement. The Commission maintains a detailed [scheme of delegation](#) whereby the majority of these decisions are made by officials (Tier 1 and Tier 2) on behalf of the Commission, but the most significant and sensitive cases are retained for decision by a panel of 3 commissioners (Tier 3) or the full Board. Any changes to the scheme of delegation are decided by the Board. The Commission is the statutory body responsible for all such decision-making, with board members being responsible for ensuring that such decision-making is made consistently and properly in line with agreed policies and procedures.

Information management

21. As a Public Body, the Commission is subject to the General Data Protection Regulation (GDPR) and the Data Protection Act, and also the Freedom Of Information (Scotland) Act (FOISA). These obligations require the Commission to have high standards in maintaining the accuracy of our information, especially about identifiable people; retaining it or deleting it as appropriate; and making it available to enquirers when required to do so by the terms of the FOISA. These obligations apply to Commissioners as well as to officers, and consequently Commissioners should not store information about individuals on their laptops longer than is necessary, and never transfer such information to personal devices.

Miscellaneous

22. The Commission's procedure at Board meetings is set out in [Standing Orders](#).
23. Commissioners are required to exercise their Board functions selflessly, for the greater good of the Commission and crofting, rather than for personal gain. The ethical standards expected of commissioners are set out by the Standards Commission in their model Code of Conduct. The Commission's own [Code of Conduct](#) is heavily based on this. Any complaints of breaches of the Code can be made to the Ethical Standards Commissioner.
24. Both commissioners and management have a key role in upholding the reputation of the Commission. They are supported in this by the Comms Officer whose role includes highlighting positive news stories about crofting and the Commission, and refuting negative stories when possible.

Crofting Commission

June 2022

Next review – June 2023

Overview of Principles of Decision Making within Crofting Commission Governance

Board Responsibility	Management Responsibility
Establishing or amending a long-term objective, outcome or performance measure of the organisation	Designing and implementing actions and resource allocation to pursue existing policy and achieve outcomes/performance measures
Determining approaches which are unique or novel and may consequently bring the organisations profile as a whole into the spotlight	Taking opportunities as they arise and on a risk managed basis to progress established strategic objectives
Decisions and resource allocation which have the potential to significantly and adversely impact on the reputation of the Crofting Commission	Decisions and resource allocation where risk management indicates that reputational risk consequences can and will be effectively mitigated
Decisions and resource allocation which have the potential to create a significant and/or a long-term liability for the organisation (long-term being having financial impacts beyond the existing Corporate Plan period)	Decisions and resource allocation within existing approved budget parameters
Decision and resource allocation which have the potential to create a new strategic risk for the organisation or to escalate the significance of an existing strategic risk	Decisions and resource allocation which can be taken within the existing strategic risk and risk appetite frameworks of the organisation
Decision and resource allocation which have potential to impact on the overarching governance of the organisation	Decisions and investment which can be taken without governance impacts

Areas Appropriate to Board Scrutiny and Assurance

Board Responsibility	Management Responsibility
Consideration and assurance about what is to be delivered/achieved: the end point of decision or resource allocation	Determination of how actions and resource allocation is to be designed to best deliver agreed outcomes
Consideration of whether a project is delivering against agreed strategic outcomes/agreed performance indicators	Consideration, decision and review of how the project or activity is being managed, designed and delivered

**VICE CONVENER AND AUDIT & FINANCE COMMITTEE
MEMBERSHIP 2022 - ORAL**

CROFTING COMMISSION MEETING

29 June 2022

Report by the Chief Executive

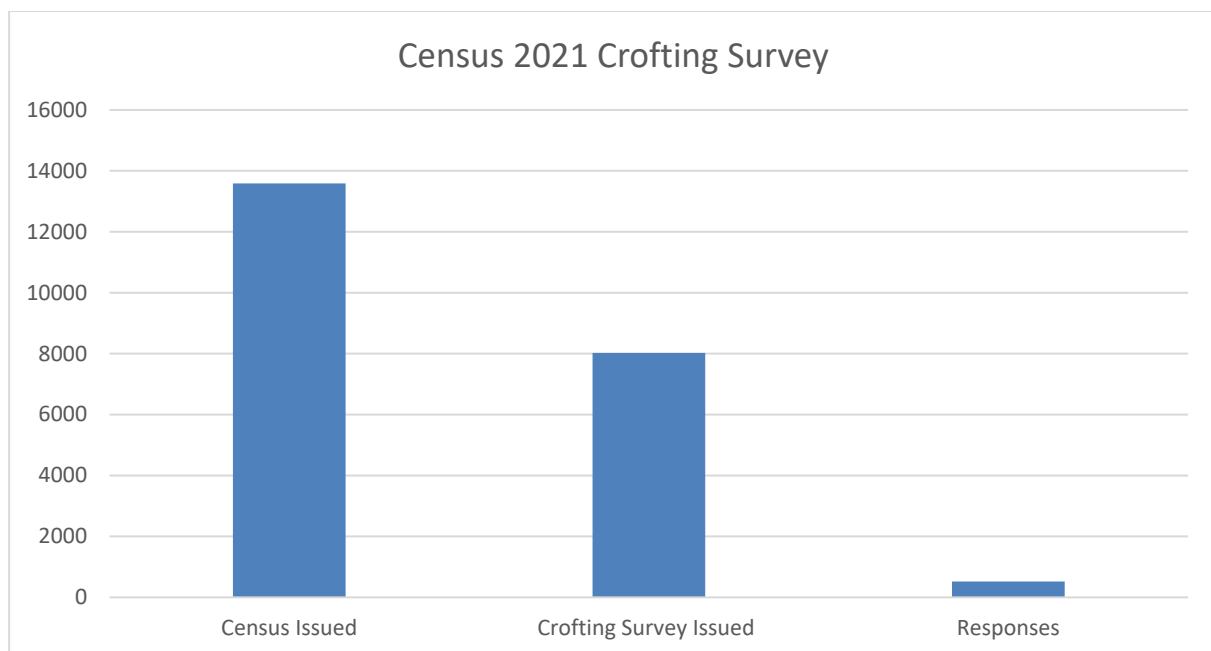
Census 2021 Crofting Survey

SUMMARY

It was agreed at the Crofting Commission Board meeting on 13 May 2021 that an additional survey was run in conjunction with the 2021 census. An additional paper survey had previously been included in the 2018 census and it was agreed this time to run the survey online to save on postage and to reduce carbon. The questions were designed to give an overview of the different ways Crofts and Common Grazings are utilised and the awareness of support available.

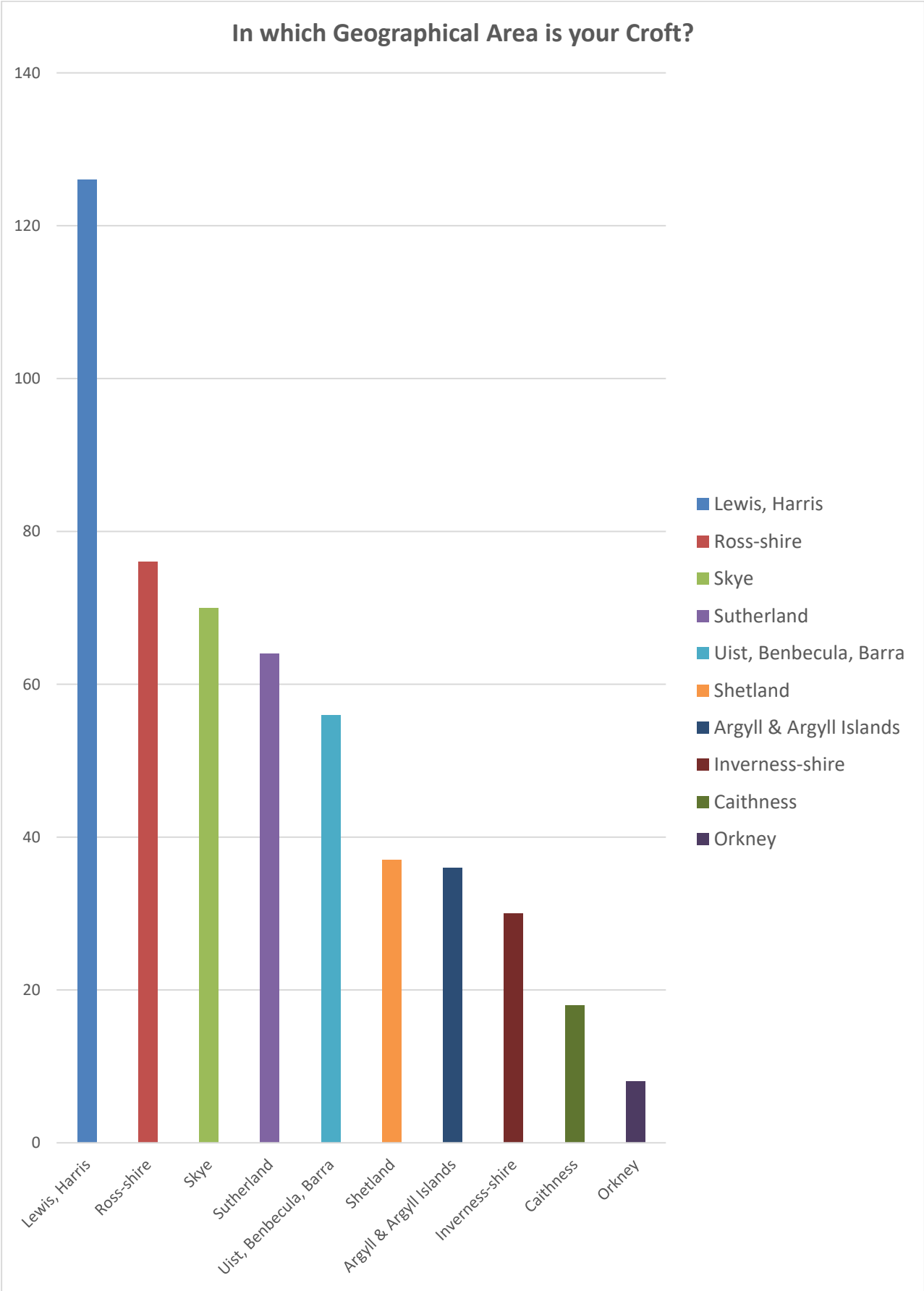
BACKGROUND

As the Census was fully online this year, the additional survey was emailed to those crofters who completed the census online and provided their email address.

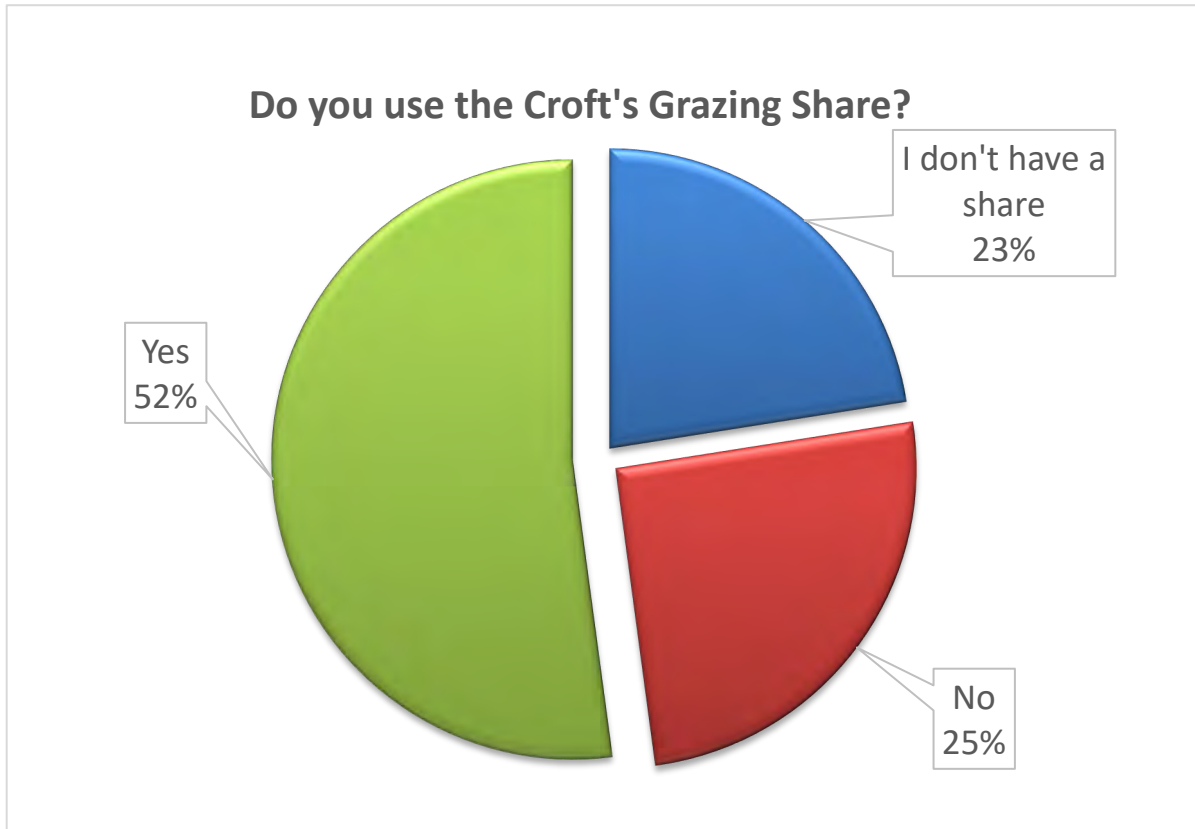


While the 2021 Census covered 19,810 Crofts & Grazings Shares, as some crofters have several crofts the number of individuals contacted was 13,589. Of those who completed their census return online, 8025 provided us with their email address and were sent the Crofting Survey. 523 responses were received. This is a much lower response rate than we received when a similar survey was sent out with the census form, on paper, a few years ago. However, it is still sufficient to give an indication of the range of activities of active crofters. (Inactive crofters are unlikely to reply to such a survey.)

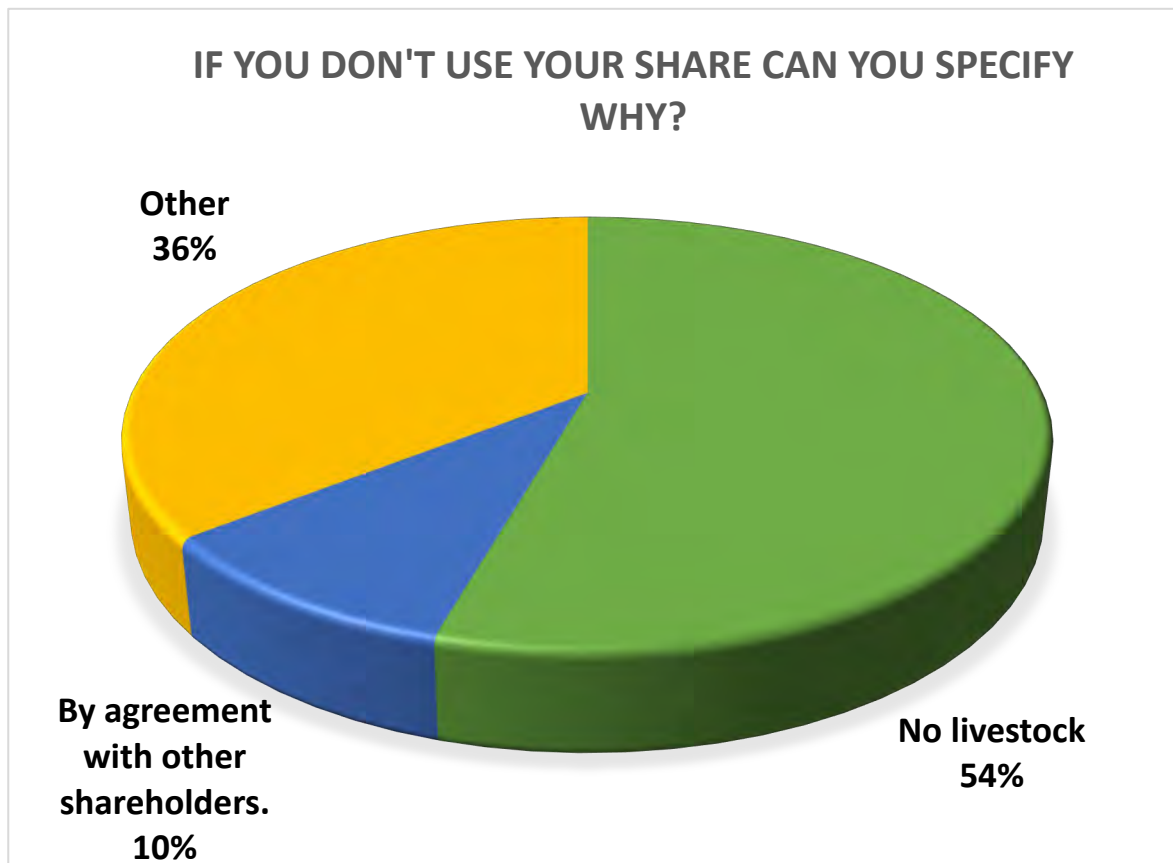
Results are presented in the following charts.



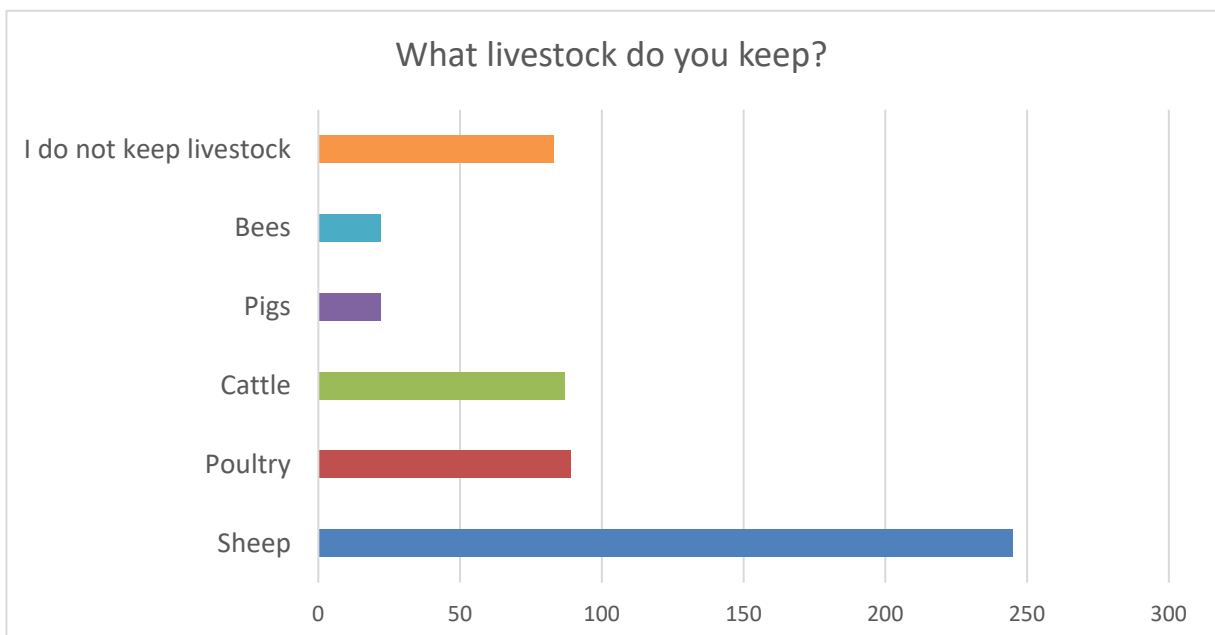
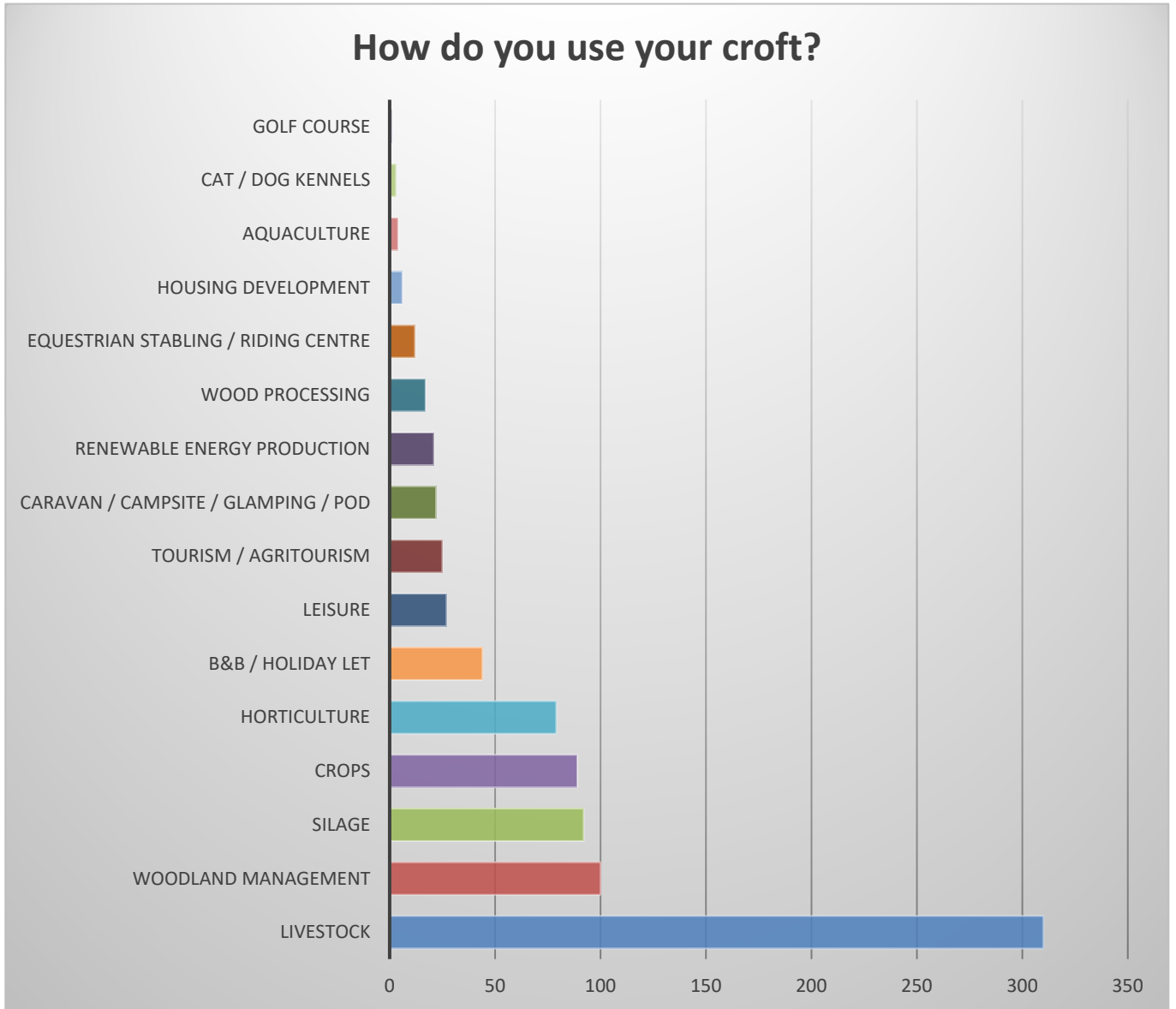
Common Grazings



18% of respondents told us that their grazings are run as sheep stock clubs. The majority (82%) do not run their grazings as sheep stock clubs.



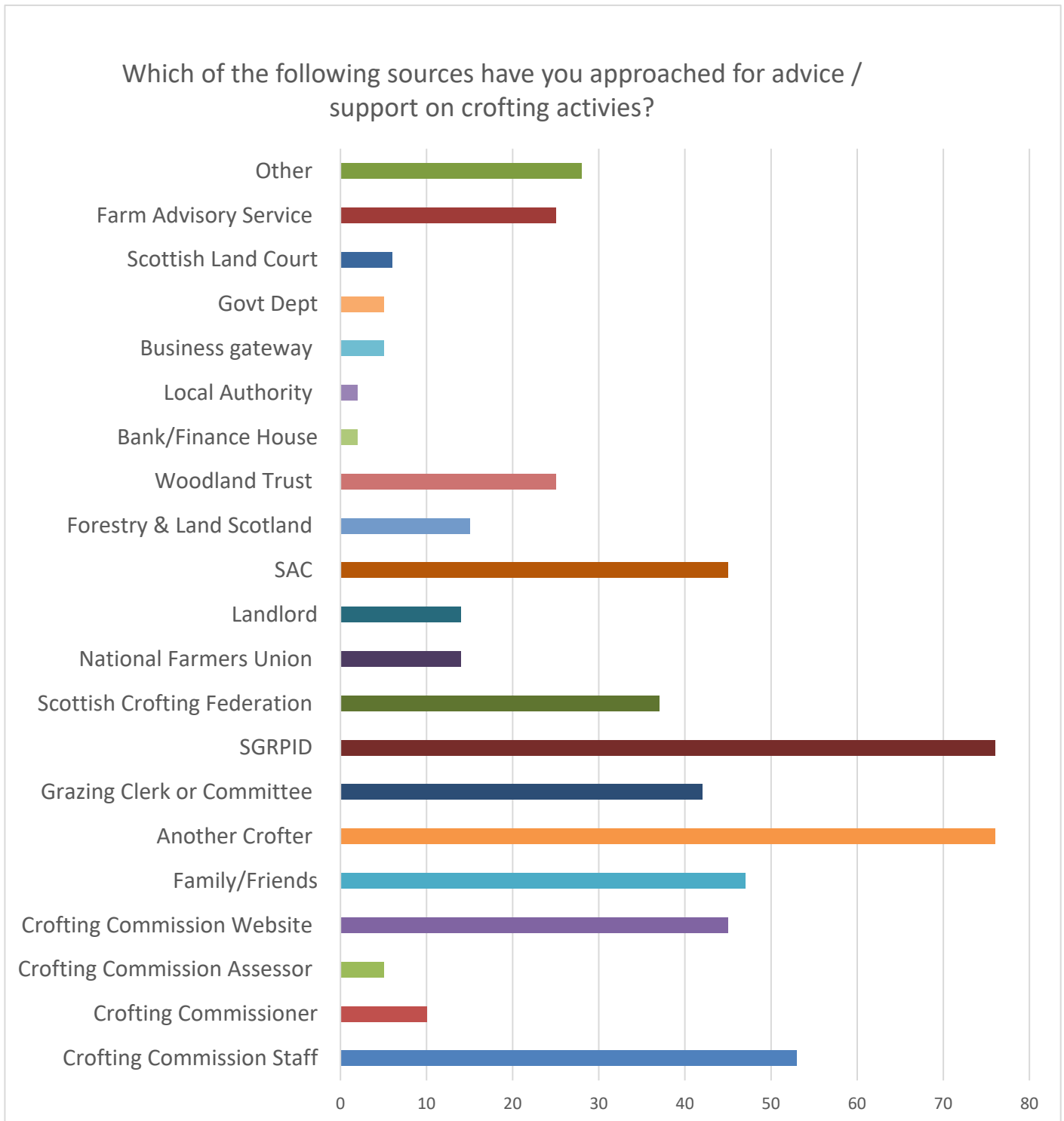
Croft Utilisation



Crofting Support

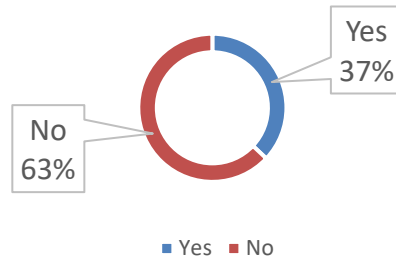
Crofters were asked if they had sought crofting support in this last year with 31% reporting that they had and 69% told us they had not sought support.

49% of respondents told us that they are **not** aware of what support schemes are available for crofting.

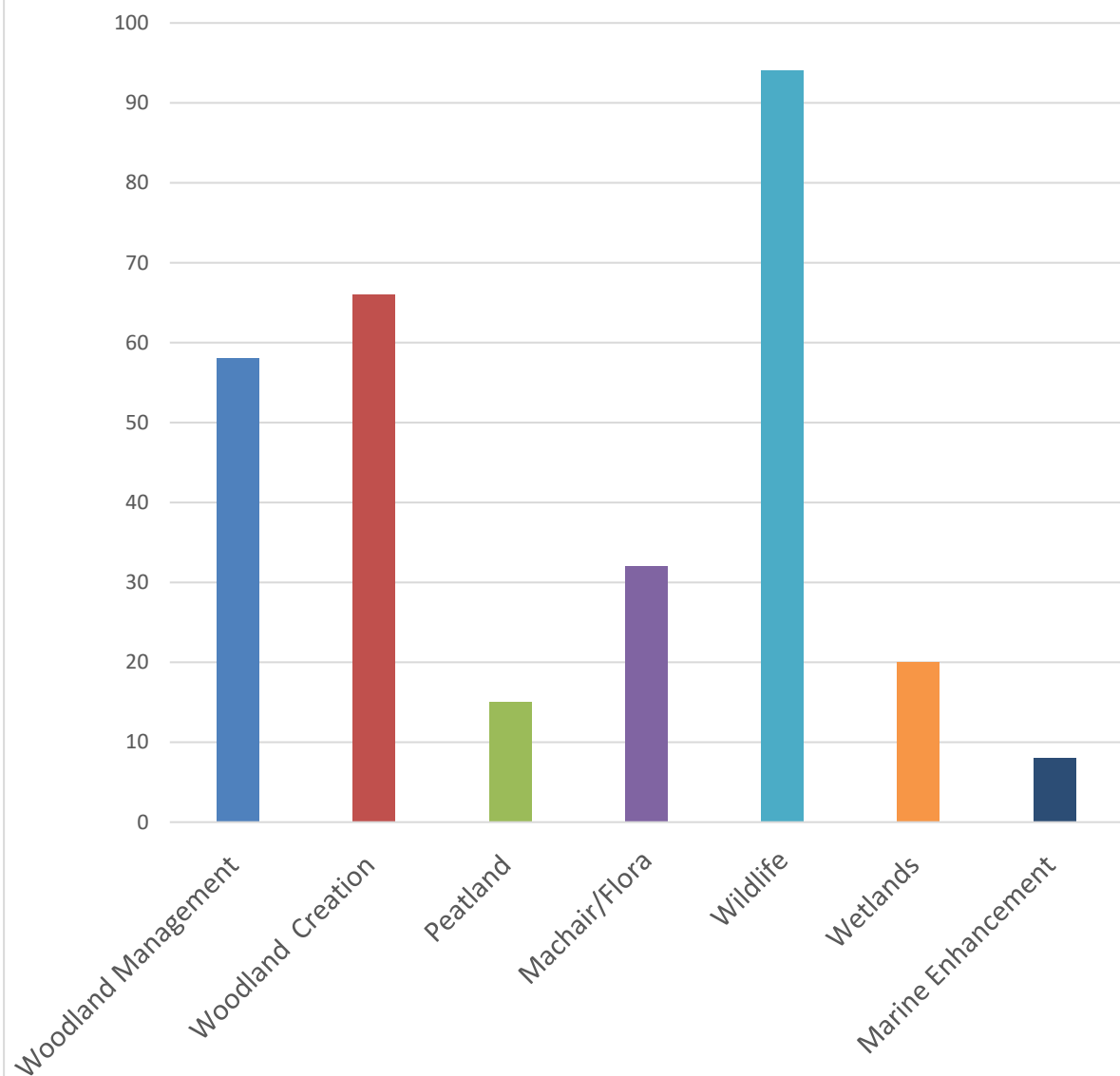


Conservation Activities

Do you engage in planned and managed conservation activity on the croft?



What aspect of conservation does this activity focus on?



Succession Planning



Impact:	Comments
Financial	N/A
Legal/Political	N/A
HR/staff resources	N/A

RECOMMENDATION

The Commission is invited to note the findings of this crofting survey.

Date 23 May 2022

Author: Development Team

**DATE OF NEXT MEETING – THURSDAY 18 AUGUST 2022 –
NOSS & RUM, GREAT GLEN HOUSE**

ANY URGENT BUSINESS – ORAL

EXCLUSION OF PRESS & PUBLIC