



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

COMMISSION MEETING

18 AUGUST 2022

**CROFTING COMMISSION MEETING
NOSS & RUM, GREAT GLEN HOUSE
18 AUGUST 2022 AT 0930 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 29 JUNE 2022 (already published)	<i>Minutes</i>	<i>For info</i>
4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING (of 29 June 2022)	<i>Paper</i>	<i>For info</i>
5 MATTERS ARISING FROM PREVIOUS MINUTES	<i>Oral</i>	<i>Standing Item</i>
6 CROFTING COMMISSION ANNUAL REPORT & ACCOUNTS FOR 2021/22	<i>Paper</i>	<i>Report – For approval</i>
7 AUDIT & FINANCE COMMITTEE REPORT <i>(a) Update from Vice Chair of Committee</i> <i>(b) Draft Minutes from 27 July 2022 (agenda item 4 redacted)</i> <i>(c) Annual Report on Committee activity</i>	<i>Oral</i> <i>Minute</i> <i>Paper</i>	<i>Standing Item</i> <i>For info</i> <i>For info</i>
8 REVIEW OF KEY PERFORMANCE INDICATORS Q1 2022	<i>Paper</i>	<i>For discussion</i>
9 STRATEGIC RISK REGISTER	<i>Paper</i>	<i>For info</i>
10 OUTSTANDING CASEWORK UPDATE	<i>Paper</i>	<i>For info</i>
11 UPDATE ON 2021 DELOITTE REPORT	<i>Paper</i>	<i>Standing Item</i>
12 UPDATE ON MEETINGS WITH SPONSOR DIVISION	<i>Paper</i>	<i>Standing Item</i>
13 GAELIC LANGUAGE PLAN MONITORING – ANNUAL REVIEW BY BOARD	<i>Paper</i>	<i>For approval</i>
14 DRAFT POLICY PLAN	<i>Paper</i>	<i>For approval</i>
15 ANNUAL NOTICE (CENSUS) 2022	<i>Paper</i>	<i>For decision</i>
16 DIGITAL APPLICATIONS UPDATE	<i>Paper</i>	<i>For discussion</i>
17 APPLICATION ONLINE PROGRESS STATUS	<i>Paper</i>	<i>For discussion</i>
18 DRAFT RESPONSE RE LAND REFORM CONSULTATION	<i>Paper</i>	<i>For approval</i>
19 DRAFT RESPONSE RE BIO-DIVERSITY STRATEGY CONSULTATION	<i>Paper</i>	<i>For approval</i>
20 PROPOSED BOARD MEETING DATES FOR 2023	<i>Paper</i>	<i>For approval</i>
21 DATES OF NEXT MEETINGS Monday 26 September 2022 – Strategy Meeting, Noss & Rum Tuesday 27 September 2022 – Noss & Rum		
22 ANY URGENT BUSINESS		
23 EXCLUSION OF THE PRESS AND PUBLIC		

APOLOGIES – ORAL

DECLARATIONS OF INTEREST – ORAL

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD IN NOSS & RUM, GREAT GLEN HOUSE, INVERNESS AT 9am ON 29 JUNE 2022

Present:	Malcolm Mathieson	Convener
	Rod Mackenzie	Commissioner
	Mairi Renwick Mackenzie	Vice Convener
	Colin Kennedy	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner (via Teams)
	Duncan Gray	Commissioner
	Donald MacDonald	Commissioner
	Bill Barron	Chief Executive.
	Finlay Beaton	Head of Grazings
	Aaron Ramsay	Head of Digital & Improvement
	David Findlay	Commission solicitor
	Joseph Kerr	Head of Regulatory Support
	Heather Mack	Head of Operations
	Anne Williamson	Head of Compliance & Customer Services and minute taker
	Michael Nugent	Scottish Government for Closed Session (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 James Scott and Neil MacDonald. In the absence of Jane Thomas, today's minute taker is Anne Williamson and Aaron Ramsay is the Compliance Officer.

2 DECLARATION OF INTERESTS

No Interests were declared in the open session.

3 BOARD MINUTES FROM 12 MAY 2022

The Board Minute of 12 May 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 12 MAY

The CEO updated on the Actions from the previous Board meeting. The revised Policy Plan requires to be completed by September 2022. The wording for informing the public about gradual improvements to regulatory timescales is still being considered and will be reviewed after statistics are run at the end of June but there is a need to be cautious and temper expectations.

The Head of Digital confirmed that all contact should be in the Contact Us page on the website and will follow this up with a formal email stating the position of the Commission. It was noted that the current policy regarding access to the building by members of the public is governed by Nature Scot (NS). The CEO to discuss the issue with NS and supply an update in advance of the next Board Meeting.

The Board Meeting planned for taking place in Shetland will now be in Inverness on 27 September. It will be preceded by a Strategy Day and the Board will meet for dinner on the evening between. A date for a further Strategy Day is available for October.

5 MATTERS ARISING

The issue of the follow-on survey in relation to the Census was raised with two Board members advising that although they had provided their email, they had not received the survey. Head of Digital confirmed that he will investigate the issue and provide an update.

6 UPDATE ON MEETINGS WITH SPONSOR DIVISION

The Convener gave an update from the previous meeting when it was suggested that Commissioners could take turns of attending the meetings with the Cabinet Secretary. After discussion it was agreed that all interested Commissioners could attend as a guest but could not take part in the meeting and would be muted.

The CEO confirmed there had been one meeting with Sponsor colleagues since the last Board meeting. This is summarised in the paper. In addition, the first meeting of the Bill Group had taken place where the format for the Group's work had been agreed.

7 REVIEW ON PROGRESS AGAINST STRATEGIC OUTCOMES

The CEO gave some background to the reason for this paper and how it related to progress against the long term aims in the Corporate Plan. The Commission will develop a new Corporate Plan in the coming year but in the meantime the Paper reported progress against the Plan produced in 2017 and revised in 2019. The current report is not so positive as previous reports and indicates that we could be doing better.

He gave some details on various areas of the plan including how the current backlog is impacting on target turnaround times, the improving picture of Grazing Committees in office and the purposeful conversations taking place with stakeholders.

Board members then discussed the impact of losing staff over the last couple of years and its impact on the organisation. Consideration needs to be given to future workforce planning and how to provide internal promotion opportunities to prevent further loss of staff.

Head of Operations provided details of a recent staff morale survey within the Regulatory team which presented a more positive picture.

Commissioners were concerned about where the Commission should be focussing resources and how this will impact our ability to meet outcomes. It was however noted that the staff have been doing a great job and this should be recognised.

8 STRATEGIC RISK REGISTER

The CEO confirmed that not much had changed since the last update. It is clear that the 2010 Act created extra workload for the Commission which at the time had not been supported by appropriate funding to allow for a required increase in staffing levels. He suggested that consideration needed to be given to whether our current, increased, budget is sufficient for now or would additional funding be required to sustain keep us going in the future.

The Convener added that consideration would also need to be given to efficiency savings going forward.

9 OUTSTANDING CASEWORK UPDATE

This will be a Standing Item on Board Agendas until the situation with the backlog is less challenging. Head of Operations introduced the update.

She gave a thorough update on current trends regarding applications received, decisions taken and how these are impacted by staff availability at certain periods. Training of current staff and recruitment of new staff are both going well.

The new Improvement Manager post has now been filled and is settling in their role looking at process improvements as well as creating the governance documentation for CIS.

The current high level of outstanding casework is having a negative impact on our customer service, due to the delays and cases moved between different members of staff. Measures are in place to mitigate this and a check will be done to ensure that cases are at the right pace in the queue.

There was a brief discussion around the length of time it takes to train an A3 administrator. The CEO clarified that the title of administrator is somewhat misleading as a new A3 has a significant level of training required around the Act, policy and procedures and that this should not be underestimated. The Head of Operations confirmed that it takes around a year to train a new A3 administrator. She suggested an overview from the Training Officer might be of interest to the Board and this was welcomed.

Commissioners were clear that whilst these issues are an operational matter, the matter did have a reputational impact on the Commission and every consideration should be given on reducing the current waiting times moving forward. The complexity of our application forms was raised including the new online application process. The Head of Regulatory Support confirmed that in conjunction with the creation of online applications, the pdf versions of the application forms were also reviewed to ensure a better experience for the applicant.

The Convener requested that future updates include additional statistics that would be helpful to gain a better picture of the current issues including a breakdown of waiting times by application type and moving annual totals.

10 UPDATE ON DELOITTE

The CEO introduced the paper, explaining that not much has changed since the last update in May. He confirmed that 39 of the outstanding points in the report had now been completed and the final two are agenda items on today's meeting.

11 DRAFT WORKFORCE PLAN

The CEO gave members a brief background to the paper, explaining that it was originally created in 2020 and is updated every year. This year it has been slightly delayed awaiting the outcome of the Business Case.

The plan aims to focus attention on what staffing we want and how we get there over a 5 year period, however this is difficult to predict as we cannot foresee what levels of funding will be available that far in advance. It considers how we would deal with reductions in funding along with issues such as staff turnover, training, specialist roles and sharing of knowledge to provide more resilience.

Decision	<i>The Board approved the Workforce Plan for 2022 -23</i>
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12 DRAFT CODE OF CORPORATE GOVERNANCE

The CEO introduced the paper and explained that this had been an audit recommendation. Some research was done on other organisations handling of this and has resulted in the draft paper presented for consideration.

Commissioners agreed that it was a well laid out and practical guide and was easier to digest with quick access to important information.

Decision	<i>The Board approved the requirement for and the Code of Corporate Governance</i>
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13 VICE CONVENER AND AUDIT & FINANCE COMMITTEE MEMBERSHIP 2022

The Convener updated Board members on the recruitment of two new appointed Commissioners, with interviews being held on 12/13 July and an expectation of being in post by September at the latest.

The role of Vice Convener will be held by Commissioner Mackenzie until November.

The Audit and Finance Committee requires an additional member for the 2 November meeting and Commissioner Rod Mackenzie volunteered to join. Thereafter, the positions of Vice Convener and AFC members will be reviewed in the light of the appointment of the next Convener.

The role of Convener of the Board will be available shortly and a discussion took place on how this process will be undertaken. After discussion it was agreed that a proposal be suggested of an internal interview panel to take place to provide recommendations to the Cabinet Secretary.

14 CENSUS 2021 CROFTING SURVEY

The paper was introduced by the Development Officer who gave a thorough breakdown of the statistics and highlighted some key information regarding trends and changing patterns. The information has helped to provide key areas to focus attention on and will form the basis of topics for attendance at the Black Isle and North Uist shows.

The Board considered the impact of attendance as Shows and the benefit achieved. It was agreed that further consideration should be given to future attendance at the Royal Highland Show and how to reduce costs by collaborating with other organisations whose focus is within the crofting area.

15 DATE OF NEXT MEETING

The next meeting will be held in Great Glen House on Thursday 18 August 2022. Remote participation via Teams would be arranged for those who did not wish to travel.

16 ANY URGENT BUSINESS

There was no urgent business.

17 EXCLUSION OF THE PRESS AND PUBLIC

The meeting was then closed at 2.45pm, with thanks for everyone's contribution from the Convener and Vice Convener.

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Review of Action Points from 29 June 2022

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE
1	Proposal for a real-time status update for applications to be included in August Board paper	AR	Done
2	Contact Us page on Website – formal email to be issued stating current position of CC	AR	Done
3	A more detailed message to be added to Phone system	BB	In hand
4	Trial rota for a duty officer to receive daily phones calls from switchboard	HM	Under discussion
5	Discuss with NS the policy on members of the public visiting GGH	BB	Done
6	HIE and SCF to be invited to attend part of Board Strategy Day	BB	Done
7	Follow up Census Questionnaire – investigate why not received by Commissioners	AR	Done, although no full explanation could be found retrospectively
8	Attendance at Royal Highland Show – explore shared facilities for next year	Development Team	In hand
9	Statistics to be prepared providing backlog times split for applications and notification	HM	Done – in Board paper
10	Report on Moving Annual Totals to be prepared	HM	Done – in Board paper
11	12 week delay message to be reviewed and roadmap to improvements prepared	HM	Analysis in Board paper, message will be changed after Board discussion on 18 August

MATTERS ARISING FROM PREVIOUS MINUTES – ORAL

ANNUAL REPORT & ACCOUNTS 2021-2022

AUDIT & FINANCE COMMITTEE REPORT

7(a) Update from Vice-Chair of Committee – Oral

CROFTING COMMISSION

DRAFT MINUTES OF THE AUDIT AND FINANCE COMMITTEE (AFC) OF THE CROFTING COMMISSION HELD REMOTELY ON 27 JULY 2022: 09:00AM VIA TEAMS

Present:	David Campbell Iain Maciver Donald MacDonald Rod Mackenzie	Commissioner, Vice-Chair of AFC Commissioner, Member of AFC Commissioner, Observer Commissioner, Observer
Attending:	Bill Barron Aaron Ramsay Neil Macdonald Anne Williamson Jo MacKay	Chief Executive, Crofting Commission Head of Digital Head of Finance & Minute Taker Head of Customer Services Finance Manager
	Stephanie Hume Ashley Bickerstaff Aimee Hastings	Senior Manager: Risk Assurance: Azets Ltd IT Audit Manager: Azets Ltd Associate: Azets Ltd
	Pat Kenny Kirsty Hair	Director, Deloitte LLP Assistant Manager, Audit & Assurance, Deloitte LLP
Apologies:	Malcolm Mathieson Mairi R Mackenzie	Convener, Crofting Commission Commissioner, Vice-Chair of AFC

1 WELCOME AND INTRODUCTION.

Commissioner Campbell welcomed everybody and advised that he would chair the meeting due to Commissioner Mairi Renwick Mackenzie being unable to attend.

Commissioner Campbell advised that Commissioners Donald MacDonald and Rod Mackenzie were attending the meeting as observers, as part of the resilience plan within the Commission Board. Both were invited to take an active part in the meeting.

Commissioner Campbell advised participants that to provide sufficient time to facilitate the annual private meeting with internal and external audit, agenda items 13 & 14, would follow on directly after Agenda item 4.

For the purposes of the minute the agenda items are listed in chronological order. SMT and the Finance Manager, left the meeting during the private meeting, returning after

its conclusion. Pat Kenny and Kirsty Hair (Deloitte LLP) departed the meeting after the private meeting had concluded as previously agreed.

2 MINUTES OF PREVIOUS MEETING: 27 APRIL 2022

The minutes were approved as a true and accurate reflection of the meeting.

3 ACTION POINTS FROM 27 APRIL 2022

Any Actions completed since the last Audit & Finance Committee Meeting will drop from the action list. The report issued with the papers for this meeting gives details and completion dates. Information contained in this report will not be replicated in the Minute unless specifically requested.

The Head of Finance advised the Committee that the majority of Action Points have been cleared.

The remaining Action Points to be cleared are not currently outstanding:

AP 7 ,8 & 9 are interlinked and refer to the content and format of the annual Board Self-Assessment Governance Questionnaire that is usually issued in Quarter 4 of each financial year. It is based upon 'On-Board' best practice. The method of scoring a response has previously been slightly confusing 'Strongly/Partly Agree/Disagree' and this will be reviewed and there will also be an opportunity for the Committee to review the questions to ascertain if any clarification is required, or additions/deletions. A paper is scheduled for review by the Committee at the November meeting.

AP 12 relates to the potential co-opting additional support for the Committee Members, which is in line with the Committee Terms of Reference. It was decided to wait until the Scottish Government appoints new Commissioners to ascertain the potential skill set available to the Committee. It is proposed to also provide training for all AFC members once the membership is established going forwards.

4 REVIEW FINAL ACCOUNTS FOR 2021/22 AND EXTERNAL AUDITOR'S REPORT ON THE 2021/22 AUDIT

The Head of Finance advised the Committee that purpose of this report is to provide the Committee Members with the background to the 2021/22 Annual Report and Accounts as well as informing them of external audit's conclusions and recommendations.

For all intents and purposes, the audit could be broadly split into two parts:

- The Financial Audit relating to the Annual Report & Accounts
- The Wider Scope Follow Up Review on Progress relating to the 41 Governance and Transparency recommendations that were accepted by the Commission on the conclusion of last year's audit review.

The Committee and Board had previously reviewed an initial version of the Annual Report & Accounts, which was circulated via e-mail on 31 May for comment. The Committee was advised that the report has since been revised and finessed a number of times, but it is fundamentally the same report that was initially circulated.

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Subject to minor presentational adjustments that were detailed by the Head of Finance during his introduction, the Committee recommended that the Crofting Commission Annual Report & Accounts for 2021/22 be presented to the Board on 18 August 2022 for Approval.

AP:1 The Head of Finance will ensure that the Annual Report & Accounts for 2021/22 are presented to the Board on 18 August 2022, with the recommendation from the AFC that they be Approved.

5 ANNUAL REPORT ON COMMITTEE ACTIVITY FOR 2021/22 TO THE BOARD

The Head of Finance introduced the report, explaining that it is good governance practice for the Audit & Finance Committee to formally report on the activity undertaken during the previous reporting year.

The Committee was advised that Commissioner Mairi Renwick Mackenzie had approved the report prior to it being presented.

The Committee's work has been dominated by two issues:

1. Azets internal review of the Croft Information System.
2. Deloitte's external wider scope audit on Governance & Transparency.

While pleased with the progress made to date regards the Wider Scope Audit recommendation, the Committee emphasised that Board members and the Executive do not become complacent. Culturally, the Commission must ensure that the implemented recommendations are embedded within the governance fabric of the organisation moving forwards.

The Committee approved the report and confirmed it should be presented to the Board on 18 August 2022.

AP:2 The Head of Finance will ensure that the Annual Report on Committee Activity for 2021/22 is presented to the Board on 18 August 2022.

6 REVIEW INTERNAL AUDIT REPORTS:

- **Follow Up Audit Report Regards Previous Recommendations**

Stephanie Hume introduced the paper to the Committee and guided members through the report. As a summary it was confirmed that:

Azets are satisfied that management have fully implemented 10 of the outstanding recommendations.

Of the remaining nine outstanding actions:

- Six have been assessed as partially complete
- Three have been assessed as incomplete
- One of the outstanding actions is classed very high risk (grade 4) and is related to the CIS system (which will be revisited during Azets planned review of CIS during 2022/23).

Stephanie Hume commented that the Commission has addressed a number of high-risk recommendations during the reporting year, and management should focus upon the remaining CIS (grade 4) recommendation and (grade 3) outstanding recommendations.

It was noted that recommendations related to Business Continuity Planning date back to 2018/19, and it was important to address these as the actions are becoming 'aged' which is not good practice.

The Committee acknowledged that substantial focus has been on addressing the external audit wider scope recommendations during 2021/22. It was acknowledged that 'Business Continuity Planning' would be addressed by the appointment of a Leadership Team during 2022/23.

The CEO confirmed that there is ongoing focus regards the Grade 4 CIS Recommendation (which contained a number of resource issues) and is being actively addressed.

The Committee noted the report.

- **CYBER SECURITY REVIEW**

Ashley Bickerstaff introduced the paper to the Committee and guided members through the report. As a summary it was confirmed that the following areas, if addressed, would strengthen the Commission's control framework:

- The Commission does not currently have a cyber risk framework which sets out the approach to risk management and governance and encompasses the identification, recording, management and reporting of cyber risks.
- The Commission does not have formal plans for future penetration testing, vulnerability scanning or other cyber security assurance assessments.
- The Commission does not have a formal approach to the prioritisation, tracking and escalation of issues found during penetration testing or vulnerability scanning.

The Head of Digital provided assurance to the Committee that the recommendations detailed within the report's Action Plan were not particularly difficult to address, and it was anticipated that these would be cleared within the month of August.

The Committee noted the report.

AP:3 The Head of Finance will capture the Cyber Security Review audit recommendations within the Committee's 'Progress Report on Audit Recommendations' for future review on progress.

7 REVIEW CROFTING COMMISSION ASSURANCE FRAMEWORK

The CEO introduced the paper and guided the Committee through the strategic and operational priorities for the Commission and the associated levels of scrutiny and assurance that are in place to monitor progress. The purpose of the assurance framework is to assess whether there are gaps or duplications within the current assurances structure of the Commission.

General discussion ensued regards various areas of assurance, but overall, the Committee confirmed that the framework provided a realistic picture and captured the key priorities.

Commissioner Mackenzie flagged “Development and future of crofting” where the overall Assurance Statement states “*Strong interest from staff, stakeholders, the board and government will mean this area of work should deliver. The early stage of this means that it will evolve considerably over the next few years*”.

Commissioner Mackenzie’s key point was that the focus has to be on the crofting community. If the Commission/Government fails to engage with crofters, this strategic priority will not be achieved. While acknowledging that success might be difficult to measure via quantitative data, a powerful indicator regards current engagement was the low turnout at the recent crofting elections (approximately 28% of eligible crofters voted).

A wide-ranging discussion ensued, that Commissioner Campbell acknowledged was probably a Board matter, rather than an Audit & Finance Committee issue. The CEO concluded that the Board could potentially ensure that this issue is a focus within the Commission’s 5-year Corporate Plan.

The Committee noted the report, and it was agreed that the Committee’s Work Plan would be adjusted so that the Assurance Framework would be reviewed on an annual basis, rather than every 6 months, with the understanding that the CEO would advise the Committee prior to a scheduled review, if there was a material gap in assurance identified.

AP:4 The Head of Finance will adjust future Committee Work Plan to reflect that the Assurance Framework will now be reviewed on an annual basis.

8 TIMETABLE/TARGETS/DEADLINES FOR DELIVERY OF IS PROJECTS

The Head of Digital provided the Committee with an update on progress across the various projects and areas for improvement that the IS Team have been working on. The report reflects the addition of the 2022 Census, and other projects will be added as they arise.

In response to a committee query regards levels of confidence relating to completion dates, the Head of Digital confirmed that the digital applications were on track, with another 6 application types due to be launched in August.

The release date for the next version of CIS is scheduled prior to Christmas, with the caveat that this target is subject to all resources planned for deployment being available and that testing does not identify any material issues.

The Committee noted the report.

9 HEALTH, SAFETY & WELFARE UPDATE

The CEO provided the Committee with an oral update advising that to date Health, Safety & Welfare issues have been primarily driven by Covid and associated mental health welfare.

The plan is now to consolidate Health & Safety policies and guidance now that the Commission has entered a 'hybrid working norm'. A general discussion followed regards hybrid working and a focus upon the availability of office space should staff begin to migrate back in the coming months. The CEO advised the Committee that the Commission has reduced its office space requirements from 60 desks to 36 desks, which feels about right, given that the level of capacity going forwards is an unknown.

Commissioner Campbell confirmed that this was a wise decision, given that the hybrid system has to be evaluated over the next year or so, and was an issue many organisations were assessing.

The Committee noted the update.

10 PROGRESS REPORT ON AUDIT RECOMMENDATIONS

The Committee agreed that the following audit recommendations could be discharged as completed:

- 7: 2021/22 Home Working: Communication Strategy/Plan
- 8: 2021/22 Home Working: Strategic, financial and workforce planning
- Deloitte LLP Wider Scope Audit Report 2020/21: All recommendations have been implemented (Refer to Agenda item 4: Deloitte LLP Report to AFC).

The CEO advised the Committee that the progress on audit recommendations had been primarily covered by Azets under agenda item 6. The Committee was guided through the outstanding items and verbal updates provided within recommendations that have progressed since the paper was drafted.

The Committee noted the report.

11 REVIEW OF OPERATIONAL RISK REGISTER

The CEO presented the paper, and the Committee reviewed the report by exception. Overall, the CEO is comfortable that all key operational risks are captured, and the risk movements have either remained static or decreased.

The Committee noted the report.

12 REVIEW OF COMPLAINTS HANDLING REPORT

The Head of Customer Services presented the paper and advised the Committee that a total of 9 Complaints were recorded by the Commission during Quarter 1 (2 Front Line: Straight Forward, and 7 formal that required investigation). Of the 7 complaints, 2 are currently under investigation, 1 complaint has been partially upheld, and 4 have been either not upheld, withdrawn or deemed not to be valid.

While it is apparent that staff are not recording minor everyday issues but are resolving them and moving on, upheld formal complaints are low. The Committee was advised that staff would be reminded to record front line complaints.

A general discussion ensued regards what constitutes a front-line complaint for statistical purposes, as staff have to use an element of judgement. Stephanie Hume advised that the Commission should liaise with the Scottish Public Services Ombudsman (SPSO) to ensure that Commission guidance is clear.

The Committee noted the report.

AP-5 The Head of Customer Services will ensure that current complaints guidance adheres to SPSO expectations, and subsequently remind staff to record front line complaints as they encounter and deal with them.

13 PRIVATE MEETING WITH INTERNAL AUDIT

A meeting took place (Refer to Welcome section of minute).

14 PRIVATE MEETING WITH EXTERNAL AUDIT

A meeting took place (Refer to Welcome section of minute).

Finance issues

15 FINANCIAL PERFORMANCE FOR 2022/23: QUARTER 1

The Head of Finance introduced the paper.

Forecast financial performance for 2022/23 as at Quarter 1 predicts a year-end underspend position of £234k (6% of overall budget allocation). However, this is viewed as a **temporary** position, and it is anticipated that the forecast underspend should reduce during Q2/Q3. It is effectively early days and savings have already been obtained within non-staff costs (an example includes the decision not to have an external Board meeting in Shetland).

The Committee was advised that the Quarter 1 end-year forecast reflects an underspend position primarily for the following reasons:

1. There has been a fundamental adjustment to the manner in which the Commission now has to report monthly financial performance to the Scottish Government. Previously the Commission provided actual spend to date and a year-end forecast. Now we have to provide actual expenditure and profile future anticipated expenditure month by month. The requirement to provide more detailed reporting month by month, is primarily due to instances of public bodies/departments advising throughout the year that they anticipate a breakeven or overspend position and then suddenly declaring an underspend near the end of the financial year, that allows little or no time for the Scottish Government to reallocate elsewhere.
2. The Commission Finance Team has been ruthless regards stripping out any unconfirmed commitments as at 30 June. Fundamentally, it is salaries that account for up to 84% of the Commission's budget and there are a number of unknowns at this time. It is anticipated that forecast spend will be reprofiled once the recruitment process for various teams concludes.
3. The Scottish Government is still negotiating a staff pay uprate for 2022/23.
4. 2022/23 is a transition year regards recruitment and restructuring within various teams. This can take time and any extended lead in times to recruitment, even within one post, can create a material underspend within the overall resource allocation. The Finance Team is updating SG Sponsor Branch on a regular basis,

and the Commission's Medium Term Financial Plan will be updated as soon as the pay deal is agreed for 2022/23. This will then be a key document for the new executive Leadership Team and Board to refer to when reviewing all the factors that may affect the Commission's financial position over the next five years.

Commissioner Mackenzie's concern was that a forecast spend in Q1 could potentially accelerate during the following quarters. The Head of Finance assured the Committee that the current position was a worst-case scenario due to stripping out all 'unknowns'.

While the Committee acknowledged the current reasons for a Q1 year end underspend forecast, there was a general discussion regards reallocating funding to specific added value project work, if feasible.

The CEO confirmed that the SMT would be reviewing options in mid-August, once the July management accounts forecast has been finalised.

Commissioner Mackenzie observed that there was a risk that the Scottish Government might reduce next year's grant award, if there is a material underspend during 2022/23, which would potentially have resource implications.

The Head of Finance responded that ensuring the continued support of the Cabinet Secretary for Rural Affairs and Islands will be critical. As the largest risk and opportunity for the Commission outlined within the Medium-Term Financial Plan, Grant-in-Aid funding should be actively managed by the Chief Executive and Convener, involving regular, open, and transparent discussion with the Scottish Government. SG Sponsor will be aware that this is a transition year, and it is anticipated that the Commission should have a full compliment of staff at the start of 2023/24 which will require to be resourced accordingly.

Commissioner Campbell observed that the dependence upon an annual grant award was not conducive for medium term planning.

The Committee noted the report.

16 ANY OTHER KEY FINANCIAL MATTERS

The Head of Finance confirmed that the pay award for 2022/23 has not been concluded and has no indication at this time when it will be finalised by Scottish Government.

Other

17 AOB

Commissioner Campbell acknowledged that 2021/22 represents Deloitte's final audit year and wished to place on record the thanks of the Commission for the efficient execution of that role.

The CEO highlighted that Commissioner Campbell's appointment within the Commission ends on the 19 August and thanked Commissioner Campbell for his more than 8 years dedicated service the Crofting Commission. Commissioner Maciver echoed these sentiments and offered the thanks of the Committee for Commissioner Campbell's support over the years.

Commissioner Campbell thanked everyone for their attendance and contributions and the meeting closed at 11.05

CROFTING COMMISSION

18 August 2022

Report by the Chief Executive

Annual Report on Committee activity for 2021/22

BACKGROUND

As part of the approved Committee workplan the Vice-Chair of the Audit & Finance Committee has drafted an annual report on the Committee's activity for the year for approval, prior to submitting to the Board for review.

OVERVIEW

The focus of the Audit & Finance Committee throughout 2021/22 has been primarily dominated by two reports:

1. Azets internal review of CIS
2. Deloitte's external wider scope audit on Governance & Transparency.

The AFC's role has been to ensure that the Board was fully apprised of strategic and reputational risks associated with the audit conclusions and recommendations. At the end of the reporting year, 39 of the 41 Deloitte recommendations have been implemented with the two remaining recommendations relating to a 'Code of Corporate Governance' and a revised 'Workforce Plan' considered at the Board meeting of June 2022.

It is crucial that Board members and the Executive do not view a number of the recommendations as 'completed' as culturally we must ensure that they are embedded within the governance fabric of the Commission moving forward. The Committee will receive an update from Deloitte regards its independent review on the progress of recommendations as part of the statutory audit for 2021/22 that is currently underway.

The AFC has also reviewed as a standing item, progress in relation to Azets internal review of CIS. The Committee has confirmed that a follow up audit is included within Azets approved internal audit plan for 2022/23 to gauge progress from an independent perspective.

The normal business of the Committee was also undertaken, which included the review of the Operational Risk Register, External/Internal audit reports and recommendations, Compliance reports and financial performance updates.

2021/22 represented the first year where the Committee has been involved within the budget setting process for the Commission at an earlier stage as per a Deloitte recommendation. This has proven beneficial to both the Board and Executive as there has been sufficient time to scrutinise and provide feedback on various budgetary assumptions.

During the year, Azets audit of 'Financial Planning & Scrutiny' and Deloitte's statutory audit of the Commission's financial statements for 2020/21 have provided clean audits with Deloitte reporting seven 'green' performance indicators relating to: Timing of key accounting judgements, Adherence to audit timetable, Access to finance team, Quality and accuracy of management accounting papers, Quality of draft financial statements, No control deficiencies identified and no accounting adjustments identified.

2021/22 has reflected a material turnover within Committee Membership for a number of reasons, including the recent crofting elections. The Board established the Audit & Finance Committee as a Committee of the Crofting Commission Board to support them in their responsibilities for issues of risk, control and governance and associated assurance through a process of constructive challenge. The Committee also provides support to the Board by detailed scrutiny of financial statements, budgets and other financial proposals.

It is therefore crucial that as soon as the Cabinet Secretary appointed Commissioner vacancies are confirmed and filled, the Board reviews the Committee membership to ensure that there is a sufficient skill set to continue to provide a robust challenge and assurance function for the Board.

There are options to co-opt additional support for the Committee Members, should this be deemed appropriate. This is an approach taken by other Non-Departmental Public Bodies with limited internal resources relating to specific governance issues. This has been raised as an Action Point by the Committee and will be monitored accordingly.

The work covered by the AFC during 2021/22 is listed below.

<p>April 2021</p> <ul style="list-style-type: none"> • Medium Term Financial Plan: Updated to Reflect Confirmed 2021/22 Grant Award • Draft of 2021/22 Business Plan for Review Prior to Submission to the Board for Approval • Review Internal Audit Workplan for 2021/22 • Workforce Plan Progress • Review Financial Systems Shared Service SLA Performance • Consider Draft Outline Governance Statement for 2020/21 • Review Collated Results of Board Self-Assessment Questionnaire Issued in Q4 2020/21 • Staff Survey Update
<p>May 2021</p> <ul style="list-style-type: none"> • Meeting Specifically Convened to Review Azets Internal Audit Review of 'Development of CIS' and Associated Recommendations
<p>1 June 2021</p> <ul style="list-style-type: none"> • Meeting Specifically Convened to Review Deloitte's External Audit Review of Governance & Transparency (Wider Scope Audit) and Consider Recommendations
<p>16 June 2021</p> <ul style="list-style-type: none"> • Meeting Specifically Convened to Review Deloitte's External Audit Review of Governance & Transparency (Wider Scope Audit) and Consider Recommendations
<p>July 2021</p> <ul style="list-style-type: none"> • Review Final Accounts for 2020/21 and External Auditor's Report on the 2020/21 Audit • Annual Report on Committee Activity to the Board • Review Commission Assurance Framework • Internal Audit Report: Follow Up Review on Previous Audit Recommendations • Private Meeting with Internal Audit • Private Meeting with External Audit

November 2021

- Reviewed Board Scheme of Financial Delegation
- Reviewed Standing Financial Instructions
- Reviewed Committee Terms of Reference
- Reviewed Anti-Fraud Policy/Conflict of Interest Policy
- Reviewed Equalities & Diversity Plan
- Reviewed Whistleblowing Policies
- Reviewed Risk Management Policy
- Internal Audit Report: Financial Planning & Scrutiny
- Reviewed Draft 2022/23 Draft Budget
- Considered Workforce Plan: Succession Planning

January 2022

- External Audit update and review of 2021/22 annual audit plan
- Review of Workforce Plan Update
- Review of Medium-Term Financial Plan
- Review Commission Assurance Framework
- Reviewed Key Accounting Policies for 2021/22 Accounts
- Consider Medium Term Financial Plan Update
- Consider Workforce Plan Update
- Consider Annual Improvement Report
- Approved Board Self-Assessment Questionnaire to be issued in quarter 4 2021/22
- Considered report from Internal Audit: Homeworking
- Review Draft 2022/23 Budget

Standing agenda items reviewed at each meeting

- Review of Operational Risk Register
- Progress Review on Audit Recommendations
- Review of Key Performance Indicators (Board Agenda Item from January 2022)
- Review of Timetable/Targets/Deadlines for Delivery of IS Projects
- Health, Safety & Welfare Update
- Review of Complaints Handling Report
- Review of Financial Performance to date

RECOMMENDATION

The Committee is asked to consider and approve the report prior to presentation to the Board.

Date 15 May 2022

Author Table of Activity completed by Crofting Commission Head of Finance and Overview approved by Commissioner Mairi Renwick Mackenzie.

SUMMARY

Our Outcome		1. CROFTS ARE OCCUPIED AND MANAGED	RAG Status
Key Milestones	1a June 2022 – Write to a selection of 2021 census respondents who have advised us they are in breach of their duty to be ordinarily resident, obtaining their plans and intentions for resolving the breach and establishing whether there is a good reason not to issue a notice of suspected breach of duty under section 26C(1) of the 1993 Act.		AMBER
	1b July 2022 – Write to a selection of crofters and owner-occupier crofters who have not responded to the 2021 census and whose address would indicate they are in breach of the residence duty. Should correspondence confirm that they are in breach then the case would be followed up in terms of 1a above.		AMBER
	1c October 2022 – Write to a selection of tenant and owner-occupier crofters who have indicated in their 2021 crofting census returns that they are complying with the duty to be ordinarily resident but who are not cultivating the croft, giving information about their options.		GREEN
	1d January 2023 – To be in a position to accept and process reports that landlords of vacant crofts are not resident on or within 20 miles (32 kilometres) of the croft and/or not working the croft to determine whether a notice should be issued under section 23(5) of the 1993 Act requiring the landlord to submit proposals for letting the croft.		GREEN
Performance Measures	1.1	Number of formerly vacant crofts let by the landlord or the Commission following the Commission initiating action under the unresolved succession (section 11) or vacant croft (section 23) provisions of the 1993 Act.	GREEN
	1.2	Number of RALU breaches resolved by a crofter or an owner-occupier crofter in breach of their residency duty taking up residence on their croft.	GREEN
	1.3	Number of RALU breaches resolved by the assignation of the croft, or the letting or sale of an owner-occupied croft.	GREEN
	1.4	Number of RALU breaches resolved by the Commission giving consent to the sublet of a tenanted croft, the short-term lease of an owner-occupied croft, or by a consent to be absent being given to a tenant or an owner-occupier crofter.	GREEN
	1.5	Number of RALU breaches escalated to the issue of a Notice of suspected breach of duty (section 26C), or a Notice providing an Undertaking (section 26D).	GREEN
	1.6	Number of RALU breaches concluded by tenancy terminations orders (section 26H), or approval of letting proposals submitted by owner-occupier crofters following a direction to do so (section 26J).	GREEN

Our Outcome		2. COMMON GRAZINGS ARE REGULATED AND SHARED MANAGEMENT PRACTICES CONTINUE	RAG Status
Key Milestones	2a Ongoing – Contact all Grazings Committees whose terms are about to end, encouraging them to arrange the appointment of a new Grazings Committee		GREEN
	2b Ongoing – Maintain contact with shareholders of common grazings that have not returned a committee to office and establish contact with shareholders who have not had a committee for a longer period of time.		GREEN
	2c Ongoing – Highlight to Grazings Committees and Shareholders the availability of the guidance, published February 2019, for effective management of common grazings. Respond to any questions for clarification.		GREEN
	2d December 2022 – Update and deliver a package of online training for Grazing Committees.		GREEN
	2e March 2023 – Publish guidance notes to clarify, as far as possible, how crofters can engage with supported schemes for tree planting and peatland restoration, after engaging with Scottish Government and other stakeholders.		GREEN
Performance Measures	2.1	Maintain or increase in number of common grazings with a Committee in office.	GREEN
	2.2	Increase in number of grazings committees who have adopted the new template regulations.	RED
	2.3	Meetings or other substantial engagement with Grazings Committees and shareholders (as required) to support them with the regulation and management of common grazings.	GREEN
	2.4	Establish correct shareholdings on common grazings by researching and updating records of shareholder situations.	GREEN

Our Outcome		3. CROFTING IS REGULATED IN A FAIR, EFFICIENT AND EFFECTIVE WAY	RAG Status
Key Milestones	3a August 2022 – Next build of the Crofting Information System released and upskilling delivered.		RED
	3b August 2022 – Digital options for the majority of regulatory application types rolled out and fully functioning.		GREEN
	3c August 2022 – Complete the expansion of the regulatory team through additional recruitment.		AMBER
	3d August 2022 – Complete suite of governance documents specifying the process for CIS change		AMBER
Performance Measures	3.1	Stability or decrease in median turnaround times (registered crofts, Tier 1 approvals).	AMBER
	3.2	Decrease in number of live regulatory cases at a point in time.	AMBER
	3.3	Number of staff in the regulatory team that are trained in 13 of the key application types.	GREEN
	3.4	Substantial increase in number of regulatory cases discharged in the year.	AMBER
	3.5	Customer satisfaction rates.	RED

Our Outcome		4. THE FUTURE OF ACTIVE CROFTING IS SUPPORTED BY WELL-INFORMED ENGAGEMENT WITH STAKEHOLDERS	RAG Status
Key Milestones	4a August 2022 – Ensure that the work of the development officers takes account of issues from across the crofting counties and that they are accessible to crofters in all areas.		GREEN
	4b September 2022 – Publish a revised and renewed Commission Policy Plan, reflecting the views of the Board of Commissioners in place after the elections.		AMBER
	4c Ongoing – Progress the Commission’s actions in the National Development Plan for Crofting.		GREEN
	4d September 2022 – Review the Commission’s contribution to discussions with stakeholders and SG on the development of future support systems for crofting, in order to ensure its effectiveness.		GREEN
	4e November 2022 – Make representations to the Scottish Government regarding desirable changes to crofting legislation.		GREEN
Performance Measures	<i>There are no Key Performance Measures for this Outcome</i>		

Our Outcome			5. OUR WORKFORCE HAS THE RIGHT SKILLS AND MOTIVATION TO PERFORM WELL, OUR GOVERNANCE PROCESSES ARE BEST PRACTICE
			RAG Status
Key Milestones	5a August 2022 – Implement automated retention schedule procedures within revised CIS.		RED
	5b August 2022 – To provide structured training for Commissioners and SMT, especially those who join the Commission in Spring 2022, to enshrine the principles of On-Board training in the working of the Commission.		GREEN
	5c December 2022 – To clarify how the Commission will manage its historic information in line with data protection legislation, and take forward its Implementation.		AMBER
	5d January 2023 – Implement hybrid working for Crofting Commission staff, in a way which permits recruitment of more staff who are dispersed across the crofting counties.		GREEN
Performance Measures	5.1	Increase in Employee engagement Index.	GREEN
	5.2	Corporate carbon emissions.	GREEN
	5.3	Redeploy efficiency savings within £3.9m core budget.	GREEN

DETAILED PROGRESS REPORTS

The following sections provide a detailed report on both the milestones and performance measures for each Outcome.

Our Outcome	1. CROFTS ARE OCCUPIED AND MANAGED By ensuring crofters are compliant with their Duties and by working with crofting communities and stakeholders, we can increase the number of crofts that are occupied and well managed.			
Milestone	Covid Effect	RAG Status	Responsible Manager	Details
1a June 2022 – Write to a selection of 2021 census respondents who have advised us they are in breach of their duty to be ordinarily resident, obtaining their plans and intentions for resolving the breach and establishing whether there is a good reason not to issue a notice of suspected breach of duty under section 26C(1) of the 1993 Act.		AMBER	Joseph Kerr	<p>Due to staff resourcing issues this task will commence later in the year, than initially anticipated. The RALU Team lost a key member of staff earlier in the year, and while the recruitment of two new RALUT Casework Officers has been successful, the individuals concerned are existing staff currently with other Commission teams who obtained promotion to these posts. Arrangements had to be put in place to allow their own posts to be backfilled, and therefore the two new casework officers are now due to take up post on 5 September 2022.</p> <p>In the meantime, the RALU Team have received the 2022 Census report on census returns from IS colleagues and have commenced work on analysing the data and identifying the different categories of breach identified which will form the basis for the selection of the tenant and owner-occupier crofters who will be written to in distinct tranches this year. These comprise:</p> <ul style="list-style-type: none"> • Non-resident/ non-cultivating tenants • Non-resident tenants • Non-resident owner-occupier crofters • Resident Non-cultivators tenant

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
<p>1b July 2022 – Write to a selection of crofters and owner-occupier crofters who have not responded to the 2021 census and whose address would indicate they are in breach of the residence duty. Should correspondence confirm that they are in breach then the case would be followed up in terms of 1a above.</p>		AMBER	Joseph Kerr	<p>Due to staff resourcing issues this task will commence later in the year than initially anticipated. The RALU Team lost a key member of staff earlier in the year, and while the recruitment of two new RALUT Casework Officers has been successful, the individuals concerned are existing staff currently with other Commission teams who obtained promotion to these posts. Arrangements had to be put in place to allow their own posts to be backfilled, and therefore the two new casework officers are now due to take up post on 5 September 2022.</p> <p>In the meantime, the RALU Team have received the 2022 Census report on non-census returns from IS colleagues and have commenced work on analysing the data and identifying the cases of non-returners whose postal address would indicate that they are in breach of the residence duty which the Commission will engage with this year.</p>
<p>1c October 2022 – Write to a selection of tenant and owner-occupier crofters who have indicated in their 2021 crofting census returns that they are complying with the duty to be ordinarily resident but who are not cultivating the croft, giving information about their options.</p>		GREEN	Joseph Kerr	<p>This milestone remains on target to be achieved within the agreed timescale.</p>
<p>1d January 2023 – To be in a position to accept and process reports that landlords of vacant crofts are not resident on or within 20 miles (32 kilometres) of the croft and/or not working the croft to determine whether a notice should be issued under section 23(5) of the 1993 Act requiring the landlord to submit proposals for letting the croft.</p>		GREEN	Joseph Kerr	<p>This milestone remains on target to be achieved within the agreed timescale.</p>

PERFORMANCE MEASURES -

Number	Aim	Baseline	Target/Indicator	Measure
1.1	Number of formerly vacant crofts let by the landlord or the Commission following the Commission initiating action under the unresolved succession (section 11) or vacant croft (section 23) provisions of the 1993 Act.	9	15	Records of administrative action.

PROGRESS:

In the first quarter the Commission issued:

- **One** notice under section 11(8) due to failure to resolve a succession, terminating the tenancy, declaring the croft vacant and requiring the landlord to submit letting proposals;
- **One** notice under section 23(5), following the renunciation by a tenant, requiring the landlord to submit letting proposals;
- **One** notice under section 23(5), following the Commission’s termination of the tenancy of a croft under breach of duties enforcement action, requiring the landlord to submit letting proposals.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Joseph Kerr

Number	Aim	Baseline	Target/Indicator	Measure
1.2	Number of RALU breaches resolved by a crofter or an owner-occupier crofter in breach of their residency duty taking up residence on their croft.	8	17	Records of administrative action.

PROGRESS

In the first quarter, **4** Crofters resolved their breach by taking up residence on or within 32 kilometres of their crofts.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Joseph Kerr

Number	Aim	Baseline	Target/Indicator	Measure
1.3	Number of RALU breaches resolved by the assignation of the croft, or the letting or sale of an owner-occupied croft.	14	20	Records of administrative action

PROGRESS

In the first quarter, 4 Crofters resolved their breach by assigning the tenancy of their crofts.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Joseph Kerr

Number	Aim	Baseline	Target/Indicator	Measure
1.4	Number of RALU breaches resolved by a crofter or an owner-occupier crofter in breach of their residency duty taking up residence on their croft.	34	No target (this is not a priority in its own right)	Records of administrative action

PROGRESS

In the first quarter:

- 4 Crofters resolved their breach by subletting their crofts;
- 4 Crofters obtained consent to be absent from their crofts.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Joseph Kerr

Number	Aim	Baseline	Target/Indicator	Measure
1.5	Number of RALU breaches escalated to the issue of a Notice of suspected breach of duty (section 26C), or a Notice providing an Undertaking (section 26D).	26	No target (this is an intermediate phase en route to KPI 1.6)	Records of administrative action

PROGRESS

In the first quarter the Commission:

- Issued **13** notices of suspected breach of duty under section 26C(1);
- Considered in **one** case that there was a good reason not to issue a notice of suspected breach of duty under section 26C(1);
- Made **6** decisions that a crofter was in breach of duty under section 26C(5);
- Issued **5** notices providing crofters with the opportunity to comply with the duty within a timescale the Commission consider reasonable under section 26D(1) ;
- Made **3** decisions accepting undertakings to comply with the duty under section 26D(5).

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Joseph Kerr

Number	Aim	Baseline	Target/Indicator	Measure								
1.6	Number of RALU breaches concluded by tenancy terminations orders (section 26H), or approval of letting proposals submitted by owner-occupier crofters following a direction to do so (section 26J).	0	4	Records of administrative action								
<p><u>PROGRESS</u></p> <p>In the first quarter, the Commission were satisfied that it was in the general interest of the crofting community to issued two Orders terminating the crofter's tenancy due to a breach of duty (one was initiated by a report of a suspected breach of duty under section 26A; 1 was initiated by the crofter acknowledging in their Crofting Census that they were in breach of duty).</p> <p>In both cases the Commission were satisfied under section 26G that, prior to termination, it was fair to divide the tenanted crofts.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>GREEN</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Q1	Q2	Q3	Q4	GREEN			
Q1	Q2	Q3	Q4									
GREEN												
Responsible Manager: Joseph Kerr												

Our Outcome

2. COMMON GRAZINGS ARE REGULATED AND SHARED MANAGEMENT PRACTICES CONTINUE

Shared management and productive use of common grazings are important for the sustainability of crofting. The Commission works with grazings committees and crofting communities, providing both guidance and support, to ensure the effective management and use of common grazings.

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
2a Ongoing - Contact all Grazings Committees whose terms are about to end, encouraging them to arrange the appointment of a new Grazings Committee	None	GREEN	Finlay Beaton	Number of Grazings Committees is remaining fairly static presently with 495 Committees currently in office at the end of the first quarter. Our system of reminders is working well with the first reminder going out one month before the end of the term. If no response, then a reminder is sent out one month after the term completion with a further reminder at the 12-week period offering assistance throughout.
2b Ongoing – Maintain contact with shareholders of common grazings that have not returned a committee to office and establish contact with shareholders who have not had a committee for a longer period of time.	None	GREEN	Finlay Beaton	This work is ongoing with projects in place to raise awareness of the importance of Grazings Committees. We are currently contacting all out of office Committees in North Uist prior to our attendance at the North Uist show, where we have invited former committees to come to discuss any issues with us. Further projects are in place for the coming months to continue the momentum built up pre covid. Whilst we were receiving some concerns about covid and public meetings, these concerns appear to have abated.
2c Ongoing – Highlight to Grazings Committees and Shareholders the availability of the guidance, published February 2019, for effective management of common grazings. Respond to any questions for clarification.	None	GREEN	Finlay Beaton	We have a system in place, where once a new Committee goes into office, out good practice document is issued to the Clerk We also endeavour to obtain an email address for the Clerk to advise of any common grazing workshops/training when in their area. Details are also passed to the Development team who make contact to introduce the relevant development officer assigned to their area and offer assistance regarding possible developments opportunities that may be available.
2d December 2022 – Update and deliver a package of face to face training for Grazing Committees.	None	GREEN	Finlay Beaton	Farm Advisory Service funding has been secured once again and Covid restrictions have been lifted to allow face to face meetings once again. Dates/venues have been set for our workshop delivery which are South Uist, North Uist, Harris, Shetland, Helmsdale, Lochaber, and Skye which will begin in August

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
2e March 2023 Publish guidance notes to clarify, as far as possible, how crofters can engage with supported schemes for tree planting and peatland restoration, after engaging with Scottish Government and other stakeholders.	None	GREEN	Finlay Beaton	The peatland restoration webpage has been published and the Development team recently attended a meeting for the Flow Country Partnership, peatland restoration project and written to all Grazings Committees within the project area. The Development team are also engaging with the NW2045 GROUP who are carrying out research into natural capital in the Northwest Highlands, focusing on the Melness, Tongue and Skerray areas. The team will also be attending Integrated Trees Network events.

PERFORMANCE MEASURES

Number	Aim	Baseline	Target/Indicator	Measure								
2.1	Maintain or increase in number of common grazings with a Committee in office.	497 Grazings Committees in office on 31 March 2022	Maintain at 500 or above	Administrative records								
<p>PROGRESS – Number of Committees at the end of the quarter is 495. A very minor drop but plans in place to increase committees above 500.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>GREEN</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Q1	Q2	Q3	Q4	GREEN			
Q1	Q2	Q3	Q4									
GREEN												
Responsible Manager: Finlay Beaton												

Number	Aim	Baseline	Target/Indicator	Measure								
2.2	Increase in number of grazings committees who have adopted the new template regulations.	3	Increase by at least 10 Commission approvals of new regulations submitted by committees based on the template.	Number of new grazings regulations approved which are based on the new template.								
<p>PROGRESS – Whilst some preparatory work has been carried out on this target, no new regulations have been completed within this quarter. Should the team be returned to its full staffing complement, then I would envisage that we will be able to move this item forward, although it does require buy in from the Grazings Committees. It is noted that new regulations are usually completed in areas where there is an element of disharmony which requires to be addressed.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>RED</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Q1	Q2	Q3	Q4	RED			
Q1	Q2	Q3	Q4									
RED												
Responsible Manager: Finlay Beaton												

Number	Aim	Baseline	Target/Indicator	Measure
2.3	Meetings or other substantial engagement with Grazings Committees and shareholders (as required) to support them with the regulation and management of common grazings.	16	No numerical target as this is in large part demand led	Records of administrative action. (Note that this covers different types of intervention: getting Committees into office; resolving medium size queries; and helping to address deeper issues.)

PROGRESS - Whilst no meetings have been carried out within this quarter, the preparatory work has been carried out for cg workshops throughout the crofting counties starting in late August through to March 23.

The Grazings team will also have a presence at both the Black Isle Show and the North Uist Show with the importance of Grazings Committees being a main theme.

The team have been engaged with 5 Grazings where there are significant issues currently ongoing, and we are liaising with the interested parties to resolve these difficulties

We have also responded to over 70 queries within the quarter ranging from general queries to more detailed.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Finlay Beaton

Number	Aim	Baseline	Target/Indicator	Measure
2.4	Establish correct shareholdings on common grazings by researching and updating records of shareholder situations.	24	20 more townships researched in 2021/22	Records of administrative action

PROGRESS – 16 Shareholding situations have been investigated in this quarter with 13 involving the whole common grazings and three concerning single shares. Only three more complex situations are outstanding from this quarter due to being more complex queries.

Q1	Q2	Q3	Q4
GREEN			

Responsible Manager: Finlay Beaton

Our Outcome

3. CROFTING IS REGULATED IN A FAIR, EFFICIENT AND EFFECTIVE WAY

We are committed to providing a quality and professional service to all our customers, especially those that make regulatory applications to us or who send us applications for registration of their croft, for us to review and forward to the Registers of Scotland. We are committed to fairness in all our decision-making, and we monitor turnaround times for all the different types of process.

We are also committed to continuous improvement of our internal processes, to deliver consistent and fair decision making that is compliant with legislation, and that also delivers value for the public purse. By changing and expanding how we deliver our services to customers, we can provide a faster, more consistent and more informative service to our customers, thereby improving customer satisfaction and confidence.

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
3a August 2022 – Next build of the Crofting Information System released and upskilling delivered.	LIMITED	RED	Aaron Ramsay	The new build of CIS is currently in system testing and debugging. This process has taken slightly longer than anticipated due to the implementation of dedicated training and testing modes, as well as a complete move to a cloud based environment. This combined with the onboarding of a second developer has moved release plans back slightly, however the new release is still scheduled for late Oct 22 / Early Nov 22. In addition to bug testing training material is being simultaneously produced, and a training rollout plan is being developed to ensure all staff are given sufficient time to upskill before the new system is released.
3b August 2022 – Digital options for the majority of regulatory application types rolled out and fully functioning.	LIMITED	GREEN	Aaron Ramsay	The planned rollout of digital applications was changed in order to target decrofting application types ahead of schedule. This work is progressing well, with two decrofting types ready to go live the wc 01/08/2022. All design work has been completed on the full range of decrofting applications, as well the two Division application types. Within August all decrofting types, both division types, and Assignment of a Grazing Share will be added to the online total, bringing the live count to 14 application types of a total of 19 planned for the initial digital release. These application types account for the majority of Commission applications, and the remaining types are anticipated to go live in Sept 2022.
3c August 2022 – Complete the expansion of the regulatory team through additional recruitment.		AMBER	Heather Mack	Considerable recruitment has taken place with 15 appointments made from regulatory team recruitment exercises during 2022 thus far. These appointments have been for backfilling and new posts. Recruitment is currently underway for 2 Senior Casework Officers which will conclude in August and for 8 Casework Administrators which will conclude in Autumn 2022.
3d August 2022 – Complete suite of governance documents specifying the process for CIS change	LIMITED	AMBER	Aaron Ramsay	Work on the governance documentation has progressed well under the new Product Owner , with the majority of the governance areas now in draft form. Completion of the documentation within the target of August 2022 is feasible, however the RAG status is set to amber only as competing priorities for the Product Owner and Scrum Master’s time during a particularly in demand leave period are proving a challenge.

PERFORMANCE MEASURES

Number	Aim	Baseline	Target/Indicator	Measure
3.1	Stability or decrease in median turnaround times (registered crofts, Tier 1 approvals)	Figures for 2021-22: Assignment – 12.9 weeks Decrofting CHSGG – 13.9 weeks Decrofting Part Croft – 25.3 weeks	Clear evidence that turnaround times are falling, by the final quarter of 2022/23	Time taken from application to notification of decision, <i>for cases where no registration is required</i>

PROGRESS

Average turnaround times for the indicator cases are higher than the average seen for the whole of the 2021-22. The turnaround times increased throughout 2021-22. The average times for 2022-23 below is for the first quarter of the year only and reflects applications that were received when outstanding cases and staffing difficulties were particularly acute. With the increase in the number of trained staff these figures have time to improve by the end of the year.

Q1	Q2	Q3	Q4
AMBER			

	Approx Number of cases per year	Median weeks (2021-22)	Median weeks (2022-23 Q1)
Assignment	125	12.9	14.3
Decrofting Croft House Site	50	13.9	15.9
Decrofting Part Croft	100	25.3	27.1

Responsible Manager: Heather Mack

Number	Aim	Baseline	Target/Indicator	Measure
3.2	Decrease in number of live regulatory cases at a point in time	1087 on 31 March 2022	Reduce to 850	Number of live regulatory cases on 31 March

PROGRESS

The number of outstanding cases in the monthly report to management and the board is 1080 for the end of June 2022. This is very minor drop from 1087 (March 2022) and significant improvements would need to be seen in coming months to meet the overall target.

Q1	Q2	Q3	Q4
AMBER			

Responsible Manager: Heather Mack

Number	Aim	Baseline	Target/Indicator	Measure								
3.3	Number of staff in the regulatory team that are trained in 13 of the key application types	One Casework administrators and 7 casework officers March 2022	Increase to 10 casework administrator and 9 casework officers	Number of staff that have progressed through the training for at least 13 application types								
<p><u>PROGRESS</u></p> <p>Ten casework officers and six casework administrators are now trained in the initial 13 application types. This is an overall increase from 8 staff at this level of training at the end of March 2022 to 16 staff at this level of training. This is excellent progress towards the goal of 19 staff trained to this level by the end of the reporting year.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>GREEN</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>Responsible Manager: Heather Mack</p>					Q1	Q2	Q3	Q4	GREEN			
Q1	Q2	Q3	Q4									
GREEN												

Number	Aim	Baseline	Target/Indicator	Measure								
3.4	Substantial increase in number of regulatory cases discharged in the year	1517 in 2021/22	2000 (500 a quarter)	Total number of approvals and refusals during the year								
<p><u>PROGRESS</u></p> <p>Cases discharged over the first three months of 2022-23 has been fairly consistent at around 150 a month. Total cases discharged for the quarter is 448 which is below the target of 500. However, the number is considerably higher than the average number of cases discharged per quarter for 21-22 (379). The measures in place to improve performance for the year ahead mean that it is possible to meet the overall target of 2000.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>AMBER</td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>Responsible Manager: Heather Mack</p>					Q1	Q2	Q3	Q4	AMBER			
Q1	Q2	Q3	Q4									
AMBER												

Number	Aim	Baseline	Target/Indicator	Measure								
3.5	Customer satisfaction rates		At least 80% of responses positive	Proportion of respondents answering 5 or 4 on the 5-point scale for overall satisfaction								
<p><u>PROGRESS</u></p> <p>A new process has been trialled issuing customer feedback forms by email. This has received only one respondent which had an average score of 52.5%, which is well below the goal of 80% positive. Considerable levels of enquiries chasing up cases and complaints also indicate that customer satisfaction is a concern.</p> <table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>RED</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Q1	Q2	Q3	Q4	RED			
Q1	Q2	Q3	Q4									
RED												
Responsible Manager: Heather Mack												

Our Outcome **4. THE FUTURE OF ACTIVE CROFTING IS SUPPORTED BY WELL-INFORMED ENGAGEMENT WITH STAKEHOLDERS**
 The Commission has a responsibility to promote the interests of crofting, and to advise the Scottish Government about crofting issues. We welcome collaborative initiatives with other organisations in order to contribute towards the sustainable development of crofting

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
4a August 2022 – Ensure that the work of the development officers takes account of issues from across the crofting counties and that they are accessible to crofters in all areas.	None	GREEN	Arthur MacDonald	Areas throughout the crofting counties have been allocated to specific development officers in line with the Grazings officer split which promotes good inter team working. Development officers are attending shows in Shetland, North Uist, Lochaber and the Black Isle. The team will deliver a second Landlord event in the Northwest Highlands, to be held in the Helmsdale area. An all Assessor event will be organised by the Team to be held in October in Inverness.
4b September 2022 – Publish a revised and renewed Commission Policy Plan, reflecting the views of the Board of Commissioners in place after the elections.		AMBER	David Findlay	An expanded draft Policy Plan is being presented to the Board on 18 August. If approved we are ready to launch the statutory consultation on 19 August. This is slightly behind schedule but if the consultation stage proceeds quickly the timescale can still be met.
4c Ongoing – Progress the Commission’s actions in the National Development Plan for Crofting.		GREEN	Arthur MacDonald	Actions within the NDP are being taken forward by the Development Team and RALUT.
4d September 2022 – Review the Commission’s contribution to discussions with stakeholders and SG on the development of future support systems for crofting, in order to ensure its effectiveness.	None	GREEN	Arthur MacDonald	We are participating in meetings with the Research Advisory Group and discussions the National test programmes for Track 1 & 2 in relation to future mechanisms for agricultural support and the Head of Development attends the Testing Actions for Sustainable Farming Questionnaire Group. The purpose of which is to ensure a broad range of crofting interest are included in the target group. We continue to work with Scottish Land Matching Service on the development of a croft availability network. We continue to attend SCF, SLE & NFU meetings to maintain a liaising relationship with these bodies. The team are also organising meetings with RPID to assist in their crofter’s duty compliance initiative.
4e November 2022 – Make representations to the Scottish Government regarding desirable changes to crofting legislation.		GREEN	David Findlay	Commission is actively engaging in the Crofting Bill Group, and will firm up its further proposals following consultation with SCF, NFUS and HIE at the Strategy Meeting on 26 September.

There are no Performance Measures for Outcome 4

Our Outcome

5. OUR WORKFORCE HAS THE RIGHT SKILLS AND MOTIVATION TO PERFORM WELL, OUR GOVERNANCE PROCESSES ARE BEST PRACTICE

By ensuring that our staff and Board Members have appropriate training and continued investment, we can develop a high-performing workforce. We will ensure that our organisation fulfils its legal requirements and contributes to the Scottish Government's broader objectives for Scotland.

Milestone	Covid Effect	RAG Status	Responsible Manager	Details
5a August 2022 – Implement automated retention schedule procedures within revised CIS.	LIMITED	RED	Aaron Ramsay	Implementation of retention functionality has been built into the next release of the CIS, and is currently under system testing. This milestone is RED as it is tied to the release date of the next CIS update, which has slipped back to late Oct / early Nov 22 as per item 3a.
5b August 2022 – To provide structured training for Commissioners and SMT, especially those who join the Commission in Spring 2022, to enshrine the principles of On-Board training in the working of the Commission.		GREEN	Bill Barron	A training plan for Commissioners is in place; parts of it have been delayed slightly because the new appointed commissioners will not be in place till August/September.
5c December 2022 – To clarify how the Commission will manage its historic information in line with data protection legislation, and take forward its Implementation.		AMBER	Anne Williamson	<p>This milestone is split into two parts; historic records held within the CIS and those held in paper format in file storage.</p> <p>The documents held in the CIS have an implementation plan to begin addressing this, however it is intrinsically tied to the release of the new CIS system as per item 3a, and as such cannot start until after the new system is live.</p> <p>Project carried out to upload all scanned Common Grazing files into the CIS database and will be available in the next release of CIS.</p>
5d January 2023 – Implement hybrid working for Crofting Commission staff, in a way which permits recruitment of more staff who are dispersed across the crofting counties.		GREEN	Bill Barron	<p>Agreement reached with RPID that CC staff can use their offices in the Crofting Counties on a hybrid-working basis (except for Golspie where there is no space). This has allowed us to offer flexible location within permanent recruitments.</p> <p>The hybrid working policy remains under continuous review.</p>

PERFORMANCE MEASURES

Number	Aim	Baseline	Target/Indicator	Measure
5.1	Increase in Employee engagement Index	62% in October 2021	Increase to 64%	SG people survey
<u>PROGRESS</u>				
To be measured in October				
	Q1	Q2	Q3	Q4
	GREEN			
Responsible Manager: Bill Barron				

Number	Aim	Baseline	Target/Indicator	Measure
5.2	Corporate carbon emissions	0.3 tCO ₂ e in 2020/21 (much reduced by pandemic)	Below 5 tCO ₂ e in 2021/22	Emissions from business travel by staff and Commissioners
<u>PROGRESS</u>				
<p>Quarter 1: The Commission has drafted a 'Climate Emergency Charter' that is currently with the Commission Solicitor for comment prior to wider circulation. Among the proposed actions is that the Commission will undertake to publish an emergency climate plan within the year. There are a number of additional reporting requirements for 2021/22 (due by November 2022) detailed within the Scottish Government "Public Sector Leadership on the Global Climate Emergency" published in October 2021, including a statutory duty to set a target date for achieving zero direct emissions of greenhouse gases, or such other targets that demonstrate how the body is contributing to Scotland achieving its emissions reduction targets. The Commission will liaise with the Sustainable Scotland Network (SSN) to ascertain expectations during Quarter 2. SSN is Scotland's public sector network on sustainability and climate change.</p>				
	Q1	Q2	Q3	Q4
	GREEN			
Responsible Manager: Neil MacDonald				

Number	Aim	Baseline	Target/Indicator	Measure								
5.3	Redeploy efficiency savings within £3.9m core budget		3%	Funding redeployed as a result of efficiencies in existing operations								
<u>PROGRESS</u>												
No shortfall is anticipated as at the end of Quarter 1.												
<table border="1"> <thead> <tr> <th>Q1</th> <th>Q2</th> <th>Q3</th> <th>Q4</th> </tr> </thead> <tbody> <tr> <td>GREEN</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					Q1	Q2	Q3	Q4	GREEN			
Q1	Q2	Q3	Q4									
GREEN												
Responsible Manager: Neil MacDonald												

Key to RAG definitions

R – Red A – Amber G – Green

AMBER means the objective is likely to fall short of successful delivery, in timescale or target or both; but the shortfall is expected to be modest.

GREEN is anything better than AMBER: no shortfall is anticipated;

RED indicates that we are seriously delayed or heading for a significant shortfall.

Once an objective has been completed during the financial year, we mark it **ACHIEVED**, even if it was late in the delivery.

Any tasks scheduled for later in the year, and so not started in Q1, can be marked **GREEN**, unless there is already a reason to think we may not be able to deliver them as intended.

Risk Category	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	Date last updated
Strategic	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 complement 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	The RALU Team will be expanded by 2 B1s taking up post from 5 September 2022, bringing the total to 6. A further recruitment exercise will be undertaken in the Autumn to recruit a seventh B1. 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	26/07/2022
Strategic	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. Thankfully, difficulties created by the public health situation appear to be over, creating a more settled process to progress this target. A high number of queries are being received on various common grazings items and so focus is currently on providing timely responses to customers. New Regulations work has been put on hold apart from basic responses to queries on this item until the team returns to a full complement. Engagement with Crofters/Committees continues well with attendance at shows planned in the coming quarter and thereafter provision of our common grazings workshops throughout the crofting counties. 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	Dec-22	Finlay Beaton	20/07/2022

Risk Category	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	Date last updated
Operational	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 underway, 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 underway. The new release of CIS is planned for late 2022 and a new process for CIS improvements is being developed as well as the recent addition of an extra developer, who is currently in training.	Reasonable	25	2	50	Mar-23	Heather Mack	27/07/2022
Strategic	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	A second event for crofting landlords is being planned for North and East Highland areas. Current Assessors and new Grazings Clerks have been invited to meet the Commissioners and staff at specified shows this summer where the issues relating to underutilisation of crofts and grazings will be featured.	Reasonable	10	3	30	Oct-22	Arthur MacDonald	20/07/2022
Governance	S5	Commission loses credibility because of Governance issues outlined in Deloitte report	All of the 41 Deloitte recommendations implemented and incorporated into Commission Governance Framework.	10	1	10	Fallen	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	11/07/2022
People	S6	The Commission is tied to SG HR policies for recruitment, which currently restrict home working. As more government bodies and employers move to this model it will make future recruitment more difficult for the Commission to be competitive.	Written policy on hybrid working, published March 2022; GGH and other RPID offices available to Commission staff who need or wish to use them, but most teams are using a substantial amount of home working. We are being flexible in our recruitment: while requiring every permanent member of staff to have an office base within the crofting counties, informal assurances are being given that requirements to travel to the office will be reasonable.	10	3	30	New	Refinement of the hybrid working policy is planned, including to clarify the extent to which we wish to retain a concept of 'core hours' when staff are expected to be at work. Further thought to be given to what happens if an existing member of staff wants to move their home location and office base, within or beyond the crofting counties.	Substantial	5	2	10	Dec-22	Bill Barron	04/08/2022

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Outstanding Casework Update

SUMMARY

High numbers of outstanding cases remain a concern for the Commission and is being closely monitored. Whilst the overall outstanding number hasn't significantly come down yet, an improvement in the number of cases discharged is encouraging and linked to the greater stability and increase in staff within the regulatory staff. Data is presented showing differences between notifications and applications and a moving annual total. The differences between delays in different case types is discussed and explained as well as other delays that may affect a case. Predictions of how the outstanding case numbers may improve over time is presented, indicating a reduction in outstanding cases between Autumn 2022 and Autumn 2023.

Background

High numbers of outstanding casework continue to be a challenging issue for the Commission. Previous reports on the issue (March, May and June 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 statistics

The number of outstanding cases in the indicator monthly statistics is currently 1091. This has slowly crept up over the last few months due to incoming cases being higher than discharged cases. As shown in Figure 1, discharged case numbers have remained at a consistent level around 150 for the last few months which is a considerable improvement from late 2021 and early 2022 where discharged cases were around 100 a month. This improvement in cases discharged is linked to the number of trained staff in the regulatory team and discharged numbers should increase further as more staff are trained. An increase in the discharge numbers is critical in order to make progress in reducing the numbers of outstanding cases

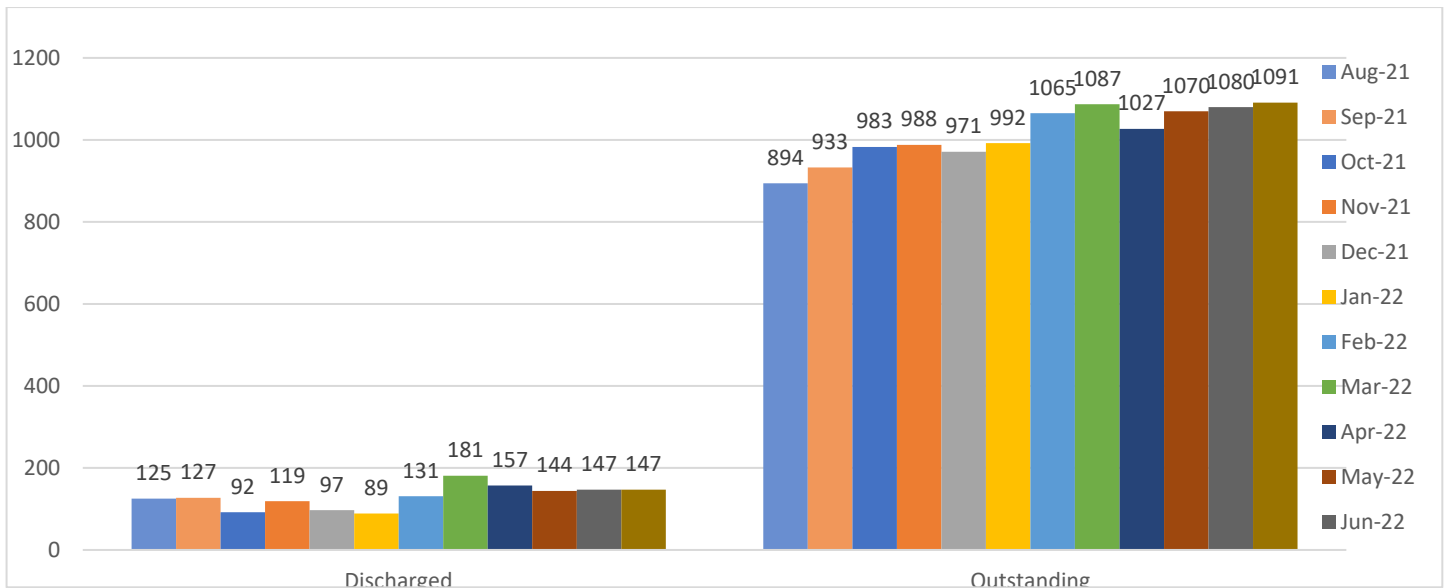


Figure 1 – Bar chart showing numbers of cases discharged and number of outstanding cases from August 2021 to July 2022.

Figure 2 shows the moving annual total and moving quarterly total for the number of outstanding cases. This clearly shows the steady increase in outstanding casework. The moving quarterly total picks out the increases that were experienced in autumn 2021 and early 2022 which were closely linked to departures of staff from the regulatory team.

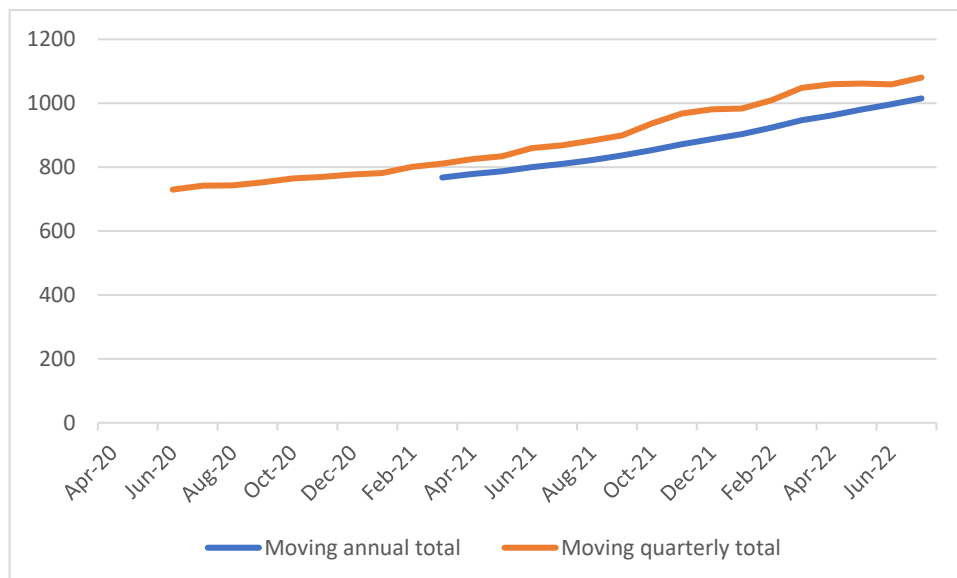


Figure 2 – Moving annual/quarterly total chart for outstanding cases. This chart gives a figure for each month that represents an average for the previous 12 months (blue) and the previous 3 months (orange). This helps to smooth out fluctuations in the data.

Figure 3 shows the differences between the proportion of applications and notifications based on the list that is reported on in the monthly reporting statistics to the Board. Applications is considerably higher than notifications in terms of the number of outstanding cases. When compared to the number of applications received, notifications is a larger proportion, this may be because notifications do not require a decision and in many cases can progress more quickly than applications which require a decision.

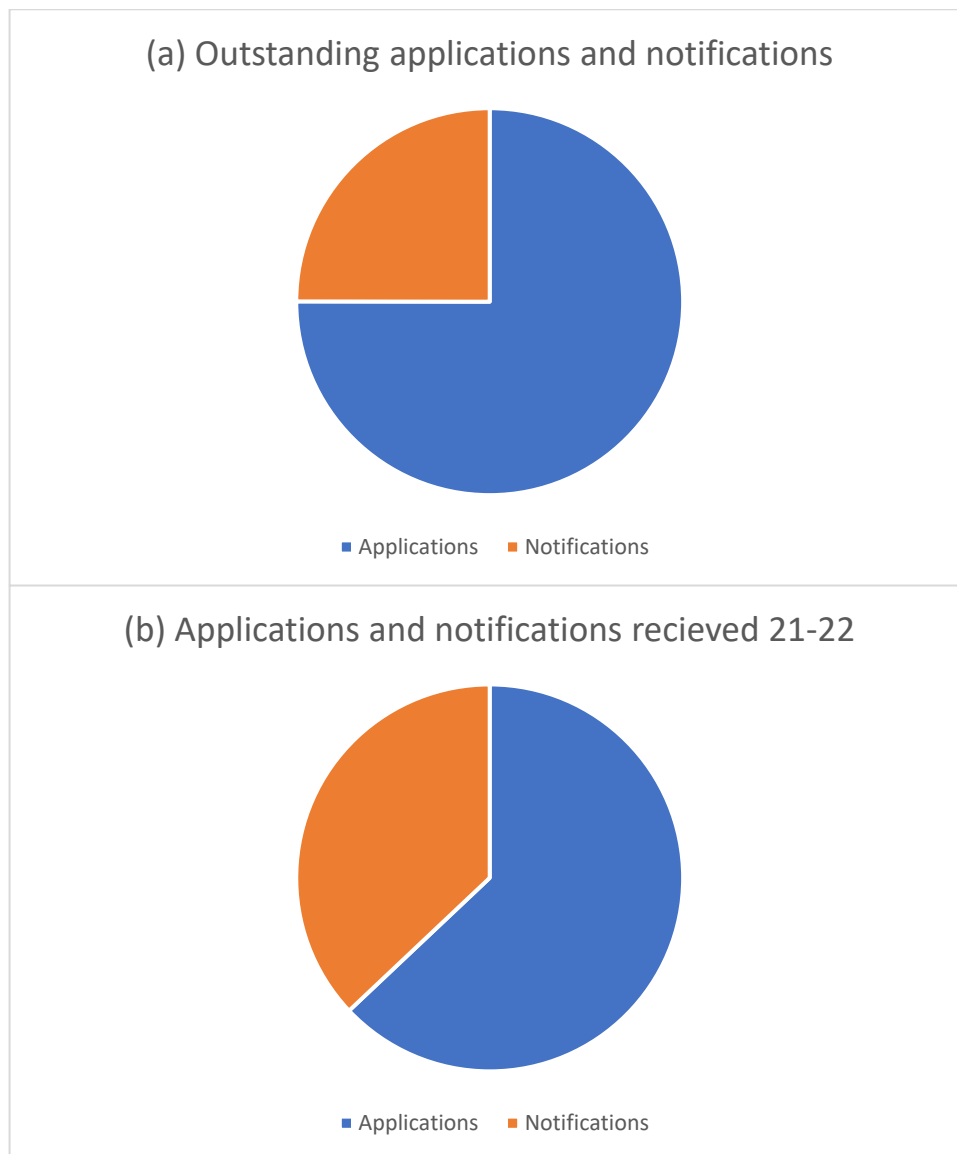


Figure 3 – Pie charts showing the split between applications (such as assignation, decroftings, divisions) and notifications (such as testate and intestate succession, purchase of croft land). (a) Outstanding applications and outstanding notifications as of June 2022; (b) Applications and notifications received for the 2021-2022 period.

Length of delays

The delays for different cases varies considerably depending on a range of factors. Some timescales are given in Table 1 which show the initial delay at the start of the application process. This represents the biggest backlog of casework when it sits in the initial queue waiting to be allocated to a Casework Administrator. The table shows some variations in this delay which is primarily due to the level of training for the Casework Administrators who do the initial checks of applications alongside the GIS map checks.

Training of new Casework Administrators has been very intense over the last year. Several staff departures from the 2021-22 period created vacancies and promotion opportunities, which has led to a high turnover of Casework Administrators. As such over 90 % of Casework Administrator staff are relatively new and are still not trained in many of the functions. In particular the initial delays with bequests, letting, new crofts and apportionments are due to having insufficient trained staff in these case types. Conversely the functions with no delays at this point, assignations and decroftings, are the more common case types that most of the Casework Administrators are now trained in.

In addition to delays at the start of the process there may be delays at other points in the process, which can be hard to predict or generalise. When the case is passed from the Casework Administrator it may have a wait before it can be passed to a Casework Officer due to capacity or level of training amongst the Casework Officers, many of whom are newly in post. Other delays may include when staff have left and a case has to wait before it can be allocated to another staff member. Or due to annual leave or sick leave as there is very limited capacity to progress cases when a team member is off. Other delays may include waiting for RPID reports, waiting for a Tier 2 or 3 meeting, or waiting for complex grounds to be drawn up for a case. Some particularly complex cases may need to be tackled when the staff member who has responsibility for the case has time to dedicate a couple of days to that case alone.

Table 1 – Delays with different case types at the initial stage.

Case type	Weeks delay at the initial checks stage
Assignment	no delay
House site decrofting	no delay
Part croft decrofting	no delay
Intestate succession	3
Division	3
Apportionment	4
Croft Registration (ROS application)	9
Letting	9
New croft	9
Bequest	13

Factors affecting outstanding casework and predicted trends

As outlined in previous papers the single biggest factor affecting the number of outstanding cases is the number of trained regulatory staff. Considerable progress has been made in recruiting and training new staff throughout 2022. The regulatory team had 16.5 staff in January 2022 and has since increased in number to 24.5. Recruitment is currently live for more Casework Administrators which should bring the team up to full capacity and enable agency staff to apply for permanent positions. Training is underway at a faster pace than ever before and is benefiting from experienced staff in these training roles.

Modelling developed by Glen Shuraig in their workforce review report (November 2022) has been helpful to demonstrate how quickly the organisation can reduce the numbers of outstanding casework. Figure 4 shows the predicted trend in outstanding casework based on the current team situation which included staff leaving in 2021-22 and two upcoming internal moves from staff to other teams. These moves are due to promotion and development opportunities. It is very positive that there has been so few staff leaving the team since early 2022 and may be due to the increased promotion opportunities and increased numbers in the team to help with the casework pressures.

The modelled data shows a peak in outstanding cases in September coinciding with the staff moves and following that a steady decline in outstanding case numbers. This drop in the numbers becomes steeper which is due to the increasing number of trained staff over this period. The model is an oversimplification and in reality there are more variables that affect the trend. The modelled data is compared to the real data in Figure 5 which shows a lot of similarity in terms of the overall trends with more variability in the real data, which is what we would expect to see. This overall similarity gives confidence to the model.

The drop seen from October 2022 assumes no staff leave during the rest of the 2022-23 period so this drop may be slower than that shown, as it is likely there will be some further staff departures during this time. However, whilst the organisation is currently quite affected by staff departures, by the end of the reporting year the impact of departures will be lessened as there is increasing numbers of trained staff and reductions in the outstanding casework. Once the expanded regulatory team gets up to full strength and training has progressed further the organisation will be much more resilient in this regard.

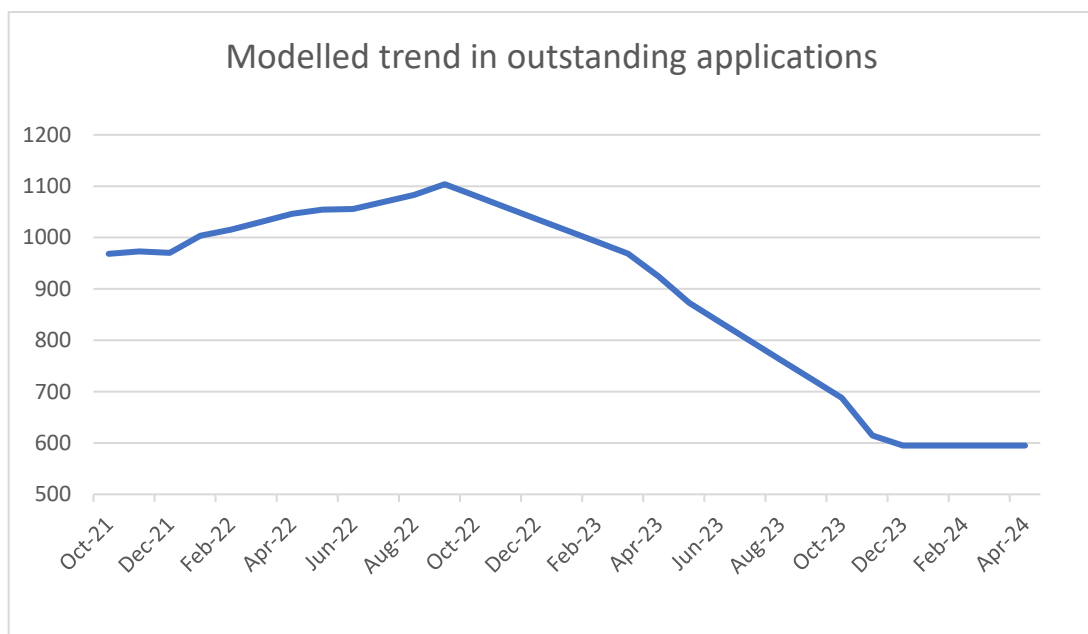


Figure 4 – Modelled predicted trend in outstanding applications based on model developed by Glen Shuraig (Workforce review, November 2022). This takes account of previous staff departures and upcoming ones in September 2022.

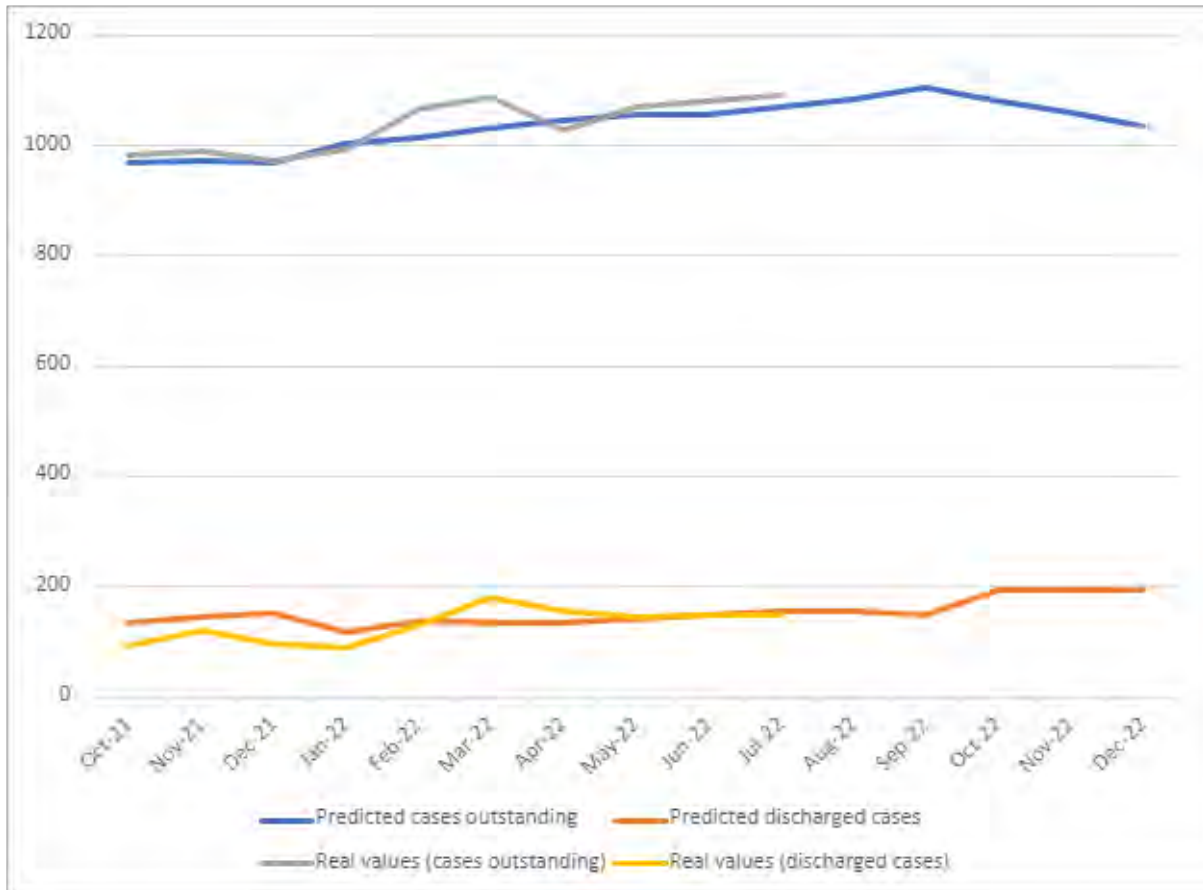


Figure 5 – Comparison of the modelled data with real data since October 2021. The predicted trend in outstanding casework (blue line) can be seen next to the real data (grey line). The predicted number of cases discharged (red line) can be compared to the real data for the numbers of cases discharged (orange line).

Conclusion

Outstanding casework numbers remain at a high level but an improvement in the number of cases discharged which has been consistent for the last few months is an encouraging sign. Further improvement is needed and this is expected to happen as staff training and experience progresses and further staff are recruited.

The main delay affecting applications is at the start of the process before the application is checked by a Casework Administrator. Different delays affect different case types since all Casework Administrators are currently in different stages of their training. So the case types that they are trained in first, as they are more common and simpler functions such as assignments, have the shortest delay. Other delays may affect a case later on in the process in addition to this which makes it hard to give an exact timeframe for the delay that may affect a case.

Predictions in the level of outstanding casework suggests a steady drop between October 2022 and November 2023 to bring it down to a baseline level. According to the model the numbers are predicted to go down below 1000 in early 2023.

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 29 July 2022

Author Heather Mack, Head of Operations

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Update on 2021 Deloitte Report

SUMMARY

This paper notes that all of the 2021 Deloitte recommendations have now been implemented, and summarises the ongoing learning points.

BACKGROUND

In a Wider Scope audit report of May 2021, Deloitte made 41 recommendations to improve the Commission's governance and sustainability. The Commission actively implemented these over the following year, with the final two – the updating of the Workforce Plan and the creation of a Code of Corporate Governance – signed off by the Board at its meeting on 29 June 2022.

CURRENT POSITION

While all of the recommendations have been implemented, many were concerned with the governance culture of the Commission and observance of them needs to be continual. The main themes were:

1. **The CEO reports to the Board** – notwithstanding that his/her position is unusual in that the CEO is appointed by the SG rather than by the Board.
2. **The relationship between the Scottish Government and the Commission must not bypass the Board.** In respect of the Commission's strategic direction and choices of priorities and policies, it is the Convener and the Board who are answerable to the Scottish Government, and the CEO in turn answers to the Board for delivery.
3. **The role of a Commissioner needs to be well understood.** We are unique as a public body in having the majority of our Board elected, but despite this the discipline of a corporate public body needs to be practiced. In some respects, this can put Commissioners at odds with the expectations of those who elected them, so this needs to be managed carefully.
4. **The complexities of our governance are now reflected in documentation** – especially the revised Framework Document and Code of Corporate Governance.
5. **Joint training** between Board, Management and Sponsor ensures that we have a common understanding of each other's roles and responsibilities, and how the accountability works.

6. **We needed an independent examination of our staffing levels and our management team structure.** This was conducted in Autumn 2021 and has informed the significant staffing expansion which is now well under way.

The Commission’s Board and management have now seen the report of the 2022 Audit in which Deloitte commented on the progress made. This will be in the public domain later in 2022.

Impact:	Comments
Financial	The CC’s budget was increased in 2022/23 to allow fulfilment of the recommendations on staffing.
Legal/Political	These changes have affected the way the Convener and CEO liaise with Sponsor, and keep the Board informed.
HR/staff resources	The Commission’s staffing is increasing from around 60 to around 75.

RECOMMENDATION
The Board is invited to note and make any comments.

Date 5 August 2022

Author Bill Barron, CEO

CROFTING COMMISSION MEETING

18 August 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 and Date</i>	<i>Commissioners attending</i>	<i>Lead SG officer(s)</i>	<i>Agenda items</i>	<i>Key outcomes</i>
Bill Group meetings, 11 July and 8 August	Convener	Derek Wilson, Michael Nugent, Gordon Jackson, Aileen Rore	Streamlining duties enforcement, removing requirement for grazings committee reporting, definition of owner occupier crofter, etc	Further thinking needed on streamlining duties enforcement. More details in minutes of the meetings which are shared with Commissioners.
CC input to Crofting Bill, 21 July	Convener	Michael Nugent	Ten minute discussion to clarify the scope of the Board's strategy meeting on 26 September and CC's input to the Bill work	Agreed that CC can propose any changes that will simplify crofting regulation for the Commission or for crofters, but that these should not be either controversial among stakeholders or too complex to implement – because such proposals could jeopardise delivery of the Bill as a whole.
Sponsor – CC liaison meeting, 25 July	Convener and Vice Convener, plus Rod Mackenzie and Donald MacDonald as observers	Gordon Jackson, Michael Nugent, Aileen Rore	Backlog, Bill Group work and various statistical questions	SG remains critically interested that the monthly number of cases discharged increases in the Autumn.

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 5 August 2022

Author Bill Barron, CEO

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Annual Review Gaelic Language Plan

SUMMARY

The Crofting Commission must review its Gaelic Language Plan once a year, in advance of a report being submitted to Bòrd na Gàidhlig in September.

BACKGROUND

Under the Gaelic Language Act (Scotland) 2005 public authorities in Scotland have a duty to complete a Gaelic Language Plan, which must then be submitted for approval by Bòrd na Gàidhlig, publicised, reviewed each year, with a report on progress made to the Bòrd every year. A complete update of Plans takes place every five years.

The first Gaelic Language Plan, submitted by the Crofters Commission, was approved in 2009. The second iteration was approved for the Crofting Commission in 2015, and the third edition approved by the Bòrd in October 2020, which will run until 2025.

Reports, monitoring progress against the Gaelic Language Plan commitments, are made to the Senior Management Team by the Gaelic Officer (currently the Crofting Development Officers) every quarter and annually to the Commission Board.

CURRENT POSITION

The Commission has invested considerable time in developing a Gaelic Language Plan with a range of practical commitments aimed at supporting the objectives of the National Plan for Scotland, enhancing the status of Gaelic, promoting learning, and encouraging the use of the language in the workplace.

The organisation's commitment reflects the important place of Gaelic in the culture of particular crofting communities, with Gaelic-speaking households making up a significant base in many of the most widely crofted areas.

All staff are expected to have an awareness of the Gaelic Language Plan and it is part of the Induction process for new staff. The Plan is included in the Commissioners' Induction Pack. Following a successful application for funding under Bòrd na Gàidhlig's 'GLAIF Programme', the Commission's Gaelic Language classes have been running throughout 2021/22. The funding from GLAIF provides 80% of the cost of delivering the language training. There are two levels of classes which are delivered weekly online.

A copy of the Monitoring Report, which shows all the commitments and the progress made to achieve them, is attached as **Annex A**. This was last updated in July 2022. A report based on the Monitoring Report will be forwarded to Bòrd na Gàidhlig in September. It should be noted that the Bòrd view the Commission's Plan as a model of good practice and use it as an example when advising other authorities.

Impact:	Comments
Financial	Gaelic translation (General + Annual report) £6,536, Classes £1,982
Legal/Political	Commission has obligations under the National Gaelic Plan for Scotland/ the Gaelic Language Act.
HR/staff resources	Resource focus is on the Gaelic Language Officer. There is also a commitment of time by those staff who take up the opportunity of Gaelic classes provided through the Commission.

RECOMMENDATION

Commissioners are asked to consider the Gaelic Language Plan Monitoring Report and, if they are satisfied with progress against commitments, recommend the report to Bòrd na Gàidhlig.

Date 31 July 2022

Author Lynne MacMillan, Crofting Development Officer

GAELIC LANGUAGE PLAN 2020-2025 MONITORING REPORT: JULY 2022

Base-line information	
Approval date of Gaelic Language Plan	27/10/2020
Senior officer with overall responsibility for the Plan	Jane Thomas, Head of Business Support & Compliance
Officer with day-to-day responsibility of the Plan	Lynne MacMillan
Date of submission of monitoring report	31/07/2022








Key	
On track – minimal or no issues that can impact on quality or delivery of output to schedule.	
Delay in delivery timeline and/or quantity/quality of output within parameters of the Plan.	
Significant delay in output delivery/ output delivery will not be achieved within plan's timeline.	

HIGH LEVEL AIMS – Using Gaelic, Learning Gaelic, Promoting Gaelic			
ITEM	COMMITMENTS	PROGRESS	STATUS
1	Carry forward and include all commitments from the previous edition of Crofting Commission's Gaelic Language Plan which are within the Crofting Commission's remit.	On track	
2	The Crofting Commission will create and build on opportunities for staff and customers to use Gaelic in everyday interactions with the Commission, building on the work detailed in the GLP monitoring report.	On track. A Gaelic speaking A3 was appointed in 2021.	
3	The Crofting Commission will demonstrate its commitment to Gaelic language learning by offering every new member of staff opportunities to learn Gaelic, by including Gaelic as part of the induction process for new staff and by delivering Gaelic Awareness sessions across the organisation for each year of the plan.	2 x Gaelic Awareness sessions delivered in 2021. 1 x Gaelic Awareness session delivered in July 2022 with another planned for October 2022. GLP is part of Induction process. Gaelic learning classes are delivered weekly in 2021 and 2022	
4	The Crofting Commission will give equal weight to the presentation of information in Gaelic and English in all of its major publications and will continue to build a greater presence in Gaelic on social media platforms. Within its Equality & Diversity Policy and Action Plan, it will explicitly link promotion of the aims of the GLP with staff diversity objectives and it will continue to promote career opportunities for Gaelic speakers by such means as the attendance at careers fairs by Gaelic-speaking members of staff.	Increased use of Gaelic on social media, e.g. videos with Gaelic voiceovers have been released in 2022 for use across all social media platforms utilised by the Commission, including Facebook, Instagram and Twitter.	

CORPORATE SERVICES AIMS

<p>There are five core areas of service delivery that the Crofting Commission need to address in its Gaelic Language Plan these are:</p> <ul style="list-style-type: none"> • Status • Staff • Communicating with the public • Information • Corpus <p>The core commitments play an important role in raising the profile and visibility of Gaelic. The Commission intends to enable and encourage the use of Gaelic through the above core areas, to raise the profile of Gaelic in its business functions and in the delivery of its regulatory services.</p>
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1 STATUS			
ITEM	COMMITMENTS	PROGRESS	STATUS
1.1	Corporate Logo: All staff to be encouraged to carry a Gaelic Voicemail message on their desk telephone and all actions above continued.	On track. Automated voicemail includes Gaelic welcome	
1.2	Signage: Maintain current level of bilingual signage and ensure any new signage is fully bilingual.	Complete – all signage is bilingual, including external signage on RPID buildings in Western Isles.	
2 STAFF			
ITEM	COMMITMENTS	PROGRESS	STATUS
2.1	Advertising of Posts and Recruitment of Gaelic Speakers: Ensure that the Commission Workforce Plan recognises that Gaelic is an essential skill for the telephone receptionist post(s) and includes provision for this in Succession Planning. Encourage Gaelic speakers to apply for Commission vacancies by advertising vacancies in Gaelic.	Workforce Plan recognises Gaelic as essential for telephone receptionist and A3 fluent in Gaelic was appointed in 2021.	
2.2	Gaelic Language Learning Staff learning Gaelic enabled to hold weekly revision sessions and informal Gaelic coffee breaks to embed skills. Evaluate current learning at the end of the course in October 2020, with a view to continued provision.	Weekly revision classed continuing via Teams. Positive report completed in July 2022. Final GLAIF report was submitted in early 2021. GLAIF funds 80% of costs from Oct 2021.	
2.3	Gaelic Awareness Training & Encouraging the Use of Gaelic in the Workplace: Promote Awareness sessions particularly to all new starts; promote local learning opportunities as well as those offered in-house; encourage beginner learners to progress to intermediate classes.	On track and on-going. New beginners are informed of the Gaelic classes and encouraged to participate.	
3 COMMUNICATING WITH THE PUBLIC			
ITEM	COMMITMENTS	PROGRESS	STATUS
3.1	Telephone Service: Incoming calls answered with a basic Gaelic phrase: Madainn mhath or Feasgar math. Succession Planning required for main receptionist role, as this is an essential Gaelic speaker role. All Voicemail messages to include Gaelic.	Completed. A3 appointed with fluent Gaelic in 2021.	
3.2	Frontline Services to the Public: Succession Planning to ensure the level and quality of the current service does not decline in the future.	On track	
3.3	Written Correspondence: Maintain current levels of service and ensure essential skills are not lost.	On track	
3.4	Forms: Carry out a review of additional forms and guidance, to increase the visibility of Gaelic. Consider the impact of online forms on Gaelic.	On track	
3.5	Public Meetings: Review online information on holding meetings in Gaelic and wording for advertisements for public meetings in Gaelic speaking areas to ensure that an active offer is being made.	On track.	

4 INFORMATION			
ITEM	COMMITMENTS	PROGRESS	STATUS
4.1	Media & Public Relations: Develop use of social media in Gaelic, increasing number of interactions; publicising Gaelic videos; create Gaelic blogs.	On track. Social media posts raising awareness of Commissioners' attendance at Agricultural Shows were delivered in bilingual format.	
4.2	Printed Materials: Review current service level and consider any new publications.	On track	
4.3	Website and Social Media: Maintain and improve current service level, with increased use of Gaelic on social media platforms and increased use of analytics to drive improvements.	On track & improving	
4.4	Events and Exhibitions: Build on presence at careers fair with more staff attending, including Gaelic learners.	On track	
5 CORPUS			
ITEM	COMMITMENTS	PROGRESS	STATUS
5.1	Gaelic Orthographic Conventions: The Commission will tender a new contract for translation services within the lifetime of the Plan.	On track	
5.2	Observation of Correct Place Names: Maintain level of service and act swiftly to correct inaccurate data and spelling.	On track	
5.3	Translating and Interpreting Services: Translation services to be put out to tender for new contract.	On track	

LESSONS LEARNED / ADDITIONAL INFORMATION:

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Draft Policy Plan

SUMMARY

The Commission is to submit its draft policy plan to the Scottish Ministers for approval by 18 September 2022

BACKGROUND

At its May meeting, the Board approved a set of principles for the Policy Plan 2022. These have now been developed and expanded to a full draft Policy Plan (**Annex A**).

CURRENT POSITION

The Board is invited to agree the draft Policy Plan (with or without changes); and to agree that it can now be sent to stakeholders for their views, in the consultation required by statute.

Following this, the draft (as approved or amended) will be circulated amongst the statutory consultees (HIE and the relevant local authorities). We propose to invite them to comment within 3 weeks.

The Commission can also choose to extend the consultation to include other organisations as it sees fit. The following organisations could all be included if the Board agrees:

Regular CC stakeholders

Scottish Crofting Federation
NFUS

Public Bodies

Nature Scot
Scottish Forestry
Registers of Scotland
Land Commission
Scottish Land Court

It is also suggested that Rural Payments (RPID), although a branch of SG, is included in the list of consultees due to the close working relationship the Commission has with RPID and their knowledge of crofting estates.

Others

Scottish Land and Estates
SAC(SRUC)
Community Land Scotland
Law Society (Scotland)
University of the Highlands & Islands
Woodland Trust
John Muir Trust
RSPB
Scottish Wildlife Trust
James Hutton Institute

Impact:	Comments
Financial	Should any specific policies be taken forward, the Commission will have to consider if they require any financial resources to implement them.
Legal/Political	The policy plan is both a legal requirement and must be taken into account by the Commission when exercising its functions and making decisions. It is also an important indication as to the Commission's future direction and priorities, and so has political importance to the Commission and to government and stakeholders, as well as individual crofters and crofting communities.
HR/staff resources	None.

RECOMMENDATION

The Board is invited to approve the draft policy plan or direct changes to be made to it; and thereafter authorises officials to put the draft policy plan out to consultees for consultation. The Board is invited to advise which of the proposed consultees (or others) should be included.

It is anticipated that the consultation will start immediately following the Board meeting on 18 August 2022.

Date 4 August 2022

Author David Findlay, Solicitor

CROFTING COMMISSION POLICY PLAN 2022

Crofting Commission – our vision

The Crofting Commission is an executive non-departmental public body that has a legal identity that is distinct from government, but carries out administrative, regulatory and development functions relating to crofting on behalf of the Scottish Government. The Crofting Commission also provides specialist advice on crofting to the Scottish Ministers and keeps ministers advised on all matters relating to crofts and crofting. The Crofting Commission operates within a framework set by the Scottish Ministers and develops its own policies within that context. The Commission is a creature of statute, which means that its powers and responsibilities are set out in legislation. It has the power to regulate only on matters that are specifically provided for in legislation.

The Commission's vision for crofting is one that balances tradition and innovation. The Commission regulates crofting in a way that balances the rights of existing crofters¹, the interests of crofting communities and the aspirations of individuals who may wish to take up crofting. The Commission recognises the importance of having diversity amongst crofters and new entrants to crofting as well as the importance of encouraging a diverse range of land uses that encompass local food production, stewardship of the land to enhance biodiversity and sequester carbon, community enterprise and local economic activity. The Commission also recognises that crofts and common grazings comprise some of the most remote parts of the Scottish highlands and islands and some of the most challenging land to cultivate. It is the Commission's view that the diversity of land types within crofting tenure also presents opportunities to use the land in different ways that combine innovation and tradition.

It is the Commission's view that crofting, as a regulated system of land tenure of smallholdings and common grazing land, contributes to the retention of rural population and helps to sustain local and rural economies, and can deliver substantial wider environmental benefits where the land is managed sustainably. Crofting provides important opportunities for both individual and communal land management. It also provides a real and enduring connection between people and the land. It is the Commission's view that a well-regulated crofting system is central to rural life, the rural economy and the rural environment across large parts of the Scottish highlands and islands. The Commission also recognises the substantial challenges that climate change, loss of biodiversity and soil erosion (and, in some areas, coastal erosion) pose to croft land and common grazings, risks that will become more rather than less severe over time. It is also the Commission's view that crofting can provide some solutions on a national scale to loss of biodiversity.

Crofting legislation transformed land tenure within the Highlands and Islands in the 1880s by giving rights to crofters, who had been vulnerable to removal from their holdings by their landlord. The Crofters Holdings (Scotland) Act 1886 provided crofters with substantial security of tenure and a right to a fair rent. Although the challenges to crofting in 2022 are very different from the land struggles of the 1880s, crofting remains a radical system of land tenure that provides crofters with important rights and responsibilities with regard to the land they croft. In 2022 crofting offers opportunities for new entrants to gain entry into the crofting

¹ Throughout this Policy Plan, 'crofters' includes both tenant crofters and owner-occupier crofters, unless the context implies otherwise.

system. The role of the Crofting Commission as a regulator is to oversee and balance the interests and longer-term future of the wider crofting community and the interests of individual crofters.

In essence, crofting legislation provides protection for both the crofter and also for the croft and its associated pertinents as an integral unit within the crofting system as a whole. The 2010 Act underlines the importance of regulation of all crofts, whether tenanted or owner-occupied, for the benefit of crofting.

In accordance with this vision, the Crofting Commission will adopt the following policy principles as it seeks to play its role within the provisions of legislation and in fulfilment of the Scottish Government's policy for crofting.

DRAFT

Policy principles

Benefits of a regulated crofting system

The Scottish government has set out its vision for crofting policy its National Development Plan for Crofting. As well as delivering continuous improvement and efficiency to Commission processes (see below), the Commission will be responsive to crofters and the needs of crofting communities. A well-regulated system:

- Contributes to strong, resilient and supportive crofting communities where people take responsibility for their own decisions with regard to land management and how this affects others
- Encourages the conservation of the natural environment and enhancement of biodiversity as well as distinctive crofting landscapes, where crofters and crofting communities are stewards who will sustain these benefits for future generations, with regard where appropriate to the Nature Conservation (Scotland) Act 2004
- Contributes to Scottish government (and if relevant UK government) targets for reducing carbon emissions
- Contributes to sustaining traditional crofting knowledge over generations and sharing knowledge and information about managing the land in different ways
- Underpins a small-scale rural business and land tenure system that supports the sustainable use of croft land and land subject to common grazing rights and prevents large scale amalgamation of landholdings, such as happened in Upland Grampian (which is outwith the crofting counties) [*reference to Dr Gordon MacMillan's article*]
- Ensures that crofters reside on or close to their crofts and so assists population retention within the crofting counties and designated crofting areas, with the associated social and economic impact of a working, rural population on the provision of community services such as healthcare and schools
- [Retains crofts within the crofting system](#) in order that these are available to existing crofters and new entrants to crofting, and so supporting population retention and economic activity within the Highlands and Islands
- Takes action against crofters who do not use their crofts (whether for cultivation or purposeful uses, including conservation) in order to reduce the amount of neglected land, and also against crofters who do not reside on or within 32km of their croft
- Provides opportunities for local food production and a range of other land uses.

The Commission also has an important role in regulating land subject to common grazing rights. The benefits of effective regulation of common land include:

- Encouraging the benefits derived from shared management of common grazings
- Strengthening crofting townships and connections between crofters, and encouraging best practices on common grazings
- Encouraging management of common assets
- Supporting crofters who wish to engage in crofter forestry and woodland creation projects and making decisions where crofters wish to use a common land for purposes other than grazing such as affordable housing.

In order to achieve these benefits, it is the policy of the Commission to regulate fairly, consistently and efficiently.

Crofting and the public interest

The Crofting Commission recognises that the public has an interest in a regulated crofting system. The regulated system and crofting financial assistance is paid for by the general public, as are land-based subsidies such as LFASS that provide an important contribution to the sustainability of crofting.

In terms of the legislation applying to crofting, the Commission must consider the public interest when giving consents and approvals and when consenting to the creation of new crofts and common grazings. Legislation also provides that any “purposeful use” of a croft, which is a use that is not cultivation, must not adversely affect the public interest. When considering whether to remove land from crofting tenure by decrofting, the Commission must assess whether it is in the public interest to do so.

The Commission’s policy in this area is that recognises the public interest in:

- sustaining a healthy rural land-based population within crofting areas
- encouraging local food production on croft land and common grazings
- creating opportunities for new entrants to crofting from diverse backgrounds
- halting the loss of biodiversity and nature-rich habitats on croft land and common grazings
- reducing emissions from croft land and common grazings and so contributing to national net zero targets
- developing new ways of using croft land sustainably
- strengthening local rural economies that are underpinned by the local crofting community
- retaining land within crofting tenure for future generations of crofters.

When assessing applications that involve an assessment of the public interest, the Commission will have regard to the above matters and to any other matter or matters it considers to be in the public interest.

As a statutory regulator, it is the role of the Commission to balance the public interest against other interests, such as those of the estate and the crofting community in the locality.

Policy on promoting the interests of crofting and collaborating with others

The Commission recognises that it has a particular responsibility to promote the interests of crofting and believes that this can be achieved in a variety of ways. The Commission will work with partners and stakeholders, such as HIE, local authorities and others involved with the sustainable development of crofting. Through such collaboration, the Commission can:

- Raise awareness of the benefits of crofting and the crofting system
- Promote the concept that, to deliver the widest range of benefits, crofting must be both properly regulated as well as supported and developed
- Promote successful working relationships between crofters and landlords and, where appropriate, work with community landlords, public landlords and private landlords to promote the interests of crofting
- Seek to influence a planning authority’s Local Development Plans in a way that is beneficial for the crofting system and seeks to protect crofting from development that is damaging to crofting interests
- Strengthen its own effectiveness.

The Commission will keep crofting matters under review and advise the Scottish Ministers on crofting matters and conditions. This could include, where appropriate, commissioning specialist research on matters relevant and important to the future of crofting.

Policy on croft re-organisation

The Commission has the statutory power to re-organise crofting townships. The Commission recognises that reorganisation schemes are resource intensive and are usually appropriate only where there is a large degree of agreement within the crofting township as to how it should be re-organised. In cases where there is a real need for re-organisation and a large degree of consensus within the relevant crofting community, the Commission’s policy is to consider carrying out a re-organisation scheme subject to having sufficient resources to do so.

Policy on levels of service

By far the largest of the Commission's teams is the casework team, responsible for processing applications by crofters and their agents, for consent for instance to assign or sub-let a croft and for statutory decrofting.

The casework officers are also responsible for responding to and recording notifications by crofters and their agents and executors for changes to the Register of Crofts such as in connection with transfers of croft tenancies under testate and intestate succession, and changes to ownership. However, the Commission takes no decisions in respect of such notifications.

The Commission is fully committed to making sure that our decisions on all applications are in accordance with the legislation and fair to all parties. In addition, we aspire to significantly improve the speed of processing for both applications and notifications, both by increasing the number of staff responding to casework, and by improving the processes by which applications are handled. For example, the delegation of routine decision making to officials and more recently the development of an online application system are both substantial enhancements to the efficiency of our work.

We are committed to continual improvement of levels of service to applicants that have an application in progress and to those seeking information. We recognise that Commission processes can appear to be complex and we will seek to provide helpful and accessible information from a range of sources, in particular on our website and in response to direct enquiries.

Policy on registration and mapping of crofts and common grazings

The Commission's role in registration of crofts is set out in statute, and it is essentially a supportive role. The principal responsibilities for registering crofts lie with crofters, their neighbours who are informed of proposed registrations and have a right to object, and the Registers of Scotland (RoS). The Commission has limited powers to influence this process, but we do check proposed croft maps against such information as is held by ourselves, and can delay the process of a registration if there is evidence of an inaccuracy. The Commission are also required to check information in the registration application and supporting documentation against the information relating to the croft in the Register of Crofts, and to seek further information in order to resolve any discrepancies prior to forwarding the registration application to RoS. However, we are not empowered, and nor would we have the means, to make sure that all croft maps are 'correct'.

The legislation gives the Crofting Commission a major role in the registration of common grazings, and we aspire to continue the process of mapping and registering common grazings when other priorities and resources permit.

Policies on decrofting and retaining land within crofting tenure

The legislation and a body of case law developed by the Scottish Land Court sets out the basis on which the Crofting Commission can consider granting a decrofting direction. The Commission is required to assess each reasonable purpose application against the following legislative factors: the good of the croft, the crofting community, the estate (where relevant) and the public interest, and must be satisfied that the extent applied for is not excessive. The legislation also sets out additional factors to which the Commission may have regard, including the sustainability of crofting and the crofting community in the locality, the landscape and environment of the locality and the social and cultural benefits associated with crofting. The Commission cannot adopt any policies with regard to decrofting that are inconsistent with the legislation and case law. There are statutory factors to which the Commission must have regard in each and every application for decrofting. The Commission is also required to carry out a careful balancing exercise and assess the individual facts of the case in relation to the various factors set out in the legislation.

The Commission's approach to decrofting is that its decisions with regard to decrofting applications are determined by the legislation having regard to the individual facts of the case, but will be informed by the Commission's policy position that there is value in retaining croft land within crofting tenure. The Commission's policy position in this regard is informed by the importance of providing opportunities for both existing crofters and future generations of crofters to continue crofting croft land. It is also likely that actively used croft land will continue to attract financial assistance in future years for the various social, economic and environmental benefits associated with crofting, and such assistance will be important for the future of crofting.

The Commission aims to protect land from being lost to crofting. A decrofting direction irrevocably removes the land subject to the application from crofting tenure. The Commission takes a long-term view when determining decrofting applications and will exercise its discretion to consider, amongst other factors, the advantages of retaining the croft (or part thereof) as part of the pool of croft land in the locality. It is also the Commission's policy that it will not normally decroft any grazings share held by an applicant as part of his or her tenancy or which the applicant has included in a disposition.

Policy on croft residency and use of crofts

The Crofting Commission will work by both statutory and non-statutory means to increase croft residency and to increase the amount of croft land that is cultivated or put to a purposeful use. The Commission's policies on residency and land use apply equally to tenant crofters and owner-occupier crofters. It is the Commission's view that a healthy crofting system consists of crofters who are resident within their crofting communities and are actively using and managing their crofts and common grazings. It is the Commission's view that resident crofters within the crofting community will make these communities more resilient and better able to retain rural population as well as create and generate economic activity within rural, and sometimes remote, populations.

The Commission recognises that much croft land and/or common grazing land is currently neglected because some crofters are failing to comply with their crofting duties. The Commission acknowledges that non-residency and neglect has the potential to undermine the credibility of the crofting system. The policy of the Crofting Commission from 2014 has been to encourage greater voluntary compliance with crofting duties. The development team will reinforce this concept by raising awareness of the duties requirements and the negative impacts on communities and croft land through non residency and underuse of the land. The current policy of the Commission is that this work will continue over the next five years, but Commission policy will also recognise the need for crofting duties enforcement action on non-residency and failure to use the land. Although the Commission's crofting duties enforcement team is small in comparison to the size of the task, the Commission has recently invested additional resources in it, and our policy is to invest further in crofting duties enforcement over the next five years. The Commission will take targeted action on crofting duties enforcement to increase croft residency and active land use. Some of this action will be as a result of reports or information received from grazings committees, assessors and members of the relevant crofting community. The Commission relies upon receiving information from these persons before it is able to investigate a case of potential non-compliance with a crofting duty or duties. Some of the duty enforcement action will be taken where the Commission is aware of potential non-compliance with crofting duties, for instance as a result of an annual notice return or a failure to return the annual notice.

We have the right to inspect croft land ourselves, or employ a partner agency to do this, as part of gathering evidence about the use to which a croft is being put.

The Commission will also work with landlords to ensure that vacant crofts are let to individuals who will comply with the statutory duties relating to residence and land use. Where the landlord of a vacant croft fails to submit a letting application or a proposal to let the croft, the Commission will take on the process of advertising and letting the vacant croft.

The Commission will promote the concept of “living succession” as a measure to reduce the number of intestate situations and unresolved successions.

The Commission will seek to ensure that long-standing unresolved successions are resolved in the first instance by the executor of the deceased crofter or the landlord, but failing that the Commission may use its statutory powers to terminate the tenancy and declare the croft vacant, to enable the tenancy to be let to an individual who will comply with the statutory duties relating to residence and land use.

Policy on new entrants, tenancy termination and compulsory letting

Aligned to the Commission’s work on crofting duties is the Commission’s policy that crofting and the crofting system should create new opportunities for people who wish to become crofters or owner-occupier crofters for the first time. The Commission’s view is that crofting should be an open system. It is the policy of the Commission that crofting should be an inclusive system that includes people regardless of their background, sex, disability, sexual orientation, age or ethnicity. The Commission’s policy in this area will be similar to its policy on crofting duties, and it will encourage voluntary action whilst also not hesitating to use its statutory powers. The Commission’s development team will work to encourage non-resident and/or non-active crofters to assign or sell their crofts to someone who will be resident and will use the croft.

At the same time, the Commission’s crofting duties enforcement team will take targeted action (as set out above at paragraph XX) to work with non-resident and/or non-active crofters and require them, in cases of non-compliance, to take steps to ensure that they are compliant with crofting duties. If the crofter is unable to take steps to ensure compliance with the relevant crofting duty or duties, the Commission will proceed to terminate the crofter’s tenancy or require the owner-occupier crofter to let the croft, unless there is a good reason not to. Such action will result in new croft tenancies becoming available for letting to new entrants to crofting as well as to existing crofters. Such action also results in the owner-occupier crofter losing his or her owner-occupier status and his or her crofting rights.

Where an application is made for consent to sub-let, assign or let a croft, the Commission will not limit consideration to the suitability of the proposed sub-tenant, assignee or tenant. The Commission will give full consideration to the bigger picture and must apply subparagraphs (b) to (e) of section 58A(7) of the 1993 Act. This includes, but is not limited to, the interests of the crofting community and its sustainable development, and could include an assessment of what else might be done with the croft and who else could be the tenant of the croft. The Commission will also consider any such application on its individual merits. Whilst it has no power to direct any tenant or landlord to apply for consent to sub-let, assign or let a croft to any particular individual, an applicant tenant cannot assume that his or her choice of sub-tenant, assignee or tenant will be accepted in all cases, even if the proposed sub-tenant, assignee or tenant would appear to meet the residency and land use duties.

Policy on land use

The legislation enables crofters to carry out many different forms of cultivation, which includes livestock production as well as growing of vegetables, fruits, keeping of bees and planting of trees. The legislation also permits crofters to carry out purposeful uses that are not cultivation (provided in the case of tenant crofters that they have the consent of their landlord). These uses could include, for instance, the use of part of a croft for holiday-letting accommodation, renewable energy projects or a local bakery or farm shop or a facility associated with a leisure activity.. All of the croft must be used for either the purposeful use or cultivation or a mixture of the two. Decisions as to how the land will be used lie with the crofter or, in the case of common grazings, the grazings committees and the crofters sharing in the common grazing subject to applying for any statutory approvals (such as section 50B of the Crofters (Scotland) Act 1993).

It is the Commission's policy to work through its development team with crofters and crofting communities to encourage a diverse range of land uses which can deliver social, economic and environmental benefits within local crofting communities and populations., but decisions as to how the land will be used lie with the crofter (or, in the case of common grazings, the grazings committees and the crofters sharing in the common grazing). Legislation also permits crofters to create new woodland and to enable regeneration of existing woodland, either by themselves or by way of a joint venture with their landlord.

New Crofts

The Commission has no statutory power to create new crofts in the absence of an application from the owner of land. The Commission will, where appropriate, work with landowners and others who might wish to create new crofts and promote the creation of suitable new crofts. Where the creation of a new croft is in the public interest and the interests of the local crofting community and where the creation of a new croft could bring social and economic benefits, the Commission will look favourably on such applications. **For board discussion:** Although a matter for the Scottish Ministers, the Commission would in principle support the extension of the designated areas in order that crofts could be created more widely across Scotland.

It is also the Commission's policy to collaborate with other agencies and bodies and crofters, so far as its resources permit, to encourage sustainable land uses which enhance biodiversity and increase carbon sequestration (for instance, through restoration of peat land). Crofting affects approximately three-quarters of a million hectares of land across the Scottish highlands and islands.

Policy on apportionments

The legislation and case law from the Scottish Land Court set out the basis on which the Commission considers apportioning an area of common grazing for the exclusive use of a crofter or township. In assessing apportionment applications, the Commission will consider the application on its merits and exercise its discretion to balance the interests of the applicant in having the land apportioned and the interests of the shareholders in the common grazings, and will consider any comments from the grazings committee as part of its statutory consultation, as well as any comments from shareholders and the landlord/ owner of the common grazings."

Where the land sought to be apportioned has "hope value" and there is a prospect of development, such "hope value" is a relevant consideration and the Commission will decide how much weight to give to such a consideration having regard to all the facts of the case. It is the Commission's view that where a development takes place on a common grazings involving the landlord and third parties, all the shareholders should in principle share in the value of any land that is resumed or subject to a scheme for development. This will be a factor in deciding whether or not to apportion land.

When apportioning land, the options available to the Commission include apportioning for a set period of time and/or subject to review at fixed intervals. Where the Commission decides that it is appropriate to apportion land subject to review at fixed intervals, its policy in most cases is to have a review every seven years. It will however take account of the circumstances of each application. The Commission's underlying policy in this area is that where the crofter has ceased to use the apportionment or is not utilising it as intended, or where there are concerns about the use of the apportionment, the possibility of restoring the crofters' common grazing rights over the land should be considered.

Policy on crofting development and support

Developing crofting is a key element of Commission activity which will underpin many of the other aspects of the Commission's remit.

Downward pressure on profitability of agricultural activity means action is required to ensure crofters are aware of and enabled to benefit from financial returns of alternative opportunities utilising their available assets, land and people. The Commission will develop a network of support for crofters and grazings committees identifying sources of financial support and technical guidance. This will be made available on the Commission web site by the Commission's development officers. The officers will also link with named staff in the organisations and agencies providing support and with the panel of assessors and grazings committees, to promote opportunities for development.

A programme of education to ensure all crofters are aware of their rights, opportunities, obligations and liabilities will be instigated and delivered through the network described previously.

To assist crofters with the above, information will be provided by way of regular reminders and presentation of options through the network and website keeping crofters informed as their circumstances change.

Notably the Commission is aware of the increasing numbers of ageing crofters and will provide specific information on their options for dealing with succession regarding crofting assets.

The Commission is also aware of the pressures and difficulties some crofters have as tenants and owner occupiers in complying with their duties and will provide guidance on options to address these matters. Aspects of community-based working along with temporary or permanent transfer of duties responsibility will be highlighted.

The Commission will consult and advise Scottish Government and other organisations to ensure their support systems are adapted where necessary to suit individual crofters and grazings committees.

The Commission will consider and advise on the possibility of introducing a Croft Availability Network to assist new entrants into crofting and existing crofters to leave.

All the development work of the Commission will include consideration of environmental and climate impacts.

Policy on grazings

The Commission recognises the significant role played by the voluntary Grazings Committees and the scale of the crofting asset held under common grazing and will seek to increase the number of committees in office. Through these committees the Commission will encourage greater utilisation of the land and opportunities it presents, particularly in the area of climate change mitigation.

The Commission recognise the importance of having up to date and meaningful regulations and records and will encourage Clerks, Committees and shareholders to review their existing documents. Advice and information will be made available on the Commission website and through the Grazings and Development network.

The Commission will continue to provide training for committees and their clerks in the effective regulation and financial administration of the common grazings.

Policy on sub-letting and short-term leases

Although the Commission will consider every sub-letting or short lease application on its merits, the Commission generally sees sub-letting or short-term leases as a shorter-term and interim measure rather than a longer-term solution to a situation where a crofter or owner-occupier crofter is unable for an indeterminate period of time to be ordinarily resident and/or cultivate the croft or put it to a purposeful use. Crofters and owner-occupier crofters should not see sub-letting or short leases as a long-term solution to non-residency or a failure to use their crofts.

Policy on applications for consent or approval – sub-letting, assignation and letting

Where an application is made for consent to sub-let, assign or let a croft, the Commission will not consider only the suitability of the proposed sub-tenant, assignee or tenant as the case may be. The Commission will give full consideration to the bigger picture and must apply subparagraphs (b) to (e) of section 58A(7) of the 1993 Act. This includes, but is not limited to, the interests of the crofting community and its sustainable development, and could include an assessment of what else might be done with the crofts and who else could be the tenant of the croft. The Commission will also consider any such application on its individual merits. Whilst it has no power to direct any tenant or landlord to apply for consent to sub-let, assign or let a croft to any particular individual, an applicant tenant cannot assume that his or her choice of sub-tenant, assignee or tenant will be accepted, even if the proposed sub-tenant, assignee or tenant would appear to meet the residency and land use duties.

Crofting and the public interest

The Crofting Commission recognises that the public has an interest in a regulated crofting system. The regulated system and crofting financial assistance is paid for by the general public, as are land-based subsidies such as LFASS that provide an important contribution to the sustainability of crofting.

In terms of the legislation applying to crofting, the Commission must consider the public interest when giving consents and approvals and when consenting to the creation of new crofts and common grazings. Legislation also provides that any “purposeful use” of a croft, which is a use that is not cultivation, must not adversely affect the public interest. When considering whether to remove land from crofting tenure by decrofting, the Commission must assess whether it is in the public interest to do so.

The Commission’s policy in this area is that recognises the public interest in:

- sustaining a healthy rural land-based population within crofting areas
- encouraging local food production on croft land and common grazings
- creating opportunities for new entrants to crofting from diverse backgrounds
- halting the loss of biodiversity and nature-rich habitats on croft land and common grazings
- reducing emissions from croft land and common grazings and so contributing to national net zero targets
- developing new ways of using croft land sustainably
- strengthening local rural economies that are underpinned by the local crofting community
- retaining land within crofting tenure for future generations of crofters.

When assessing applications that involve an assessment of the public interest, the Commission will have regard to the above matters and to any other matter or matters it considers to be in the public interest.

As a statutory regulator, it is the role of the Commission to balance the public interest against other interests, such as those of the estate and the crofting community in the locality.

Policy on planning

As a statutory consultee, the Crofting Commission has a right to be consulted on Planning Authorities' draft Local Development Plans, and on individual planning applications on land subject to crofting tenure. We regularly make comments on Local Development Plans, representing the interests of the crofting communities in general terms, and we will work with Planning Authorities to acquire a mutual understanding of the needs of remote communities.

Conversely, we will not often 'take sides' in relation to an individual planning application, preferring to leave the representations to the parties directly involved, and the decision to the Planning Authority. This seems more appropriate, given that we have our own statutory regulatory role, and may indeed need to take our own decision on a related decrofting application. However, as resources permit, we will sometimes guide Planning Authorities on how to weigh up any crofting-related issues that are at the heart of a contested planning application.

That guidance will be based on the issues such as:

- Location of any development site within a croft.
- Impact of the proposed development.
- Impact of any proposed access to the proposed development on the croft.
- And the operational need for the proposed development.

In most cases, the Commission's comments will be that any proposed development is sited to use the least possible amount of productive in by land.

Policy on law reform

It is the Commission's view that the existing legislation applying to crofting brings many benefits and statutory protections for crofters, owner-occupier crofters, crofting communities and the wider public. However, there is a generally held view that the existing legislation needs to be updated, in some respects urgently, and various anomalies need to be removed from the legislation. To this end, it will be the Commission's policy to collaborate with its sponsor division within Scottish government to assist with law reform and legislative proposals and to keep its sponsor division properly advised on crofting matters, including legal matters relating to crofts and crofting. The Commission would like to see future legislation assisting the further development and growth of crofting and is willing to assist the Scottish Government in assessing whether the Commission requires enhanced legal powers to assist with this.

Policy on access to croft land

When considering applications that could result in croft land becoming separated from the nearest adopted public road from which access can reasonably be taken, the Commission will wish to ensure that the croft land or, as the case may be, common grazings can be accessed directly from the public road by agricultural vehicles or other machinery required for the cultivation and maintenance of the croft or in connection with the common grazings. The Commission will scrutinise applications where it is proposed that an existing access from the public road will no longer be available to croft land or common grazings or where a new access is proposed from a public road that may not be suitable. Applications should ensure that any consent or approval sought would not result in croft land or common grazings being cut off from a public road. Failure to do so is likely to result in an application being refused.

Policy on division

It is the Commission's policy not generally to allow the fragmentation of croft holdings into smaller units where such fragmentation would result in a holding of a size that would be unlikely to attract financial assistance, grant or subsidy (where the original holding would be of a size that it could attract such support). Reference should be made to the relevant rules on eligibility for financial assistance and the minimum amount of land required for a crofter or farmer to be eligible to apply for subsidy. The Commission recognises that fragmentation of crofts can result in holdings that are of insufficient size to afford any incoming croft tenant with a range of realistic options as to how to use the land. It is the Commission's policy to prevent this from happening.

Policy on resumption applications and schemes for development

The Scottish Land Court has responsibility for dealing with resumption and scheme for development applications, but the Crofting Commission is entitled to object to, or support, such an application. The policy of the Commission is that it will consider objecting to such applications where, for instance, it considers that the area applied for is unreasonable in relation to the proposed purpose or where it considers that it is unnecessary to remove the area of land applied for, or part of it, from crofting tenure.

DRAFT

CROFTING COMMISSION MEETING

18 August 2022

Report by the Head of Digital

Annual notice (census) 2022

SUMMARY

This paper outlines the questions to be included in the Crofting Commission annual notice (census) for 2022, and aims to gather agreement and any additional question requests from the Commission Board.

BACKGROUND

The Crofting Commission (CC) conducts an annual notice (known as the crofting census) each year. The purpose of this is to obtain information as to whether crofters are compliant with their duties as specified within the relevant legislation, and also to ensure that Commission records are as up to date as possible. Historically the census has been conducted by posting out a questionnaire to all known crofters for all crofts and stand-alone grazings shares and apportionments, which includes prepaid return postage. This process was expensive, both financially and in terms of CC resources needed to process the returns, and was not an environmentally friendly process due to the carbon footprint the postal service produces. The paper method was also subject to issues such as lost post in either direction, potential issues with incorrect data being sent to crofters, and the need to update IT equipment and staff training each year.

For the 2021 census year, the CC Board took the decision to move to a solely digital return for the census, utilising the technology that the CC had established over the preceding two years as an optional digital route for crofters to return their census results. This would significantly reduce the financial and resource cost to the Commission, allow for a more secure single letter to be issued, and reduce the carbon footprint of the census by reducing postal material and travel.

Additionally, in the 2021 year the CC opted to take a staged approach to the census by splitting the targeted crofters into two categories, with a different letter being sent to each category; crofters who have a recorded census return within the previous 3 years and crofters where the CC has no recorded census return within the previous 3 years. This was then reinforced by the employment of two dedicated staff to both answer incoming calls from crofters with questions or concerns around the digital return, and to make outgoing calls to crofters who had not completed their return to prompt them and, if needed, complete the return on their behalf where they had received a postal letter (had been served).

A repeat of this process was signed off by the CC Board at the May 2022 meeting, however this year the CC proposes some small changes to the process, as well as ask the Board to consider the questions to be included for sign off.

2021 CENSUS QUESTIONS

The Commission has prescribed questions that it has to ask as part of the census under the Crofting Act, however it is also able to ask additional questions where this will support the aims of the Commission and support Crofting as a whole. In previous years three standard questions were asked, however in the 2021 year a new question was added around grazing shares. The questions asked in full are as follows:

1. **Residency Duty**

The residency duty is applicable to both tenant and owner-occupier crofters and requires that they are ordinarily resident on, or within 32 kilometres (20 miles) of, their croft (as the crow flies). You must tell us if you are resident, or if not whether you have the Commission's consent to not be resident.

2. **Duty to Cultivate and Maintain your croft or put it to another Purposeful Use**

The duty to cultivate and maintain your croft or put it to another purposeful use is applicable to both tenant and owner-occupier crofters ('Cultivate' includes keeping livestock, poultry, or bees, growing fruit and vegetables, planting of trees, cropping and conservation activity). You must tell us if the croft is being cultivated and maintained or put to another purposeful use.

3. **Duty not to misuse or neglect the croft**

The duty not to misuse or neglect your croft is applicable to both tenant and owner-occupier crofters. Neglect is where the croft is not managed so as to meet the standards of Good Agricultural and Environmental Condition. Misuse is defined as 'failing to cultivate a croft or failing to put it to a purposeful use'. You must tell us if your croft is misused or neglected.

4. **Shares in common grazings**

If you have shares in any common grazings, you have to tell us if these are being partially or fully used. Please note if your grazing share has been separated from the croft, for example if you purchased your croft land, you will be prompted to complete information in respect of the grazing share when completing your return.

PROPOSED 2022 QUESTIONS AND PROCESS CHANGES

From the list of question above, numbers 1-3 are mandatory and prescribed in the Act. The fourth question was mandatory in the sense that crofters needed to answer it, however it was added by the Commission Board prior to the census issue. This year the IS team suggests a rewording of this question to be more specific, covering:

- Do you have a grazing share?
- Clarify if it is used by the crofter themselves, or someone else, or no-one
- The options to answer were YES / NO / PARTIALLY, however PARTIALLY seems to have confused many crofters and needs clarified; we suggest it should be a simple "yes / no"

In addition to the above questions, the CC Information Services (IS) team would like to propose to add a fifth mandatory question around rents payable, for relevant crofters. Although the CC does not inherently get involved in matters of rent, the CC does report this information as part of the Register of Crofts (RoC) Online, and this is a relevant factor in some cases. The CC IS team have done some limited investigation which has suggested that many entries are either missing or may be incorrect. A secondary benefit of the annual notice is to enhance the accuracy of information held by the Commission to meet this requirement, and as such the CC IS team feel it would be appropriate to collect this information as part of the annual notice. This information need not be collected every year, however there are instances within the RoC where this information is likely to be out of date.

In addition to the new mandatory question noted above, in the 2021 census year the CC Development Team ran an additional survey to gather more information around the state of crofting. This was a repeat of a survey which was done 4 years previously, however the return rate was significantly lower. On discussion, the CC feels the most likely reason for the reduced return rate was due to the previous survey being included as part of the printed paper census, and a number of crofters not realising it was optional. In the 2021 year survey, this additional questionnaire was conducted digitally via a link sent to any crofter that submitted a digital census return alongside a valid email address. This process suffered the following issues:

- Only crofters with email addresses could be sent the survey
- There was a moderate chance that the confirmation email would be filtered as junk
- There was a moderate chance that crofters would not read the confirmation email and did not realise the follow up survey existed
- This information repeats to the main census grazing share question

The Development Team wish to repeat the survey this year, however after discussion with the IS team have agreed that this should be integrated into the main census digital portal. This integration would still require clear communication that the additional survey was not part of the formal annual notice and was optional, however it would alleviate all three of the weaknesses from the 2021 census return.

The only offset against this is that the time taken by telephony staff to take census answers over the phone may be increased if they also complete the additional survey, however this should be manageable without any additional support beyond what is already planned.

Impact:	Comments
Financial	There will be no significant financial implications
Legal/political	The inclusion of the additional survey for a second year running may result in some negativity from crofters who already feel that doing an annual notice is too much
HR / staff resources	A small amount of additional time will be required by telephony staff, however the CC can manage this internally

RECOMMENDATION	
1.	The Board to agree the new proposed question, the repeat additional survey and the change to processes for the additional survey
2.	The Board are asked to note if they wish any other questions to be formally added for consideration to the annual notice

Date 1 August 2022

Author Aaron Ramsay, Head of Digital & Improvement

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Digital Applications update

SUMMARY

This paper gives a summary of the current digital applications picture, as at the end of July 2022.

BACKGROUND

The Crofting Commission (CC) embarked on a project to convert all of its application forms into a digital process that functioned online in order to realise the benefits this would bring, both for the applicant and the organisation. This project not only looked to bring the application process online, but also to redesign the forms themselves for those who could not or would not use the digital process, with a key goal to refresh the information gathered and make the application process more accessible.

This paper forms an update of the current state of play with the digital application project.

CURRENT POSITION

Application types live digitally

At the time of writing the digital system has Assignment, Subletting and Short Term Let application types live. However the Commission has changed its order of development and moved onto the decrofting application types ahead of plan. This shift has been introduced as these application types generally have only one applicant and the process may be more straight forward for crofters and their representatives due to this. Decrofting applications also make up a considerable percentage of the total volume of applications received.

By 18 August 2022, the Decrofting Part Croft Tenant application type will be live, with a goal to have the following all live by the end of Aug 2022:

- Decrofting part croft (owner-occupier crofter)
- Decrofting Part Croft (landlord)
- Decrofting Whole Croft by Tenant
- Decrofting Whole Croft (owner-occupier Crofter)
- Decrofting Whole Croft by Landlord

The similarity in terms of the questions between the decrofting types makes digital development of them quite efficient once the first type is complete, though the shift to looking at the decrofting type over the remaining 58A types has caused a slight delay as there was one technological process required for decrofting application types that was not fully developed. This has now been done, and all the core technology for every application type is now in place.

Applications received

At the May 2022 Board meeting, a paper giving an update to the digital applications was presented, and it highlighted that a relatively small number of applications had been made that way. There has subsequently been a small number more, however the volume remains at one or two per month, with the majority of the applications coming via the PDF paper route. The possible reasons identified by the Commission for this were as follows:

1. A limited number of application types are available digitally
2. Solicitors and agents are habitually using paper forms, possibly because they already have copies stored locally
3. The system is not liked by solicitors and agents, or is too difficult to use (though the evidence does not support this)
4. IT / technical issues within the crofter base, or lack of technical awareness or fear using a digital system
5. Lack of awareness of the system generally
6. The website makes it unclear how the digital system works / makes it too easy to bypass it
7. The digital applications are slightly different to the paper-based versions due to the new forms not being online yet, and that may create a preference
8. The Commission's current backlog of work may be masking the benefits of submitting the application digitally as the time savings are not easily visible

In addition to the above, the Commission digital applications working group feels there is also a potential blocker whereby some solicitors may act like a check and send service, verifying paper or PDF forms already completed by crofters. Additionally, the limited feedback from previous surveys indicates scenarios where a solicitor or agent may be happy to use the digital system, but another interested party either is not willing to use it, or cannot use it.

Further actions taken

To continue to promote and develop the digital application system the following actions have taken place since the May 2022 update:

- Priority changed to Decrofting application types as there is only one applicant and the hope is this will increase usage of the digital system
- A media campaign has been planned to raise awareness of the digital system for a wider audience, which includes a physical presence at the Black Isle Show and production of a promotional video that will be presented at the show, as well as distributed online
- A redesign of the Commission applications webpage to make the wizard clearer, but also to reduce the chance of customers bypassing the wizard by moving access to the full list of forms to the last step

NEXT STEPS

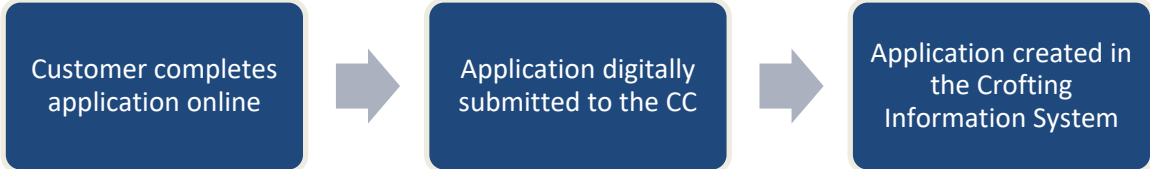
The CC digital applications team have spent some time thinking about ways to further increase usage of the digital system, noting the suspected reasons above for poor uptake. The live presence at the Black Isle show will allow the team members to visit solicitors and agents present there to try and get insight into their habits, however take-up remains slower than hoped.

The CC will continue to push the message through promotional routes that our application forms are being updated and using the incorrect form could result in an application being rejected, and encouraging all applications to go through the current online wizard to ensure the most up to date form is used. This will help to highlight the application types that are available digitally.

Another idea has been put forward that speaks directly to the suspected blockers of solicitors not being the initiating agents, or secondary parties not being willing / able to complete the digital application process. This idea looks at the core of the system and examines against it the benefits received.

The current digital application process

Currently the flow of the applications can be represented in this simplified flow diagram:



This model does not directly fill any information into the Crofting Information System (CIS), however it realises numerous benefits around the validation and reception of applications. A suggestion has been presented that a modified version of the above could allow a traditional PDF / scanned paper form to be digitally submitted instead of generating one by asking questions as per the full digital journey. The below table shows the anticipated benefits of the varying models that an application form can be received by the Commission. These methods are as follows:

- Digital system – an application done through the entirely online digital portal
- Hybrid system – a PDF either handwritten and scanned, or completed digitally, that is then submitted digitally to the Commission
- Paper system – the traditional PDF system, either printed and handwritten PDF, or a PDF completed digitally and printed

Benefit	Digital system	Hybrid system	Paper system
Reduced carbon footprint as no form posted	✓	✓	✗
Instant delivery of application form	✓	✓	✗
Guaranteed delivery of application form (no lost forms)	✓	✓	✗
Saving for CC - reduced handling of mail as no paper application form	✓	✓	✗
Saving for CC - no scanning of application form	✓	✓	✗
Saving for CC - no manual building of cases in CIS	✓	✓	✗
Saving for CC and customer – better fulfilment of forms (validation)	✓	✗	✗
Saving for CC and customer – no incomplete forms	✓	✗	✗
Saving for CC and customer – no incorrect forms	✓	✗	✗
Ability to digitally send additional supporting evidence at a later date	✓	✓	✗

NOTE: the above covers only the CC application and supporting evidence, the benefits noted do not cover the RoS elements such as Form A/B and payments made by cheques.

The hybrid system proposed is technically easy to implement, and could be added to the system relatively quickly. This would still allow the CC to realise most of the benefits of the digital system in terms of carbon footprint reduction and savings on post handling and case creation, and would also still allow solicitors and professional agents to use the dashboard for applications that they were not completed entirely digitally.

The drawback to this model is that there would be no guarantee that a customer will use the correct form, and the majority of the validation will be removed. The validation issue will be partially offset by the new redesigned forms, however customers filling in the PDF form have the ability to omit information or add incorrect information without the full digital system.

From a promotional point of view the acceptance of PDF applications via the digital portal could be viewed as backtracking from the aspiration to make the application forms digital, however one potential benefit from this that cannot be estimated ahead of time is increasing familiarity with the system. For professional users specifically, this might remove a key blocker and by default make users more familiar and habitual in using the digital system, which in turn may result in more fully submitted digital applications.

Registers of Scotland forms and payments

One of the potential blockers which has not been noted is the remaining requirement for Registers of Scotland (RoS) forms and payments to be sent via postal means to the Commission. It is also possible that as professional agents are aware that the RoS form and cheque still need to be posted that they opt to send a paper form to keep the entire application together.

To address this the CC is working with RoS to implement changes to their secondary legislation that will hopefully allow the RoS form A and form B to be made digital also. The CC finance team are also exploring moving away from cheque payments in order to remove that requirement. Although both these changes might help to consolidate the Commission's application process into a solely digital journey, they require changes to RoS secondary legislation that is likely to take a number of months, if not years to be approved and adopted.

Impact:	Comments
None	

<p>RECOMMENDATION</p> <p>The Board is invited to discuss how greater take up of the digital applications system could be encouraged.</p>
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Date 2 August 2022

Author Aaron Ramsay, Head of Digital & Improvement

CROFTING COMMISSION MEETING

18 August 2022

Report by the Head of Digital

Application online progress status

SUMMARY

This paper outlines the basic proposal for offering customers of the Crofting Commission a real-time progress online for submitted applications.

BACKGROUND

The Crofting Commission (CC) currently puts a notification online to its public website for all applications received, and also lists applications on the Register of Crofts Online (RoC online) under the relevant holding. Currently this covers only the core application types, and items such as notifications and registrations do not have a public notification displayed on receipt.

More recently the CC has begun to rollout the facility for the key main applications to be completed digitally, which has also included the introduction of an online dashboard that displays details of all applications submitted previously via this method.

The CC Board of Commissioners (the Board) have an aspiration to improve the level of self-serve information available to customers of the CC, which includes building the ability for the current stage of any submitted application to be viewable online. The goal from this change is to improve information readily available to customers, while also reducing avoidable contact from customers who contact the CC via various routes to seek confirmation that their application has been received, or for an update on the progress of their application.

This paper looks at the process that could be followed to introduce such a system, and the risks and cost implications of planning and implementing such a solution (both in financial and resource terms).

CURRENT POSITION

The Head of Compliance and Customer Services provided some stats from the telephony team around the volume of calls received, and the purpose of the call, as follows:

Week	Total enquiries	Chasing an update	% Chasing update
1 – wc 16/05/2022	89	42	47%
2 – wc 23/05/2022	107	59	55%
3 – wc 30/05/2022*	42	18	43%
4 – wc 06/06/2022	80	51	64%
5 – wc 13/06/2022	86	46	53%

*NOTE: week 3 represents only 2 days due to leave. All figures include answering voicemails left by callers who were not spoken to directly upon initial contact.

It is estimated that the average length of a call is approximately 12 minutes. Given the above data, and excluding the short week (week 3), it is reasonable to surmise that the CC receives approximately 50 calls per week to chase up submitted applications, which equates to an approximation of 10 hours per week for handling the immediate call. Any in depth investigation or follow up work would be additional to that.

The current situation is likely more pronounced than a business-as-usual position due to a backlog of Regulatory work, however this does represent a significant portion of time.

THE PROPOSAL

The goal is to allow for the customers to avoid the need to contact the CC to chase an application update through access to a self-service feature that allows this to be checked directly. The following options are possible:

- The status of any application submitted digitally is added to the online dashboard
- The status of any application received can be displayed on the Applications Received page of the CC website
- The status of any application received can be displayed on the RoC Online under the relevant holding when searched

From a technology perspective there is no difference between each of the above options and once the core method is developed, displaying this in multiple places does not represent a significant extra cost. There may be other factors, such as the promotion of the online digital system, which would influence where this function was implemented.

THE PROCESS

Within the Crofting Information System (CIS) each application is processed as a series of workflow sets, each containing workflows and then the multiple steps for each of these. A simplified visual representation of this is shown below.



However behind the scenes there is data which will allow unique identifiers to be set, which could then equate to an incremental status, or stage, which can be made visible to customers.

Application stages

An example of the stages that may be applicable to the **Decrofting part croft tenant** application type are noted below. These are not final and are used to represent the possible labels that would be applied to each phase of an applications journey, as presented back to crofters:

1. Initial validation & checks
2. Advertising / objection window
3. Further evidence gathering
4. Case consideration¹
5. Decision issued
6. Decision effected
99. Withdrawn / invalid²

1 this includes the Tier 2 and Tier 3 stages

2 this is a unique status that would display only when appropriate and would override the others

This list represents one version of the possible distinct stages that this application type would pass through, at a level of detail that would be appropriate for that which a customer would be seeking. In the above example it is possible that some stages would repeat and the displayed status would reflect this. For example, a case could go through **Further evidence gathering** and progress to **Case consideration**, where it then requires additional evidence gathering. This could either be potentially set to alter to reflect this, or simply to display the furthest point along a journey that an application has reached for simplicity. The system would have a definition of what each stage meant for clarity on any page where it was displayed.

Risks and benefits

The primary benefits of having the current progress status of an application visible is to enhance the service offered to customer of the CC, and to reduce avoidable contact from customers who currently phone or email the Commission. However there are risk factors that need to be taken into account as well:

Risk	Possible mitigation
<p>Staff processes The current CIS workflows do not always flow in line with staff working practices. For example, staff may reach the point of advertising and tell the CIS that they have completed this step and continue on as it is not convenient at that time to complete it. This would result in a potentially incorrect status.</p>	<p>Optimisation of work-flows and working practices may contribute to minimising this impact, however this is not likely to fix all incidences. Further analysis of a complete breakdown per NODE ID would be needed.</p>
<p>Visible delays Application types with longer delays than others (for example due to skillset deficits) could highlight delays at a specific stage, resulting in more enquiries.</p>	<p>Real-time status could be enabled only for selected application types, though this could be perceived as the CC hiding delays.</p>
<p>Repeating status displayed Certain normal processing flows may result in a status repeating.</p>	<p>Clear explanation of the definition of each status displayed.</p>
<p>Case rollbacks Occasionally cases need to be rolled back to earlier steps. This could result in a status repeating illogically, or a change being missed.</p>	<p>Allocating each NODE ID a status would mean changes would not be missed. Clear explanation of the definition of each status displayed.</p>

The greatest risk is perhaps that the introduction of any system which notes the current state of an application to the CC has the potential to alter customer behaviours and could result in an *increase* in contact instead of a decrease, or some modest reputational damage. For example, if an uncommon application type stayed at the initial status for a longer than normal period of time this may be observed by a customer (including professional bodies who may be more actively monitoring applications), who may then be promoted to contact the CC when they ordinarily may not have, or post negative comments on the CC social media accounts. This risk would need to be weighed against the potential benefits.

Time estimates and cost

The work required to fully plan and implement the online status is estimated to be as follows:

- Full breakdown of workflows and allocation of status - roughly equivalent to ½ a day per application type, per person involved in the working group (expected to be 3-4 key staff) – total estimated time 24 days of staff time in total
- Production of a full design and process brief – 1 day of staff time
- Time from Dev Ops team to alter data currently sent to website and extract / import workflow set data – 3 days of staff time total
- Implementation into the website system – half a day at £75 hr plus VAT

- Additional time to resolve queries, communicate changes and test – 1-2 days staff time per staff member involved
- Time for comms officer to prepare and distribute communications around the new service, including proofing and approval – one day of staff time

The technical work to implement the changes to the online systems would be minimal, however the time demand on CC staff would be significant and would need to be prioritised around other duties, so the time noted above could be across a longer extended period for full implementation dependant on task prioritisation.

Other possible benefits

In addition to displaying the case status directly to customers, once the process was in place it would require a small change to the CIS system to replicate the changes within the CIS to be visible to staff. This would potentially aid internal staff, and in particular telephony staff, in answering simple queries more quickly. This change would be taken forward via the Product Owner and follow the standard requirements process.

Impact:	Comments
Financial	Staff time cost and limited financial outlay to external contractor.
Legal/political	Potential for limited reputational risk noted if the introduction of the service highlighted negative customer service journeys.
HR/staff resources	Time noted for full planning and implementation from CC staff.

RECOMMENDATIONS

- 1. The Board to decide if they wish the Commission to pursue more in depth planning for the introduction of the service, and note the priority that this should take against ongoing delivery of projects such as the digital applications and new CIS improvements**
- 2. If going ahead, the Board should note where they wish the online status to be visible out of the options noted above**

Date 1 August 2022

Author Aaron Ramsay, Head of Digital & Improvement

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Draft Response re Land Reform Consultation

SUMMARY

A draft response to the SG's Land Reform Consultation is presented to the Board for approval or amendment.

BACKGROUND

The Scottish government is consulting on a proposed new Land Reform Bill. Its consultation paper – *Land reform in a Net Zero Nation* – is open until 25 September 2022. The main purposes of the Bill would appear to relate to diversification of land ownership, compulsory land use management plans, proposed new land use tenancies and a requirement for landowners to be registered in the UK or EU for tax purposes (with company law and most tax law not being devolved matters). Whilst little of this relates directly to crofting, it is important to be aware of these proposed changes to the wider rural landscape of which crofting is a part. Matters such as plurality and diversity of ownership, changes in land use, community engagement in local land, net zero and the biodiversity crisis are stated in the consultation to be central to the government's ambition for Scotland's land. All these issues are also highly relevant to crofting. There are also some aspects of the proposed legislation that would be of direct relevance to crofting, such as:

- any controls on the transfer of ownership of a crofting estate;
- a suggestion that all land receiving rural subsidies is land registered (in the Land Register);
- putting the Land Rights and Responsibilities Statement (LRRS) guidance on a statutory footing; and
- requiring estates, which would include crofting estates, to publish land management plans.

The draft response should be read in conjunction with the consultation paper which can be found at: [Land Reform in a Net Zero Nation - Scottish Government - Citizen Space \(consult.gov.scot\)](https://www.consult.gov.scot/land-reform-in-a-net-zero-nation)

The Commission's draft response is at **Annex A**.

RECOMMENDATION

That the Board approves the draft response or indicates how it would wish the response to be changed.

Date 3 August 2022

Author David Findlay, Solicitor

The following are questions where we propose to make substantial comment.

PART 5 – STRENGTHENING THE LAND RIGHTS AND RESPONSIBILITIES STATEMENT

4. **We propose that there should be a duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols. Do you agree or disagree with this proposal?**

Any legal obligations, in so far as they relate to crofting estates, should be consistent with crofting rights and obligations. For instance, where the substantial rights on an estate are with the crofters, a landowner might have difficulty discharging any legally enforceable LRRS obligations.

5. **If there was a legal duty on large-scale landowners to comply with the Land Rights and Responsibility Statement and its associated protocols, we propose that this should be enforced by having a formal procedure for raising complaints, and by making provisions for independent adjudication and enforcement.**

(a) Do you agree or disagree with the proposal above?

No comment, other than that a tribunal or court such as the Scottish Land Court/ Lands Tribunal could be an appropriate body to adjudicate on such matters.

(c) Do you think the responsibility for investigating and dealing with complaints should sit with the Scottish Government; a public body (such as the Scottish Land Commission)?

Please see our comments above regarding the Scottish Land Court.

6. **Do you think the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners would benefit the local community? NO**

Further consideration would have to be given as to whether a local community could benefit from land that is subject to crofting tenure and where the rights over the land lie largely with the crofters. Where the land is common grazings, it is accepted that some LRRS obligations could benefit the local community.

7. **Do you have any other comments on the proposal to make the Land Rights and Responsibility Statement and its associated protocols a legal duty for large-scale landowners?**

See above.

PART 6 – COMPULSORY LAND MANAGEMENT PLANS

8. **We propose that there should be a duty on large-scale landowners to publish Management Plans. Do you agree or disagree with this proposal? DON'T KNOW**

Any management plans would have to be consistent with crofting tenure and crofting rights and obligations where it is a crofting estate.

Where the landowner owns croft land and common grazings and where some or all of the estate is a crofting estate, the landowner should be under a legal obligation to consult with the crofting community or crofting communities affected when drawing up the land management plan.

10. Should Management Plans include information on:

	Yes	No	Don't know
Land Rights and Responsibility Statement compliance	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Community engagement	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Emission reduction plans	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Nature restoration	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Revenue from carbon offsetting/carbon credits	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Plans for developments/activities that will contribute to local and inclusive economic development or community wealth building	<input checked="" type="radio"/>		

All of this information could also be useful to the local crofting community and also help to inform the way that crofters engage with their landlord.

See the comments above regarding consultation with the crofting community.

11. Do you think the responsibility for enforcing compulsory land management plans should sit with the Scottish Government; a public body (such as the Scottish Land Commission)

See above - should lie with the Scottish Land Court/ Lands Tribunal.

12. Do you think the proposal to make Management Plans a legal duty for large-scale landowners would benefit the local community? YES

It would help the local crofting community engage in a more informed way with their landlord/ landowner.

13. Do you have any other comments on the proposal to make Management Plans a legal duty for large-scale landowners? NO

PART 7(i) – REGULATING THE MARKET IN LARGE-SCALE LAND TRANSFERS – A NEW PUBLIC INTEREST TEST

- 14. We propose that a public interest test should be applied to transactions of large-scale landholdings. Do you agree or disagree with this proposal? DON'T KNOW**

Consideration would have to be given as to whether large crofting estates should be exempt from such a public interest test.

- 15. What do you think would be the advantages and/or disadvantages of applying a public interest test to transactions of large-scale landholdings?**

See above.

- 19. Do you agree or disagree with these conditions?**

We have proposed that if a public interest test applied to the seller concluded there was a strong public interest in reducing scale/concentration, then the conditions placed on the sale of the land could include:

- i. The land in question should be split into lots and could not be sold to (or acquired by) one party as a whole unit
- ii. The land, in whole, or in part, should be offered to constituted community bodies in the area, and the sale can only proceed if the bodies consulted, after a period of time, indicate that they do not wish to proceed with the sale

Care would have to be taken to ensure that where it is a crofting estate, any splitting of the estate into lots does not result in crofters having multiple landlords, which could weaken the crofter/ landlord relationship as well as create administrative burdens for crofters and grazings committees.

- 22. Do you think the responsibility for administering the public interest test should sit with the Scottish Government; a public body (such as the Scottish Land Commission).**

See comments above regarding the Scottish Land Court.

- 24. Do you have any other comments on the proposal that a public interest test should be applied to transactions of large-scale landholdings? NO**

PART 7(ii) – REGULATING THE MARKET IN LARGE-SCALE LAND TRANSFERS – REQUIREMENT TO NOTIFY AN INTENTION TO SELL

- 25. We propose that landowners selling large-scale landholdings should give notice to community bodies (and others listed on a register compiled for the purpose) that they intend to sell.**

- a) Do you agree or disagree with the proposal above?**

Where it is a crofting estate or there are crofting interests, any such notice should also be given to the local crofting community and any crofting community body.

- b) Do you agree or disagree that there should be a notice period of 30 days for the community body or bodies to inform the landowner whether they are interested in purchasing the land? AGREE**

- c) If the community body or bodies notifies the landowner that they wish to purchase the land during the notice period, then the community body or bodies should have 6 months to negotiate the terms of the purchase and secure funding. Do you agree or disagree with this proposal? **AGREE**

26. Do you have any other comments on the proposal that landowners selling large-scale landholdings should give notice to community bodies that they intend to sell? **NO**

PART 8 – NEW CONDITIONS ON THOSE IN RECEIPT OF PUBLIC FUNDING FOR LAND-BASED ACTIVITY

27. Do you agree or disagree with these requirements?

We propose the following eligibility requirements for landowners to receive public funding from the Scottish Government for land based activity:

- i. All land, regardless of size, must be registered in the Land Register of Scotland.
- ii. Large-scale landowners must demonstrate they comply with the Land Rights and Responsibility Statement and have an up to date Land Management Plan.

Regarding the first requirement, this would likely be unworkable as many crofts and small farms are currently not on the Land Register. Latest figures would suggest that less than 50% of land is registered on the Land Register. Such a requirement could also prejudice crofters who have not registered their croft in the Land Register.

28. Do you have any other comments on the proposals outlined above? **NO**

PART 9 – LAND USE TENANCY

29. Do you agree or disagree with our proposal that there should be a Land Use Tenancy to allow people to undertake a range of land management activities? **AGREE**

There are already a number of land tenancies under agricultural holdings legislation and crofting legislation that allow a range of land management activities. It is considered unnecessary to create a new regulated tenancy. Croft tenancies, for instance, allow a large number of different sorts of activities and environmental schemes to be carried out, including agri-tourism and renewable energy. If this is considered unsuitable in a crofting, agricultural or woodland/ forestry context, existing tenancies should be amended rather than a new type of tenancy created. It is envisaged that there would be little interest from landowners in such a tenancy.

30. Are there any land management activities you think should not be included within a Land Use Tenancy?

See comments above.

31. Do you think that wider land use opportunities relating to diversification, such as renewable energy and agri-tourism, should be part of a Land Use Tenancy?

See above.

32. Do you agree or disagree that a tenant farmer or a small landholder should, with the agreement of their landlord, have the ability to move their agricultural tenancy into a new Land Use Tenancy without having to bring their current lease to an end?

See above.

33. Do you agree or disagree that when a tenant farmer or small landholders' tenancy is due to come to an end that the tenant and their landlord should be able to change the tenancy into a Land Use Tenancy without going through the process of waygo, with parties retaining their rights?

See above.

34. How do you think the rent for a Land Use Tenancy should be calculated?

See above. Croft tenancies have a statutory mechanism for determining rent.

35. Would you use a Land Use Tenancy if you had access to a similar range of future Scottish Government payments which other kinds of land managers may receive?

See above.

36. Do you think that there should be guidance to help a tenant and their landlord to agree and manage a Land Use Tenancy?

See above.

37. Do you think there should be a process to manage disputes between a tenant of a Land Use Tenancy and their landlord?

See above.

38. Do you agree or disagree that tenants of a Land Use Tenancy and their landlords should be able to resolve their legal disputes in relation to the tenancy through the Scottish Land Court?

See above.

39. Do you have any other comments on our proposal for a Land Use Tenancy? NO

PART 12 – OTHER LAND RELATED REFORMS

42. Do you have any views on what the future role of taxation could be to support land reform? NO

43. How do you think the Scottish Government could use investment from natural capital to maximise:

(a) Community benefit

The Scottish government should use some of the revenue raised from any natural capital taxation to support crofting within the wider rural community and to recognise the contribution crofters make, and could make, to enhancing natural capital resources. For instance, crofters could be supported directly for interventions they make to increase natural capital through woodland creation or restoring degraded peatland.

44. Do you have any additional ideas or proposals for Land Reform in Scotland?

The Crofting Community Right to Buy legislation contained in the Land Reform (Scotland) Act 2003 is widely considered to be cumbersome and impractical, particularly in relation to mapping requirements, and this could deter crofting communities from using this legal power more widely. Consideration could be given to simplifying the requirements on the crofting community in order to facilitate greater use of the Right to Buy in Part 3 of the 2003 Act and greater benefit for rural crofting communities.

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Draft Response re Biodiversity Strategy Consultation

SUMMARY

The Scottish government is currently consulting on a biodiversity strategy in anticipation of a new Natural Environment Bill, which closes on 12 September 2022. Many of the issues raised are of relevance to crofting and the future of crofting.

BACKGROUND

The draft response should be read in conjunction with the consultation paper which can be found here: [Biodiversity strategy: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot/biodiversity-strategy-consultation)

Officials have prepared a draft response for the Board's consideration. This is attached at **Annex A**.

CONSIDERATION

The Scottish government is currently consulting on a biodiversity strategy with a view to introducing a Natural Environment Bill to the Scottish Parliament. The consultation outlines some of the evidence of biodiversity loss, both within Scotland and globally, and then sets out the Scottish government's vision to halt the loss of biodiversity. The consultation identifies the main causes of biodiversity loss as:

- climate change
- changing land use through agriculture, forestry, fish farming
- direct habitat loss through harvesting, logging, hunting and fishing
- pollution
- invasive species.

The consultation is divided into the rural environments, the marine and fresh water environments, coastal environment and urban environments, but on the basis that all these different environments are closely interconnected and interdependent.

Crofting is of particular relevance to farmland, soils, uplands (including peatlands), woodland and forestry. The consultation identifies that on farmland, there have been substantial long-term decreases in pollinators and species-rich grasslands, with almost 40% of lowland meadows lost since 1970. The consultation outlines the impact of decreasing soil health through changes to ploughing, crop rotation, fertiliser use and livestock numbers (and water management and resources could be added to this). On upland habitats, the consultation identifies inappropriate muirburn, including on deep peat, as a cause of vegetation and soil damage, leading to carbon loss.

One of the challenges, but also the strengths, for crofting is that it is present across a wide variety of habitats and land types:

- arable land
- some lowland meadows and species-rich grassland
- some native woodland and shrubs and non-native conifer plantations
- substantial areas of peatland, which includes a complex array of watercourses which trap in huge quantities of water
- species-poor grazing
- coastal machair – an internationally important habitat
- some riparian habitats.

Crofting also offers an opportunity to connect local people to the land, and to enable them to use land in various ways within a regulated system. Within this system, neglected land and common grazings could be seen not as a personal choice, but as having a negative impact upon biodiversity as well as local economic and social opportunities – and more widely a negative impact on the general public interest (and it is the general public that pays for a regulated crofting system and finances crofting support). Crofting as a regulated land system paid for by the general taxpayer offers unique opportunities to connect rural communities to land and to support sustainable land uses, which could include:

- increasing lowland meadows and species-rich grassland
- retaining and increasing local food production
- enabling native woodland regeneration to enhance biodiversity and also provide shelter for livestock (in both summer and winter), whilst retaining soil structure and moisture
- preserving the unique coastal machair ecosystems and its dependence on very carefully managed cattle grazing
- preserving water levels within peatland, restoring peatland vegetation and reducing carbon and species loss
- improving the habitat where crofts or common grazings abut rivers, lochs and other watercourses
- increasing investment and use of technology in plant-based food production through polytunnels, horticulture, apiculture and local economic opportunities associated with this
- adapting livestock grazing densities to enhance biodiversity.

If financial incentives for land-based activities will in future decades be focused more tightly on biodiversity, “net zero” and habitat improvement, crofting offers some solutions to the challenges set out in the consultation if it is able to develop and adapt to changing circumstances. At the same time, it has been noted elsewhere that crofting has the potential to combine environmental benefits with economic and social benefits within rural communities across the Highlands & Islands, as well as to secure its own future, if as a system it is willing to adapt and change and look to the future as much as the past.

Some of these opportunities and challenges are set out in the responses to the consultation, which comes to the Board for discussion.

RECOMMENDATION

The Board is invited to approve the draft response for submission or to direct specific changes to be made to it before it is submitted.

Date 3 August 2022

Author David Findlay, Solicitor

The following are questions where we propose to make substantial comment.

Evidence of biodiversity loss

1. **Using your own knowledge and the evidence presented, to what extent do you agree that there is a nature crisis in Scotland? Why do you think that?**

It is agreed that there is an ecological, ecosystem and habit crisis in Scotland and a substantial and accelerating loss of biodiversity.

2. **What do you see as the key challenges and opportunities of tackling both the climate and biodiversity crises at the same time?**

The key challenge to biodiversity is climate change and the various factors that are contributing to climate change.

There is an opportunity to explore various forms of land use that sequester carbon, reduce emissions and manage soil health sustainably.

Strategic vision

3. **Is the draft vision clear enough? NO**

There is insufficient reference to the importance of sustaining resilient ecosystems and habitats that can act as "bridges" as climate changes and species need to migrate. There is also insufficient reference to the key importance of soil health in sustaining biodiversity.

4. **Is the draft vision ambitious enough? NO**

See the comments above.

5. **Do you have any suggestions for a short strategic vision which would form the title for the strategy?**

By 2045 we will have substantially restored and regenerated biodiversity across our land, soils, freshwaters and seas and will protect the habitats that are needed to enable such biodiversity.

Our natural environment of plants, animals, insects, aquatic life and other species will be richly diverse, thriving, resilient and has the necessary habitats in order to be able to adapt dynamically to climate change.

Everyone will understand the benefits from and importance of biodiversity and will play their role in the stewardship of nature in Scotland for future generations. Everyone will also be aware of the risks to all life systems, including food production, should the current loss of biodiversity continue at its current rate or accelerate.

There should also be greater public understanding of how individual and corporate actions and actions can influence the loss of biodiversity, both positively and negatively.

Farmland, woodland and uplands

6. Do the 2045 outcome statements adequately capture the change we need to see? YES

More research is required in connection with the relationship between herbivore grazing, biodiversity and habitat enhancement. For instance, the RSPB has introduced cattle grazing into parts of Abernethy native pine forest in order to restore the habitat.

Alternative forms of land use that sequester carbon and enhance biodiversity should be financially sustainable for those who work and manage the land, including crofters.

Silvopasture practices should be supported by the subsidy system and be available to crofters and smallholders.

Crofting could contribute to greater diversification of land use, which could provide economic and social opportunities for rural crofting communities and support rural population retention and a healthy crofting community. Support systems should actively support crofters and crofting in helping to achieve this vision across the Scottish Highlands and Islands, and see crofting as part of the solution in achieving a diverse, democratic rural community that is able to support ecosystems and enhance biodiversity.

7. Are the 2030 milestones ambitious enough? YES

A key element will be supporting crofting within such a vision. Much of the focus until 2030 will be on larger landholdings, but crofting is a diverse system that gives thousands of people important rights in the land they manage as part of their croft and could help to make a vision for biodiversity more democratic and focused on real communities.

As well as supporting high quality food production, crofting supports and can support many other forms of diversified and sustainable land use and contribute hugely to the cohesion and economics of rural communities across the Scottish highlands and islands.

As the largest longer-term threat to biodiversity is climate change, the SG should be ambitious with regard to reducing carbon emissions.

8. What are the key drivers of biodiversity loss in this outcome area?

The main cause of the loss of biodiversity globally over the medium to longer term is climate change.

Within Scotland, the key drivers of biodiversity loss are pollution, invasive species, climate change, habitat loss and fragmentation, inappropriate use of fertilisers and pesticides, direct exploitation of the marine environment and land (for house building, road building and other infrastructure).

Within crofting, changing land practices and neglected land are important factors in localised biodiversity loss, for instance on machair habitats (where changing land practices are a threat to a unique ecosystem) and where neglected land provides scope for invasive species.

9. What are the key opportunities for this outcome area?

See above. Tackling neglected land and calibrating financial support systems to enable diversification of land use offer important opportunities for crofters, crofting communities and rural communities.

The crofting tradition is also about the sharing of information and knowledge over generations and within crofting communities. This provides an important opportunity to share knowledge within the crofting community for practices that enhance biodiversity, such as the preservation of the machair ecosystem and also hedgerows and silvopasture. Financial support is important within this context in helping to sustain crofting communities and the sharing of inter-generational knowledge and practices.

10. What are the key challenges for this outcome area?

See above - the key challenge is a lack of action in this area and a lack of appropriate support.

Marine environment

11. Do the 2045 outcome statements adequately capture the change we need to see?

No comment regarding the marine environment, though the Commission is broadly supportive of a healthy marine environment. The Commission understands that crofting is part of a larger and complex system of rural land uses, which includes fishing. The Commission regards a healthy marine environment as creating opportunities for sustainable tourism and sustainable fishing, all of which create real opportunities for crofters. Many crofting communities are also, or were also historically, fishing communities.

12. What are the key opportunities for this outcome area?

See above, and particularly the opportunities that a healthier marine environment would have for tourism and fishing, which are important within many crofting communities.

Freshwater environment

13. Do the 2045 outcome statements adequately capture the change we need to see? YES

The Crofting Commission has no specialist knowledge of the freshwater environment. More generally, it recognises the importance of healthy rivers and lochs and the economic opportunities that this could create for sustainable tourism and the health of wild salmon fisheries, both of which could offer important opportunities to crofting communities.

Where watercourses are located on croft land and common grazings, it is important that support is made available to crofters to allow them to manage any water resources sustainably in so far as it is relevant to the exercise of their crofting rights. Livestock on common grazings use watercourses, including lochs and lochans, to cool in summer (which will become an increasing issue with climate change) and to escape biting insects, as well as for shelter. The importance of riparian woodland is recognised within this context.

14. What are the key opportunities for this outcome area?

Please see above.

Crofters should be supported in taking measures to increase water quality of any watercourses passing through croft land and common grazings and also any measures that reduce potential flooding and soil erosion further downstream.

15. What are the key challenges for this outcome area?

No further comment, other than that any housing development or commercial developments along watercourses must have minimal impact on the freshwater environment if they are to be sustainable.

Coastal environments

16. Do the 2045 outcome statements adequately capture the change we need to see? YES

The importance of machair and saltmarshes should not be underestimated.

Most coastal machair in Scotland is located on croft land or common grazings. The unique form of crofting livestock (cattle) cultivation practised on coastal machair over many centuries has been an essential part of preserving the unique and biodiverse machair habitat. It is essential that crofters with rights in machair land are supported so that they can continue to be stewards of this unique habitat until 2045 and beyond. Crofters should obtain more recognition for their contribution to the creation and enhancement of coastal machair.

17. Are the 2030 milestones ambitious enough? Are we missing any key elements?

Please see above.

18. What are the key drivers of biodiversity loss in this outcome area?

The key challenges here are changing land management practices (if crofters are not supported in sustaining the machair habitat) as well as, in certain locations, changing sea levels and more intense coastal storms resulting from climate change. Coastal erosion is also a key driver of habitat loss.

19. What are the key opportunities for this outcome area?

Please see above - there is an important opportunity to retain and preserve the unique machair habitat, with opportunities for sustainable tourism and diversification.

Tourism, and increasingly eco-tourism and cultural tourism, is important for the medium to longer-term sustainability of rural communities in the highlands and islands, many of which are crofting communities. A healthy marine environment with diverse marine life and clean seas offer many opportunities for activity and accommodation providers within coastal crofting communities and on the islands.

20. What are the key challenges for this outcome area?

Please see above.

Urban environments

21. Do the 2045 outcome statements adequately capture the change we need to see?

The Commission is broadly supportive, but its remit is within rural Scotland and will not comment further, other than to note that small areas of green and productive space are important to the health of urban populations, and similarly small areas of land within rural communities offer opportunities for various forms of land use.

22. Are the 2030 milestones ambitious enough? Are we missing any key elements?

See above.

23. What are the key drivers of biodiversity loss in this outcome area?

See above.

Overall biodiversity health – land and sea

24. Do the 2045 outcome statements adequately capture the change we need to see? YES

25. What are the key drivers of biodiversity loss in this outcome area?

The key driver of biodiversity and habitat loss is fragmentation and lack of connectedness between different habitats.

26. What are the key opportunities for this outcome area?

The opportunity is to create connections and bridges between habitats in order that flora and fauna can respond dynamically to climate change rather than be stuck within a habitat that is becoming increasingly unsustainable for particular flora and fauna.

27. What are the key challenges for this outcome area?

See above.

28. Have we captured the key enabling factors which are essential in order for our strategy to be successful?

The government should be aware of the potential negative effect of natural capital accounting on land values and land opportunities, for instance within the context of restoring peatland and developing new woodlands. The government should also clarify as soon as possible the extent to which any post-Brexit support systems will be related to natural capital and net zero and may require landowners, tenants and occupiers (including crofters) to build net zero targets within their land management practices.

29. Can you set out how you think any of the proposals set out in the consultation might help to eliminate discrimination, advance equality of opportunity and foster good relations? Can you provide any evidence which informed your conclusions?

The evidence would indicate that climate change and biodiversity loss, which could include increasing crop failure and an adverse impact on animal and livestock health, would have a worse impact on economically deprived communities, including deprived rural communities, than on more affluent communities. This is because economically deprived communities are more vulnerable to price increases. If deprived communities (which will be rural as urban) are adversely affected by rising food prices and also energy prices, this will also have an impact on health and well-being.

Therefore, action to mitigate the impact on climate change within Scotland and to sustain biodiversity is likely also to mitigate the likely negative impact on economically deprived communities and so decrease economic discrimination.

CROFTING COMMISSION MEETING

18 August 2022

Report by the Chief Executive

Proposed Board meeting dates for 2023

SUMMARY

To propose and agree Board meeting dates for 2023 and to consider a date and place for an external Board meeting (if one is taking place).

BACKGROUND

This Paper is submitted to the Commission laying out proposed meeting dates for 2023 for Board Meeting days.

SUMMARY OF RECOMMENDATIONS

The Commission is asked to agree the meeting dates outlined in the table below.

BOARD MEETING DATES 2023
Wednesday 8 February 2023
Wednesday 22 March 2023
Wednesday 10 May 2023
Wednesday 28 June 2023
Wednesday 16 August 2023
Mon/Tues/Wed 2-4 October 2023 (External)
Wednesday 6 December 2023

RECOMMENDATION

Schedule of meetings outlined above is recommended.

Date 8 July 2022

Author Bill Barron, Chief Executive

DATES OF NEXT MEETINGS

Monday 26 September 2022 – Strategy Meeting, Noss & Rum

Tuesday 27 September 2022 – Board Meeting, Noss & Rum

ANY URGENT BUSINESS

EXCLUSION OF PRESS & PUBLIC