

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD IN GREAT GLEN HOUSE AT 9:30AM 10 MAY 2023

Present:	Malcolm Mathieson	Convener
	Duncan Gray	Commissioner (for item 20 onwards)
	Mairi Mackenzie	Commissioner
	Rod Mackenzie	Commissioner
	Iain Maciver	Commissioner
	Andrew Thin	Commissioner
	Donald MacDonald	Commissioner
	Colin Kennedy	Commissioner
	Duncan Macaulay	Commissioner (via Teams)
	Bill Barron	Chief Executive
	Aaron Ramsay	Director of Corporate Services
	David Findlay	Commission solicitor
	Christopher Reynish	Director of Operations & Policy (via Teams)
	Jane Thomas	Head of Compliance/Minute-taker
	Glen Knott	Learning & Development Officer (item 13)
	Karen MacRae	Development Officer (item 14)
	Aileen Rore	Scottish Government (via Teams)
		Staff and public observers (via Teams)

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting, with a greeting in Gaelic, followed in English. There were no apologies, though the Convener noted that Commissioner Gray was delayed and would join the meeting as soon as possible.

2 DECLARATION OF INTERESTS

There were no Declarations of Interest in the public part of the meeting.

3 BOARD MINUTES FROM 22 MARCH 2023

The draft Minute from 22 March had previously been circulated to Board members for comment and appeared now for approval.

No further comments on the draft were made. The Minute was proposed by Commissioner Rod Mackenzie and seconded by Commissioner Kennedy.

4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING

Outstanding Action Points were reviewed.

The CEO explained that AP2, investigating charging, would be considered in October if necessary but there had been a detailed paper on this drafted in 2019.

AP3 – the paper will come to the June Board, with additions.

AP10 – the Convener confirmed that a discussion had taken place the previous evening.

5 MATTERS ARISING

There were no Matters Arising.

6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Vice Chair

Vice Chair reported that there were no red flags of concern raised at the committee meeting. The committee had received the Internal Audit report on the Commission's complaints handling process, which confirmed there are robust procedures in place. The committee would like to see broader monitoring, to include indicators of customer satisfaction.

On Self-Assessment, the committee would like to see a move towards 360-degree feedback for the whole Board and recommend that the Board engages in further work to understand risk.

The paper from the Vice Chair concluded with four recommendations, which the Convener suggested should come back to a future Board meeting, to allow time for greater discussion. It was agreed to arrange for the points to be covered during future sessions. It was further agreed that the CEO will check with training providers that when training on risk, for example, is delivered, the provider is able to focus on good practice examples, as well as case studies which are negative.

Action Point 1	<i>CEO to speak to training provider to ensure future Board training can focus on positive practice as well as how to avoid pitfalls.</i>
Action Point 2	<i>Allocate future Board sessions to allow for discussion of AFC Recommendations detailed in paper.</i>

(b) Draft Minute from 26 April 2023

The draft minutes were noted.

7 RISK MANAGEMENT POLICY

The policy had been reviewed by the Audit & Finance committee in January, subsequently revised and now came to the full Board for approval. Although there is an annual review process, the Board reserve the right to change elements of the policy when necessary. This will be one of the items for discussion at a future session, in relation to risk appetite, as previously indicated during discussion on item 6.

In response to a question on whether risk appetite is understood across the organisation, the CEO confirmed that the Commission is seriously risk averse in certain areas but had previously expressed a stronger risk appetite in relation to duties enforcement, for example. There was scope for a renewed discussion and a new steer from the current Board.

The paper was formally approved.

Decision	<i>The Board reviewed and approved the Risk Management Policy for 2023</i>
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8 REVIEW OF PERFORMANCE REPORT Q4 2022-2023

The CEO introduced the report, explaining that though there are many items with a 'Green' status, his focus would be on those marked 'Red.'

1.2 was marked Red due to a low response rate but was still a positive outcome for the cases resolved.

2.2 on grazings regulations was marked Red and remains challenging, as the Commission does not have the tools to effect greater change.

3a/3b are Red (3a) and Amber (3b), with the CIS release nearly there but delayed and digital applications started but not getting as far as we would like. The CEO hoped both would record a Green status soon.

3.4/3.5 are Red but the CEO felt the target had been ambitious and, for 3.4 has been around 70% met.

Board members felt it was important to acknowledge that staff are working hard, trying to decrease the backlog but, as the issue persists, the Board must look at alternatives.

In answer to a question on why outstanding casework is not coming down, the CEO explained that it is partly about how we set targets, as these are what throughput is reported against. It was reflected that there are many new staff and a lengthy programme of training underway, and it is important to understand that, in the round. Some things marked 'Red' are hard to get over the line and it is important that staff do not feel demoralised. That is why it is important to have a plan agreed with the Board, so that staff and the public have confidence in the way the Commission is managing the situation.

9 STRATEGIC RISK REGISTER UPDATE Q4 2022-2023

The paper was introduced by the CEO. Questions were raised about the reasoning behind some of the scores detailed in the register. The CEO explained that the way the risks were described affected the score and that it was time for a new draft to be considered by the Board, following Ministerial approval of the Corporate Plan.

The CEO explained further that some of the challenges set were large, which then resulted in a high score. In relation to a question on the scoring at S6 for CIS, the CEO and Convener explained that the risk did not relate to the timing of the new release; it represented the risk of something going wrong because of the roll-out. The score was low because CIS is a stable system and the new release was being tested thoroughly.

It was agreed that before the Board discuss the register at the end of the next quarter, the CEO will present a re-vamped draft for discussion, based on the Corporate Plan.

Action Point 3	<i>Bring re-vamped draft of Strategic Risk Register to June Board for discussion</i>
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10 DRAFT BUSINESS PLAN 2023-2024

The draft Business Plan had been reviewed by the Board in March and now came to the meeting for formal approval, after some minor amendments. The CEO explained that adjustments had been made as more baseline information came to hand. This was why it was being signed off in May, rather than before the start of the reporting year. The Board would prefer the plan to be signed off in March next year and this was noted.

Decision	<i>The Board formally approved the 2023/24 Business Plan</i>
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11 REVIEW COMMISSIONER TRAINING PLAN

Head of Compliance introduced the paper, highlighting training sessions planned for the remainder of the year and asked if anything additional was requested.

The Board confirmed the training detailed in the Annex to the paper represents a complete picture of that offered since March 2022.

Commissioners felt that the best learning often comes from contact with other NDPB's and via such things as mentoring, rather than attending courses and that they should dictate and drive development.

The Convener agreed that Board members need to take an active part in their development, while explaining that it is an audit recommendation to have a training plan in place.

12 REGULATORY CASEWORK UPDATE

The Director of Operations and Policy introduced the paper, with the Convener asking if there were any questions. In response to a query on the outstanding case total, Director of Operations & Policy explained that the total has been consistently measured for some years, because there needs to be consistency in what is counted, for reporting purposes.

The CEO explained further that the measure is based on cases not yet decided, because this measure most directly relates to customer needs; but that we would like to develop a wider picture. Director of Operations & Policy reminded members that a paper had been presented a few months ago, which showed casework in the round and consideration needs to be given to the level of resource required to produce different statistical information.

It was reflected that the graphs accompanying the paper showed a positive result, with the rise in live cases slowing and reaching a plateau. Commissioners wished to record thanks to staff for their efforts, and agreed the onus is on the Board to set strategic objectives to bring the numbers down.

13 REGULATORY TRAINING PROGRAMME OVERVIEW

The Commission Learning & Development Officer joined the meeting, with the Director of Operations & Policy providing the context for the paper, after Board members had requested more information on the training programme for new Regulatory staff.

The Learning & Development Officer was praised for the quality of the paper, with Commissioners expressing surprise at how much training new staff must take on and then learn to apply in practice. The Officer confirmed that a detailed training programme is required to support staff, due to the complexity of crofting regulation and the variety of scenarios they are faced with. A full training programme helps the Commission hold on to high calibre staff and is therefore a sound investment.

It was recognised that, as with many aspects of work in a small organisation, resilience is a challenge, with only one training officer to co-ordinate support. Board members felt that gaining an understanding of the elements that need to be covered in the training programme supports the need for any streamlining that is possible.

The Learning & Development Officer reported that staff take pride in doing a job well but the complexity, over time, increases in casework, rather than decreasing. It grows incrementally where there is more overlap, in Registration for instance. It has previously been classed as an administrative role but is much more than that, with legislative and technical provisions to understand. Staff are also aware of how complex regulation is for crofters.

Members agreed that a common denominator is the complexity of crofting law. The Convener suggested that the Board should set aside an afternoon session at a future meeting to discuss this, with a view to then arranging a meeting with the Cabinet Secretary. The CEO agreed to arrange this and to send the training paper to sponsor division, to highlight the points raised.

Action Points 4 & 5	<i>Circulate Regulatory Training paper to sponsor division and allocate afternoon Board meeting session to discuss incremental weight of crofting regulation and the impact this has on casework throughput.</i>
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14 SCOTTISH LAND MATCHING SERVICE AND CROFTING

Development Officer Karen Macrae joined the meeting at this point. The Convener reflected that this issue had been discussed previously at a Board meeting in 2021. However, the CEO explained that the context was now different, with the Scottish Government wanting the Commission to do some serious work on succession and the Land Matching Service up and running. There are potential benefits to working more closely, to give the Commission an outlet to strengthen work on succession.

There was concern that the staff resource required, and the objective of the proposed work were not quantified in the paper and that it lacked targets. There was also a question mark over how the work would dovetail with obligations under the assignation process and concern about spreading resources too thinly and trying to do too much.

For context, the CEO explained that Outcome 2 of the Business Plan makes succession and transfer of crofts the top priority for the Development team. They would lead on liaison with SLMS, with a Milestone to launch a campaign by July 2023. Development Officer explained that the SLMS service includes crofting but at present there are no explicit links with the Commission. The team would like to work more closely with SLMS, to effectively signpost where there is demand for crofts.

The CEO confirmed that the Commission is prioritising casework and staffing the Regulatory team, but the work of the Development team is also important. The Board concluded that, though the work outlined may be supported in principle, more information is required. The CEO agreed to meet with SLMS to discuss objectives, along with the Director of Operations & Policy and report back.

Action Point 6	Arrange meeting with SLMS to discuss objective of engagement with Commission
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15 DIGITAL APPLICATIONS – FUTURE ROLLOUT REVIEW

Director of Corporate Services took the Board through the paper, explaining the report from Brodies was attached in full, and sets out the options for decision. He explained that the process used for a hard copy wet signature offers the same assurance as a basic electronic signature. There is no legal onus on the Commission to require verification of signatures. The recommendation is to make the digital applications available to the public and offer a simple electronic signature, making the digital route the primary route for applications.

The Board discussed the various levels of assurance outlined in the paper, relative to high value applications such as lettings and assignments, agreeing that the issue came down to the risk appetite of the Board, in relation to the low-level risk of fraud. It was agreed that the wording on the Privacy Notice could be adjusted and likewise on the Disclaimer.

Director of Corporate Services confirmed the Commission has security measures in place to counteract the risk of certain types of fraud. He confirmed that the necessary changes to allow the online applications to go live could be done quickly, following the Board's decision. At its simplest level, it could be done straightaway.

Commissioners wished to see a media campaign, highlighting the change and priority to be given to digital applications as the preferred route. It was agreed that the Board would be sent a copy of the media strategy for the rollout.

The Board approved the simple signature level outlined in the paper, with an update to the disclaimer wording.

Decision	<i>The Board approved the adoption of a simple electronic signature, and that the disclaimer wording should be amended. A letter will be sent to the address on file as a check against fraud.</i>
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Action Point 7	<i>Circulate media strategy to Board to cover digital applications rollout</i>
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16 STAFF SURVEY 2022 – SUMMARY OF FINDINGS

Director of Corporate Services went over the main findings of the survey, reporting that the turnout had been quite good, with mainly positive results, compared to the wider Scottish Government. The Action Plan is being taken forward by the Staff Engagement Group. The Convener wished to convey his appreciation of the work undertaken by staff, especially in light of the discussion on the regulatory training programme.

Concern was raised that three members of staff had reported being bullied or witnessing bullying. It was agreed that all staff should feel empowered to speak out if they are feeling bullied or fear this is happening to someone else. This led on to the Convener highlighting concerns that staff can sometimes receive abusive calls (or emails) and that this is not to be tolerated. The Director of Corporate Services confirmed that the Commission has a zero-tolerance policy on bullying and that abusive behaviour towards staff will not be tolerated.

17 REPORT ON MEETINGS WITH SPONSOR DIVISION

The Convener and CEO reported that two meetings had taken place, one with the Director General, which had been very supportive and one on the Crofting Bill.

18 DATE OF NEXT MEETING

27 June 2023 – Board Training in Great Glen House
28 June 2023 - Board Meeting in Great Glen House

19 ANY URGENT BUSINESS

No urgent business had been reported.

At the close of the public session of the meeting, the Convener wished to record the Board's condolences to the CEO on the passing of his father and their appreciation that he was able to make the Board meeting today, despite travelling back from Australia.

20 EXCLUSION OF THE PRESS AND PUBLIC

The Convener thanked everyone for their input and closed the meeting at 2pm.

<i>Action Point 8</i>	<i>Concise paper on short-term measures to be drafted for June Board meeting, to include emergency time-limited actions to significantly reduce the backlog, within a timescale reflecting the urgency of action required, focusing on Assignment as an application type but not exclusively, providing a list of ideas and issues.</i>
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