



**CROFTING COMMISSION  
COIMISEAN NA CROITEARACHD**

***COMMISSION MEETING***

***28 JUNE 2023***

**CROFTING COMMISSION MEETING  
ST KILDA, GREAT GLEN HOUSE  
28 JUNE 2023 AT 0930 hrs**

**AGENDA**

<b>1 APOLOGIES</b>	<i>Oral</i>	<i>Standing Item</i>
<b>2 DECLARATIONS OF INTEREST</b>	<i>Oral</i>	<i>Standing Item</i>
<b>3 DRAFT MINUTES FROM 10 MAY 2023*</b>	<i>Minutes</i>	<i>For approval</i>
<b>4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING (of 10 May 2023)</b>	<i>Paper</i>	<i>For info</i>
<b>5 MATTERS ARISING FROM PREVIOUS MINUTES</b>	<i>Oral</i>	<i>Standing Item</i>
<b>6 REPORT ON PROGRESS AGAINST STRATEGIC OUTCOMES</b>	<i>Paper</i>	<i>For info</i>
<b>7 DRAFT STRATEGIC RISK REGISTER</b>	<i>Paper</i>	<i>For discussion</i>
<b>8 ANNUAL CONSIDERATION OF STRATEGIC RISK IDENTIFICATION AND APPETITE</b>	<i>Oral</i>	<i>For discussion</i>
<b>9 REGULATORY CASEWORK UPDATE</b>	<i>Paper</i>	<i>For info</i>
<b>10 DIGITAL APPLICATIONS ROADMAP + COMMS STRATEGY</b>	<i>Paper</i>	<i>For info</i>
<b>11 2022 CROFTING CENSUS REPORT</b>	<i>Paper</i>	<i>For discussion</i>
<b>12 TIER 3 CASEWORK PROCESS</b>	<i>Paper</i>	<i>For discussion</i>
<b>13 SHORT TERM MEASURES TO ENHANCE CASEWORK THROUGHPUT</b>	<i>Paper</i>	<i>For discussion</i>
<b>14 REPORT ON MEETINGS WITH SPONSOR DIVISION</b>	<i>Paper</i>	<i>Standing Item</i>
<b>15 DATE OF NEXT MEETING</b> 16 August 2023 – St Kilda		
<b>16 ANY URGENT BUSINESS</b> <ul style="list-style-type: none"><li>• <i>Update on CEO recruitment</i></li></ul>	<i>Oral</i>	<i>For info</i>
<b>17 EXCLUSION OF THE PRESS AND PUBLIC</b>		

\*Not included in public copy

# **APOLOGIES – ORAL**

## **DECLARATIONS OF INTEREST – ORAL**

# CROFTING COMMISSION MEETING

## 28 June 2023

Report by the Chief Executive

### Review of Action Points from 10 May 2023

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE	DATE COMPLETED	COMMENTS
1	Speak to David Nicholl to ascertain whether 'On Board', as a training company, can deliver sessions focused on positive practice rather than negative examples	CEO	Before June training	05/06/2023	Training on Scrutiny & Challenge scheduled for 27 June. Bill will talk to David beforehand.
2	Allocate afternoon session at future Board meeting for discussion on AFC issues, detailed as Recommendations in Update paper from committee Vice Chair	CEO	June Board for recommendation 3, October Board for recommendation 1 & 4, Nov Board for recommendation 2		Convener has confirmed dates
3	Bring revamped Strategic Risk Register to June Board as a draft for discussion, aligned to new Corp Plan	CEO	June Board		
4	Circulate Regulatory training paper to sponsor division	CEO	Immediate		
5	Allocate future afternoon session at Board meeting to discuss making representations to Cab Sec on incremental weight of crofting regulation under the present Act and impact of this on throughput.	CEO	August Board		
6	Arrange meeting with SLMS to discuss what they wish to achieve via engagement with the Commission.	CEO/Director of Operations & Policy	Before 14 June	30/05/2023	
7	Circulate Media Strategy to Board in relation to Digital Applications, to encourage take up.	Director of Corporate Services	Now/soon as possible		
8	Draft concise paper on short- term measures, to include emergency time-limited actions to significantly reduce the backlog, within a timescale reflecting the urgency of action required, focussing on Assignment as an application type- but not exclusively, providing a list of ideas and issues.	CEO	June Board		

**MATTERS ARISING FROM PREVIOUS MINUTES – ORAL**

# CROFTING COMMISSION MEETING

28 June 2023

Report by the Chief Executive

## Report on Progress against Strategic Outcomes

### SUMMARY

**This paper invites the Board to consider an overview of progress against the aims set out in the 2023-2028 Corporate Plan.**

### BACKGROUND

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

The Commission’s Corporate Strategy is set out in the Corporate Plan, which has to be produced at least every five years and must be agreed by the Cabinet Secretary before it is published. The current Plan, which runs to 2028, was initially approved in February 2023 and published in March 2023.

Separately, On-Board Training recommended that it was good practice to review the Corporate Plan and at least annually, to ensure that its content keeps pace with the changing priorities, opportunities and challenges for the Commission and the Scottish Government. Should the Board wish to change its Corporate Plan at any time, this would require the approval of the Scottish Ministers.

It is proposed to implement these two recommendations jointly, and report to the Board every year, both on accumulated progress against the Corporate Plan and on whether there should be any reviews of the content of the Plan itself. This paper is the first such report on the 2023 Corporate Plan.

The Board should note that previously, reporting on the progress against the Corporate Plan has been done every six months, so we are now proposing to reduce the frequency of that aspect of these reports. However, the more detailed KPI reporting against successive Business Plans will of course continue on a quarterly basis, so that the higher level recap provided by the reports against the Corporate Plan should contain few new findings; for that reason, annual reporting seems sufficient.

## REVIEW OF THE CONTENT OF THE CORPORATE PLAN

At this early stage in the life of the new Corporate Plan, it is recommended that there is no need for additions, deletions or other changes to the above objectives as agreed with the Scottish Government in February.

The heart of the Corporate Plan is 23 commitments grouped under 4 'Outcomes'. The commitments are supported by 13 "success factors" of which 4 are numerical targets, 4 are measures, and the other 5 are descriptors without necessarily being measurable. The details are:

### **Outcome 1: Crofting is regulated in a fair, efficient and effective way**

Commitments – We will:

- Deliver, by the end of 2023, a significant improvement in turnaround times for regulatory applications; and take all available actions to reduce the number of pending decisions
- Continue to ensure that our policies and decisions are fully compliant with the Crofting Acts
- Provide high quality information to crofters, agents and solicitors, helping them to navigate the application process
- Maintain the accuracy of the information that is openly available through the online Register of Crofts
- Be accessible to applicants and other enquirers, answering their queries within reasonable timescales, as set out in our Standards of Service
- Roll out online applications and online checks of progress, making it easy for crofters, solicitors and agents to use them

Success factors:

- TARGET: The number of pending regulatory decisions will fall below and then remain below 700.
- MEASURE: We will see improved turnaround times for Regulatory applications
- MEASURE: We will see improved Customer Satisfaction rates
- DESCRIPTOR: When our decisions are challenged, the great majority of them will be upheld by the Land Court

### **Outcome 2: Crofting continues to thrive and to evolve.**

Commitments – We will:

- Communicate effectively with crofters, stakeholders and the public to explain and demystify how the crofting system works, including signposting to other specialist sources of advice, information and support
- Support existing and new grazings committees to manage the common grazings actively
- Develop a network of assessors, grazings clerks and others to encourage a culture of residency, active use of croft land, and turnover of crofts
- Work with Scottish Government and others to identify priorities for legislative change
- Support crofters and landlords who wish to take forward joint initiatives on common grazings, especially to enhance biodiversity and carbon sequestration
- Facilitate decrofting for affordable housing developments when this is compatible with our regulatory responsibilities



Success factors:

- **TARGET:** The number of common grazings with a committee in office will remain above 500.
- **MEASURE:** We see an increase in the rate of turnover of crofts and the number of new entrants to crofting.
- **DESCRIPTOR:** We see enhanced use of croft land, including common grazings, both for traditional and innovative purposes.

### **Outcome 3: Crofts are occupied and used**

Commitments – We will:

- Provide information to crofters explaining their responsibilities and their options for resolving any breaches of duty
- Take action on reported and other suspected breaches of duty, by tenant crofters and owner-occupier crofters
- Require absentee landlords of vacant crofts to let them
- Seek action from crofters who do not submit a census return, to ensure they are complying with their duties
- Work with landlords, grazings committees and communities to encourage adherence to crofting duties

Success factors:

- **TARGET:** At least 200 breaches of duty, unresolved successions and vacant crofts will be permanently<sup>1</sup> resolved through Commission action, in the period from April 2023-March 2028
- **MEASURE:** We see a reduction in the number of crofts which are legally vacant

### **Outcome 4: Our workforce is skilled and motivated, and our governance processes are best practice.**

Commitments – We will:

- Update our Workforce Plan and our Medium Term Financial Plan annually
- Commit resources to Board and staff training to ensure that everyone is equipped to fulfil their role
- Maintain a 'no-blame' teamwork culture in which Board and staff work together in their respective roles
- Strive for 100% accuracy in the Register of Crofts and other information that we publish, and uphold high standards in the correct use of information in accordance with the Data Protection Act
- Commit to a date for the Crofting Commission to become 'net zero' as soon as possible
- Deliver a secure and fair election for Commissioners in March 2027

---

<sup>1</sup> Not including breaches temporarily resolved e.g. through sublet or consent to be absent

Success factors:

- **TARGET:** Our Employee Engagement Index will increase by 5 percentage points above the 2021 level, and will then remain above the UK civil service average.
- **DESCRIPTOR:** We see proactive Workforce Planning and forward financial planning within the organisation
- **DESCRIPTOR:** We use Business Planning effectively and consistently achieve a strong majority of our annual targets
- **DESCRIPTOR:** We use technology effectively and exercise control over our direct carbon emissions
- **DESCRIPTOR:** Our financial budgeting and control will continue to be recognised as exemplary

## PROGRESS AGAINST CORPORATE OUTCOMES

The Board will continue to receive quarterly reports against the Key Performance Indicators (KPIs – both milestones and measures) set out in each year’s Business Plan. The purpose of the Corporate Plan reporting is to supplement this by giving an aggregated overview of progress with the Commission’s top objectives over the period covered by the Corporate Plan.

For this purpose, we propose to use the same format as was used since 2020 to report on the progress against the previous Corporate Plan. As before, in order to limit the length of these reports, we propose to report on the majority of the commitments and measures in the Corporate Plan, including all those that can be allied to targets, measures or descriptors; but will comment on others only when there is a particular development to report.

The attached report (**Annex A**) describes overall progress against the aims set out by the Board in the Corporate Plan 2023-2028. However, as this report is being written in advance of the first quarterly KPI returns under the new Corporate Plan, the level of detail is limited.

The colour scheme used for highlighting areas of progress or of concern is as follows:

Good progress	Reasonable progress	Cause for concern	No report / not due yet
---------------	---------------------	-------------------	-------------------------

Impact:	Comments
Financial	<b>The priorities and aims set out in the Corporate Plan have provided the context for the allocation of the Commission’s resources.</b>
Legal/Political	
HR/staff resources	

## RECOMMENDATIONS

**The Board is invited to approve the proposals to**

- **make no changes to the 2023 Corporate Plan at this time.**
- **continue the attached format for high level reporting against the Corporate Plan, but now on an annual basis.**

**It is recommended that the Board should note the Progress Report at Annex A.**

Date 6 June 2023

Author Bill Barron, CEO

**PROGRESS AGAINST CORPORATE PLAN OUTCOMES AND SUCCESS FACTORS**

<i>Outcome and Success Factors from 2023 Corporate Plan</i>	<i>Overall Progress to June 2023</i>
<b>Outcome 1: Crofting is regulated in a fair, efficient and effective way</b>	
<p>We will deliver, by the end of 2023, a significant improvement in turnaround times for regulatory applications; and take all available actions to reduce the number of pending decisions</p> <p>TARGET: The number of pending regulatory decisions will fall below and then remain below 700.</p> <p>MEASURE: We will see improved turnaround times for Regulatory applications</p>	<p>In the first two months of the financial year, the outstanding caseload fell from 1052 to 995. Staff training continues to progress well.</p> <p>Substantial Improvement Plans under development and a range of initiatives have been launched, or prepared, to assist with the efficiency of case handling. The indicators suggest further improvements may be expected but the target of 700 remains a long way off.</p> <p>Turnaround times started to improve in Q4 of 2022-23 after worsening for several previous quarters.</p>
<p>We will continue to ensure that our policies and decisions are fully compliant with the Crofting Acts</p> <p>DESCRIPTOR: When our decisions are challenged, the great majority of them will be upheld by the Land Court</p>	<p>Few decisions have been lost on appeal in recent years, but the increased pace of throughput has heightened the risk of errors by staff, and a new Board of commissioners brings with it a risk of inconsistent decisions at Tier 3.</p>
<p>We will be accessible to applicants and other enquirers, answering their queries within reasonable timescales, as set out in our Standards of Service</p> <p>MEASURE: We will see improved Customer Satisfaction rates</p>	<p>Backlog of enquiries has been overcome and new enquiries are now getting responses within four weeks, even if they are complex and require investigation.</p> <p>However, there is a legacy of relatively high numbers of older cases which require resolution.</p>
<p>We will roll out online applications and online checks of progress, making it easy for crofters, solicitors and agents to use them.</p>	<p>Brodies report confirmed the validity of online applications and recommended certain steps that can be taken to improve our defences against fraudulent applications, online or on paper.</p> <p>Most application types are now live and more are being rolled out.</p> <p>Publicity to encourage take up about to commence.</p>

<b><i>Outcome and Success Factors from 2023 Corporate Plan</i></b>	<b><i>Overall Progress to June 2023</i></b>
<b>Outcome 2: Crofting continues to thrive and to evolve.</b>	
<p>We will support existing and new grazings committees to manage the common grazings actively</p> <p>TARGET: The number of common grazings with a committee in office will remain above 500.</p>	<p>Grazings team has managed to keep 500 committees in office even when there has been a vacancy in the team.</p>
<p>We will develop a network of assessors, grazings clerks and others to encourage a culture of residency, active use of croft land, and turnover of crofts.</p> <p>MEASURE: We see an increase in the rate of turnover of crofts and the number of new entrants to crofting.</p>	<p>New panel of assessors recruited by the Development Team and appointed in May 2023 for an initial three year period.</p> <p>New entrant figures are extracted six months in arrears. The figures for 2021-22 show a modest increase.</p>
<p>We will work with Scottish Government and others to identify priorities for legislative change.</p>	<p>CC Board and officials have considered the content of the next Bill carefully and have made several inputs to the proposals now being taken forward by Scottish Government in discussion with the Commission and other stakeholders.</p>
<p>We will support crofters and landlords who wish to take forward joint initiatives on common grazings, especially to enhance biodiversity and carbon sequestration.</p> <p>DESCRIPTOR: We see enhanced use of croft land, including common grazings, both for traditional and innovative purposes.</p>	<p>Guidance has been in place on our website since 2022. The Commission is involved in SG-led thinking about the mechanics for these initiatives; but many questions and uncertainties remain.</p>

<b>Outcome and Success Factors from 2023 Corporate Plan</b>	<b>Overall Progress to June 2023</b>
<b>Outcome 3: Crofts are occupied and used</b>	
<p>We will take action on reported and other suspected breaches of duty, by tenant crofters and owner-occupier crofters</p> <p>TARGET: At least 200 breaches of duty, unresolved successions and vacant crofts will be permanently<sup>1</sup> resolved through Commission action, in the period from April 2023-March 2028</p>	<p>45 breaches, unresolved successions and vacant crofts permanently resolved by Commission action in 2022-23. RALU team action continues and is expanding as the team capacity increases with training.</p>
<p>We will require absentee landlords of vacant crofts to let them</p> <p>MEASURE: We see a reduction in the number of crofts which are legally vacant</p>	<p>New system for inviting community reports of absentee landlords in preparation, and to be launched during 2023.</p>
<p>We will seek action from crofters who do not submit a census return, to ensure they are complying with their duties</p>	<p>2022 Census response rate was disappointingly low.</p> <p>Nevertheless, plans in place to write to a selection of non-respondents, as was done last year.</p>

<sup>1</sup> Not including breaches temporarily resolved e.g. through sublet or consent to be absent

<b>Outcome and Success Factors from 2023 Corporate Plan</b>	<b>Overall Progress to June 2023</b>
<b>Outcome 4: Our workforce is skilled and motivated, and our governance processes are best practice.</b>	
<p>We will update our Workforce Plan and our Medium Term Financial Plan annually.</p> <p>DESCRIPTOR: We see proactive Workforce Planning and forward financial planning within the organisation.</p> <p>DESCRIPTOR: Our financial budgeting and control will continue to be recognised as exemplary.</p>	<p>Budget for 2023-24 approved and being actively managed.</p> <p>Other elements not due yet.</p>
<p>We will commit resources to Board and staff training to ensure that everyone is equipped to fulfil their role</p> <p>DESCRIPTOR: We use Business Planning effectively and consistently achieve a strong majority of our annual targets.</p>	<p>Business Plan for 2023-24 approved by the Board and published in May.</p> <p>Board training plan in operation, and reviewed by the Board in May. Agreement in principle for the Board to take a fuller hand in deciding their own training needs.</p> <p>Substantial in-house training for recently recruited regulatory staff. Training budget to allow for other staff training needs.</p>
<p>We will maintain a ‘no-blame’ teamwork culture in which Board and staff work together in their respective roles.</p> <p>TARGET: Our Employee Engagement Index will increase by 5 percentage points above the 2021 level, and will then remain above the UK civil service average.</p>	<p>Employee Engagement Index reached target level in October 2022 (target was originally set before that).</p> <p>Structured conversations between Commissioners and staff to be arranged.</p> <p>Board has decided to invite structured feedback from management in Autumn 2023.</p>
<p>We will strive for 100% accuracy in the Register of Crofts and other information that we publish, and uphold high standards in the correct use of information in accordance with the Data Protection Act.</p>	<p>Annual census continues to be used as a basis for checking the accuracy of the information in the RoC.</p> <p>Guidance on Data Protection and GDPR issues is in place for all staff and refresher training is provided to staff and commissioners annually.</p>
<p>We will commit to a date for the Crofting Commission to become ‘net zero’ as soon as possible.</p> <p>DESCRIPTOR: We use technology effectively and exercise control over our direct carbon emissions</p>	<p>Business Plan commitment to create an Environmental Team and publish an Emergency Climate Plan by October 2023</p>

# CROFTING COMMISSION MEETING

28 June 2023

Report by the Chief Executive

## Draft Strategic Risk Register

### SUMMARY

**This paper invites the Board to consider a substantially rewritten Strategic Risk Register and advise whether it meets the needs of the Board or requires modification. An updated version will then be presented to the Board at its August meeting.**

### BACKGROUND

The Strategic Risk Register (SRR) is presented to the Board every quarter, and focuses on risks that would impede successful achievement of the Commission's strategic objectives as set out in the Corporate Plan. As the Corporate Plan has itself been renewed in 2023, the SRR also required to be refreshed.

The Board had discussed the previous Strategic Risk Register at its May meeting, and several Commissioners commented that the scores were counter-intuitive, with risks appearing to be scored higher or lower according to how the risks had been worded, rather than their seriousness to the Commission or crofting. In writing the new SRR, officials have endeavoured to avoid this problem by ensuring that most of the risks describe the likelihood and the effect of falling short of our Corporate targets as set out in the Corporate Plan and Business Plan.

### CURRENT POSITION

A substantially new draft SRR is attached at **Annex A**, for the Board's consideration.

Seven of the risks are based directly on the four Corporate Outcomes from the Corporate Plan. Risk S8 is the exception, being concerned with the successful implementation of the next release of CIS.

The SRR scoring system combines two factors – the risk likelihood (how likely it is to go wrong) and the risk impact (how serious it would be if it did). These are combined to give an overall risk score. In the draft SRR attached, it is considered that:

The most likely risks to go wrong ("current likelihood") are:

- S2: Take up of online applications is slow. This is impacted by RoS forms and cheque payments, both of which require a change of legislation / process on the part of RoS.
- S7: Future budget allocations do not keep pace with inflation.
- S3: There is a decrease in the rate of turnover of crofts and in the number of new entrants. The use of croft land for traditional and innovative purposes decreases

The most serious risks if they did go wrong (“current impact”) are:

- S7: Future budget allocations do not keep pace with inflation.
- S1: The number of outstanding cases falls slowly or not at all.
- S5: Complexity of RALU cases restricts the RALU team’s permanent resolution of breaches to below target levels

The most concerning risks overall (“current risk score”), are based principally on the current impact, taking account also of current likelihood. In the attached draft risk register, the highest overall risks happen to be the same as those with the highest impact:

- S7: Future budget allocations do not keep pace with inflation.
- S1: The number of outstanding cases falls slowly or not at all.
- S5: Complexity of RALU cases restricts the RALU team’s permanent resolution of breaches to below target levels

Columns J-N on the right hand side of the Register indicate management’s view of how adequately these risks are being managed, and how far it is possible to reduce the risk scores, and by when.

<b>Impact:</b>	<b>Comments</b>
Financial	<b>The analysis of risks in the SRR influence the allocation of staff and other resources within the Commission.</b>
Legal/Political	
HR/staff resources	

<p><b>RECOMMENDATION</b></p> <p><b>It is recommended that the Board should discuss the draft SRR and advise if it meets the needs of the Board or requires modification. An updated version will then be presented to the Board at its August meeting.</b></p>
--

Date 15 June 2023

Author Bill Barron, CEO



Risk Category	Risk ID	Risk Description	Controls in Place	Current Impact	Current Likelihood	Current Risk Score	Change to Risk	Actions Planned	Controls Confidence Level	Target Impact	Target Likelihood	Target Risk Score	Target Date	Risk Owner	Date last updated
Strategic	S1	Outcome 1: The number of outstanding cases falls slowly or not at all.	The regulatory team has been expanded by 40 % since 2022 and is currently at full complement, with training ongoing. Monitoring of casework between different sub teams and work trays is ongoing, with flexibility and resilience in place to relocate resources to address bottlenecks. Support to staff processing casework is high, via the Senior Casework Officers and the Training Officer in addition to line management.	25	3	75	New	Training, which takes 12-18 months for Regulatory Caseworkers, is ongoing and will result in a team with a high level of expertise in summer 2024. Several process improvements are being implemented and planned. These will result in incremental improvements to different aspects of casework processing with a focus on efficiency. The upcoming release of CIS will bring additional efficiencies.	Substantial	10	2	20	Jun-24	Heather Mack	09/06/2023
Strategic	S2	Outcome 1: Take up of online applications is slow. This is impacted by RoS forms and cheque payments, both of which require a change of legislation / process on the part of RoS.	The digital application system currently has the digital journey as the default route that all customers looking to submit an application take for live types, and must opt out of to get a PDF form. Communications have gone out to advise that our forms are changing and that, as such, all applicants should use the website to ensure they have the correct form and avoid rejection.	5	5	25	New	Work is ongoing to develop all remaining application and notification types into a digital journey. The Commission is in discussions with RoS to address the requirement for a signature on RoS forms, and agreement has been reached to change the forms to allow payment methods other than cheque.	Reasonable	1	1	1	n/a	Aaron Ramsay	12/06/2023
Strategic	S3	Outcome 2: There is a decrease in the rate of turnover of crofts and in the number of new entrants. The use of croft land for traditional and innovative purposes decreases	The Commission's website highlights the options available for those no longer wishing or able to use their crofts. RALUT & SGRPID have agreed a protocol for dealing with underused crofts within their Estates. RALU work expanded to tackle, for example, more owner occupier crofters. For those crofts which do become available for the Commission to let, we adopt a proactive policy to prioritise new entrants. Development team initiatives to promote 'living succession'. Material on the CC website specifically highlighting traditional as well as diversification opportunities and the definition of "purposeful use".	10	4	40	New	A third event for crofting landlords is being planned for Argyll area and the team will introduce an element relating to the impact of vacant crofts for communities and land. This will involve close liaison with the RALU team. Assisting the Scottish Land Matching Service to integrate crofting more specifically into the service. This will assist in evidencing the demand for crofts and be of assistance to crofters with no successor in mind. A project to evidence the barriers to succession will be undertaken, initially in Uist, Barra and North West Sutherland with the results being used to inform actions across the entire crofting area. Introduction of the new Crofting Commission Area Representatives and enhanced links with Crofting Communities and grazing committees will improve capacity to disseminate information on croft transfers, diversification and good practice.	Reasonable	10	3	30	Jun-24	Arthur Macdonald	08/06/2023
Strategic	S4	Outcome 2: The number of grazings committees in office falls.	A system of reminders is in place to issue reminder letters to Clerks, one month prior to going out of office and thereafter at 4 weeks and 12 week intervals from the committee end of term date. Projects for long term out of office committees are carried out focusing on specific areas also.	10	2	20	New	Recruitment to fill current vacancy to assist and enhance Grazings team tasks. Delivery of further training to support and encourage the formation of grazings committees to be delivered throughout crofting counties..	Substantial	5	1	5	Mar-24	Finlay Beaton	12/06/2023

Risk Category	Risk ID	Risk Description	Controls in Place	Current Impact	Current Likelihood	Current Risk Score	Change to Risk	Actions Planned	Controls Confidence Level	Target Impact	Target Likelihood	Target Risk Score	Target Date	Risk Owner	Date last updated
Strategic	S5	Outcome 3: Complexity of RALU cases restricts the RALU team's permanent resolution of breaches to below target levels	Staff resources were increased from 4 to 6 B1s in 2022/23. This resulted in one of the experienced B1s being diverted to a significant degree from a casework management role to taking on the role of training the new staff in work of the team. Staff have now received the required training, and therefore all 6 B1s in the complement can focus this year on their casework management roles, which will increase the number of cases that can be initiated and progressed by the team.	25	2	50	New	The Team plan to continue the process of initiating enforcement action with new breach of duties cases identified from the latest census returns. This will include both tenants and owner-occupier crofters who are failing to comply with their residence and/or cultivation duties. The Team will also engage with a selection of non-census returners (both tenant and owner-occupier crofters) whose details would indicate that they are failing to comply with their residence duty. The Team also plan 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.	Reasonable	10	2	20	Jun-24	Joseph Kerr	12/06/2023
Strategic	S6	Outcome 4: Morale, training, retention or recruitment issues hamper delivery of the Commission's objectives.	The Commission Staff Engagement Group (SEG) have developed an action plan in response to the SG 2022 staff survey which addresses the key issues raised. The Commission also operates a hybrid home working policy that allows the majority of staff a very high degree of flexibility when it comes to working from home and custom working patterns. The Commission has full access to the new SG recruitment portal.	5	2	10	New	The SEG will continue to deliver the action plan in response to the 2022 staff survey, and follow up survey conducted within the Commission. The Commission will continue to monitor its hybrid working policy and adapt it as needed.	Substantial	5	2	10	maintain at this level	Aaron Ramsay	12/06/2023
Strategic	S7	Outcome 4: Future budget allocations do not keep pace with inflation.	Medium Term Financial Plan extended to 5 years and has been updated as a result of Scottish Government pay award published in 2022/23. Balanced budget for 2023/24 however for 2024/25 and beyond a significant risk exists. The Commission Executive Team have raised this as a serious concern to the Audit and Finance Committee, who have escalated it to the Board for a strategic discussion.	25	4	100	Static	Ensuring the continued support of the Cabinet Secretary for Rural Affairs, Land Reform and Islands will be critical. As the largest risk and opportunity for the Commission outlined within the MTFP, Grant-in-Aid funding should be actively managed by the Chief Executive and Convener of the Commission, involving regular, open, and transparent discussion with the Scottish Government. The Executive Team are regularly updated on worst to best case scenarios by CC Finance Team. The pay award for 2023/24 is unlikely to be confirmed until Q3/Q4. Finance team to monitor and present adjusted scenarios once more is known.	Reasonable	25	3	75	Jan-24	Chief Executive	05/06/2023
Strategic	S8	The next release of the Commission CIS contains significant changes that, if the release fails, could carry strategic risk implications. If manifested, these risks could subject the Commission to legal, financial, or reputational damage.	The Board was presented a paper in March 23 detailing a modified release process for the next build of the CIS, which will see the Board presented with a pre-release report detailing the potential risks and Commissions level of confidence from various stages of testing. The purpose is to allow the Board to challenge the release and request any additional assurance as they feel appropriate to obtain a confidence level to agree the release.	5	2	10	Static	The Board will be presented a paper covering the pre-release report in August, with a recommendation to ask for further assurance or sign off the release of the build.	Reasonable	1	1	1	Aug-23	Aart Wessels	05/06/2023

**ANNUAL CONSIDERATION OF  
STRATEGIC RISK IDENTIFICATION AND APPETITE - oral**

# CROFTING COMMISSION MEETING

28 June 2023

Report by the Chief Executive Officer

## Regulatory Casework Update

### SUMMARY

This paper provides the routine update on the numbers of regulatory applications discharged and received by the Commission each month and awaiting decision at the end of each month. An additional section explores some further indicators of the operational performance of the Commission over the last 2 years.

### THROUGHPUT OF REGULATORY APPLICATIONS

The number of applications and notifications discharged during the last three months is reported to be **541**. This compares with 480 for Q4 of 2022-23, 442 for Q3 and 496 for Q2. This is a higher rate of discharge than 22-23 and puts the discharged above the received cases for the 2023-24 period thus far. Further details are provided in **Figure 1**, below.

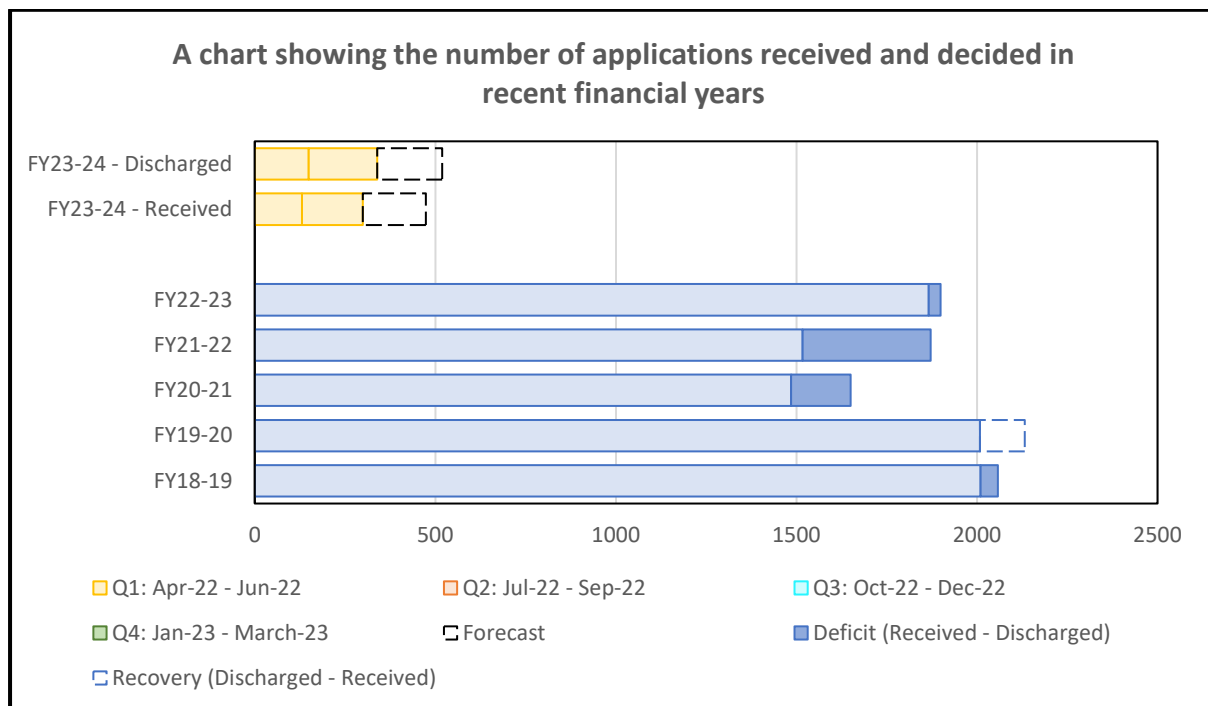


Figure 1 – The number of applications received<sup>1</sup> and discharged<sup>2</sup> in recent financial years. The solid blue bars represent the total applications received for each financial year. In addition to this the darker blue and dashed outline represents the deficit and surplus of applications discharged respectively. The forecast for the coming month is based on the average (mean) from the previous three months.

<sup>1</sup> Some applications which become valid and complete at a date subsequent to the date of initial receipt have been double-counted in the 'received' data shown in Figure 1, yielding over-estimation of deficits.

<sup>2</sup> An application is considered 'discharged' once a decision is taken to approve or refuse the application or when it is confirmed that a decision is no longer required because the application is withdrawn or invalid.

The outstanding balance of undecided applications at the end of May 2023 is reported to be **995**, yielding a three-month rolling average of **1026**. The historic trend is shown in **Figure 2**, below.

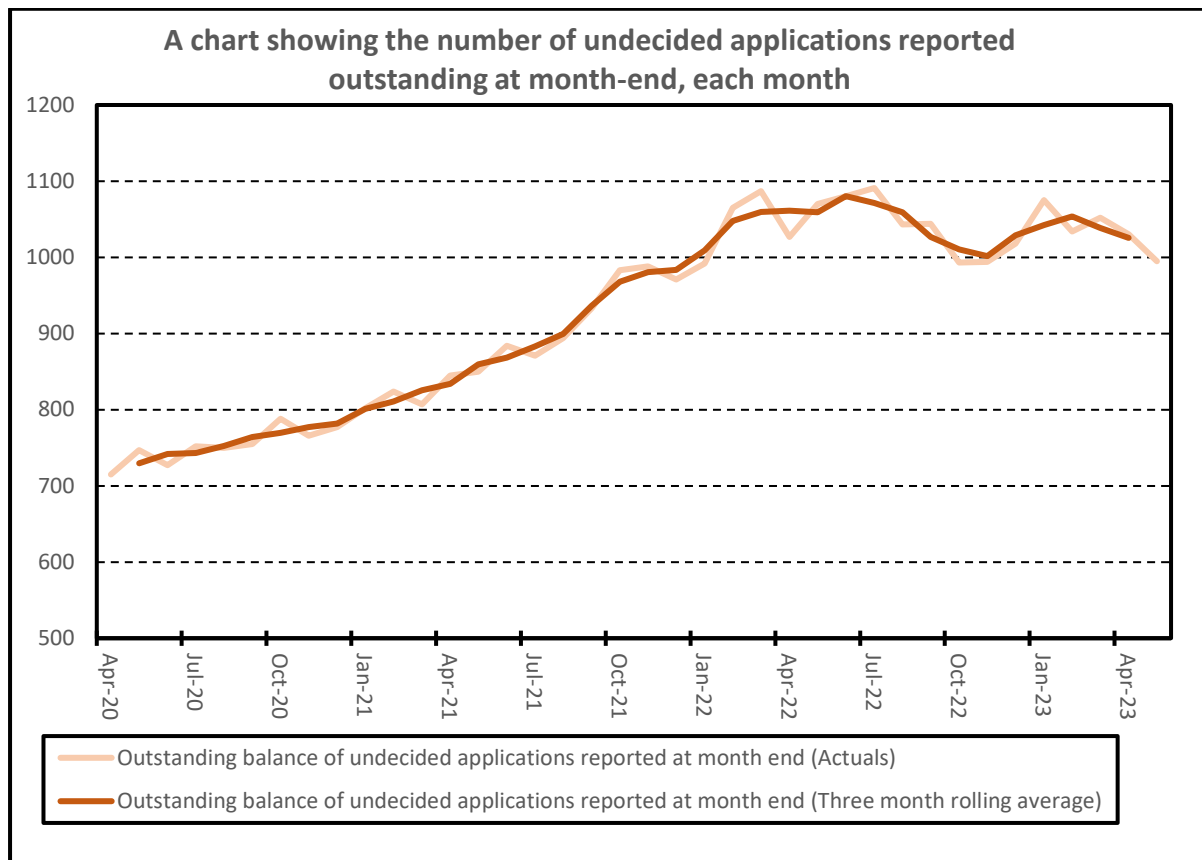


Figure 2 – The numbers of applications estimated<sup>1</sup> to be awaiting decision at month-end, as a three-month rolling average and as reported actuals.

The average (mean) discharges for the year 2022-23 is 155.5 cases a month and the average for the last three months is 180. The target for the next financial year is 2200, which would require an average of 183.3 cases discharged per month.

### Further indicators of the Commission’s operational performance

The outstanding casework figures provide only one perspective on the performance of the Commission in terms of its regulatory casework. These figures show signs of improvement but the outstanding number is variable and reflects cases received, which is out of the control of the Commission, as well as cases discharged. Some additional indicators of the Commission’s operational performance are outlined below. These are not exhaustive and further analysis could be of value, in addition to the consideration of whether different or further indicators should be added to the regular reporting to the Executive team and the Board.

<sup>1</sup> New applications must be assumed to be valid and complete, until they are assessed to be otherwise, creating uncertainty in the total number of valid, complete applications awaiting decision at any point in time. There can also be some variation in the number of applications waiting to be recorded as received at the end of each month so the three-month rolling average is thought to provide a more reliable indicator of performance than the reported actuals.

## **Staff feedback**

In late 2021, regulatory staff reported feeling that work was highly stressful due to the departure of several staff from the team and increasing casework pressures. Due to the changes between then and early 2023, staff have reported they are feeling the benefits of an expanded team and are more able to keep on top of their casework. The strategies to help the team work together effectively and feel fulfilled and supported appear to have been beneficial in staff satisfaction and retention of staff.

The capacity of the team has continued to increase as the expanded team has progressed through the training, and work trays have come down in volume in addition to significant reductions in the time that cases sit in trays waiting for attention. In addition, there are much faster turnaround times for regulatory enquiries with responses within the standard of service of 28 days and often much sooner than this. Staff have reported a considerable change within the team with increased morale and with the expanded team they are able to keep on top of their own casework more easily in addition to benefitting from the additional support from the expanded B2 posts including the Senior Casework Officers.

## **Staffing improvements**

The recruitment and of training of staff into the regulatory team has been a key part of the strategy to address the increase in outstanding casework. This has been a significant undertaking for the team with six separate recruitment exercises since the start of 2022, resulting in the promotion of 7 staff and the recruitment of 13 staff into the regulatory team (out of a complement of 30). This has meant the training requirements of new staff has been higher than it has ever been in the past. The regulatory training board paper to the May 2023 Board outlined how extensive and long this training needs to be. Considering the volume of new staff into Officer and Caseworker roles, remarkable progress has been made in this since the start of 2022. Figure 3 illustrates graphically how the staffing levels for Caseworkers has increased since 2021 and how their level of training has changed. It also illustrates how much progress is yet to be made and that in 2024 the Commission can expect an increased output of work from the Regulatory Caseworkers as their collective training increases significantly. Caseworker Officer training is also going well and six out of the eight geographical areas are covered by dedicated staff with the three newest Officers (including two on temporary promotion) taking on simpler cases.

Specific elements of where the staffing improvements have strengthened different aspects of the casework processing with the Commission is outlined as follows:

1. The work of the Regulatory Support Team (by the addition of Senior Caseworker Officers taking on some of the complex queries/cases and working in tandem with the team to make improvements)
2. The work of the Regulatory Caseworkers (by the addition of 6 new staff)
3. The work of the Caseworker Officers (by the addition of the Senior Casework Officers and currently two additional staff on temporary promotion to provide resilience where needed)
4. The mapping checks undertaken by the GIS team (by the recruitment of a GIS Manager which is currently in progress)
5. Processing of casework at all stages (improvements are being made by the addition of a dedicated Operational Improvement Manager and the Senior Casework Officers)
6. Initial scanning of mail (by the addition of a new scanner and the greater use of online applications)
7. Processing of registration casework (by joining the registration team with the regulatory team since the start of 2023 enabling the closer working of staff and sharing of expertise and resource)

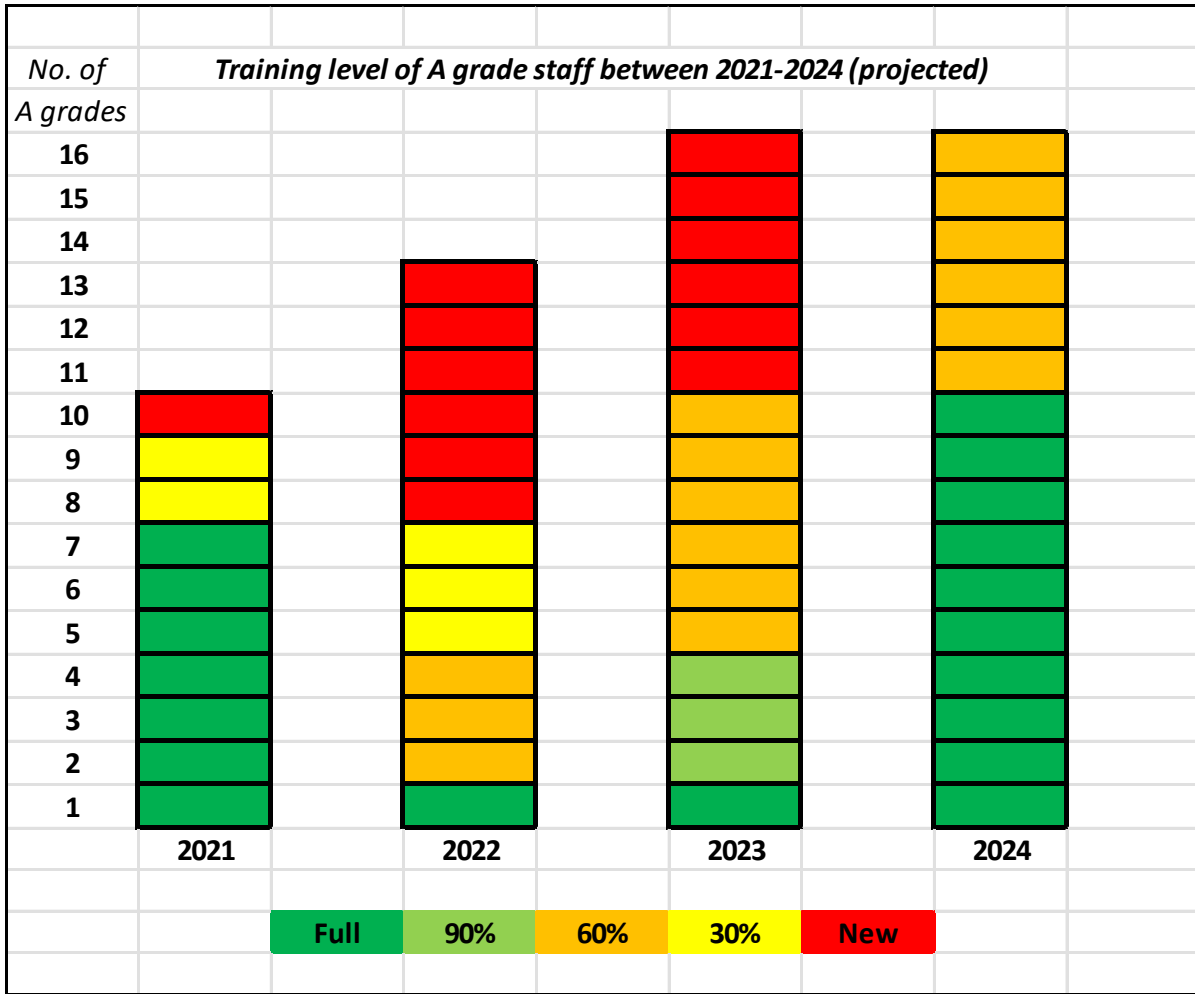


Figure 3 – Changes in Regulatory Caseworkers<sup>1</sup> between 2021 and 2023 in numbers and in their level of training. Level of training is indicated by colour from red representing new staff to green representing fully trained staff. Assuming the training continues as planned and there are minimal staff departures, the level is projected to increase in 2024 as shown.

### Internal case management statistics

The majority of regulatory applications require map checks by the GIS team at the Commission. These are held centrally prior to checking and the numbers of cases in this holding tray is presented in Figure 4. Staffing issues in the GIS team resulted in increases in this tray from mid 2022 until early 2023. This reduced from around February 2023 and was assisted by the temporary diversion of some staff to the team.

<sup>1</sup> Note that this does not include the Regulatory Caseworkers that are specialised in registration.



Figure 4 – The number of cases held in the GIS tray showing cases waiting to have their maps checked by the GIS team, between January 2022 to present. Note that this includes all cases and is not limited to the monthly statistics as quoted in section 1 of this paper<sup>5</sup>, in particular Registers of Scotland applications are checked by GIS but are not included in section 1.

Figure 5 shows a reduction in the number of regulatory cases awaiting allocation to a B1 Casework Officer from mid 2022 to the present. These are for cases that are not able to be assigned directly to the geographical Casework Officer. The reduction has been made possible by the increase in the number of officers trained in different case types.



Figure 5 – The number of cases held in the B1 holding tray waiting to be assigned to a B1 Casework Officer for next steps, which may include an assessment of whether the case can be processed at Tier 1. Note that this includes all cases and is not limited to the monthly statistics as quoted in section 1 of this paper<sup>1</sup>, additional cases will be included such as Registers of Scotland applications and general enquiries.

<sup>1</sup> The cases included in the monthly statistics reported and the cases that are excluded from this are explained in detail in Regulatory Casework Update presented at the [November 2022 board meeting](#) (Paper 9).



## Comparison of the age profile of cases

Figure 6 compares the age of live cases whilst outstanding cases were at their peak in July 2022, with current figures from May 2023. This shows a reduction in cases in the 3-9 months and 9-18 months category, which is a clear indication of the progress made with the more straightforward cases. An increase in cases is seen in the over 18 months category. This is related to the significant focus over the last 2 years in training up new staff in officer and caseworker roles and the small pool of experienced staff to take forward the most complex cases.<sup>1</sup>

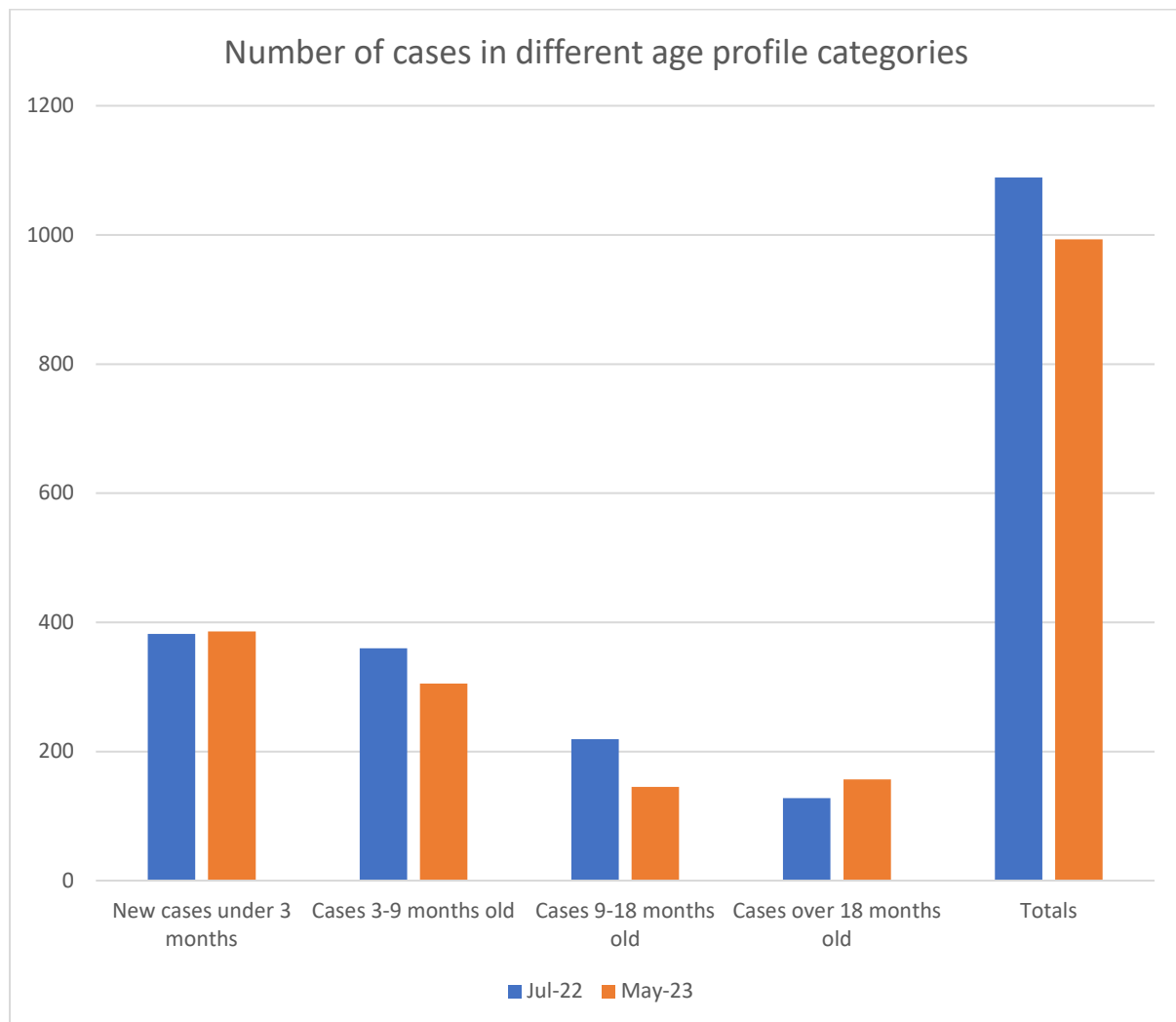


Figure 6 – The number of cases in the different age profile categories in July 2022 and May 2023 respectively. This is the same subset of cases that are outlined in section 1.

<sup>1</sup> The barely changed count of cases under three months old is not significant. This figure fluctuates according to the number of cases received in the previous three months, with only about a quarter of received cases being discharged before the end of the 3-month period in which they were received.

## Cases outstanding for individual case types

Outstanding case numbers for some individual case types are shown in Figure 7 below. This shows a decline in outstanding case numbers for assignments which is likely to be a result of the increased staffing levels in the regulatory team. The lack of a similar decline in decroftings may be related to previous staffing issues in the GIS team, as decroftings require map checks whilst assignments don't. Apportionments are fairly steady as these are slower to turnaround but they have shown an overall decline. Sublet cases outstanding have seen an increase in late 2022, which is associated with a high number of sublets received around this period.

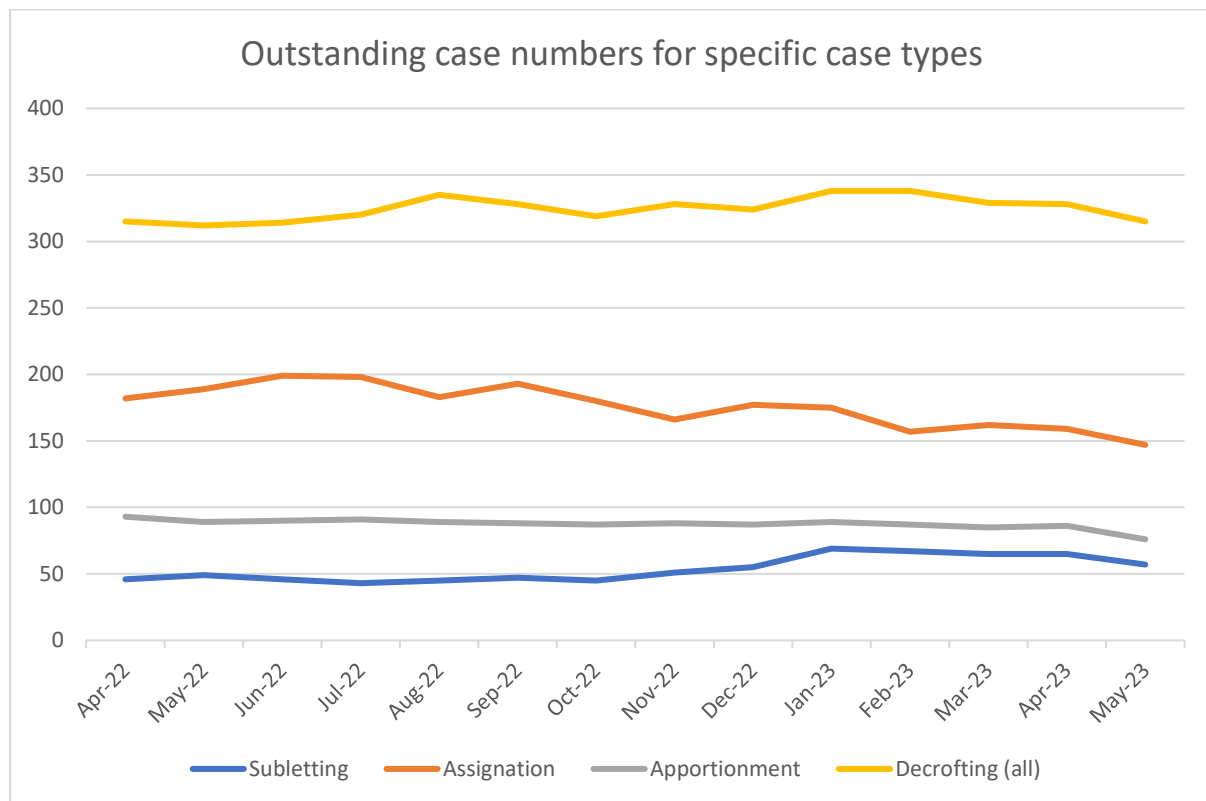


Figure 7 – Outstanding case number for four case types from the April 2022 to May 2023 period. Decroftings have shown no overall reduction or increase over this period; Assignations have shown an overall reduction of 19 %; Apportionments have shown an overall reduction of 18 %; Sublets have shown an overall increase of 24 %.

## Turnaround times for cases

Turnaround times for cases can be measured but there are some challenges due to the variable nature of cases and the requirement to wait for periods of time. Reasons why a case might have to wait includes advertising periods, waiting to be sent further information from the applicant, waiting for the submission of a first registration case or waiting for the conclusion of another relevant case for that croft. An assessment of the simplest cases, defined by those that are assessed at Tier 1 are already registered, is presented in Figure 8. This shows a clear trend for assignments and house site decroftings which reflects the trends seen in other indicators. They show an increase in turnaround times from the latter half of 2021 to the latter half of 2022 and a decrease in turnaround times from the latter half of 2022 to early 2023. Part croft decroftings show less of a clear trend and less variation over this time period, with the longest turnaround time in early 2022.

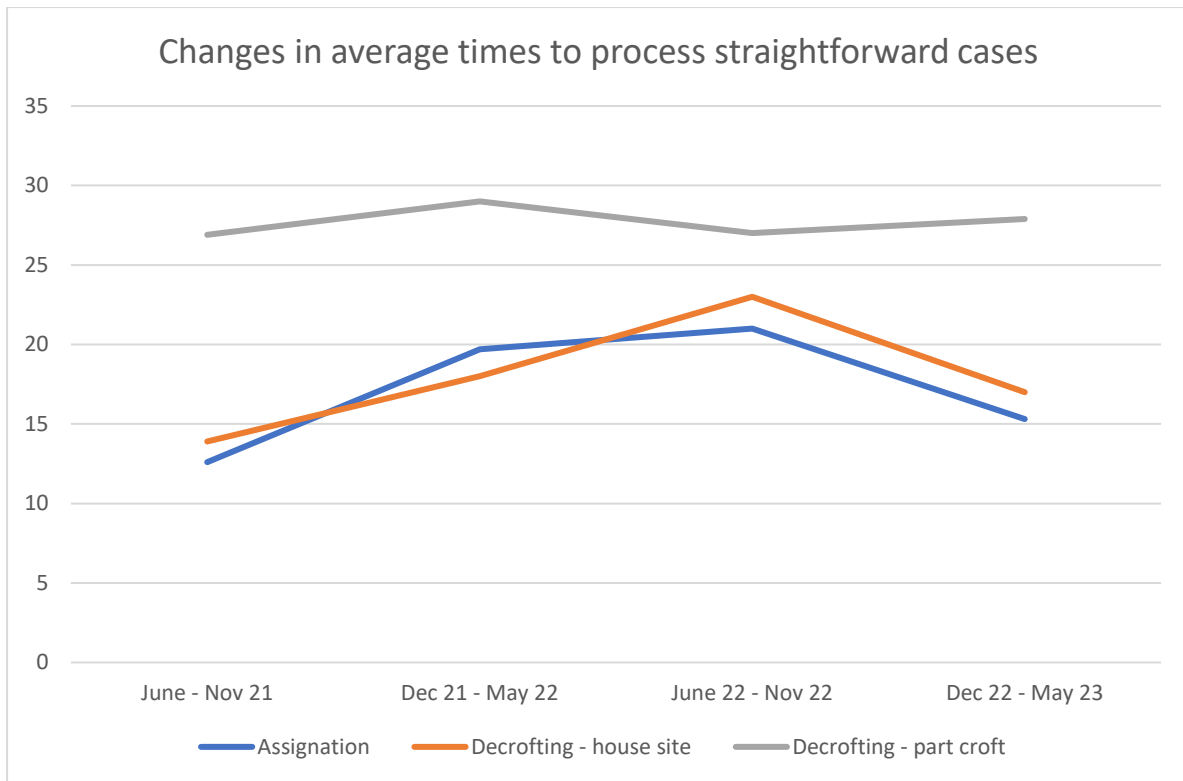


Figure 8 – Average (median) turnaround times (in weeks) for the most common cases over 6 month time periods for the last 2 years. These are for straightforward cases which are defined as those processed at Tier 1 where the croft is already registered.<sup>1</sup>

## CONCLUSION

As seen by the figures above there is a wide range of indicators of the regulatory performance of the Commission. It is evident that the picture is considerably better than it was when the outstanding cases peaked, in July 2022.

In particular, the staffing has been strengthened considerably and this is the main reason that the improvements seen in the casework have been made. The training and gaining of experience will mean continuing improvements in this area. The feedback from staff is also very positive regarding the improvements in the team over the last year and a half.

Clear gains have been made with case turnaround times and it may also be useful to look into this for cases that are not straightforward. Reductions in the outstanding numbers of assignments is apparent but this is not the case with decroftings (Figure 7). Decroftings represent the biggest proportion of casework so this could be a useful focus for improvements. The upcoming expansion of GIS team could also help with this trend.

Cases that take less than 18 months represent the bulk of the casework. These have clearly come down in number since mid 2022 whilst cases over 18 months have increased (Figure 6). It could be valuable to embark on an exercise to assess these cases to see if they can be sped up.

<sup>1</sup> Cases in this category may still be delayed because they are waiting for another case on the holding to conclude.

An increasing focus on process improvements will also help. These are further outlined in Paper 13. The continued focus on team fulfilment and ownership of the work will also continue to protect staff retention and effective team working.

<b>Impact:</b>	<b>Comments</b>
Financial	There will be an enduring requirement for higher staffing levels to deliver regulatory casework.
Legal/Political	Casework delays can have negative implications for the ease of regulatory decision-making and have reputational impacts for the Commission.
HR/staff resources	Sustained high volumes of outstanding regulatory casework mean ongoing pressure on staff resources in casework teams and beyond.

**RECOMMENDATION**

**The Board is invited to note the latest iteration of the monthly statistics about the throughput of decision-making on regulatory applications, in addition to the extra indicators of performance, as of 8 June 2023.**

Date 8 June 2023

Author Heather Mack, Head of Operations

# CROFTING COMMISSION MEETING

28 June 2023

Report by the Director of Corporate Services

## Digital applications roadmap and comms strategy

### SUMMARY

**This paper forms an update for the Board on the current Digital Applications release roadmap, and strategy for comms and promotion of the system.**

### 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.

The Digital applications project initially went live as part of a pilot, however after some issues were identified access to the system was restricted to only professional organisations such as agents and solicitors. In response to these concerns, the Crofting Commission sought external legal advice on the risks of the processes it sought to introduce as part of the digital application process.

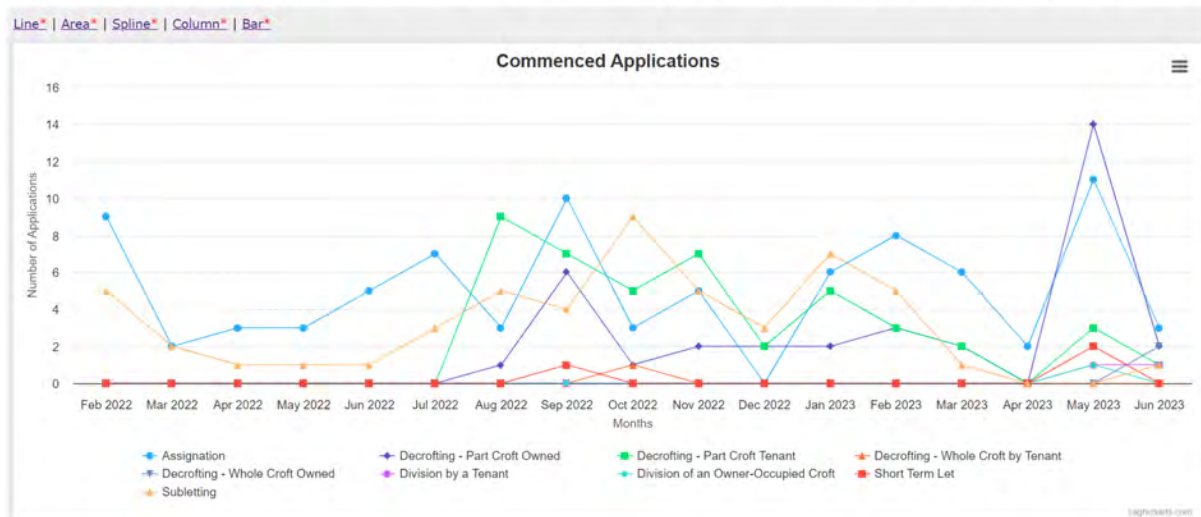
A final report was brought to the Board of Commissioners in the May 2022 Board meeting, and on the back of this the Commission Board agreed an immediate relaunch of the digital application system with all public restrictions removed. In addition to this the Board asked for the Commission to implement a media campaign to announce the benefits of the digital application system for crofters and their agents. This paper forms an update to the Board on that media campaign.

### CURRENT POSITION AND ROADMAP

When considering the best method to promote the digital application system, Commission officials working on the project have separated this into two distinct categories; individual crofters, and professional agents and solicitors.

The process for making a regulatory application to the Commission via its website now has the commencement of a digital application as the default option. This means that any crofter making a regulatory application must, by default, effectively opt out of making a digital application by indicating they cannot use a digital system in order to obtain a PDF paper form. This change was implemented to coincide with the relaunch of the digital application system in the last week of May 2023. The table below shows the number of new digital online applications which have been commenced throughout May and the first 8 days of June of 2023 in comparison to previous months.

Application Type	Feb 22	Mar 22	Apr 22	May 22	Jun 22	Jul 22	Aug 22	Sep 22	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	Tot
Assignment	9	2	3	3	5	7	3	10	3	5	0	6	8	6	2	11	3	86
Decrofting - Part Croft Owned	0	0	0	0	0	0	1	6	1	2	2	2	3	2	0	14	2	35
Decrofting - Part Croft Tenant	0	0	0	0	0	0	9	7	5	7	2	5	3	2	0	3	1	44
Decrofting - Whole Croft by Tenant	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Decrofting - Whole Croft Owned	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2
Division by a Tenant	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	2
Division of an Owner-Occupied Croft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Short Term Let	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	2	0	3
Subletting	5	2	1	1	1	3	5	4	9	5	3	7	5	1	0	0	1	53
	14	4	4	4	6	10	18	28	19	19	7	20	19	11	2	32	10	227



Although the changes to the digital system are still fresh, as at the time of the writing of this paper there is an indication that more applications are being commenced digitally than in previous months due to the public relaunch. The Commission digital applications team will continue to monitor this situation to see if the changes made, and the lifting of the restrictions to the public for all application types, result in an increase in system usage overall.

The Commission digital applications team expect these numbers to grow as new applications come online and general familiarity with the system grows. At the time of writing the status of live digital applications and planned future releases are as follows:

Live	Planned for Jun 23	Planned for July 23	Planned for Aug 23 onwards
<ul style="list-style-type: none"> <li>• Assignment</li> <li>• Part croft decrofting (tenant, OOC and LL)</li> <li>• Whole croft decrofting (tenant, OOC, LL)</li> <li>• Division (tenant, OOC)</li> <li>• Notification – change of contact details</li> </ul>	<ul style="list-style-type: none"> <li>• Letting by landlord of a vacant croft</li> <li>• Letting by OOC</li> <li>• Letting of a grazing share</li> <li>• Sub-letting of a grazing share</li> <li>• Assignment of a share</li> </ul>	<ul style="list-style-type: none"> <li>• Consent to be absent</li> <li>• Notification of change of owner</li> <li>• Notification of death</li> </ul>	<ul style="list-style-type: none"> <li>• Online live status (dependant on new CIS release)</li> <li>• Consent to be absent</li> <li>• Division of house site bequest</li> <li>• Apportionment</li> <li>• Remaining notification types</li> </ul>

Work is ongoing on new application types, however a considerable amount of work has also taken place around rectification work required after recommendations from The Shaw Trust accessibility audit. To note, as a public body the Crofting Commission is required to achieve the WCAG 2.1 accessibility standard to a AA level, which required some integral changes to elements of the digital application system.

It should be noted that the inclusion of real-time online status on the roadmap is linked to the release of build 1063 of the CIS. Although the core coding is in place, and work in ongoing to establish the exact states which will be communicated via the system, this feature is subject to the CIS and release, and as such also subject to any delays incurred with that release. A CIS release assurance report will be presented to the Board for consideration at the 16 August Board meeting. If the outcome of this is a delay in release the online status element will be delayed accordingly.

## **PUBLICITY ACTIVITY**

To publicise the service, the Commission has put out social media messaging and sent articles to various news publications, a list of which is included at **Annex A** and samples of the releases in **Annex B**. In addition to this, Commission staff who attend public shows will offer the public access to a Commission device where they can do a simple process such as confirm and update their contact details. This will spread awareness of the digital options and prompt crofters to create accounts which in future it is hoped will lead to digital applications.

In general terms, the challenge with publicising the digital application system to the public is that any crofter choosing to opt out of a digital application is unlikely to change this approach due to any form of media publicity. Those who are interested and able to make a digital application may not have cause to for many years, meaning the increase in uptake from the public is likely to be a gradual evolution rather than a sudden change.

For professional bodies, such as agents or solicitors, the approach is similar but slightly different. As the majority of repeat applications are likely to come from this source, it is anticipated that this is the audience which will most benefit from active publicity and the benefits of the online dashboard functionality. In addition to publications the Commission has reached out to RPID and FAS to directly mail their stakeholders who complete regulatory application forms as well as informing their own staff networks, and sent an email to all agents and solicitors who commonly submit regulatory applications.

A further challenge with the digital application system remains the Registers of Scotland (RoS) forms and fee payments. The ongoing requirement to send RoS forms and payments in a postal format remains an inhibitor to a full digital journey. This may be particularly the case for professional organisations who would use the system for repeat applications.

The Commission is currently in discussions with RoS to look at if the digital signature solution adopted by the Commission would also be acceptable to them, at which point the hope is that these forms could also be made digital and remove that blocker. Separate to this, the Commission finance team has been exploring ways of accepting digital payments and the hope is that this can be combined with digital applications in the near future, however this is also tied to changes to the RoS forms and it is still expected to be several months before this is possible. The Commission has recently had it confirmed by a regular user of the digital system who is an agent that these blockers are the primary reason why they still submit paper forms and that if they could be removed, they would use the digital system completely.

## **SUMMARY**

The Commission has carried out a number of promotional activities around the digital applications, and this will be repeated periodically as new application types go live over the coming months. Although no dedicated budget is available for this, the Commission comms officer and digital applications team will work with stakeholder organisations and media outlets to promote the new features as widely as possible.

Officials would highlight the promotion of the system will not likely have the scale of impact that is hoped until solutions to the RoS forms and payments can be implemented, and the most likely increases will come from repeat users such of a professional nature.

<b>Impact:</b>	<b>Comments</b>
Financial	n/a
Legal/Political	n/a
HR/staff resources	Wider take up of the digital system will streamline the receipt and checking of cases, with a modest but important saving in the resources required for this stage of processing.

**RECOMMENDATION**

**The Board is invited to note the planned roadmap and promotional activity to date around the digital applications system.**

Date            9 June 2023

Author            Aaron Ramsay, Director of Corporate Services



**LIST OF MEDIA PRESS RELEASES**

**Press releases**

Press releases have been issued to the following publications, though there is no commitment to publish these from any of them.

<p><u>Scottish Provincial Press (SPP) titles:</u></p> <p>Banffshire Journal          Caithness Courier          Forres Gazette          Highland News          Inverness Courier          John O’Groats Journal          Lochaber News          North Star          The Northern Scot          The Northern Times          Ross-shire Journal          Strathspey and Badenoch Herald</p>	<p><u>Other Titles:</u></p> <p>The Oban Times          The Buteman          Dunoon Observer          Argyllshire Advertiser          Campbeltown Courier          Helensburgh Advertiser          Orcadian          Shetland Times          Stornoway Gazette          West Highland Free Press          Guth Bharraidh</p>
<p><u>National Titles:</u></p> <p>The National          The Herald          The Press and Journal          The Scotsman          Farmers Guardian          Scottish Farmer          The Crofter          Farmer’s weekly          NFUS online and print publications          HSPC newspaper          The journal (newsletter of the Law Society)          LandBusiness magazine (newsletter of Scottish Land and Estates)</p>	

**Crofting Stakeholders**

Direct mail sent to all agents and solicitors who regularly submit applications to the Commission

Direct mail sent to 2,500 FAS contacts, and agreement for FAS to promote the service to stakeholders via email

Direct mail sent to RPID officers, and agreement for FAS to promote the service to stakeholders via email

**Social media**

Social Media posts put out advertising the availability of the system (see **Annex B** for example)

## **SAMPLES OF PRESS RELEASES**

### Wording of press releases:

“For immediate release

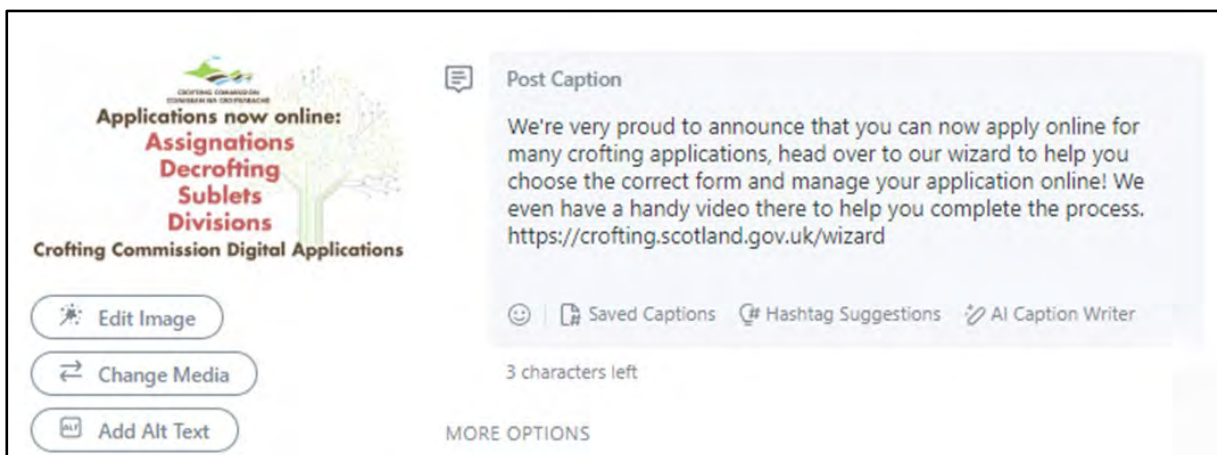
The Crofting Commission has today, Friday 9<sup>th</sup> June 2023, announced that it has launched its digital application system for a range of its application types to the public after a period of testing and evaluation. Crofters and their agents can now apply digitally for Assignations, Decroftings, Sublets and Divisions online. The process has been designed to be simple, efficient and inclusive, and with more application types moving to a digital version over the coming months, it is the best way to make a Crofting Regulatory application.

The system allows the completion of an application at an applicant’s own pace from almost any internet connected device. The intuitive wizard makes sure crofters or their agents get the correct form for what they want to do every time and never have to worry about your application being rejected. The built in validation makes sure that no vital information is missed, which can lead to lengthy delays when using the traditional paper forms. The system is being improved all the time with new features, such as the ability to view the real-time progress of any submitted application form which is coming soon.

If applicants prefer to fill in a paper form, or have already started one, they can upload this and submit it to the Commission digitally, to take advantage of the instant, guaranteed receipt.

The Commission encourages all crofters or their agents to apply via the Crofting Commission website to complete their digital application to ensure the fastest, most secure application type to minimise the risk of any unnecessary delays.”

### Sample of social media posts:



# CROFTING COMMISSION MEETING

**28 June 2023**

Report by the Director of Corporate Services

## 2022 Crofting Census report

### SUMMARY

This paper gives a summary of the result of the 2022 Crofting Census for the Board.

### BACKGROUND

The Crofting Commission (CC) conducts an Annual Notice (census) each year. The purpose of this is to ensure that crofters are compliant with their duties as specified within the Crofters (Scotland) Act 1993 (the Act), and also to ensure that Commission records are as up to date as possible. This is the second year that the Crofting Commission has asked for all returns to be made digitally, and as such has not sent crofters a paper form to complete, or offered pre-paid return postage.

### CURRENT POSITION

This year the CC adopted a similar two-tier letter approach as in previous years. A generic letter was sent to any eligible crofter or owner-occupier crofter (OOC) in the Register of Crofts (RoC) where system records indicated a return was made in the 2021 census. Where system records indicated that a return was not made in the 2021 census by an eligible crofter or OOC, a distinct letter was sent highlighting this.

This year the CC received a lower response rate than in previous years, coming in at just below 60%. The breakdown of the census compared to previous years is shown in the table below:

#### Return rate

The return rates for the 2018 through 2022 census returns are noted in the table below:

Year	Forms issued	Returns completed	Return rate
2018	19,269	13,347	69.3%
2019	19,485	14,726	75.5%
2020	19,636	14,297	72.8%
2021	19,810	15,195	76.7%
2022	19,903	11,773	59.2%

The result was the worst return in the past five years by a statistically relevant margin, dropping by 17.5 percentage points from the 2021 census. The Commission has carried out a lessons learned exercise on the back of the census, however there is no clear identifiable reason for the drop from the 2021 census, though some factors may have played a part.

### Push back around digital

The Commission has had a very small number of comments (less than 10) suggesting crofters are unhappy with being forced to do a digital return, including one formal complaint (two were received during the 2021 census). This is in line with expectations and the numbers of crofters contacting the Commission for help dropped this year, with 456 entries being assisted by officials over the phone. Officials do not believe this is a significant factor in the reduction in return rates.

### Letter issue

The split between letters suffered a small issue where some crofters who did a return in the 2021 census were sent a letter indicating that they did not. This did not affect the number of letters issued, nor was there any form of data incident. The Commission issued communications around this as soon as the issue was highlighted, which affected approximately 500 crofters, and had a very small number of calls generated (less than 20). Officials do not believe this is a significant factor in the reduction in return rates.

### Outbound phone calls

In the 2021 census the Commission employed two dedicated telephone agents via an external agency. These agents carried out a large number of external calls to contact crofters who had not done a census through February and March 2022. This year due to resource pressures internally and lack of availability of agency staff the Commission did not have a dedicated resource and made no outgoing calls. This will have had an impact on the return rate, however the measurable success rate of these outbound calls from the 2021 census does not account for the size of the drop in the 2022 census; during the 2021 census approximately 770 extra census returns were completed on the back of the outgoing calls, with a further 592 saying they would complete later. On the assumption every crofter who said they would complete it later did, and similar results were achieved this year, the 2022 return rate would have been theoretically in the 65% - 67% range, still the lowest in the past 5 consecutive years.

### General apathy

The Commission gets feedback from various sources that suggests confidence as a whole in the Commission taking action on the census, and by extension the value of the census, is low. This is largely anecdotal from a range of social media and third hand comments, and as such the impact of this on the return rate cannot be evaluated, but officials feel this may have had an impact.

General apathy from the public may also be more widely evident in the Scottish General Census, which also reported poor return rates against forecasts and subsequently resulted in a national extension and follow up media campaign. Although there is no direct link to the Crofting Census this does suggest that the public in general may have seen a drop in participation with censuses in general.

## **CONCLUSION**

Commission officials cannot offer an explanation for the level of the drop between the two officials with any level of guarantee, however it is felt that the lack of outgoing calls and a general feeling of apathy towards the crofting census are the most likely reasons for the drop.

For the 2023 census, the Commission will seek to clarify the wording of the letter to make it clear that the return of the census is a requirement of the Act, and more openly offer assistance to those who cannot complete a digital return.

Making outgoing calls in a future census is a more challenging idea, with the financial pressures and difficulty of sourcing external agency staff being two significant challenges. The estimated cost from the 2021 census was £13.8k. Although this cost was offset against the savings of moving to a digital census at the time, inflation has raised the other census related costs which cannot currently be removed, such as printing and postage, which in turn may make affording a dedicated resource non-viable.

As such, the Commission will focus on the wording of the letter and a more aggressive social media campaign to raise the 2023 census return.

<b>Impact:</b>	<b>Comments</b>
Financial	n/a
Legal/Political	n/a
HR/staff resources	n/a

**RECOMMENDATION**  
**The Board is invited to note the outcome of the 2022 census.**

Date            6 June 2023

Author            Aaron Ramsay, Director of Corporate Services

# CROFTING COMMISSION MEETING

28 June 2023

Report by the Chief Executive

## Tier 3 Casework Process

### SUMMARY

To consider how the Tier 3 Casework element of the Commission's Scheme of Delegation currently operates, and to decide whether any changes should be introduced to improve the current process. The main change recommended is that legal advice, when required, should normally be prepared in advance of Tier 3 meetings.

### BACKGROUND

Up until October 2015, 100% of decisions on regulatory applications were taken by Commissioners; either by a single Commissioner, a Casework Group comprising three Commissioners or the full Board, the level of decision-making being determined by the Commission's Instrument of Delegation.

From November 2015 a rolled-out programme of devolved decision making was introduced to enable Commissioners to focus on those issues which relate to the strategic leadership of the organisation.

The potential benefits of such an approach being:

- Frees up Commissioner's limited time
- Decisions are made quicker
- Decisions are more consistent across the organisation
- Decisions are supported by more robust grounds
- Staff are empowered.

### MODEL OF DELEGATION

The model of delegation that was developed by the Commission was based on the delegation system used by the Law Society of Scotland, of which the Commission's then Chief Executive Officer was a member. The model which was introduced had three essential principles:

- a) It is only a decision to approve, modify or condition an application that was delegated to officials. The decision to approve being based on applications complying with a range of parameters created in relation to each regulatory function. Any decision to refuse required Commissioner input (though some refusals were later delegated, after a few years of using the Tier model successfully).

- b) It was open to any case to be escalated through the Tiers if there were any concerns about the application which were not covered by the delegated parameters. Such cases can and do lead to a review of parameters.
- c) There were certain types of regulatory decisions which it was agreed would not be delegated either because of reputational or resource implications or because they touched upon strategic issues.

## **CURRENT POSITION**

The former “Instrument of Delegation” has been superseded by the Commission’s “Scheme of Delegation”.

There are currently 3 Tiers of delegated decision making within the Commission.

### **Tier One**

#### **Who makes the decision at Tier One?**

- The B1 Regulatory Casework Officer.

#### **What decision can be made at Tier One?**

- To approve applications which comply with the parameters agreed by the Board in relation to the relevant regulatory function.

#### **When are decisions (generally) made?**

- On a daily basis.

### **Tier Two**

#### **Who makes the decision at Tier Two?**

- A Casework Group normally consisting of the Head of Regulatory Support, a Regulatory Support Manager, and the B1 Case Officer.

#### **What decision can be made at Tier Two?**

- To approve, condition or modify applications having considered the parameters agreed by the Board in relation to the relevant regulatory function.
- To refuse applications which are clearly contrary to the Commission Policy as agreed by Commissioners, provided there is no compelling evidence as to why the policy should not be applied.
- To escalate cases to Tier Three.

#### **When are decisions (generally) made?**

- On a weekly basis.

### **Tier Three**

#### **Who makes the decision at Tier Three?**

- A Casework Group consisting of 3 Commissioners, supported by the Commission Solicitor, Head of Regulatory Support, the Regulatory Support Manager, and the B1 Case Officer.

#### **What decision can be made at Tier Three?**

- To approve, condition or modify applications having considered the parameters agreed by the Board in relation to the relevant regulatory function
- To refuse applications
- To escalate cases to the full Board of Commissioners.
- That further information is required including directing a Hearing, holding a local site visit and/or a public meeting.

### **When are Tier 3 meetings held?**

- On a monthly basis.

### **DECISIONS CURRENTLY EXEMPT FROM THE SCHEME OF DELEGATION**

The majority of regulatory decisions are capable of being made within Tiers 1-3 as above. However, the following functions and decisions are exempt from the Scheme of Delegation, therefore cannot be decided at Tier 3. These decisions have to be made by the Board of the Crofting Commission.

- Complaints as respect Breach of a crofter's statutory conditions (Section 5A)
- Any decision as to whether to object to Schemes for development (Section 19A) or to object to or support resumption applications (Section 19)
- Reorganisations Schemes (Section 38)
- To determine whether any or all members of a grazings committee (or the grazings clerk) are properly carrying out the duties imposed on them by the 1993 Act (Section 47(8))
- To determine whether a person has contravened or failed to comply with any common grazings regulations (Section 52(1C))
- Whether to suspend a person's share in a common grazings following a determination that they have contravened or failed to comply with any common grazings regulations (Section 52(1D))
- Whether to terminate a person's share in a common grazings following a determination that they have contravened or failed to comply with any common grazings regulations (Section 52(1E))
- whether to make reference to the Land Court for a determination on any question of fact or law (Section 53), without prejudice to the Chief Executive's right to require such a reference to be made
- Any regulatory application submitted by a Commissioner or a member of staff which fails to comply with one or more of the parameters for delegation, as agreed by the Board.

### **DELEGATED DECISION MAKING STATISTICS**

There has been a trend over the last 3 years for the number and Percentage of decisions being taken by staff at Tier one and Tier two increasing, and a corresponding decrease in the number of decisions being taken by Commissioners at either Tier 3 or at Board level. Principal reasons for this are the extension of the range of regulatory functions now included in the Scheme of Delegation, and the delegation to Tier 2 of the authority to refuse in certain circumstances. **In the recent reporting year, 4% of cases were decided by Commissioners at Tier 3, and 96% of decisions were taken by officials, at Tiers 2 and 3 combined.**



Please see table showing the delegation statistics over the last 3 years:

<b>Numbers</b>			
<b>Level of Decision Making</b>	<b>Number of Cases Decided 2022/23</b>	<b>Number of Cases Decided 2021/22</b>	<b>Number of Cases Decided 2020/21</b>
<b>Tier 1 (Case Officers)</b>	<b>686</b>	<b>570</b>	<b>630</b>
<b>Tier 2 (Senior Officials)</b>	<b>145</b>	<b>130</b>	<b>132</b>
<b>Tier 3 (Commissioners)</b>	<b>32</b>	<b>37</b>	<b>46</b>
<b>Decision by full Board of Commissioners</b>	<b>0</b>	<b>0</b>	<b>4</b>
<b>Total</b>	<b>863</b>	<b>737</b>	<b>812</b>
<b>Percentage</b>			
<b>Level of Decision Making</b>	<b>Percentage of Cases Decided 2022/23</b>	<b>Percentage of Cases Decided 2021/22</b>	<b>Percentage of Cases Decided 2020/21</b>
<b>Tier 1 (Case Officers)</b>	<b>79</b>	<b>77</b>	<b>78</b>
<b>Tier 2 (Senior Officials)</b>	<b>17</b>	<b>18</b>	<b>16</b>
<b>Tier 3 (Commissioners)</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Decision by full Board of Commissioners</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>

## **HOW TIER 3 CURRENTLY OPERATES**

### **Prior to Meeting**

Due to the complexity of cases which are escalated to Tier 3, we try to have a limit of no more than 4 cases to be considered at a Tier 3 meeting. Once the availability of Commissioners attendance is confirmed, the papers for the cases to be considered are forwarded to Commissioners. The papers include the:

- Law: i.e. the relevant statutory provisions relating to the type of case being considered;
- Policy: the relevant sections of the current Policy Plan which relate to the case;
- Case Paper: which include a summary of the case, and a copy of all the relevant supporting documentation gathered throughout the application, objection and evidence gathering stages of the process.

These papers are generally sent out around a week prior to the meeting.

Although the Commission solicitor will generally be in attendance at the Tier 3 meeting, he may also circulate legal advice prior to the meeting in relation to the cases under consideration.

There is no recommendation made by staff to Commissioners in the papers circulated prior to the meeting. My understanding is that staff at the Commission have never made written recommendations to Commissioners where the cases are escalated for decision.

Previously recommendations were made by SGRPID Officers as part of their reporting casework group reporting responsibilities. However, the practice of asking SGRPID officers to make recommendations was discontinued because, in a growing number of cases, Commissioners were rejecting the recommendations by the SGRPID Officers. As a result, considerable time and resources had to be devoted in the grounds supporting the Commission's decision setting out why we did not follow the recommendation made. Now we request that SGRPID present the Commission with a factual report on a range of issues relating to the croft, the common grazings, and the application. There are now no recommendations included in the report.

### **At the Meeting**

Prior to Covid lock-down, the Tier 3 casework group meetings were held in Great Glen House with Commissioners attending in person. When lock-down was introduced, cases had to continue to be processed and escalated as appropriate, and as a result Tier 3 meetings were held on Teams. When lockdown was lifted, the practice of holding Tier 3 meetings remotely was continued as it was recognised that it was a cost effective way of conducting business.

At the Tier 3 meeting, the B1 casework officer is invited to present the case under consideration and to assist by responding to any factual questions raised, given their knowledge of the case. There is then a discussion on the consideration of the case taking into account the relevant legislation, policy and evidence gathered throughout the application process.

While the decision makers at the meeting are the Commissioners, the Commission solicitor may provide any relevant legal advice at the meeting, and the Regulatory Support Team (RST) staff will seek to ensure that Commissioners clearly set out the proposed decision they have reached along with the grounds for any proposed decision. Where for instance, an agreed Commission policy position was not being applied, any grounds would have to address this in relation to the individual circumstances of the case. The grounds would also have to deal with any objections submitted to demonstrate that they had been taken into consideration.

If the Solicitor or other staff have concerns about any legal aspect of the Panel's reasoning, for instance whether the relevant legislation or case law principles are being applied correctly, or have concerns as to whether regard is being had to the policy plan (or whether the proposed decision is consistent with other similar and recent Tier 3 decisions), they are encouraged to point this out, the aim being that wherever possible all such questions are resolved at the meeting. In all cases, however, it is for the Panel members to decide. The failsafe is that there is a further opportunity for staff to raise concerns after the meeting, if necessary involving the Accountable Officer (see below).

Where Commissioners defer making a proposed decision, e.g. they wish to offer the applicant the opportunity to modify their application, they may wish to obtain further information, the reasons for doing so, would also have to be clearly established at the meeting.

### **Post Meeting**

Following the meeting the Head of Regulatory Support will then prepare an initial draft of the proposed decision and grounds for the case considered at the Tier 3 casework group meeting. The draft proposed decision and grounds will then be escalated to the Commission solicitor for checking and to ensure that points of law are set out clearly in the draft grounds. If necessary the Solicitor will also provide formal legal advice on aspects of the proposed decision at this point. RST will then circulate the draft proposed decisions and grounds to the Commissioners. RST will generally circulate 2 versions to Commissioners, one with the legal input clearly shown as tracked changes, the other with the legal input incorporated into the finalised version of the draft proposed decision and grounds. Commissioners are requested to confirm whether they are content that the finalised version of the proposed decision and wish a decision to be intimated. When Commissioners provide confirmation that they are content, officials will intimate the decision including, where appropriate, the relevant direction or Order. The appeal period commences from the date of the intimation of the decision.

The majority of Tier 3 cases progress following the Tier 3 meeting as set out in the preceding paragraph. However occasionally and in a minority of cases, when considering the draft proposed decision and grounds and providing legal input, the Commission solicitor may provide legal advice that the proposed decision would be vulnerable to being quashed if appealed to the Land Court. With these cases, the RST would still circulate the draft proposed decision and grounds to Commissioners, however they would draw Commissioners' attention to the legal advice and give them the opportunity to either (i) confirm their proposed decision having been made aware and had sight of the legal advice, or (ii) reconvene a meeting to reconsider the case in light of the legal advice received, or (iii) escalate the case to the full board for consideration. If the decision is made to confirm the proposed decision, this may also be escalated to the CEO in his capacity as Accountable Officer.

### **Tier 3: The Future**

This paper has sought to set out how the Tier 3 casework element of the Scheme of Delegation currently operates. Since Tier 3 was introduced it has received positive feedback from Commissioners, and it also operates as an important vehicle for Commissioners to interact with staff mainly from the Regulatory Support Team and the Regulatory Team, but also from the Residence and Land Use and the Grazings Teams.

Nevertheless and to quote Logan Roy *"Nothing is a line. Everything everywhere is always moving. Forever. Get used to it"*.

The Scheme of Delegation has been constantly evolving since it was introduced in 2015, and it is, of course, open to Commissioners to review any and all aspects of the Scheme of Delegation.

As recently as October 2021 Commissioners considered a proposal to delegate all regulatory casework decisions to staff, with the exceptions of those cases escalated to the full board. While this proposal had a measure of support, the proposal was not carried by the Board.

More recently, three related questions have been raised by Commissioners and the Commission Solicitor:

- A. Should legal advice be routinely prepared in advance of Tier 3 meetings and provided to the panel in writing with the case paper?
- B. Should the papers prepared for Tier 3 cases include a specific recommendation by officials?
- C. Informal legal advice obtained some years ago confirmed that a Commission decision does not become fixed until it has been intimated – which happens some days or weeks after the Tier 3 panel has met. Is the Commission therefore right to use those days or weeks to confirm (or occasionally change) the decision provisionally reached by the Panel, or should the Commission bind itself by resolving that the decisions intimated should *in all cases* be the same as that reached by the Panel on the day of the meeting?

Officials' views on these questions are:

- A. Legal advice – when needed - being provided in advance of Tier 3 meetings would enable those meetings to be more productive; this is recommended, although there would be a slightly more lengthy process leading up to Tier 3 meetings.
- B. The Tier 3 model could work sensibly with or without recommendations on the cases being provided by officials.
- C. Officials believe that the Commission is wise to allow itself the possibility of reflecting on a decision made by a Tier 3 panel before it is confirmed and intimated.

### **Legal advice in advance?**

The Commission solicitor considers that it would be more valuable for legal advice – for those cases where it is needed - to be provided in advance of a Tier 3 meeting in order that any discussions are made in light of any legal advice. Whilst legal advice may not be accepted by Tier 3 Commissioners in every instance, it is thought that having such legal advice in advance would strengthen the decision-making process and would enable Commissioners to ask questions about such advice, or seek clarification on any relevant points.

The Commission solicitor also has some concerns about being asked to provide legal advice once a proposed decision has been reached, as he considers that the proper point at which legal advice should be provided is before the decision-making process has been carried out. The current distinction between a decision provisionally reached at a Tier 3 meeting but not fixed till it is intimated some time later does allow space for further legal questions to be explored after the meeting where necessary, but the Commission has used this too frequently. It would be good practice to resolve as many legal questions as possible in advance of and during the Panel discussion. (If as part of their discussions Tier 3 Commissioners ask for further legal advice or clarification, the Commission solicitor would still be able to provide this.)

The number of cases escalated to Tier 3 is relatively small and not all of them give rise to questions requiring legal advice. Therefore, although an extra step for legal advice prior to the meetings would add an element of delay, it is not considered that this would impact materially on resources or overall timescales; but the situation would have to be monitored.

## **Recommendations by officials?**

The main reason why Commission staff have not been in the practice of making recommendations at Tier 3, has been that this might detract from the creative and open-minded way that Commissioners tend to engage with Tier 3 cases (which also relates to the requirement to be objective in decision-making and to approach each individual case with an open mind as to what the decision should be). Commissioners are encouraged to approach a Tier 3 meeting having gained a familiarisation with the statutory provisions setting out the factors they are required to take account of in the consideration of a case, the sections of the Policy Plan they must have regard to, and the factual information relating to the individual circumstances of the case. The emphasis being on focusing on those factors when considering a case, rather than focusing on whether or not to accept or reject a recommendation from an official.

A further argument is that unlike planning decisions, which can be appealed to the relevant Cabinet Secretary, Commission decisions can be appealed to the Scottish Land Court. If a member of Commission staff provided a written recommendation to a Tier 3 casework group, and the recommendation was not followed by the Commissioners (which of course is properly within their right) a potential scenario could be that the appellant's solicitor uses the previous official recommendation to undermine the Commission's defence.

If legal advice were provided in advance of Tier 3 meetings, then it would be possible to go one step further and also include a recommendation by officials (probably, the Head of Regulatory Support or perhaps in future the Director of Operations & Policy). To do this, a number of additional steps would need to be built into the process leading up to Tier meetings:

- Commissioners might have to be given the opportunity to identify any particular aspect of the case they wanted legal advice provided on:
- The Commission solicitor would have to be given the time and opportunity to provide the advice:
- The Regulatory Support Manager would have to obtain sight of any legal advice prior to making any recommendation.
- The Accountable Officer would need to be sighted in advance on any potential for decisions that might give him cause for concern. (Currently, he is only rarely involved in Tier 3 decisions at all, generally having a minor involvement in a couple of cases per year.)

Although this would slow down the process of cases coming to Tier 3 meetings, it should speed up the final stages of processing cases after those meetings. Officials believe that either method could work.

## **At what point has the decision been made?**

Tier 3 decisions are often difficult, and there are fine lines to be drawn in many of them. The practice of these decisions being made by only 3 out of 9 Commissioners, while efficient, does carry with it a risk of inconsistent decisions occasionally being reached at Tier 3 meetings, although the consistency of representation by officials helps with this.

The product of a Tier 3 decision is the issuing of an Order or Decision in writing, together with its grounds, also in writing. It therefore makes sense for the Tier 3 panel not only to indicate (at the meeting) what the decision should be, and why, but also to approve the document which is produced afterwards to convey that decision. Officials believe that it also makes sense to allow for the possibility that some of the grounds, or the decision itself, could be modified during the write-up stage. The ideal of course is for the decision and grounds to be clear and unanimous at the meeting, but experience suggests this does not always happen.

We therefore propose that where officials identify flaws in the draft grounds, it would be reasonable for the Tier 3 panel to assess whether they wish to issue a decision with grounds that could make any appeal susceptible to an adverse appeal or whether they wish to deliberate further on the case.

However, delays at this point are uncomfortable for all concerned – officials, the Panel members and most of all, the applicant. Therefore, the aim should be for the rationale for decisions reached at Tier 3 meetings to be as clear as possible, so that the production of grounds can be progressed speedily in the vast majority of cases. Finally, it should be noted that only a very small number of cases are escalated to Tier 3.

*Legal considerations*

The Commission solicitor points out that the Commission has to balance administrative efficiency and procedural fairness. He would also point out that some consideration should be given as to when a decision in terms of the 1993 Act is made according to Commission procedure, and who makes it. Decisions under the 1993 Act are made by the Commission as a statutory body, not by individual Commissioners or Tier 3 panels. One way of assessing whether a decision has been made is to consider whether the decision is reviewable under judicial review. There is some case law to the effect that a preparatory step on the way to making a formal and legally binding decision may not be reviewable. Some public bodies have multi-Tiered decision-making as part of their procedure. The calling of an oral hearing in connection with a case, for instance, which is something the Commission can do, is an example of a multi-Tiered process of decision-making.

The issue as to whether a decision is clearly reviewable by a public body also has some bearing on the matter. There is some case law to the effect that where a decision has not been intimated to the interested and affected parties, it may be revocable depending on the context and statutory regime. There is also case law that provides that where an “adverse” decision is made in respect of a party – of which for instance tenancy termination could be an example – the decision-maker is not able to take any action in respect of the decision (such as removing a person from the Register of Crofts) unless the decision is intimated on the affected party. Where any affected party has placed reliance on any decision, even if it is not a final decision, it is unlikely that it could be revoked or reviewed.

The Commission solicitor points out that ECHR as well as statute (the Tribunal and Inquiries Act 1992, the relevant provisions still being in force) and common law require public bodies, including the Crofting Commission, to issue a reasoned decision in which the reasons are sufficient to demonstrate that the core issues raised by the parties have been addressed and how the public body resolved these, if disputed, in coming to its decision. If the Commission considers that it has inadequate reasons and grounds to support a decision or if potentially relevant information is missing, it should have no hesitation in proroguing a meeting so that adequate grounds can be articulated or seeking further legal advice, technical advice or information before making a decision. Any decision will stand or fall on appeal based on the soundness of its reasoning.

<b>Impact:</b>	<b>Comments</b>
Financial	N/A
Legal/Political	It is important that the process whereby decisions are reached in Tier 3 cases is defensible in the Land Court.
HR/staff resources	Improving the processes leading up to Tier 3 panel meetings will have resource implications, especially for the Solicitor; but there will also be savings to the work required of him and others following the meetings. The net impacts are unlikely to be significant.

**RECOMMENDATION**

**It is recommended that the Board discuss the content of the paper and identify any changes they consider should be introduced to the Tier 3 casework process.**

**The Board is invited to approve the proposals (i) to have legal advice routinely prepared in advance of Tier 3 meetings and (ii) to continue with the practice that a decision is not confirmed and fixed until it has been intimated in writing.**

Date 15 June 2023

Author Joseph Kerr, Head of Regulatory Support

# CROFTING COMMISSION MEETING

**28 June 2023**

Report by the Chief Executive Officer

## **Short term measures to enhance casework throughput**

### **SUMMARY**

**To list action already being taken to reduce outstanding casework volumes and invite the Board to consider additional measures that could be taken if the risks are deemed acceptable.**

### **INTRODUCTION**

1. This paper
  - a. Briefly recaps the causes of the current outstanding volume of casework (sometimes referred to as the backlog<sup>1</sup>) and the strategies adopted by the Commission to address it;
  - b. Lists the key further actions already in hand, or planned for implementation in the coming weeks; and
  - c. Proposes additional short-term actions for consideration by the Board, and assesses the risks and costs that might be incurred.
2. While this paper draws heavily on the material presented to the Board in the March 2023 Improvement Plan paper and the May 2023 Emergency Measures paper, it has benefited from new thinking by several members of ET/SMT and middle managers in Regulation, Regulatory Support and IS.

---

<sup>1</sup> The Commission always carries several hundred live cases, a natural result of the required periods for processing decisions and over 150 cases being newly received each month. We use the term 'backlog' when there is greater than a normal level of casework requiring action by the Commission, leading to extended response times; and especially when staff report that they have many more cases than they can process in their hours of work. This is a partial misnomer however as the currently reported figure is all outstanding casework volumes and not just the backlog element.



## CURRENT POSITION

### ***Causes of the outstanding volume of caseload and the strategies to address it***

3. The Commission has experienced increased volumes of casework at various periods throughout its history, the ongoing underlying causes being the **extensiveness** of the crofting regulatory requirements on the Commission, the **constrained resources** available to the Commission, and the large number of **historical errors and uncertainties** within crofting, which take time to address. In addition:
  - a. Successive Land Court decisions over many years have encouraged the Commission to develop a painstaking and thorough approach to regulatory decision-making, to prevent mistakes; this culture has been built into the Commission's computer processing systems, especially since the CIS development of 2015-16 (which was directed under a previous CEO).
  - b. Since around 2014, the requirements of registration of crofts have added a substantial additional burden to the regulatory process, and the impact of this is now *increasingly* being felt, as many first registrations now conflict with prior registrations.
4. All of the above contributed to the current position, but the particular circumstances in 2020-21 exacerbated the issue. The covid-19 pandemic disrupted our work during 2020. More seriously, the end of the lockdown period saw unprecedented loss of several experienced staff, with 4 of the 8 B1 casework officers, 3 regulatory A3s and our experienced call-handler all leaving in a 7-month period from July 2021 to January 2022. The Board is aware of the time required to replace such experience.
5. Since April 2022, when the Scottish Government confirmed additional resource for the Commission, we have been pursuing a strategy to address the outstanding casework volumes and prevent any recurrence. The key elements of this strategy are:
  - a. Most importantly, expanding the number of front-line caseworkers in regulation and registration from around 20 FTE to around 28, and investing rigorously in their training, with a dedicated B1 officer to train A4s, and a B2 senior casework officer charged with B1 training;
  - b. Adopting an improvement approach to the management of casework throughput, identifying multiple incremental changes which will simplify processes and increase throughput, and taking action as required to address bottlenecks.
  - c. Implementing on-line applications to improve the quality and completeness of applications received.
  - d. In the longer term, seeking legislative changes to remove some frustrating aspects of the legislation which extend the regulatory process.
6. Overall, the positive signs outweigh the negatives, and we are confident that we are now in a position to continue and sustain the reductions in live caseload that have been seen in most recent months, provided that :
  - we continue to retain and train our staff,
  - we continue to make improvements to our processes, and
  - we add a new focus specifically on older cases,
  - intake volumes continue a predictable trend and do not increase.

## Key further actions already in hand, or planned

7. The Board has given a strategic lead and instructed management to give top priority to reducing the levels of outstanding casework and improving turnaround times, where necessary taking bold action to do so. Some examples of actions already taken, or in hand, are:
  - a. Flexibility with front-line staffing: adjusting the balance between regulation and registration and between B1 and A4 grades, to avoid bottlenecks; adjusting the deployment of A4s to support geographical areas;
  - b. Developing the new role of the two senior caseworkers, to improve quality and efficiency of work at the Caseworker level and to reduce the pressure on the Regulatory support team
  - c. Building the role of the Improvement Manager. In addition to work around planning future changes to CIS, she has proposed and implemented several immediate-term improvements (including e and f in this list), and has developed the proposal for Closure of Incomplete Cases.
  - d. We have reviewed the parameters that determine which cases progress from Tier 1 to Tier 2 and when required to Tier 3. Specific changes are proposed in the next section of this paper and the Annex.
  - e. A 12-week trial of escalated cases being passed to Tier 2 for assessment without the need for a case paper started on 5<sup>th</sup> June. Case papers are now only created if a Tier 2 assessment decides there is a need for a case paper to serve on interested parties. It is hoped that eliminating the production of case papers which are only seen by Tier 2 will substantially reduce the amount of B1 time spent creating them.
  - f. The workflow steps required for GDPR compliance have been overhauled and rationalised, to remove duplications and inefficiencies which have been identified. The streamlined process went live on 12 June.
  - g. Tier 2 has been asked to take a less risk-averse approach, taking more decisions themselves and referring fewer to Tier 3. For example, Tier 2 is already empowered to approve decroftings between 0.2 ha and 0.3 ha where it judges there is good reason to do so, but hitherto they have been cautious and have referred most of these cases to Tier 3.
  - h. The new release of CIS, once it has bedded in, will deliver some features which will assist staff efficiency. We will also then be in a position to make further enhancements to CIS functionality, such as an automated casepaper.
8. The key elements of our improvement plan were set out in the March paper to the Board, and this improvement work will continue. Managers, consulting staff frequently, will continue to identify further improvements to our handling of casework, to incrementally enhance our efficiency.
9. A particular feature of trends over the last year is that caseloads of over 18-month cases have been rising, while newer cases have been falling. While this is not surprising – the build up of older cases results from backlog conditions over the last 18 months – management recognise the need for an increased focus on older cases. Over the next 3 months, senior caseworkers will individually examine all of the **98 cases that have been live for over 2 years**, to consider whether some could be quickly approved, rejected, or otherwise expedited. ET will oversee this exercise. Many of these cases may be taking a long time for good reasons – for example, contested apportionment applications which have divided their townships, or mapping issues where the historical evidence is confused. But there may be others where the decision, though difficult, can be taken quickly given an increased risk appetite. Following completion of the review of the over 2 year cases, the same process will then be followed for others over 18 months, then 12 months.

## DISCUSSION

### ***Additional short-term actions for consideration by the Board***

10. Management recognises that while much is in train to enhance throughput, elements of the outstanding volumes are stubborn, and the impact on customer service has been serious for some time. The Board has requested advice on additional interventions which could be taken quickly, and the following options are put forward for consideration. If approved by the Board for implementation now, we propose a review after 6 months, to consider which of these changes should be continued in perpetuity, and which should be terminated once the current pressures have been overcome.

### **Low risk – recommended**

11. **Immediate adjustment of parameters.** Attached at **Annex A** is a set of proposals to loosen the parameters so that more decisions can go through directly at Tier 1, and more cases can be disposed of at Tier 2 without further onward escalation to Tier 3, while retaining the integrity and purpose of the Scheme of Delegation in ensuring that cases are decided at the appropriate level
  - Risks: these are as specified in the Annex
12. **Fewer RPID reports.** RPID reports are commissioned whenever the Commission needs local evidence to inform its decision. During the course of 2022/23 there were a total of 156 reports requested by the Commission. During the same period there were 177 decisions escalated for decision to either Tiers 2 and 3. This reflects a close correlation between the number of SGRPID reports obtained and the number of cases escalated, with 21% of all regulatory cases escalated and reports obtained in 18% of all cases.
13. Among proposals for reducing the number of SGRPID reports requested are:
  - Changes to the delegation parameters as set out in **Annex A**. This recognises that any revision of parameters of parameters will enable more decisions to be taken at Tier 1, and therefore will result in fewer SGRPID reports requested.
  - To cease taking advice from RPID on matters relating to residence. We should obtain any required residency information directly from the applicant and their agents. This is consistent with the approach taken by RALUT, who only obtain reports from SGRPID on matters relating to those breaches of duty which concern failure to cultivate, or mis-using or neglecting a croft. They do not involve SGRPID on matters relating to residence.
  - To encourage and build on our staff's utilisation of google maps and other tools in determining whether accurate and up to date evidence obtained can be obtained without recourse to obtaining an SGRPID report.
  - To put in place a trial system whereby most requests for SGRPID reports in respect of regulatory applications would be escalated to a group comprising representatives from the Regulatory Support Team and the Regulatory Senior Casework Officers for authorisation. This should ensure that reports are only being requested when necessary, and also a consistency of approach.

14. In terms of consistency of the information contained in the reports themselves, the Regulatory Support Team are in the process of creating SGRPID report templates for our range of regulatory functions. Apportionment, Decrofting and New Crofts are already in use, and we are close to finalising and implementing templates for Assignment, Subletting, Letting and Short Term Letting.
15. However, it is important to recognise the benefits that the Commission obtain from the information provided in SGRPID Reports. This is evidenced by the frequent reference to the SGRPID Reporting Officers' findings and assessments in the grounds for decision taken at Tiers 2 and 3. Therefore, there will continue to be a need to obtain reports from SGRPID in cases where the Commission require to demonstrate that they have given due consideration to the information and evidence provided in a case from a range of interested parties.
16. It should also be recognised that there are certain functions, particularly apportionments, which will always require a SGRPID report as, for instance, we have to ensure that the conditions contained in our apportionment orders can be complied with by the applicant.
  - Risks: RPID's reports are provided to the Commission as a free service. It might be difficult to recover the previous level of service from SG, if SG got used to a lower level of demand from the Commission. In the meantime, the decisions taken without RPID evidence would be at greater risk of being overturned on appeal.

**Medium risk – cautiously recommended**

17. **Closing incomplete cases.** The regulatory team has made preparations to implement a system of closing incomplete cases more efficiently, where the applicant has not responded to or provided the information necessary to proceed, despite ways to address the missing information being clearly outlined in our assessment letters. The primary aim of this trial is to halve the time given to respond to our request for key information at initial case validity assessment stages. Letters issued would make this change clear to agents and applicants, not only highlighting the information missing from their application form, and how this can be addressed, but emphasising that the case will be closed after 28 days, should they fail to either provide case crucial information or request a reasonable extension period to respond.
18. This change would attempt to address the ever-increasing admin inefficiencies associated with the receipt of partially completed application forms and delays in responses. Common examples omission of the crofter's date of birth, to submission of a map using a scale or level of detail which would be rejected by the Registers of Scotland.
19. As within our current system, staff will retain the flexibility to be able to provide aspiring crofter applicants who have no professional agent to represent them, a greater level of guidance & support as and when required.
20. Both professional agents and aspiring crofters can continue to request an extension to allow initial issues to be addressed, but it is hoped by taking a firm stance mirrored by other Government organisations at the initial stages, receipt of incomplete applications, and delayed responses to our request for missing information, will reduce.

21. The benefits and efficiencies would be as follows:
- Reduction of incomplete cases remaining live on our system while incapable of progression.
  - Greater staff focus on those cases which are capable of a decision outcome being reached.
  - Once acclimatised to the changes, agents may reduce submission of incomplete paper forms in favour of providing us with key information from the outset.
  - Crofters and agents who engage with us and provide fully completed forms from the outset will be less likely to experience delays.
  - This is linked closely to a drive by the Development Team to encourage familiarity with our parameters for approval and application advisory notes, tailoring their application to meet this guidance, thus avoiding complexities and associated escalation.
22. This would bring the requirement to submit a fully completed paper application more in line with the new online digital process which prevents submission of a form without completion of the compulsory fields.
23. With the help of the Development & Communications Team, this change would be communicated via social media, electronic or postal correspondence, and updates on our website to raise awareness, prior to implementation.

### Risks

- Initially there may be an increase of complaints, related to them being unaware their incomplete case would be closed more quickly on our system. (Mitigated by synchronised communication across multiple media prior to the trial starting and emphasising the new time frame for a response on our letters. Review & assessment following the trial period could make further improvements based on public feedback received.)
  - Public perception of this could be negative. (Mitigated by correspondence clearly outlining what information is required, how to address the issues and providing an opportunity to contact us for a reasonable extension or additional support.)
  - Case creation tasks could increase in the short term. (Mitigated by an increase in A4 Administrative staff who are now trained in this initial function & new case creation features coming in the new version of CIS will simplify this process further)
24. **Truncation of objection process.** Allow objections only within statutory timescales and late only if there is good reason to allow one (the Commission is entitled to consider late objections but should set the bar high); allow the applicant one opportunity to respond and the objector one opportunity to comment on any points made by the applicant on the objection (but discount any new grounds of objection they raise at this point).
25. Regulatory Support will assist casework officers in cases with objections in a more direct way in order that objectors are not permitted to raise new grounds of objections outwith the statutory period, and also so that an applicant is not entitled to respond more than once to the grounds of objection; casework officers will be stricter in redacting material from any correspondence that represents a new ground of objection so that it does not form part of the case-paper. The exception to this would be where officers have reason to believe that the information is highly relevant to the application and could amount to “any other matter which the Commission consider relevant”, but again the bar for permitting such information would be high.

- Risks: Caselaw indicates that a truncated process might lead to decisions which were overruled by the Land Court on appeal. The Land Court would consider if the principles of natural justice have been observed. The Land Court might also consider that the Commission has not taken into account a relevant or material consideration (a statutory ground of appeal) where an objector provides what the Court regards as material information but this is not considered by the Commission in coming to its decision.

**High risk – not recommended**

26. **Even swifter approval of assignments.** Included in the list, even though assignments are probably the least concerning case type, because the Board has separately indicated it is dubious of the merits of regulating assignments. The changes to the parameters proposed in the annex would go some way towards this objective, and are recommended, but a fuller implementation of it could only be done by withdrawing more parameters to effectively negate the Commission’s checking altogether.

- Risks: Highly political. There would almost certainly be criticism from stakeholders and press that the Commission was failing in its fundamental and legally-required duty. Any decision to change legislation to reduce the Commission’s scrutiny of new tenants, will be thought through carefully by SG, stakeholders and ultimately Parliament, and alternative provisions – for example, to limit accumulation of crofts – may well be part of the overall package. A radical move at this time would be seen as the Commission pre-empting that democratic process. There would also be real risk of our decisions being overturned if appealed to the Land Court.

27. **Submit maps to RoS after only superficial checking.** The Commission currently goes beyond its statutory requirements in checking first registration maps against the mapping standards set by Registers of Scotland. However, we could cut out this work and send maps on to RoS after only performing the required checks of the application against the ROC.

- Risks: ROS would have to return a much higher proportion of maps to the Commission resulting in a significant increase in double handling by the Commission and returning the invalid maps to applicants anyway, and add additional steps to the overall processing. This may well lead to an increase in work for the Commission as well as an unsatisfactory service to the applicant. Suddenly implementing a change like this would have a significant negative impact on the working relationship between the Commission and ROS. It may also mean that ROS would need to increase their fees for registration.

<b>Impact:</b>	<b>Comments</b>
Financial	n/a
Legal/Political	It is extremely important that the Commission is seen – by Scottish Government and stakeholders – to be taking assertive action to improve customer service and casework turnaround times.
HR/staff resources	The efficiencies already under way and proposed in this paper have potential to result in real savings of staff time.

## **RECOMMENDATIONS**

**The Board is invited to note the actions already in hand to reduce levels of outstanding casework;**

**The Board is invited to approve, for the next 6 months at least, the following proposals:**

- **The changes to the parameters set out in the Annex.**
- **A reduction in number of RPID reports as set out in paragraphs 12-16.**
- **The closure of incomplete cases as specified in paragraphs 17-23.**
- **The truncation of the objection process as specified in paragraphs 24-25.**

Date: 15 June 2023

Author: Bill Barron, CEO

## Proposed changes to the parameters of delegation for a range of regulatory functions

### Proposal One

#### Which regulatory functions does this proposed change apply to:

- Assignment (Section 8)
- Letting of a vacant croft by a landlord (Section 23(3))
- Letting of part of a vacant croft by a landlord (Section 23(3))
- Letting proposals for a vacant croft (Section 23(5))
- Letting proposals for part of a vacant croft (Section 23(5))
- Letting proposals for an owner-occupied croft (Section 26J)
- Subletting (Section 27)
- Letting of an Owner-Occupied croft (Section 29A)
- Letting of part of an Owner-Occupied croft (Section 29A)
- Short Term Letting of an owner-occupied croft (Section 29A)

### Proposal

To **revise** the current parameters relating to whether the proposed tenant has other croft land from the above list of regulatory functions to the following:

- **Does the proposed tenant/sub-tenant have other croft land?**

*If no, the application can continue in the first Tier of decision making*

*If yes, but the proposed tenant or sub-tenant occupies no more than five crofts (including deemed crofts) in a readily identifiable crofting township, the application can continue in the first Tier of decision making.*

*If yes, and the crofter occupies more than five crofts (including deemed crofts) in a readily identifiable crofting township then it should be escalated to the second Tier of decision making.*

**Reasoning:** To focus resources by escalating to Tier 2 (and potentially above) only those cases where there are concerns as to whether:

- (i) there are concerns as to whether the proposal would be in the interests of the crofting community or its sustainable development;
- (ii) there are concerns as to whether the residence and/or land use duties will be complied with by the proposed tenant,
- (iii) there are objections from members of the crofting community or the landlord.



## Proposal Two:

### Which regulatory functions does this proposed change apply to:

- Assignment (Section 8)
- Letting of a vacant croft (Section 23(3))
- Letting of part of a vacant croft (Section 23(3))
- Subletting (Section 27)
- Letting of an Owner-Occupied croft (Section 29A)
- Letting of part of an Owner-Occupied croft (Section 29A)
- Short Term Letting of an owner-occupied croft (Section 29A)

## Proposal

**To revise** the current parameters relating to whether demand has been expressed from the above list of regulatory functions to the following.

- **Has demand been expressed for the tenancy of the croft?**

*If no , it can continue in the first Tier of decision making.*

*If yes:*

- *but the person is already tenant or owner-occupier crofter of one or more crofts, it can continue in the first Tier of decision making;*
- *and there are one or more vacant crofts in a crofting estate in the township, it can continue in the first Tier of decision making;*
- *and there are no vacant crofts in a crofting estate in the township, it should be escalated to the second Tier of decision making.*

**Reasoning:** To focus on escalating only those cases where the existence of expressed demand would be a factor that the Commission would potentially be expected to take into account when considering an application. If there are vacant crofts in a crofting estate in the township, the alternative remedy of serving a notice requiring the landlord to let any vacant crofts in the township should be pursued, rather than being a factor to be considered in relation to the regulatory application under consideration.

## Proposal Three:

### Which regulatory functions do these proposed changes apply to:

- Part croft decrofting by a Landlord of a vacant croft (Section 24(3) and 25(1)(a))
- Part croft decrofting by tenant in advance of purchase (Section 25(4) and 25(1)(a))
- Part croft decrofting by an owner-occupier crofter (Section 24A and 25(1)(a))

## Proposal

**To revise** the current parameters relating to whether the area applied for is excessive in relation to the purpose applied for to the following:

### Is the extent applied excessive in relation to the purpose applied for?

Is the application for a combined area (house site and garden ground) of up to 0.20 hectares?

If yes, the case can be considered at the first Tier of decision making.

If no, and the application for is for an area of up to 0.30 hectares, the case should be escalated to the second Tier of decision making.

If no, and the application is for an area in excess of 0.30 hectares, the case should be escalated to the third Tier of decision making.

**Reasoning:** The 1993 Act states that reasonable purpose decrofting, whether for a dwelling-house or another purpose, must not be “excessive” in relation to that purpose, and the Land Court has previously said that an area of ground that could for instance accommodate two dwelling-houses could be considered excessive. The proposal is to give Tier 2 the power to approve reasonable purpose decroftings between 0.2 and 0.3 ha where there are good reasons for doing so and where on the particular facts and circumstances the area is not excessive. Occasionally there will be good reasons, and these applications could be approved without going to Tier 3.

#### **Proposal Four:**

##### **Which regulatory functions do these proposed changes apply to:**

- House Site and Garden Ground decrofting by a Landlord of a vacant croft (Section 24(3) and Section 25(1)(b));
- House Site and Garden Ground decrofting by a tenant in advance of purchase (Section 25(4) and Section 25(1)(b));
- House Site and Garden Ground decrofting by an owner-occupier crofter (Section 24A and Section 25(1)(b));

#### **Proposal**

**To revise** the current parameters relating to whether the area applied for is appropriate for the reasonable enjoyment of the dwelling house as a residence to the following:

##### **Is the extent applied for appropriate for the reasonable enjoyment of the dwelling house as a residence?**

Is the application for a combined area (house site and garden ground) of up to 0.20 hectares?

If yes, the case can be considered at the first Tier of decision making.

If no, and the application for is for an area of up to 0.30 hectares, the case should be escalated to the second Tier of decision making.

If no, and the application is for an area in excess of 0.30 hectares, the case should be escalated to the third Tier of decision making.

**Reasoning:** The proposal is to give Tier 2 the power to approve decroftings between 0.2 and 0.3 ha where there are good reasons for doing so and where on the particular facts and circumstances the area is appropriate for the reasonable enjoyment of the excessive. Occasionally there will be good reasons, and these applications could be approved without going to Tier 3.

# CROFTING COMMISSION MEETING

## 28 June 2023

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 the CEO and Sponsor Division.

#### BACKGROUND

Among other themes in the 2021 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.

#### 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 meeting, 22 May	Convener	Derek Wilson, Michael Nugent, Aileen Rore, Gift Mlambo	Standard Securities for lending on tenanted crofts.	There are no longer any proposals for major concessions to lenders. Instead, this was a discussion of technical details of how lending might work, including the rights of the Commission and the landlord.
Routine meeting with Sponsor, 24 May	Convener	Derek Wilson, Michael Nugent, Aileen Rore, Gift Mlambo	Business Plan objectives; backlog; implementation of Feb 2022 Business Case; online applications	Convener and CEO advised SG that we are confident in our plans to reduce the backlog; SG asked to be consulted before CC frames its objectives in future Business Plans; SG welcomed the resolution of issues which had interrupted the availability of online applications
Crofting Stakeholder Forum, 14 June	None (Convener sent apologies)	John Kerr, Derek Wilson, Michael Nugent	Reform of agricultural support payments; progress of work on Crofting Bill; Progress with National Development Plan actions	This is a large meeting with many crofting stakeholders present. The main item was discussion on a detailed update by John Kerr on the SG's reform plans for agricultural payments

#### 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 17 June 2023

Author Bill Barron, CEO

**DATE OF NEXT MEETING**

**16 August 2023 - St Kilda**

**ANY URGENT BUSINESS**

**Update on CEO recruitment - Oral**

**EXCLUSION OF PRESS & PUBLIC**