



**CROFTING COMMISSION
COIMISEAN NA CROITEARACHD**

COMMISSION MEETING

25 JUNE 2025

**CROFTING COMMISSION MEETING
ST KILDA, GREAT GLEN HOUSE
25 JUNE 2025 AT 0900 hrs**

AGENDA

- | | | |
|---|----------------|-----------------------|
| 1 APOLOGIES | <i>Oral</i> | <i>Standing Item</i> |
| 2 DECLARATIONS OF INTEREST | <i>Oral</i> | <i>Standing Item</i> |
| 3 DRAFT MINUTES FROM:
(a) 7 MAY and (b) 22 MAY 2025 (<i>Open Session</i>)* | <i>Minutes</i> | <i>For approval</i> |
| 4 REVIEW OF ACTION POINTS FROM PREVIOUS MEETING
(of 7 May and 22 May 2025 (<i>Open Session</i>)) | <i>Paper</i> | <i>For info</i> |
| 5 MATTERS ARISING FROM PREVIOUS MINUTES | <i>Oral</i> | <i>Standing Item</i> |
| 6 COMMUNICATIONS PLAN 2025 | <i>Paper</i> | <i>For approval</i> |
| 7 DRAFT GAELIC LANGUAGE PLAN 2025-2030 – FOURTH EDITION | <i>Paper</i> | <i>For approval</i> |
| 8 ANNUAL NOTICE COMPLETION – NEXT STEPS | <i>Paper</i> | <i>For approval</i> |
| 9 POLICIES FOR REVIEW: | | |
| (a) <i>Policy Plan</i> | <i>Paper</i> | <i>For approval</i> |
| (b) <i>Apportionment Policy</i> | <i>Paper</i> | <i>For approval</i> |
| 10 COMMON GRAZINGS WORKSHOPS | <i>Paper</i> | <i>For discussion</i> |
| 11 COMMON GRAZINGS – DELEGATED DECISION MAKING | <i>Paper</i> | <i>For decision</i> |
| 12 SCOTTISH LAND MATCHING SERVICE REVIEW | <i>Paper</i> | <i>For info</i> |
| 13 DATE OF NEXT MEETING
27 August 2025 – St Kilda | | |
| 14 ANY URGENT BUSINESS | | |
| 15 EXCLUSION OF THE PRESS AND PUBLIC | | |

****Not in public copy***

APOLOGIES – ORAL

DECLARATIONS OF INTEREST – ORAL

CROFTING COMMISSION MEETING

25 June 2025

Report by the Chief Executive

Review of Action Points from 7 and 22 May 2025

7 MAY 2025

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE	DATE COMPLETED	COMMENTS
1	Discharge risk S12 from SRR and reduce risk score for item S13	DoCS	Straightaway	07/05/2025	
2	(a) Arrange media announcements highlighting how seriously the Commission views completion of the Annual Notice and that failure to complete the notice or knowingly to provide false information is a criminal offence	CEO	ASAP		
	(b) Consider what the Commission can do if individuals wish to rectify non-completion at this stage	CEO	ASAP		
	(c) Draft formal proposals to Board in a paper to consider ideas for medium-longer term actions to address non-compliance with the duty to complete the Annual Notice	CEO	June Board		
	(d) Use a part of the programme for the staff Away Day as an opportunity to engage with staff on this issue.	DoCS	26/06/2025		

22 MAY 2025

ITEM	ACTION	RESPONSIBLE OFFICER	DEADLINE	DATE COMPLETED	COMMENTS
1	Re-visit parameters in the Scheme of Delegation with a review in October	CEO	October Board		

MATTERS ARISING FROM PREVIOUS MINUTES – ORAL

CROFTING COMMISSION MEETING

25 June 2025

Report by the Chief Executive

Communications Plan 2025

SUMMARY

This paper presents the Crofting Commission's Communications Plan 2025. The plan outlines strategies to enhance engagement with stakeholders against a 12-month timescale. It aims to foster positive relationships and ensure effective communication of the Commission's work and objectives.

BACKGROUND

The Crofting Commission deals with many different important groups who affect how well crofting in Scotland does, now and in the future.

Inside the Commission, the main group of people we work with are our staff and Commissioners. Outside the Commission, the main groups we work with are the crofters themselves, along with landowners, Common Grazings Committees, Scottish Government, Registers of Scotland, lobby groups such as the Scottish Crofting Federation, local councils, other public sector organisations, and the wider rural community.

We currently communicate in several ways: by sending letters and emails directly; through our website; on social media; at meetings with people we work and engage with; through public discussions and consultations; in our yearly reports and plans; and by taking part in agricultural shows and events. We try to be open and clear in our conversations, but people have told us we need to get better at connecting and building relationships.

CURRENT POSITION

In 2025, our communication will focus on a few main topics. It is important to make sure crofters understand their duties and know how to comply with them. We also want to clearly explain our plans for the future of crofting, tackling issues such as Succession and taking advantage of new opportunities related to land changes and environmental programmes. Most importantly, we will focus on improving our relationships with crofters and other important groups by communicating proactively, positively and clearly. What underpins this, is that we are committed to being a modern, efficient and fair organisation, regulating crofting, using online tools and simpler processes, to provide good services and support the crofting community.

The Crofting Commission actively communicates through social and traditional media, and we are seeing our social media following continue to grow. Last year's main communications campaign focused on crofting duties and it was successful, providing a solid foundation to build upon this year.

While we use various methods such as direct contact, our website and stakeholder meetings, feedback indicates a need for even stronger engagement and relationship-building. Our communications for 2025 will therefore prioritise proactive, positive, and clear messaging, especially concerning duties compliance, and the future of crofting.

The 2025 Communications KPIs are shown here:

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/6-Annex-A.pdf>

Financial	The Outputs detailed in the Communications Planner can be delivered within existing budgets.
Legal/Political	This policy aims to improve understanding and compliance with crofting legislation and supports the Scottish Government's land reform and environmental objectives.
HR/staff resources	Delivery of Outputs will largely be covered by existing Comms and Policy staff at the Commission.
Gaelic Language Plan 2025-30	Delivering the Outputs detailed in the Planner will help the Commission to meet its commitments in the 2025-2030 GLP.

RECOMMENDATION

Management seek Board approval for the activity outlined in the Communications Performance Report.

Author: Jane Thomas Director of Corporate Services

Date: 16 May 2025

CROFTING COMMISSION MEETING

25 June 2025

Report by the Chief Executive

Gaelic Language Plan 2025-2030 (Fourth Edition)

SUMMARY

The Crofting Commission has prepared the fourth edition of its Gaelic Language Plan 2025 to 2030, which will be submitted to Bòrd na Gàidhlig by October 2025:

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/7-Annex-A.pdf>

BACKGROUND

Under the Gaelic Language Act (Scotland) 2005, public authorities in Scotland have a duty to complete a Gaelic Language Plan (the plan), which must be submitted for approval by Bòrd na Gàidhlig. The plan is publicised and reviewed annually, and a progress report is submitted to the Bòrd. A complete update of the plan is required every five years, and this plan fulfils that commitment.

The first Gaelic Language Plan was submitted by the Crofter's Commission in 2009, with subsequent editions submitted by the Crofting Commission in 2015 and 2020. This is the fourth edition of the plan which will be submitted to Bòrd na Gàidhlig.

CURRENT POSITION

The Commission invested considerable time in developing a Gaelic Language Plan with a range of practical undertakings, which are aimed at supporting the key commitments of the National Plan for Scotland. We recognise the importance of Gaelic in economic development and policy development. Our commitments will support the inclusion of Gaelic in our core work through our corporate identity, and by ensuring our staff are aware of our obligations to the Gaelic language. We will continue to communicate through Gaelic and use Gaelic in our publications and, in addition, that we will adhere to the highest standards of Gaelic orthographic conventions.

Our commitment reflects the importance Gaelic has in many crofting communities, with Gaelic-speaking households making up a significant base in many of the most widely crofted areas.

Our staff are expected to have an awareness of the Gaelic Language Plan and, as such, the plan forms part of the Induction pack for new staff and for Commissioners. The Commission offers Gaelic Language tuition classes to staff and these are held year round. We ensure staff are offered a Gaelic Awareness Session each year.

The Commission is pleased to renew and revitalise its commitment to the Gaelic Language which has an important role in the life of many crofting communities.

Impact:	Comments
Financial	2025 to 2030 (per year) Gaelic Awareness Sessions £150 Gaelic Classes <u>£2,000</u> Total £2,150 <i>These costs are equivalent to approximately 0.05% of the overall budget allocation</i>
Legal/Political/Gaelic	The Commission is required to have a Gaelic Language Plan, under the National Gaelic Plan for Scotland and the Gaelic Language Act.
HR/staff resources	Resource focus is for the Gaelic Language Officer for 1 day per week.

RECOMMENDATION

Commissioners are asked to consider the Gaelic Language Plan 2025 to 2030, and if they are satisfied with the plan, to recommend it to Bòrd na Gàidhlig.

Date 25 June 2025

Author Gary Campbell, Chief Executive Officer

CROFTING COMMISSION MEETING

25 June 2025

Report by the Chief Executive

Annual Notice Completion – Next Steps

SUMMARY

The Crofting Commission's Annual Notice (AN) is issued each year and requires crofters to inform us of their compliance with crofters' duties. At present only 75% of crofters complete the notice. It is also now a ministerial priority that duties enforcement should take more precedent in our work and we recognise that increasing the return rate for the AN will help considerably in helping address this priority. This paper sets out a number of proposed actions to help achieve this between now and the end of 2025, and Commissioners are invited to approve these actions.

BACKGROUND

The Crofting Commission's Annual Notice (AN) is issued each year and requires crofters to inform us of their compliance with crofters' duties. While the 2024 notice had a 75% response rate, up from 59% in 2022, this means that around 3500 crofters, representing around 4900 entries in the Register of Crofts (RoC) have failed to answer the notice. A failure to answer is a criminal offence but also means that the Commission simply doesn't know what the status of these crofts, in terms of duties compliance, actually is.

Over the last six months, it has become apparent that government, via the Minister for Agriculture, want the Commission to concentrate on duties enforcement. As a result, an immediate action that can be taken is to undertake work to increase the return rate of the annual notice so that we can take any actions required from the declarations supplied and also assist in meeting ministerial priorities.

With regard to work needed to increase the rate of return, and any resultant next steps in terms of duties enforcement or regulatory casework, we have to recognise that any action will have resource implications. The Minister has already recognised that we don't have enough existing resources to take a more direct 'policing' approach but has suggested that any work we do is matched by a campaign to make it socially unacceptable to ignore the AN and alongside that, not to undertake the statutory duties required of a crofter.

NEXT STEPS BY END OF 2025

Taking account of the foregoing, and having asked for and received suggestions from staff, officials propose the following first steps during the remainder of 2025, in preparation for hopefully encouraging an increased rate of return for the 2025 AN which will be issued in January 2026:

Commissioners will review the list of 2024 non-returners for their area to identify:

- Crofters that they know are at the croft as listed and appear to have just ignored or refused to reply to the notice
- Those that they know are incorrect entries – these could be crofters that have passed away or those who have moved but not told us for example
- Those where there is no local knowledge of why a return hasn't been made.

On completion of this, we will assess the numbers in each category.

Providing the numbers aren't significantly skewed in each category, it is proposed that we undertake the following steps by December 2025:

- We will write to the first category of people and explain the situation and that they should comply next year, or we will take action to report them to the Procurator Fiscal service which may lead to them having a criminal conviction. We will also ask them to complete a survey on why they didn't complete past returns so that we can assess if we have to change any messaging around the notice. This will be by standard post, or if we have an email address, will be done electronically.
- On the incorrect entries, we will write to their last known address by recorded delivery and see which ones are returned to us. The letter will be the same as the one above.
- The complete unknowns will be parked at present and revisited by the end of 2025 if resources allow

We will then take stock and assess what the above actions result in before working out what steps to take at that time.

OTHER SUGGESTIONS

Alongside the above, some other suggestions in terms of action that we have received and considered are:

- We reopen the 2024 AN period to allow non-returners to complete their return. This could be done but would be a separate notice under S40 as the AN period is set in statute. As this would require a separate legal process, we recommend that this option is not undertaken at this time due to resource implications.
- We don't accept or process any regulatory applications from non-returners and wouldn't do so until they next complete their AN. While this is a proposal that is included in the current Crofting Reform Bill, there is nothing in statute at the moment to allow us to undertake this action. Having assessed this in legal terms, we propose that this is not a course of action that we take at present. This is because it could contravene Article 6 of the Human Rights Act as we may be refusing crofters their 'right to a fair hearing'.

However, as we are recommending that we cannot refuse to process regulatory applications for non-returners, we would propose that if an applicant hasn't completed their AN, we add an extra first step into the process to seek the information that the AN already asks. We can do this as we have a duty to ensure that any details supplied are correct and it will help reinforce the message that it is important to complete the AN. In terms of multiple year non-returners, the Commission may also choose to hold any regulatory application in abeyance until such time as a physical visit can be carried out to confirm that the statutory duties are being complied with. It is proposed that we levy a charge for this to cover our costs.

ADDITIONAL CONSIDERATIONS

It is anticipated that the above actions will lead to an increase in assignation, short term let and consent to be absent applications. As such, we recommend that the officials undertake work to present an updated policy position to the Board on timescales that we would apply to short term lets and consent to be absent and what happened at the end of this period if no other substantive application for the future use of the croft has been received. Alongside this, we recommend that the timescales that we currently apply in terms of allowing new crofters to take up their short term let or assignation are reviewed as well.

With regards to all of the above, a robust and comprehensive communications campaign will take place alongside each step. The overall message will be that we are very serious about this; it is a criminal offence to not complete your notice but overall, we want to work with crofters to improve the return rate and undertake any subsequent actions in a way that will benefit crofting as a whole.

Impact:	Comments
Financial	There will be a cost in terms of sending letters
Legal/Political	This will help ensure that SG priorities are being met and that we are making it clear what the legal position is re AN returns
HR/staff resources	Staff time may have to be diverted from other work for a short time
Consumer Duty Guidance	This meets the requirements of the Consumer Duty legislation

RECOMMENDATION

Commissioners are invited to:

- **Approve the work to be undertaken by Commissioners on the lists provided**
- **Approve the proposed communications to be sent to the groups identified by the end of 2025**
- **Approve the additional step for regulatory applications by AN non-returners**
- **Approve the revision of policy for assignations, short term lets and consents to be absent**

Date 2 June 2025

Author Gary Campbell, CEO

CROFTING COMMISSION MEETING

25 June 2025

Report by the Director of Operations

Policy Plan Review

SUMMARY

The plan to review the policy plan is presented, including steps involved. Background and consideration of the purpose of the policy plan is given, in addition to key outcomes.

BACKGROUND

The Policy Team have been asked to examine the policy plan in advance of the next plan, due in 2027 (or 2028 depending on the Crofting Bill). This is to consider what areas of the policy plan could be strengthened or made clearer, and to better communicate the Commission approach with respect to regulatory processes. This paper presents the steps that this will include, as well as considering the purpose of the policy plan.

POLICY PLAN REVIEW WORK

The approach taken to the policy plan review work will be as follows:

1. The initial paper to the Board will be to present background on the topic, specific issues, legal context, evidence around how the topic is currently dealt with by the Commission and stimulate discussion amongst the Board.
2. Any accepted recommendations and actions will then be used to write up a draft of the relevant section of the Policy Plan.
3. The section of the plan will then go back to the Board for approval.

These sections will be used to form the basis of the 2027/28 Policy Plan, which will be examined by the new Board and go through the usual process. A proposed structure for the apportionment section of the policy plan is presented in the accompanying paper, which may be applied to other sections.

If appropriate, the policy review work will form interim policy statements, which will supplement the current Policy Plan. In addition to the accompanying paper on Apportionments, the next topics likely to be examined will include new crofts, sublets/short term lets and 50B applications for use of common grazings for other purposes.

PURPOSE OF THE POLICY PLAN

A key consideration is the scope of the Policy Plan and what it is to be used for. The Crofting Reform (Scotland) Act 2010 ("the 2010 Act") states in 2C(1) that the plan should set out policy on how the Commission propose to exercise their functions. The general functions of the Commission as listed in section 2(a) are as follows:

The Commission have- (a) the general functions of –

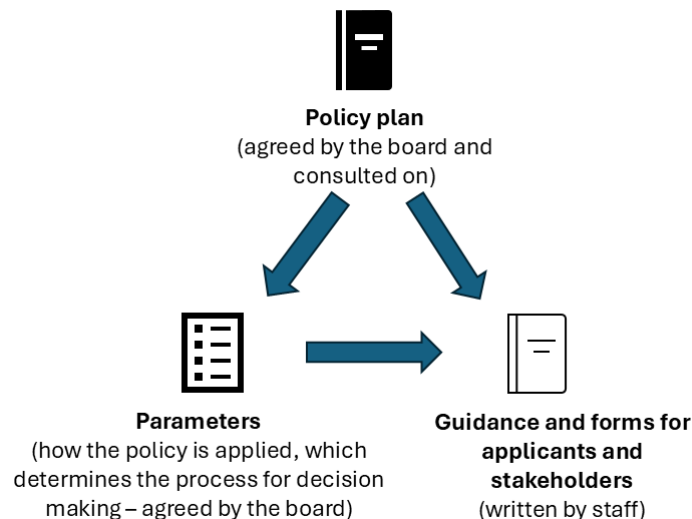
- (i) Regulating crofting
- (ii) Reorganising crofting
- (iii) Promoting the interests of crofting
- (iv) Keeping under review matters relating to crofting.

The Commission Policy Plan will sit alongside other key documents including the Corporate Plan which outlines the Commission's priorities for the 4 year period. The Scheme of Delegation and delegation parameters outline the delegated authority at which decisions are taken and the specifics of these should sit within the principles laid out in the Policy Plan. Further information is provided to applicants in various locations, including form guidance and webpages. It is important to consider what information should sit in the Policy Plan and what should sit in these other documents or is already apparent from legislation.

To ensure that the policy plan is as effective as possible it will necessarily focus on the first of the Crofting Commission functions, 'regulating crofting'. This function, which incorporates over 30 different applications, notifications and enforcement processes, will form the bulk of the document. The other three aspects (reorganising crofting, promoting the interests of crofting and keeping under review matters relating to crofting) will have less specific information for inclusion in the Policy Plan and some aspects around these will be better suited to the Corporate or Business Plans.

The Policy Plan should give sufficient detail for the Commission, applicants and the Scottish Land Court to ensure clarity and consistency in decision making. The application guidance and parameters will supplement this to provide general information and specifics about how procedures in the Commission work in relation to policy (for example at what level decisions are taken).

As illustrated below, the policy plan is the overarching document on policy, which is consulted on as detailed in legislation. The parameters are criteria to determine at what level a decision is taken, which supplement the Policy Plan. Guidance for applicants will be determined from the Policy Plan and parameters, in addition to procedural details.



POLICY PLAN OUTCOMES (RELATING TO APPLICATIONS, NOTIFICATIONS AND ENFORCEMENT PROCESSES)

The purpose of the Policy Plan can be applied more specifically to applications. In other words what the Policy Plan is trying to achieve with respect to a particular application, notification or enforcement process. The following list gives the outcomes.

- To give applicants an indication of what is considered for their application or enforcement process and what is likely to be approved (in general terms).
- To give decision makers clarity and consistency about what should be taken into consideration.
- To provide a framework to allow parameters and guidance to be determined and allowing these to be enacted fairly and consistently (alongside the Scheme of Delegation).
- To provide transparency around the Commission's view on certain key issues (such as apportionments for other uses than grazings) and thereby enabling the Commission vision around this to have the best chance of success.

Impact:	Comments
Financial	n/a
Legal/Political	Commission policy is important for the integrity of the Commission and provides clarity for applicants and decision makers. Actively including current topics in Commission policy where appropriate will benefit the Commission's reputation.
HR/staff resources	Policy team, Regulatory Support Team and legal will all feed into the policy review work.

RECOMMENDATION

The review work for the Policy Plan is noted by the Board.

Date 3 June 2025

Author Heather Mack

CROFTING COMMISSION MEETING

25 June 2025

Report by the Director of Operations

Apportionment Policy Review

SUMMARY

Apportionments represent opportunities for crofters but are a substantial application and decision-making process for the Commission. This paper considers this topic, including apportionment uses, information to applicants, existing policy and legal background. A proposal for an updated apportionment section of the policy plan is presented. This mostly reflects the current policy and process followed by the Commission and is a considerable expansion of the current apportionment section of the policy plan.

Some additional areas are highlighted that could be considered by the Board for further consideration. These include considerations around another purposeful use for apportionments, consideration of whether applicants meet their crofting duties/ Annual Notice and the inclusion of review periods to apportionments as standard. These would need further assessment to fully understand the process, legal and resource implications.

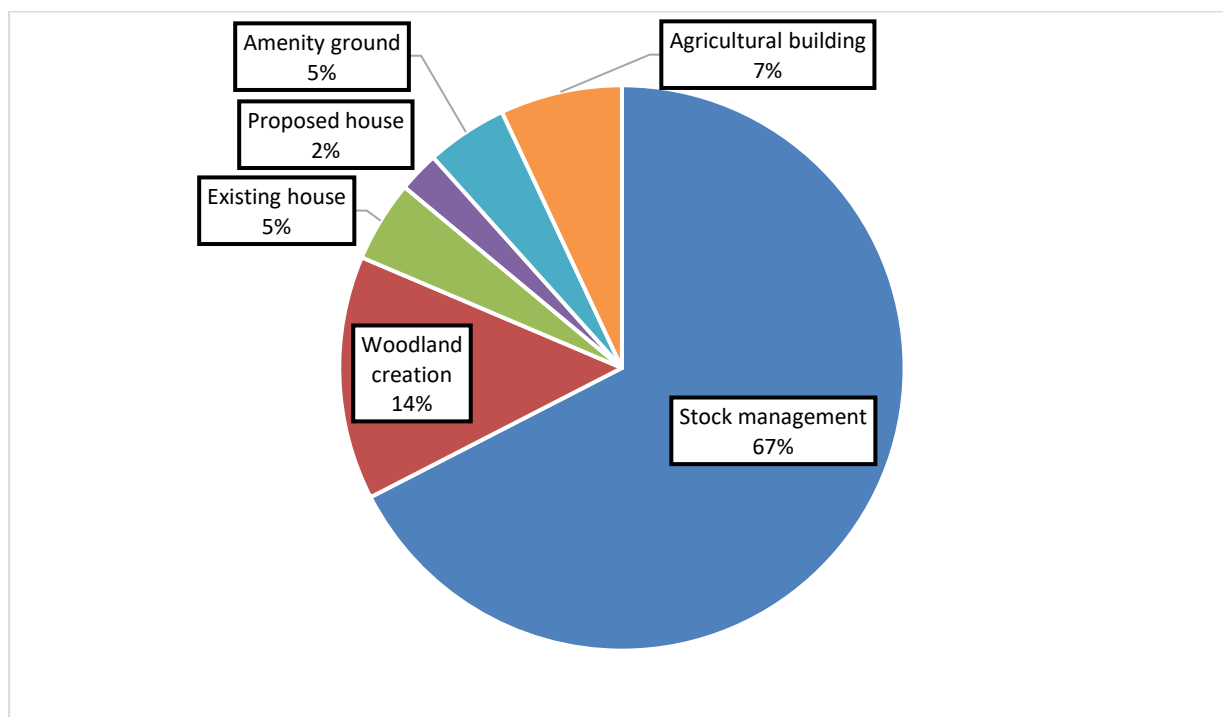
APPORTIONMENTS BACKGROUND

Apportionments are areas of common grazings, in which a shareholder can apply for exclusive use over an area of common grazing in which they have a grazings rights. The Small Landholders (Scotland) Act 1911 introduced the right to apply to the (at that time) Land Court for apportionment of common grazings into separate parts for the use of several townships or shareholders but this provision is substantially different to the current provisions, and apportionments are now carried out by the Crofting Commission.

There are approximately 7,700 apportionments. These cover an area of around 86,700 hectares representing an area of around 14 % of total common grazings land. Around 5,600 crofts have at least one apportionment associated with them. The majority of apportionments have been issued for stock management and this remains the main reason for new apportionment applications.

Apportionments are often one of the longest end-to-end processes that the Commission carries out. This is due to the requirement to conduct an RPID visit for each case, the specific requirements for the RPID visit in terms of plotting out the planned apportionment using GPS equipment, assessing whether the extent and quality of the land applied for is within the applicants souming rights, impact on souming entitlement, impact on other shareholders and because these applications have sometimes resulted in an ongoing back and forth dialogue with all concerned parties (but this is a practice that will be coming to an end). The Commission receives around 46 apportionment applications a year. Based on 2024 and 2025 decisions, the Commission refuses an average of one apportionment application to every four approvals.

For apportionments approved from January 2024 to May 2025 the chart below presents the purposes of those apportionments.



A comparison of the previous three policy plans in relation to apportionments was carried out (<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/9b-Annex-A.pdf>).

Since 2014 the policy on apportionments has become increasingly detailed, with the addition of the following topics: communal use and shared management; any negative impact on other shareholders; fencing; souming reductions; hope value; apportionment review; utilization of termed apportionments, determining that apportionments should be revised at fixed intervals, and the potential to return to common grazing land. However, there are some aspects where little detail is available in the policy plan such as around the restriction not to allow apportionments for another purposeful use. The policy plan also doesn't include some specifics of what is considered in the decision making process, for example whether the application includes all of the best agricultural land on the common grazings.

Demands on grazing land are becoming increasingly apparent and varied. In addition to stock grazing, there are also potential economic, community, environmental and climate benefits from alternative uses.

INFORMATION ON APPORTIONMENTS

Links to key documents containing information relevant to apportionment applications can be found in

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/9b-Annex-B.pdf>

LEGAL CONTEXT

The law around apportionments is less prescriptive and provides the Commission with more discretion compared to other application types. Section 52(4) of the Crofters (Scotland) Act 1993, "the 1993 Act", states:

'The Commission may, on the application of any crofter who holds a right in a common grazing, and after consultation with the grazings committee, apportion a part of the common grazing (including the site of the dwelling house of a crofter so applying if situated on the common grazing), other than a part on which the grazings committee have planted trees and which they are using as woodlands under section 48(4) of this Act, for the exclusive use of the applicant.'

In *Mackenzie -v- Crofters Commission*, (2011), the Land Court make the point that the legislation gives no guidance to the Commission as to what criteria they should apply when considering whether to grant an apportionment. In this respect apportionment decisions are different from others that the Commission are required to make. The only statutory requirement is that the Commission consult the grazings committee, but if the Commission fails to take into account certain other interests, such as those of other shareholders or the landlord, its decision could be open to challenge.

Mackenzie -v- Crofters Commission (2011) takes an approach that there is no right to apportionment and that the granting of the apportionment involves a loss of rights to other shareholders, albeit compensated for to some extent by the corresponding souming reduction.

The Commission have explored the issue of whether apportionment applications can include another purposeful use. This has taken place in short-term working groups and a previous Board paper and discussion in 2014, around whether applicants can apply for apportionments for another purposeful use. The current approach is that apportionments applications are not accepted for anything other than the following:

- Cultivation: Stock Management
- Cultivation: Agricultural Building (Existing or Proposed)
- Site of an Existing Dwellinghouse
- Site of a proposed Dwellinghouse
- Planting trees/use as woodlands for the exclusive use of the shareholder

The reasoning here is that any application to use croft land for a purposeful use requires the consent of the landlord, though the Commission can provide consent where the landlord refuses such consent and an application is made to the Commission. The exclusion of apportionment applications for another purposeful use allows the Commission to take an unbiased decision if an application is made for Commission consent to a croft being put to a purposeful use in terms of section 5C(4) of the 1993 Act.

Hope value is referenced in *Mackenzie -v- Crofters Commission* (2011) in that where there is development potential for the land comprising the proposed apportionment (such as inclusion of the land as a potential development site in the local development plan), that this is a relevant consideration for the Commission. Apportionments do not offer a route for all shareholders to benefit from development activity or change of use and this issue is referenced in several land court cases. Resumption, 50B (use of Common Grazings for other purposes) and 19A (Scheme for Development) do offer a route for all shareholders to benefit. This indicates that for fairness and to stand up to legal challenge, these routes should be preferred for uses other than what crofters are able to do within the legal meaning of “cultivation” and without landlord permission (which is what apportionments are currently limited to).

In *Matheson -v- Crofters Commission* (2012) the Court commented that “*the Commission had a balancing act to carry out. It had to take account of the interests of the other shareholders. And it had to consider the future. Except where an apportionment is granted temporarily, the land is lost to communal use in perpetuity. As the Commission themselves put it in the note of decision “When considering applications for apportionment, as well as taking the aspirations of the applicant into account, the Commission must safeguard the interests of the present and future interest of the other shareholders”. That is an accurate statement of the task they had to perform. They had to balance those interests. There is no legal requirement to give one set of interests greater weight than the others.*”

In terms of other options for change of use on common grazings, the Commission solicitor has noted that the Court of Session relatively recently noted, in connection with section 50B of the 1993 Act, that crofters have very little by way of legal right to use common grazings for non-agricultural purposes. The section 50B route requires there to be no detriment to the interests of the landlord and so the range of uses that section 50B would permit are limited. Any policy on apportionments must consider the legislation and case law including Land Court decisions on apportionments.

APPORTIONMENT POLICY PROPOSAL

The Commission may look to be clearer in its policy plan when detailing the different routes for crofters, shareholders and owners in developing land, changing use and how they can undertake climate and biodiversity enhancement activities. The demands on grazing land are becoming increasingly varied and several pressing needs regarding climate, biodiversity and housing are at the forefront of this. However, given the legislation and case law relevant to apportionments, they may not be the best route for these alternative uses of grazings land.

The Commission solicitor points out that when a crofter obtains an apportionment, he or she can do anything with the apportioned land that is consistent with the meaning of cultivation in the 1993 Act or, with landlord consent, a purposeful use. This means that although a crofter might apply for an apportionment for a particular purpose, he or she is entitled to use it for any other form of cultivation, which includes planting of trees. The most important factor when considering an apportionment application is how it affects the interests of other crofters sharing in the common grazings, as the applicant for an apportionment has no greater right to the land he or she is seeking to apportion than any of the other crofters sharing in the common grazings.

Currently apportionment applications are restricted to stock management, agricultural buildings, housing and woodland creation, with the exclusion of another purposeful use. The Commission would want applicants to be upfront with regard to their intended use for the apportionment, for the benefit of all involved. The options other than apportionment for an individual shareholder to do something different or innovative with their grazings share is quite limited. Expanding apportionment purpose to another purposeful use is something that the Board could give further consideration to.

The policy plan proposal below reflects these considerations and expands on the apportionment section of the current policy plan. The majority of the draft reflects current policy and practice however some elements, which are in bold and italicised, are not current policy or practice. These can be considered by the Board and would need further work and consideration if they were to go ahead. The structure of the section is a format that could be reused for other sections of the policy plan.

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/9b-Annex-C.pdf> presents the proposed draft policy plan section for apportionments.

Impact:	Comments
Financial	n/a
Legal/Political	Expansion and clarification of the apportionment section of the policy plan is beneficial to the Commission and provides clarity to applicants, agents and the Land Court.
HR/staff resources	Staff resource implications for the additional considerations will need to be assessed if this recommendation is taken forward.
Consumer Duty Guidance	Expansion and clarity of the apportionment section of the policy plan benefits consumers.

RECOMMENDATION

The Board is invited to approve the draft apportionment section of the policy plan (excluding the bold italicised wording).

It is recommended that the Board discuss, and approve the proposal for further consideration of the following topics at a future Board meeting:

- **Expansion of apportionment uses to consider applications for another purposeful use**
- **Inclusion of periodic reviews for all apportionments as standard**
- **Consideration of whether the applicant for an apportionment is meeting their duties and completing their Annual Notice**
- **Consideration of whether apportionment holders are meeting their duties and completing their Annual Notice at apportionment review periods**

Date 29 May 2025

Author Policy Team

CROFTING COMMISSION MEETING

25 June 2025

Report by the Director of Operations

Common Grazings Workshops

SUMMARY

This paper is to provide the Board with an update on the grazings workshops delivered through the Commission grazings team.

BACKGROUND

Common grazings form a large proportion of croft land (approximately two thirds) and are considered a critical resource for crofting in general. However, the value common grazings supply is lessened if there is no committee in place, or grazings are poorly managed.

In response to complicated cases which required extensive time commitment to resolve, the Commission grazings team developed an educational workshop that was then delivered to a limited range of committees. On the success of these, the Commission then formed a partnership with the Farm Advisory Service (FAS) who offered to fund the wider delivery of workshops, recognising the benefit in ensuring grazings committees have the correct knowledge and expertise to successfully manage a common grazing. FAS provide financial funding for venues, travel and handle all aspects of organisation, while the Commission jointly delivers the workshops with a FAS representative.

This paper carries out a review of the workshops, examining broadly the reasoning behind this work and the current position of it.

REASONING

The Commission has the power to remove committees where it is deemed that they are not properly carrying out their duties, however this is a long and complex process and is rarely in the best interests of the common grazings. A more effective approach is to provide grazings committees with the correct knowledge and tools to successfully manage the common grazings. Where a committee is well run, the benefits extend to both the shareholders in the common grazings, as well as the wider crofting township.

Ensuring that a grazing committee functions effectively also helps the Commission to achieve its goal of maintaining a high number of committees in place, which in previous years was a KPI.

To support the goal of well managed common grazings, the Commission grazings team started proactive projects to encourage grazings committees to come back into, and to remain in, office. These actions included operational processes, and the development and implementation of the educational workshops which are now delivered in conjunction with FAS.

The workshops focus on the formation of a committee, the duties of the committee, regulations, and financial good practice. This reflects the priorities of the Commission Policy Plan:

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

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

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

This is also reflected in the Scottish Government National Development Plan for Crofting (2021)

“The Crofting Commission’s Role in the Development of Crofting

The Commission will continue to support grazings committees by providing guidance and training, and helping to resolve any issues, and working with townships to secure accurate lists of shareholders. In addition, beginning in the Western Isles, Commission staff will develop closer relationships with grazings committees that wish to expand or diversify their activities.

The Commission will continue to support existing committees and the establishment of new grazings committees to increase active management of common grazings.”

COST -v- BENEFIT

Due to the partnership with FAS and the already established workshop content, there is no direct financial cost to the Commission for the delivery of the workshops. There is an element of staff time, but future workshops will be attended by one team member to minimise this. It should also be noted that workshops are often combined with other critical work in the area, and staff do not lose the full time as they are still able to work remotely for much of the trip.

The offset of these costs comes in the form of well managed common grazings, with effective committees, and the workshops are targeted at new committees, areas where there is perceived to be discontent, or a specific need has been identified such as a substantive development that is likely to result in confusion. This early intervention lessens the burden on Commission resources spent resolving issues at a later date. The Commission has numerous case studies which demonstrate the disproportionate resource cost to rectifying issues at a later stage where a reactive intervention is needed.

If the Commission ceased the workshops, it could save an estimated six days of staff time¹ currently committed through travel and delivery of workshops, however this is likely not going to present as an overall saving to the Commission due to the time spent resolving issues that will likely arise. Feedback reported from each event

(see <https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/10-Annex-A.pdf>)

has demonstrated the value that committee members themselves also find in the workshops.

Please see here for grazings workshop history:

<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/10-Annex-B.pdf>

¹ Estimate based on 12 workshops per year, taking account of remote work that can still be completed while travelling etc.

CURRENT POSITION

The Commission Board has agreed the delivery of 12 workshops through the 2025-26 business year as part of the Commission's Business Plan. These will continue to be funded via FAS and held in targeted areas.

The grazings team are also exploring ways to extend the workshops reach through better use of digital offerings, and potentially through the production of a shortened introduction video, or series of short videos, which would allow committees to evaluate their own position. This would allow a far wider reach for the series of workshops and allow more focused targeting of resources for in person sessions where committees themselves identify a requirement.

Impact:	Comments
Financial	No direct financial implications.
Legal/Political	The grazings workshops assist in delivering the aspirations set out the Scottish Governments National development plan for crofting and indeed deliver the objectives stated in our own Policy plan.
HR/staff resources	The Commission would be required to commit a small amount of resource in the form of a facilitator for the workshops.
Consumer Duty Guidance	The impact on consumers has been considered, and the Commission officials consider this to be a positive action in the best interest of consumers.

RECOMMENDATION

The Board is invited to note the update on the current programme of grazings workshops and provide any alterations.

Date 4 June 2025

Author Finlay Beaton, Grazings Manager

CROFTING COMMISSION MEETING

25 June 2025

Common Grazings – Delegated Decision Making

SUMMARY

This paper seeks the Board's approval to changes to the delegated decision making levels currently in place in relation to the confirmation of (i) new Grazings regulations and (ii) proposed amendments to existing regulations for the management of a common grazings.

BACKGROUND

The Crofting Commission agreed in 2019 to introduce a Delegated Decision-Making process to cover the sections of the Crofters (Scotland) Act 1993 ("the 1993 Act") which relate to Common Grazings. The sections in question were 47 to 49.

This paper will look specifically at:

Section 49(4): The Commission may confirm, with or without modification or refuse to confirm, regulations submitted for confirmation. Regulations are of no effect unless confirmed by the Commission.

Section 49(6): Provides grazings committees with the opportunity to make further regulations, amending existing regulations and can be required to do so by the Commission, with the same conditions as contained in section 49(4).

Confirmation of New or Amended Common Grazings Regulations

The Commission agreed the current template for new common grazings regulations in August 2017. The intention was to allow Grazings Committees to adopt the new regulations template and provided an element of flexibility to incorporate the addition of local practices. It was hoped this would encourage an element of ownership of the confirmed regulations but unfortunately has resulted in the process becoming quite time consuming and resource heavy in assessing submitted regulations with items which are potentially problematic or contrary to legislation.

It is our intention to streamline the process by allowing a limited number of options for additions to the new template and also create policies setting out what can and cannot be included in Grazings regulations from a local management perspective. Any policies will be agreed by the Board based on issues raised from a number of cases which will be presented to the Board in the coming months.

It is hoped that putting in place the changes to the decision-making parameters will streamline the process of confirming grazings regulations resulting in a shortening of processing timescales.

Current parameters (Established in 2019)

The Commission may confirm – with or without modification – or refuse grazings regulations submitted by a grazings committee. (Section 49(4)).

Where submitted grazings regulations are based on the standard template and any additions are considered legitimate, having received any necessary legal guidance, Commission confirmation can be provided at **the second tier** of the delegated decision-making framework.

When the Commission modifies submitted grazings regulations, following any necessary legal guidance, approval can be given **at the second tier** of the delegated decision-making framework.

Where the Commission refuses to confirm submitted grazings regulations, following any necessary legal guidance this decision may be taken **at the second tier** of the delegated decision-making structure.

A Grazings Committee may submit further regulations amending the Grazings Regulations or may be required by the Commission to make amendments. (Section 49(6)).

When a grazings committee submits further regulations to amend their grazings regulations, these can be approved at the second tier of the delegated decision-making process where they comply with legislative requirements or Commission policy. Any necessary legal guidance must be sought in the process.

Any Commission requirement to amend grazings regulations can be taken **at the second tier** of the delegated decision-making structure, where compliant with legislative requirements or Commission policy.

New parameters proposed (Within this paper)

The Commission may confirm – with or without modification – or refuse grazings regulations submitted by a grazings committee. (Section 49(4))

- Where submitted grazings regulations are based on the standard template and any additions are in line with Commission policy, the decision to confirm with or without modification can be made at **Tier 1** of the delegated decision-making framework.
- Any decision whether to confirm (with or without modification) submitted grazings regulations which are not based on the standard template and/or contain additions which are not covered by agreed Commission policy, must be escalated to **Tier 2** of the delegated decision-making framework.
- Where **Tier 2** do not consider that they can confirm submitted grazings regulations due to case complexity, concern about establishing a precedent and/or Policy level considerations, the decision must be escalated to a meeting of the Board of Commissioners for decision.

A Grazings Committee may submit further regulations amending the Grazings Regulations or may be required by the Commission to make amendments. (Section 49(6))

- Where amendments to grazings regulations are submitted based on the standard template and any amendments are in line with Commission policy, the decision to confirm with or without modification can be made at **Tier 1** of the delegated decision-making framework.

- Any decision whether to confirm (with or without modification) submitted amendments to grazings regulations which are not based on the standard template and/or contain additions which are not covered by agreed Commission policy, must be escalated to **Tier 2** of the delegated decision-making framework.
- Where **Tier 2** do not consider that they can confirm submitted amendments to grazings regulations due to case complexity, concern about establishing a precedent, and/or Policy level considerations, the decision must be escalated to a meeting of the Board of Commissioners for decision.

Any Commission requirement to amend grazings regulations can be taken at the second tier of the delegated decision-making structure, where compliant with legislative requirements or Commission policy.

PROPOSED LEVELS OF DELEGATION FOR COMMON GRAZINGS

- **Tier 1:** Grazings Officer.
- **Tier 2:** Panel consisting of Grazings Officer, Grazings Manager and Head of Regulatory Support. A member of the Senior Management Team may substitute for the Grazings Manager or the Head of Regulatory Support.
- **The full Board of the Crofting Commission.**

Impact:	Comments
Financial	Not applicable
Legal/Political	Positive, as the proposed changes will streamline the process of confirming grazings regulations resulting in a shortening of processing timescales.
HR/staff resources	None. The proposed changes will not require additional staffing resources.
Consumer Duty Guidance	Officials have considered the impact on crofters. It is anticipated that consumers (in this case Committees and shareholders) will be benefit from having their grazings regulations modernised in a fair and consistent manner while allowing for the recognition of local practices.

RECOMMENDATION

The Board is invited to discuss the proposals in this paper and decide whether the proposed changes to the delegation parameters should be implemented.

Date 4 June 2025

Author Finlay Beaton (Grazings Manager)

CROFTING COMMISSION MEETING

25 June 2025

Report by the Director of Operations

Scottish Land Matching Service Review

SUMMARY

In July 2023 the Scottish Land Matching Service (SLMS) introduced crofting to the service. The Commission supported this, though it remained entirely under the remit of the SLMS. The Board have asked for a review of the value of the service.

BACKGROUND

The Scottish Land Matching Service (SLMS) is an existing service which aims to facilitate prospective farmers to find land for purchase. In July 2023 the SLMS added crofting to its service, with the goal of enabling those who wish to move into crofting to find those wishes to facilitate new crofters. Although supportive of this service, the Commission is not directly involved and offers only “arm’s length” support through sign posting from its website.

As the service has now included crofting for a period of time, and regular statistics are now being supplied, the Commission Board wish to review the service and evaluate if the Commission can better use the service in its decision-making processes around the demand the service can now evidence.

CURRENT PERFORMANCE

The SLMS provides the Commission with regular updates as to how many crofters have registered both to obtain and offer croft land, and how many matches have been made. The latest headline figures are noted below¹, with the full latest annual report attached here:

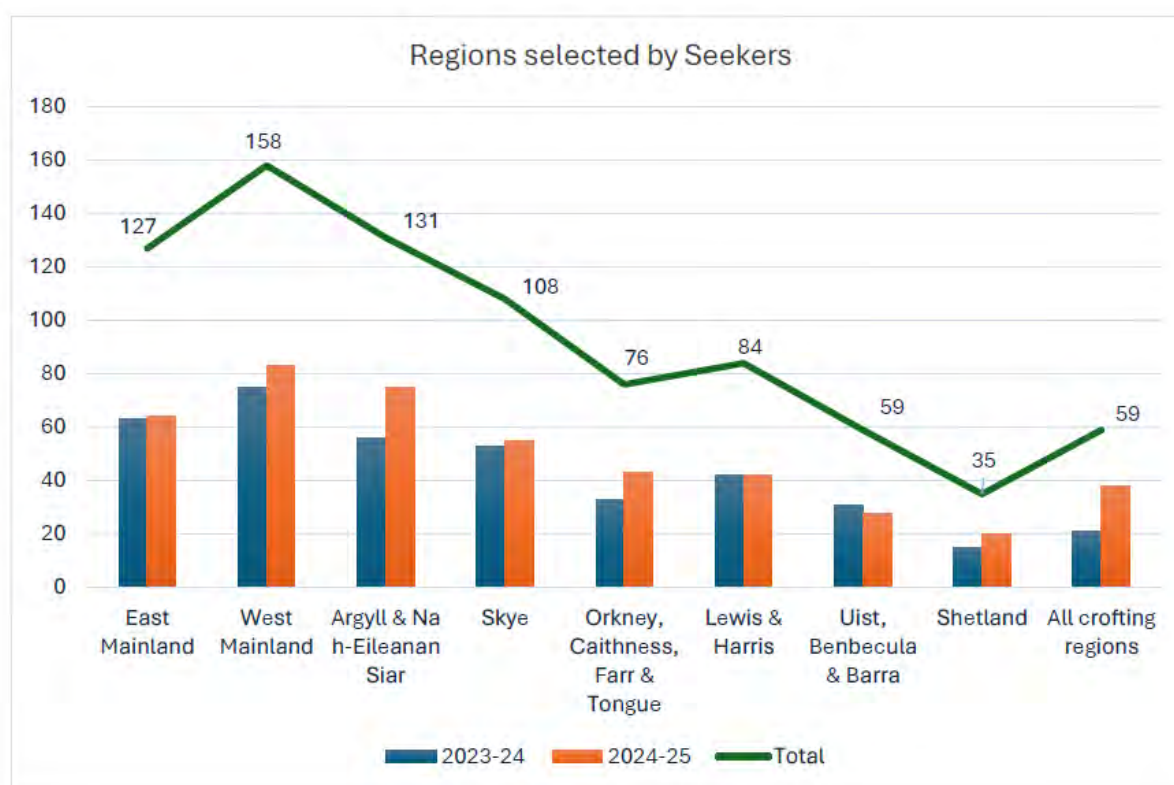
<https://www.crofting.scotland.gov.uk/userfiles/file/appendices/250625/SLMS-2024-25-FINAL.pdf>

- Since July 2023 560 crofting queries have been received, with 98% being individuals seeking a crofting opportunity
- During 2024-25 315 new seeker enquiries were received for crofting, and five new provider enquiries
- Two individuals have been matched²
- Only 2.6% of all seekers are currently active crofters

¹ Sourced from 2024-25 SLMS annual update

² Matched is defined as any client from the SLMS database who was introduced to another party and facilitated an agreement with

Perhaps of most interest to the Commission however, the below chart shows the geographic split of seekers, as reported by the SLMS:



1 – SLMS reported split of crofter seeking a crofting opportunity, by area they are seeking in

USING THE SLMS MANAGEMENT INFORMATION

The demand figures produced by the SLMS have the potential to offer further benefits to the Commission across a range of functions, should the Commission fully embrace and support the service. Some areas where this information may be utilised more fully are:

- The database held by SLMS could complement the work of RALUT team in terms of the letting of vacant crofts.
- Landlords could be signposted to the service as a means of advertising or finding tenants (this has been done regards previous work on vacant crofts by Development Team) but not progressed in a formal way by RALUT.
- If the Commission are to take on the formal letting of vacant crofts themselves under section 23(5B) and (5C), it could utilise the service to attract prospective tenants. (MoU amendments and or data sharing agreement may be required depending on the level of information that will be asked of SLMS).
- Demand may be useful in certain regulatory applications to strengthen Commission determinations, particularly where the applicant has noted that there is no demand on their application and the SLMS can provide evidence to the contrary

It has long been the opinion of the Commission (anecdotally) that the level of demand for crofts was high, however the SLMS statistics have quantified since registrations have opened with more detailed statistics being provided. The level of demand as a measure from SLMS data is fairly general in its geographical detail and does not go down to specific township or parish level at present, though the Commission is aware it is available down to postcode level. As it stands this may not be seen as sufficient evidence or grounds for decision making, however it

adds value to evidence already gathered regards the demand (from RPID or expressly provided) and would bolster the confidence of decision makers in the information that they are provided with. If it were to be used as grounds for a decision or evidence of demand, the evidence would likely require to be more specific and integrated better into the case processing and shared with applicants before the final decision made.

SUMMARY

The SLMS is not a Commission function, and as such has an immaterial resource cost to attend quarterly meetings. However a potential benefit of the service comes in the form of crofting statistics on demand, and the type of activity those seeking croft land are seeking to engage in.

There are several scenarios where having confirmed data around demand, as well as a ready list of those seeking a crofting opportunity, can be further utilised by the Commission. To date the Commission has offered very little commitment to the SLMS, however officials have recognised potential emerging benefits. As such the following two routes have been identified:

1. The Commission continues to engage with the SLMS as it currently has been
2. The Commission more actively explores the promotion of the SLMS, to assist in making statistics more robust, and uses elements of the demand expressed as part of its decision-making processes, where appropriate

It is the recommendation of officials that the Commission implement option 2.

The Board are invited to express how they wish the Commission to proceed.

Impact:	Comments
Financial	The SLMS is not a Commission function and as such only a negligible amount of staff time is needed to support it.
Legal/Political	There is political support for the SLMS from the wider Scottish Government. It may reflect negatively on the Commission if it is not seen to support the program.
HR/staff resources	Minimum staff resource implication, considered immaterial.
Consumer Duty Guidance	Consumers have been considered as part of the recommendation in this paper.

RECOMMENDATION

The Board is invited to review the proposals in this paper and decide how they wish the Commission officials to proceed.

Date 4 June 2025

Author Aaron Ramsay, Director of Operations

DATE OF NEXT MEETING

27 August 2025 - St Kilda

ANY URGENT BUSINESS

EXCLUSION OF PRESS & PUBLIC