

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 3 MAY 2017

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of C&CS, Minute-taker

1. APOLOGIES AND WELCOME

The Chief Executive welcomed everyone to the Board meeting and explained that he would be Chairing the meeting. It was anticipated that the Convener would be selected in the coming month and take over this role. There were no apologies.

2. DECLARATION OF INTERESTS

Standards Officer asked if anyone had any interest to declare in the public part of the meeting, explaining that any interests to declare at item 13 should be made known when the Board went into private session.

No interests were declared.

3. APPROVAL OF DRAFT BOARD MINUTE OF 29 MARCH 2017

The Minute of the Meeting of 29 March 2017 was approved. This would now be made ready for display on the Commission's website.

4. MATTERS ARISING FROM PREVIOUS MEETING

Head of Policy gave an update on preparations to consult on the Policy Plan. It was hoped that the consultation exercise would begin in the next couple of weeks. It would be based on the current plan but also with a focus on receiving feedback on the changes brought about by the 2010 Crofting Act. The consultation would be conducted over May-July and be reported on to the Board in June.

The consultation would be available on the website and social media. Commissioners requested a copy of the distribution list and emphasised the need for a social media campaign to encourage comment on the plan.

Chief Executive confirmed all Action Points raised for staff at the March Board meeting had been discharged.

5. AUDIT & FINANCE COMMITTEE REPORT

- (a) Update from Chairperson**
- (b) Draft Minute of 7 March 2017**

- (a) Chair of the committee, Commissioner Mathieson, gave an oral update of the committee meeting which took place on 19 April 2017, which had been attended by the three appointed Commissioner members. He had been impressed by the quality of the papers prepared for the committee and wished to record his thanks to the Finance Manager for his work on these and his support to the committee.

Budgets and accounts had been reviewed and the Risk Register considered for revision and update, with no finance or governance issues of concern to report to the Board.

- (b) Commissioner Campbell had been present at the Audit & Finance committee meeting on 7 March 2017 and confirmed the draft Minute was a true reflection of the meeting. There were two Action Points, which had both been discharged.

The Board approved the Minute.

6. ASSESSOR NETWORK

Head of Corporate & Customer Services introduced the paper, explaining that it is for the Board to decide whether it wishes to appoint a panel of Assessors, under Schedule 1 of the Act and that the term of the current panel ends in October 2017. The previous Commissioners had recommended that the term of the panel be extended for a further year, to give the new Commissioners time to bed into their role and to ensure that, going forward, the year of election to the Commission and appointment of a new Assessor panel did not coincide.

Members confirmed they did wish to appoint an Assessor panel and had a broad-ranging discussion on the role of Assessor, how this has changed over time and how a panel might work with the Commission in future. It was agreed that it was no longer appropriate to seek comments from Assessors in individual cases but that there was potential to use the network to provide information on things such as the use of better quality land in crofting communities, demand for crofts in particular areas and activity in crofting communities.

There was support for Commissioners having a role as a contact point for Assessors and meeting with their local Assessors over the coming months. It was agreed that Assessors represent a valuable resource and can help the Commission understand local concerns. It was agreed a new role needed to be defined and that a new panel should be appointed in Spring 2018. Training would be needed and the practicalities of this had to be worked out, as well as the best recruitment method to use.

The Commission agreed to take matters forward by setting up a short-term working group, comprising Commissioners Annal, Neilson, Scott and Maciver, Commission solicitor and another official as necessary.

Decision	Confirm the Commission will have a panel of Assessors; arrangements to be made to appoint a new panel in Spring 2018; an internal working group to be set up to consider the role of Assessor and recruitment method to use and report back to Board.
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7. BUSINESS PLAN – FINAL VERSION

Deputy Chief Executive introduced the paper and explained that a few figures had still to be confirmed. The plan has to be approved by the Minister and there is therefore an overview by Sponsor Division, who will put both the Corporate Plan and Business Plan up for approval at the same time. As the two documents will be viewed together, Sponsor Division have requested minor further editing to link the Business Plan to the Corporate Plan. The key thing is to ensure the Board is satisfied with the contents.

The Commission discussed how targets are arrived at and how outcomes will change if the 'clock stops' during a process. Textual changes were agreed on page 26, to talk about "a rich environment"; "quality wildlife" and "scope for business opportunities, population retention and sympathetic land use", and on page 31, to change "reduce" to "improve". It was agreed to say more in the Business Plan on the role of the Commission in promoting the interests of crofting and to revise Objective 3 and that the forthcoming meeting between the Minister and Commissioners provides an opportunity to highlight the impact of changes in grant conditions on crofters.

Decision	Approve draft Business Plan with textual changes and additions as noted above and subject to final editing by officials in consultation with SG.
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8. AGREE WHERE TO HOLD BOARD MEETING OUTSIDE INVERNESS

Head of Corporate & Customer Services explained that traditionally each year one Board meeting is held in a crofting county outside Inverness. Previous meetings had taken place in Harris, Strontian, Skye, Ullapool, Shetland and Brora, which generally take two days and include a surgery to meet people on an individual basis, a public meeting and a meeting with Assessors, as well as the public Board meeting. There is also generally an opportunity for a crofting community visit by the Board.

The Commission agreed that first choice for a visit, with the Board meeting itself falling on 20 September, would be Uist/Barra, with Orkney/Caithness as an alternative if it is not possible to secure enough accommodation in Uist for the night of 19 September. Whichever location is not visited this year will then be the choice for 2018 and can be booked and arranged well in advance.

9. STANDING ORDERS

Commission solicitor took the Board through the paper, explaining the proposed revisions to Standing Orders and the need to find a balance between freedom of expression and reasonable and fair conduct of business.

It was agreed to alter point 6.5 to 6.4(i) and 6.4(ii), so that they are read together. It was agreed to change “Convener” to “Chair” in paragraph 14 in order to avoid any potential for confusion. After discussion, the revised draft was approved and officers were asked to request comments from the Standards Commission.

Decision	Commission approved revised Standing Orders subject to amendment as above.
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10. ACTION PLAN – GOVERNANCE REVIEW

The paper was introduced by the Chief Executive, who gave the background to the review and outlined the recommendations made by Scott-Moncrieff, explaining that Sponsor Division will comment on the final draft.

The issue of document management was discussed, with the point made that internal systems can only work if everyone uses them and does not work outside agreed systems. Commissioners were also made aware that shortly before Scott-Moncrieff were engaged to carry out the review by Scottish Government, they had completed an internal audit of the Commission’s Governance and Risk Management policies, which resulted in a positive audit. It was agreed that the Action Plan should refer to this for context.

The Chief Executive agreed to draw attention in the report to the resolve of the new group of Commissioners to move forward and work with staff.

The Commission then went through each point in turn, with the Commission solicitor explaining his role within the organisation and how it is possible for the Board to seek alternative/additional legal advice if required and with officers explaining the need to adhere to the media protocol in order to protect members and the organisation. It was agreed that Commissioners would be provided with communication lines to take on various issues and that this would be updated each month.

Decision	Approve draft Action Plan for submission to Sponsor Division subject to textual additions as above.
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11. DATE OF NEXT MEETING

The next meeting will be Strategy Meeting of the Board in Great Glen House on 21 June 2017, followed by a training day on 22 June 2017. Apologies were received from Commissioner Mathieson.

12. AOB

No other matters were brought before the Board in the public meeting.

13. EXCLUSION OF PRESS AND PUBLIC

Chief Executive thanked Commissioners for their input throughout the day and closed the Board meeting at 4:50pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 16 AUGUST 2017

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Neil MacDonald	Finance Manager
	Karlyn Watt	Deloitte – External Auditor
	Margaret Williamson	Observer
	Anne Williamson	Minute Taker

1 APOLOGIES AND WELCOME

Apologies were received as follows:

Apologies were received from Jane Thomas, who was only able to attend the meeting for items 8 and 9.

The Convener welcomed Karlyn Watt from Deloitte, the Commission's external auditor and Margaret Williamson, Boardroom Development Ltd who would be observing the meeting.

2 DECLARATION OF INTERESTS

The Deputy Chief Executive reminded Commissioners of the purpose of the Declaration of Interests section of the agenda.

Commissioner Campbell declared an interest in the Garvary case in the Appeals to the SLC section of the papers.

3 APPROVAL OF DRAFT BOARD MINUTE OF 3 MAY 2017

The Minute of the Meeting of 3 May 2017 was approved with no amendments.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Chief Executive explained that a meeting had taken place yesterday of a sub group of Commissioners to discuss the role of Assessors. They now have a remit to take this matter forward. He also advised that progress had been made on the Business Plan.

5 ADVANCE PAPERS FOR APPROVAL

- (i) Establishing Parameters**
- (ii) Extending the List of Delegated Functions**
- (iii) Review of Delegated Decision Making Structure**

The Head of Regulation introduced the papers and clarified that the papers had previously been discussed by the Board in private and were being presented for ratification, in public.

Commissioners approved papers (i), (ii) and (iii).

Decision	Commissioners approved papers (i), (ii) and (iii).
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6 ANNUAL REPORT – FOR SIGNING OFF

Karlyn Watt, from the Commission’s external auditor confirmed that there were no issues with the Commission’s Annual Report and, subject to the Audit & Finance Committee Report being signed off, she was happy for the Annual Report to be signed off.

The formal signing of the Annual Report by the Chief Executive then took place.

Karlyn Watt and the Head of Finance then left the meeting.

7 POLICY PLAN CONTENT

The Head of Policy introduced his paper and drew the Board’s attention to the main issues highlighted and the suggested proposed handling.

A lengthy discussion then took place on where the Commission should be focusing attention and what would be the benefits of any proposed concentration of work on crofting duties. The merits of focusing on residency and land use were discussed at length and how any additional work would impact on staff resources within the organisation. The need to set realistic and achievable targets was considered and it was agreed that they should be in line with priorities within the Policy Plan.

Commissioner Annal raised a point about the Policy Plan providing little for the crofters in Orkney whose crofts are traditionally larger and often comprising numerous smaller units but where the boundaries are unknown.

The Board considered their role in being proactive and communicating the message that crofters can assist by looking at their own responsibilities and can take action to resolve their situations. Information needs to be made more widely available to crofters to inform them of the options open to them. The need to work with Landlords and other organisations was also considered.

It was agreed that after it is submitted to the Scottish Government, a further meeting is required to look at implementing the Policy Plan in more detail.

Decision	Further work to be done on the Policy Plan in line with the proposals in the paper before submission to the Cabinet Secretary.
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8 GAELIC LANGUAGE PLAN – ANNUAL REVIEW

The Head of C&CS joined the meeting and introduced the paper. She explained the Board must review progress on the Gaelic Language Plan each year. Bord na Gàidhlig also carry out an annual review of our Plan. The SMT monitor the Plan on a quarterly basis.

Commissioner Campbell highlighted that previously the Board Meeting was started with a Gaelic introduction. The Chief Executive agreed to prepare an introduction for the next meeting which is taking place in South Uist. The Deputy Chief Executive confirmed that Gaelic Language classes had been arranged for staff, and the Convener would attend if possible.

9 AUDIT & FINANCE COMMITTEE REPORT

- (a) Update from Chairperson**
- (b) Approval of Draft Minutes**
- (c) Annual Report on Committee Activity**
- (d) Risk Register**
- (e) Key Performance Indicators**
- (f) Complaints Handling Report**

Commissioner Mathieson introduced the papers and started with a recommendation that a Strategy Day be held on Risk Management. He also highlighted the importance of an adequate Commission budget for 2018/19.

The draft minutes of the meeting on 19 April 2017 were approved with no amendments.

The Head of C&CS added that the Sustainability Statement had been to the Audit & Finance Committee following a review by the internal auditors.

The Sustainability Statement was approved with no amendments.

10 GRAZINGS REGULATIONS TEMPLATE

The Head of Policy introduced the paper and advised that a Short Term Working Group had met to take forward the drafting of the Grazing Regulations template. A consultation had taken place over the last few months and a summary of the wide ranging responses was included in the papers.

The template has been designed to focus on the requirements of the Act. It does not prevent Committees adding additional sections that relate to their local circumstances e.g. cropping of machair land, open townships etc.

The Commission Solicitor added that the section on Muirburn should be amended to advise shareholders that the landlord's consent is required prior to any Muirburn taking place. The reference to the Muirburn Code should also be removed.

A discussion then took place about the legality of committees being appointed prior to the expiry of the current committee's 3 year term of office. The Commission Solicitor clarified that the meeting should not take place until after the current committee has expired. Only then could a new committee be appointed and take office. It was agreed that the wording of sections 1(1) and 1(5) needs to be looked at to clarify this point.

Decision	Template approved subject to wording changes at 1(1), 1(5) and (8).
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11 DATE OF NEXT MEETING

20 September – Polochar Inn, Lochboisdale, South Uist

12 ANY URGENT BUSINESS

Commissioner Campbell updated the Board on the Commission's recent attendance at the Black Isle Show. The event was very well attended and the Commission's tent received a large number of visitors. Staff were on hand to deal with enquiries and provide a demonstration of the upcoming ROC Online.

Commissioner Campbell also highlighted an issue that he has become aware of relating to Section 75 Notices being imposed by the Highland Council Planning Officer. After a brief discussion it was agreed that a dialogue take place with Highland Council to look at this issue.

13 EXCLUSION OF THE PRESS AND PUBLIC

The Convener closed the meeting at 4:00 pm.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT THE POLOCHAR INN, SOUTH UIST ON 20 SEPTEMBER 2017

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation, Minute-taker
	Ian Davidson	Sponsor Division
	Gordon Jackson	Sponsor Division
	Donald Lamont	BBC Alba
	Camera	BBC Alba
	One member of the public	

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the Board meeting. Apologies were received from Jane Thomas (Head of Corporate & Customer Services).

Commissioner Annal paid tribute to Matthew Budge, Area Assessor and crofter from Orkney who died recently following a short illness. Matthew was a young man in his early thirties who leaves behind a young family. Matthew made an important contribution to his community and continued to work his croft until his final weeks. Cyril passed a press clipping about Matthew's life around the table.

The Convener advised that Mrs Mackenzie (Media Officer) had written to the family expressing the Commission's condolences.

2 DECLARATION OF INTERESTS

Commissioner Campbell declared an interest in Garvary Common Grazings at item 10(a) Appeals to SLC (exclusion of press and public).

David Findlay (Solicitor) declared an interest in Garrynamonie Common Grazings for the same item in the agenda.

3 APPROVAL OF DRAFT BOARD MINUTE OF 16 AUGUST 2017

The Minute of the Meeting of 16 August 2017 was approved. This would now be checked and made ready for display on the Commission's website.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Chief Executive confirmed that the Action Points relating to completing and forwarding the Policy Plan to the Scottish Government, and the publication of the revised Grazing Regulations Template had been discharged.

5 ADVANCED PAPERS FOR APPROVAL

(a) Next tranche of DDM parameters

The paper was agreed.

(b) Commenting on Resumption Orders

The Head of Regulation clarified that there is no requirement for the SLC to agree the protocol adopted by the Commission for objecting to resumption applications. The Commission has a statutory entitlement to oppose or support an application under section 20(1A) of the Crofters (Scotland) Act 1993 ("the 1993 Act"). However, he considered that it may be worth having a discussion with the SLC, about them taking a flexible approach, in terms of allowing extensions in timescales to enable the Commission sufficient time to obtain and consider information from SGRPID, in determining whether to submit a response to the application.

The Head of Regulation further clarified that it is only the landlord of a tenanted croft, or the landlord of a common grazings, who can submit applications to the SLC to remove croft or common grazing land from crofting tenure by means of a resumption under section 20(1) of the 1993 Act.

Landlords of vacant crofts under section 24(3), tenants in advance of purchase under sections 24(3) and 25(4) and owner-occupier crofters under section 24A (all the 1993 Act) submit applications directly to the Crofting Commission to remove croft land from crofting tenure by the decrofting route.

It was agreed that the Board paper would be amended to include reference to "appropriate substitutes" in relation to the Commissioners delegated to assist the Chief Executive in determining whether to respond to resumption applications. Subject to that amendment, the paper was agreed.

Decision	Approve paper with addition as noted above.
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6 EQUALITIES AND DIVERSITY PLAN

The Deputy CEO introduced this paper by explaining that the Best Value audit recommended that, as the Crofting Commission was now a Non-Departmental Public Body, that we should have our own Equalities and Diversity Plan, rather than using the Scottish Government Plan. She advised that in drawing up the Commission's own plan, we had used the SG Plan as the bench mark, while adapting it to suit the particular circumstances of the Commission.

Commissioner Scott requested that there should be reference to interacting with the trade unions, and it was agreed that this would be taken forward.

It was also agreed at the suggestion of Commissioner Scott that the plan would incorporate a review deadline within the document.

The Plan was accepted subject to these changes. The Deputy CEO would e-mail the revised Plan with the agreed changes.

Commissioner Holt raised the issue of 50:50 by 2020 in relation to the Cabinet Secretary's decision to select three males as appointed Commissioners, and suggested that the Cabinet Secretary should have led from the top.

Commissioner Holt also noted that there had been only 1 or 2 female crofters at the public meeting the previous day.

There then followed a general discussion on encouraging more women to apply for the roles of both appointed and elected Commissioners. The suggestion was made that the Commission should contact the "Women in Agriculture" initiative co-chaired by Fergus Ewing and Joyce Campbell.

Decision	Approve Equalities and Diversity Plan subject to additions as noted above.
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7 ASSESSORS' NETWORK

The Deputy CEO introduced the paper and explained that a working group of Commissioners had met in August to discuss Assessors. They discussed the role of Assessors, the number required, the skill set required and the recruitment process.

The importance of the correct skill-set was emphasised, with the view being expressed that it was better to have no Assessor representing an area, rather than have an Assessor who did not have the skills required for the role.

Commissioner Neilson emphasised the importance of communication with and training for those individuals recruited as Assessors.

The Convener advised that the responses to the letter sent out to the current network of Assessors was very positive.

Commissioner Maciver commented on the provision for capacity building and having a network of Assessors supporting Commissioners, valued by the Commission and valued by crofters.

Commissioner Mackenzie commented on the diversity of crofting areas, and the benefit of having a local telephone contact who could advise on issues like whether to object or support resumption applications as discussed earlier.

There then followed a discussion on the advantages and disadvantages of Assessors being area-based, including the potential benefit in being neutral when acting in a mediation role and the benefits of sourcing grass roots local knowledge, while accepting there was also a risk that the Commission could sometimes get information and input which was prejudicial.

There then followed a discussion on the respective merits of getting small groups of Assessors together in meetings led by a Commissioner, or getting the network of Assessors together in a conference setting.

There were a number of suggested changes to the paper which were agreed:

Page 32: Assessor Recruitment process: Point 4 reference to “The local Commissioner will then review applications...” should be revised to “The Working Group will then review applications...”

Page 33: Role Description: The third paragraph “examples of experience of land based activity” should be reworded to make it more exclusive and reflect equality and diversity.

Page 41: Skills and Criteria required: “Internet connectivity/use of e-mail should be classed as “Desirable” rather than “Essential”.

It was agreed that once the above changes were made, the Commission would write to the current panel of Assessors, arrange to meet with Assessors and encourage others to stand.

Decision	Approve Assessors Role Description with changes as noted above. Write to all Assessors and arrange meetings with current and potential new Assessors.
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8 DATE OF NEXT MEETING

The next meeting will be in Great Glen House on 1 November 2017

9 ANY URGENT BUSINESS

Commissioner Mathieson made reference to casework groups of three Commissioners and the importance of cascading the outcome and decisions to the Commissioners not present. As an example, he made reference to a Public Meeting held in Griminish following a decision by a casework group. The issue had been raised at the meeting the night before and he was in the uncomfortable position that he was not aware that the meeting had been held.

It was agreed that the Head of Regulation would arrange for a report of decisions and outcomes reached at Tier 3 Casework Groups to be circulated to the full Board once the decisions had been actioned by officials and intimated to relevant parties.

Decision	The Head of Regulation to arrange reports of decisions of Tier 3 Casework Groups to be circulated to all Commissioners
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10 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their contribution and closed the Board Meeting.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE AT 10:30 ON 1 NOVEMBER 2017

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Cyril Annal	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO
	David Findlay	Commission solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of C&CS, Minute-taker

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the Board meeting in Gaelic, followed by a welcome in English. Apologies were noted from Commissioner Neilson. Commissioner Annal's flight was slightly delayed. He arrived at 10:50.

2 DECLARATION OF INTERESTS

No-one had any interests to declare in the public part of the meeting.

3 APPROVAL OF DRAFT BOARD MINUTE OF 20 SEPTEMBER 2017

The Minute of the Meeting of 20 September 2017 was approved.

4 MATTERS ARISING FROM PREVIOUS MEETING

Assessor Network

Deputy Chief Executive provided an update on work completed on the Assessor Network since the Board meeting in September, explaining that Roadshows have been organised for all areas except the Western Isles, as Commissioner Maciver wished to discuss these at today's meeting.

Packs for the Roadshows were available for Commissioners and Deputy Chief Executive went over the arrangements for the meetings with current Assessors in local areas, which will be followed by a public meeting, led by a Commissioner.

Commissioner Maciver felt at least 2 meetings are necessary in the Western Isles and that, to maximise value, it may be possible to hold a daytime meeting, as well as an evening one. Commissioner Neilson had indicated that he could join Commissioner Maciver for a meeting in Uist and Commissioners Campbell and Mairi Mackenzie could attend a meeting in Stornoway if the date was suitable. It was agreed that Commissioner Maciver would liaise with Deputy Chief Executive as soon as possible to establish dates for the meetings and that these would be held in the second half of November – early December.

Equality & Diversity

The Convener updated Commissioners on plans in place on diversity, with a workshop arranged for 16 November and a meeting arranged with Joyce Campbell of the 'Women in Agriculture' network.

Meeting arrangements

Commissioner Holt asked that care is taken, when arranging meetings such as the external Board meeting, not to clash with other events going on in the locality.

5 ADVANCED PAPERS FOR APPROVAL

(a) Environmental Obligations

Commission solicitor explained that the paper had previously been circulated to the Board and came to the meeting today for ratification. The only comments received by e-mail had been from Commissioner Neilson, who had concerns about the generalised comment of Counsel, noted on page 27 of the Board papers, regarding overgrazing by sheep. Commissioner Maciver noted that undergrazing could also be problematic.

Commissioners discussed the kind of circumstances in which consultation on designated sites with SNH may be required, and noted that an RPID report on land use may be sought to aid the Commission, when dealing with regulatory applications and that the applicant would also be required to provide a copy of any Management Agreement with the relevant public body. Commissioner Neilson's point was taken note of and the paper approved.

Decision	The Commission will adopt necessary procedures in order to comply with environmental law and seek advice from Scottish Ministers on issues raised in the paper and take forward specific proposals as per Annex A.
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6 AUDIT & FINANCE COMMITTEE REPORT

(a) Update from Malcolm Mathieson

Commissioner Mathieson explained that the committee had considered various processes and procedures at the meeting on 9 August. He commended the quality of the papers and commented on the Self-Assessment Questionnaire, which the committee had asked to see in revised form, to ensure it was directly relevant for the organisation. A revised version had now been provided. He further explained that the committee discussed risks relating to the Commission's IT system and the need to test back-up procedures. It was felt that the organisation needs to re-visit the Disaster Recovery Plan for IT systems, with the development of CIS and officers will bring this to the next meeting of the committee for discussion.

Commissioner Mathieson was pleased to report that financial commitments are running in line with the budget.

(b) Draft Minutes from 9 August 2017

The draft Minutes were noted and approved.

(c) Risk Register

The Risk Register had been considered by the committee after updates undertaken by the SMT. The Convener confirmed that a training session has been arranged for the Board in February to help the Commission agree its Risk Appetite.

Committee members highlighted the need to ensure all members of the Board have a good understanding of the role of the Audit & Finance committee and it was agreed that the AFC Board paper would be revised to include a Standing Note, with an explanation of the committee's role and responsibilities. In addition, a rota is being drawn up to provide all non-members with an opportunity to attend a committee meeting as observers.

(d) Key Performance Indicators

No comments were made on the KPI report.

(e) Complaints handling report

Head of Corporate & Customer Services explained that there had been a number of Stage 2 Complaints which had come in right at the end of the quarter. She confirmed all live cases had now been dealt with and closed. In order to provide more meaningful information to the committee, on from there to the full Board, a 'Lessons Learnt' table will be added to the Complaints information provided from January.

(f) Updates to Policies requiring Board approval

The Commission approved the updates to the policies on the committee Terms of Reference and the Commission Anti-Fraud policy.

7 CONSULTATION RESPONSE

Chief Executive introduced the discussion paper, explaining that a Workshop led by Sponsor Division would take place after the meeting to augment the discussion. The consultation was an opportunity to put the views of the Commission across Scottish Government and also to the public. Following today's discussions, a revised paper will be circulated next week, with a final draft ready by 16 November.

Commissioner Annal hoped that the paper could address the distinct differences between crofting in the Northern Isles and Caithness and crofting practices elsewhere.

There was a discussion on this and how decrofting under the present legislative framework raises challenges for the Commission in fulfilling its purpose to protect croft land, particularly on non-reasonable purpose croft decroftings.

Commissioners also considered the relative priorities of duties work, contrasting the impact of absenteeism, neglect and misuse and the challenges of working with a clean slate as opposed to revising legislation. It was agreed that using GAEC as the measure for an assessment of neglect does not really work in a crofting context. It was agreed that different issues are likely to have a greater impact in different areas and that this is also seen in the way grazings are being used.

Chief Executive hoped that the new Act could be used to clarify what Grazings Committees can and cannot do, as the present legislation has not kept pace with changes on the ground. Commissioners agreed this is a very complex area and wished to see the Commission resourced to act as facilitators to assist grazings committees, as well as playing a regulatory role.

8 DATE OF NEXT MEETING

13 December in Great Glen House.

9 AOB

There was no urgent business.

10 EXCLUSION OF PRESS AND PUBLIC

The Convener thanked everyone for their input and closed the meeting at 13:20.

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 8 FEBRUARY 2018

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	James Scott	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner
	Iain Maciver	Commissioner
	Bill Barron	Chief Executive
	Donna Smith	Deputy CEO, Minute-taker
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of C&CS

1 APOLOGIES AND WELCOME

The Convener welcomed everyone to the meeting in Gaelic and then English.

Apologies were received from the Commission Solicitor, David Findlay.

2 DECLARATION OF INTERESTS

James Scott declared an interest due to his father-in-law being an owner-occupier crofter in Orkney.

3 APPROVAL OF DRAFT BOARD MINUTES OF: 1 NOVEMBER 2017 AND 13 DECEMBER 2017

The Minute of the Meeting of 1 November 2017 was approved with no amendments.

The Minute of the Meeting of 13 December 2017 was approved with the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
8	3(a)	5	Commissioner Annal wished to record his dissent with the decision on the decrofting case in Birsay.

4 MATTERS ARISING FROM PREVIOUS MEETING

Commissioners wished to reconsider the 19 Rodel case following the receipt of further information. This was added to the agenda for later in the meeting.

5 ASSESSORS RECRUITMENT

Linda Gourlay, Projects Manager, joined the meeting and introduced the paper which outlined the recruitment process that had been used for the new panel of Assessors. She explained that 22 applications had been received and also one further late application. She explained that one of the applications was from an ex-Commissioner and one from a previous member of staff. The Commission’s previous policy had been that applications for an Assessor were not allowed from previous members of staff within two years of them leaving the Commission, however it was for the Commission to consider whether they wanted to review this policy. On balance, the Commission felt that given that the recruitment process had now changed and was more thorough, this policy was not required.

The Commission also considered the length of term for the new panel and confirmed that five years was appropriate in order to give an overlap with the next Commission elections in 2022.

Commissioner Maciver noted his disappointment that some areas did not have any applicants and Commissioner Mairi Mackenzie noted that all the applicants were from areas where a roadshow meeting had been held and wondered whether meetings in more places would have encouraged a higher number of applicants.

There was then some discussion about whether the new panel would cover specific areas but the Commission decided to devolve further discussion and a decision on this to a sub group of Commissioners.

Discussion on the individual applications was deferred to the Closed Session.

Decision	A sub group of Commissioners, namely Billy Neilson, Cyril Annal, Iain Maciver and James Scott to meet for a further discussion about the role of Assessors now that the numbers are known.
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6 AUDIT & FINANCE COMMITTEE REPORT

Commissioner Mathieson provided an overview of the last Audit & Finance Committee meeting and explained that Commissioner Mairi Mackenzie had attended the meeting as a guest and that all Commissioners should attend a meeting at some stage in order to expand their understanding of the business of the Committee.

Commissioner Mathieson explained that the latest Internal Audit reports considered by the Committee were all very positive.

He went on to explain that outstanding actions from previous audits were considered at length as there were a number that had not made much progress and/or were past their target completion dates. He confirmed that for some, the target date can be extended as they were not critical but wanted to mention two issues in particular, related to IT. Firstly, that the Commission’s IT provision is largely dependent on one person and the other was around whether there were adequate provisions in place for data backup and recovery. He did stress that he did not expect either of these to cause a significant issue but that they were worth noting for due diligence.

Other key topics discussed by the Committee were around the Cyber Resilience work from Scottish Government and a new Whistle Blowing Policy specifically for Commissioners as they are not covered by the same one as staff. The Risk Register and Complaints were also discussed and the draft Budget for 2018/19.

Commissioner Holt asked for further clarification of Risk Number 072, related to the impact of conflict within crofting communities on the reputation of the Commission. The CEO explained that people in conflict often think it is the Commission's issue to resolve even when it is not within our powers to do so. This is therefore something that we need to continually work at through good communications. Commissioner Campbell noted that the Commission will not ordinarily have much direct contact with the vast majority of crofters which makes it difficult to get any message across.

Commissioner Scott asked what progress was being made in relation to the implementation of the General Data Protection Regulation (GDPR). Head of Corporate Services explained that plans were well underway and a paper will be going to the AFC in April with a progress update.

The Commission were then asked to approve the Board Evaluation Questionnaire as recommended by the AFC, subject to the addition of a 'Don't Know' option for each question.

Decision	The Commission approved the Board Evaluation Questionnaire subject to one change.
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The Commission were then asked to approve the Budget for 2018/19 as recommended by the AFC. Commissioner Mathieson wished to record his appreciation for the quality of financial information that the AFC receive.

Decision	The Commission approved the Budget for 2018/19.
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7 DECENTRALISING JOBS – HOW TO CONSIDER WITH NEW BOARD

The CEO introduced this paper by explaining that the Commission used to have staff based at various locations around the crofting counties when they had a Development role but with the loss of that role, staff had been located since in Inverness. He explained that the question of decentralising some jobs had been briefly discussed by the previous Board, with the Commissioner from the Western Isles at that time explaining some of the economic benefits of having Commission staff based in areas outwith Inverness. The CEO explained various models of deployment that could be considered if the Commission were minded to pursue this discussion further.

All the Commissioners then contributed to a lengthy discussion on the merits and potential problems of having staff deployed in different locations with the key merits being identified as contribution to the local economy, and having someone based within a community who can better build local relationships and understanding of the Commission's role. These merits, however, were countered with the disadvantages with all Commissioners raising concerns around logistics of management, isolation from team members, career limitations and unrealistic expectations of someone who would be considered locally as being responsible for all crofting functions where in reality they would only really be there to do their specific role. There were also concerns raised related to the size of the Commission and the extra budgetary impact of basing staff remotely from the main office. It was acknowledged, however, that certain roles could lend themselves better to working in this manner where the role was a largely individual one that did not require the knowledge or support of a team day-to-day.

There was also some discussion about how some of these benefits, such as increased local understanding of the Commission's role, could be better delivered and it was acknowledged that working better together with SGRPID and the new Assessors could support this.

Decision	The Commission confirmed that they do not wish the Executive to further consider the decentralisation of jobs at this time.
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8 OWNER-OCCUPIER CROFTS IN ORKNEY & CAITHNESS

This paper came to the Board following a request for a discussion on crofting in Orkney from Commissioner Annal and a recent visit to Orkney by the Convener and Commissioner Mairi Mackenzie and the Head of Policy. The Head of Policy introduced the paper which presented a summary of the history of crofts in Orkney which is quite different from that of crofts in other areas. The key distinctions highlighted were around lack of common land, and the ability to purchase land occurred much earlier in Orkney which also had a big impact on how crofting evolved. He highlighted that there are currently 450 crofts in Orkney with only 64 of these tenanted, the rest being owned.

There was then a lengthy discussion about what Commissioner Annal perceived to be the difficulties faced by crofters in Orkney and he outlined that there is no distinction in Orkney made between the status of the land, with croft land often being subsumed by surrounding farm land and managed as one big unit. He also highlighted the difficulty that crofters have borrowing on croft land due to lack of standard security.

It was clarified that Regulation and Policy make no distinction currently because, ultimately, the land is croft land and therefore subject to the same considerations as everywhere else with individual cases being considered on their own merits.

Commissioner Mairi Mackenzie asked Commissioner Annal for clarification of what he thought the main issue was. Commissioner Annal confirmed that it was borrowing of money, however several Commissioners highlighted that this same issue was faced by all crofters no matter where they live and that there were also some financial benefits linked to croft land, with crofting specific grants available.

After further discussion, it was felt that any change sought by crofters in Orkney could not be addressed by the Commission and was a matter for Scottish Government, perhaps in conjunction with any discussion about revised legislation.

Commissioner Annal accepted this conclusion.

9 COMPLIANCE AND THE COMMISSION – FOI/EIR/DPA ETC

This item was deferred until a future meeting of the Board due to time constraints.

10 DATE OF NEXT MEETING

22 March 2018 – Great Glen House

11 AOB

No other business was raised and the meeting closed at 11.55am.

12 EXCLUSION OF THE PRESS AND PUBLIC

The meeting closed at 1.10pm.