

# CROFTING COMMISSION

## MINUTE OF THE COMMISSION MEETING HELD BY SKYPE ON 14 MAY 2020

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner
	Mairi Mackenzie	Commissioner
	Malcolm Mathieson	Commissioner
	Iain Maciver	Commissioner
	David Campbell	Commissioner
	Billy Neilson	Commissioner
	Cyril Annal	Commissioner (from 9:50)
	James Scott	Commissioner
	David Findlay	Commission Solicitor
	Mary Ross	Head of Operations & Workforce
	Aaron Ramsay	Head of Digital & Improvement (from 10:14)
	Joseph Kerr	Head of Regulatory Support
	John Toal	Head of Policy
	Garry Laws	RALUT (from 12:39)
	Jane Thomas	Head of Compliance and minute taker
	Betty Mackenzie	Communications (until 13:30)
	Gordon Jackson	Sponsor Division
	Michael Nugent	Sponsor Division

### **1 APOLOGIES AND WELCOME**

The Convener welcomed everyone to the meeting, in Gaelic followed by a welcome in English. Apologies were given for the CEO, Bill Barron, who was temporarily assisting the Scottish Government's Community Health Directorate on the national response to COVID-19.

### **2 DECLARATION OF INTERESTS**

The Convener asked if anyone wished to declare an interest. No interests were declared in the public part of the meeting.

### **3 BOARD MINUTE OF 19 MARCH 2020**

The Minute of the Meeting of 19 March 2020 had been approved by email and published on the website. It was brought to the meeting for information only. There were no questions.

### **4 MATTERS ARISING FROM PREVIOUS MEETING**

Commissioners sought an Addendum to the March Minute, wishing the word "stated" to replace the word "commented" in the section under item 1 relating to staff safety being the top priority for the Board. A Note to that effect will be added to the published Minute.

It was confirmed that the Commission no longer uses the Board Papers App, after a Commission decision at the February Board meeting. This was due to the cost involved. The papers would be presented via the OneNote App for the June Board meeting.

Commissioner Mathieson, as Vice Chair of the Audit & Finance Committee, wished to raise as a governance issue the fact that the CEO was absent, which he was not happy about. Others agreed this was regrettable. The Convener stated that he wished to proceed with the meeting, though he too would have liked the CEO to attend. In the event of an item requiring the presence of the Accountable Officer, the Convener stated that he would postpone a decision on the relevant item until the Accountable Officer was present.

It was confirmed that no Interim CEO has been appointed and there is no Deputy CEO. Sponsor Division explained that the roles of CEO and Accountable Officer are not the same and that the CEO has decided to retain both roles during secondment to another SG Directorate for a temporary period. The Convener confirmed to the meeting that the secondment is likely to last for another month.

The meeting then went into private session at 9:54, to allow Commissioners to discuss the absence of the CEO/AO and the impact this is having on the Commission.

## **CLOSED SESSION**

The meeting then went back in **PUBLIC** session at 10:57am.

## **5 EMAILED PAPERS**

### **(a) Gaelic Language Plan**

Head of Compliance confirmed Commissioners had approved the draft in November, it had then gone out to consultation with staff and the public. As no responses were received, the draft is as it was when approved in November.

The Commission approved the Plan, which would now be made ready to send to Bòrd na Gàidhlig. It was confirmed that work such as language classes was currently suspended but would hopefully be picked up as soon as restrictions are eased, or plans would have to be adapted.

<b>Decision</b>	<b>Board approve Gaelic Language Plan 2020-2025</b>
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### **(b) Grazings committees and Covid-19**

Head of Policy explained the paper had previously been approved in principle and was now before the Commission to sign it off. Quite a number of grazings committees were interested in it and the work of the grazings team had begun to show marked improvements in the number of regulated committees in office by the end of March, going up to 490.

The Commission approved the change as detailed in the paper. A point was raised about the procedure for approving papers circulated by email, which will be picked up when Standing Orders are reviewed in August.

<b>Decision</b>	<b>The Commission approved provisions for grazings committee appointment during the Covid crisis.</b>
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## **6 HOW THE COMMISSION IS RESPONDING TO THE COVID-19 CRISIS**

As the CEO was absent, the paper was presented by the Convener. Commissioners felt that, as it had been written on 23 April, it was now out of date, though the timeline was useful. Commissioners asked for a verbal update on Annex A, which was provided by the Commission solicitor, who explained that 60 applications have been received and 28 registrations, which have been logged for processing. The Convener wanted to see the information on a weekly basis, logged by Tier level and application type.

It was confirmed that RoS have one person working on registration forms.

It was stressed that the Commission should not lose sight of big-ticket items and that if a backlog is inevitable, we must take the opportunity to look at processes carefully to see what can be streamlined. Commissioners hoped that officers would help them understand the systems to gain long-term benefits via business reorganisation.

Answering a question about CIS, Head of Operations explained that access was not a problem, things were running more slowly but that was not necessarily associated with CIS. There are many factors which contribute to staff not being able to process through cases as quickly as they would have done in GGH. Things are starting to settle down more as staff become more used to working remotely and problems are identified and dealt with. Going forward, it is likely that partial home working will be part of the medium-term strategy.

Head of Operations confirmed that the wording on the website regarding applications is being looked at, with changes to be made at the beginning of the week, to soften the message and differentiate between applications and Notifications. It was confirmed that a Lessons Learnt Log has been created, as part of the BCP and this is being populated to capture learning and will be made available to the AFC and from there to the Board. It was agreed that the review of the Business Plan mid-year would also capture learning from the current crisis.

Commissioners favoured setting up working groups to help make progress.

## **7 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS**

The Convener asked if anyone wished to make a contribution.

Commissioner Neilson wished to compliment the staff, as they seemed to be working well in trying circumstances. The staff he had been in touch with have been first class.

Commissioner Holt said he was enjoying the increased contact with customers over the phone and would like it to continue. Commissioner Mackenzie agreed and said people are very appreciative of having someone to talk to. She too would like to continue with this.

Commissioners Campbell and Mathieson, along with the Convener, returned to the idea of establishing working groups to help speed up progress and felt these should include staff at all levels as well as Commissioners.

## **8 AFC REPORT**

### **(a) Update from Malcolm Mathieson**

Commissioner Mathieson commented that quite a lot of discussion had already taken place regarding items he would have brought up at this point. He explained there had been two AFC meetings because one was needed to address the current situation. He was disappointed that the CEO had not attended the last one. He continues to have a concern that the AO is not available at a time of unprecedented challenge for the Commission.

He was also concerned that Commissioners on the AFC have not pushed management hard enough on risks but stated that they would be pressing harder from now on. The current risk was not foreseen but we have to learn from it. For instance, if there is a big backlog due to the change in how we are working, we can only change this by changing our working practices, such as by moving to online applications now. However, with our current staff resources it will be hard to clear a backlog. We need more resources. If this is not possible, expectations have to be managed.

Commissioner Mathieson reported that the IT risks previously identified have been reduced by having access to a third party as back-up but the reliance on access to GGH, which is being severely restricted, causes concern. The need to house a server externally has become critical.

He wanted also to alert the Board and Sponsor Division that it will not be possible to remain in budget this year without losing staff and that this would impact performance further. In response to the news on the budget challenges, Sponsor Division hoped the Commission would make their best endeavours to work with the situation.

The committee were not able to sign off the AO report because he was not there. It was felt more respect needed to be paid to the Board and its authority as an NDPB and that if information and answers were not forthcoming to the AFC, its Commissioner members would resign.

Commissioners thanked the AFC members for being frank and open about the situation and the Convener wished to record the confidence the Board has in the committee.

### **(b) Draft Minutes from March & April meetings**

There were no comments on the Minutes, save to compliment the Finance Manager on them.

### **(c) 2019/20 Self-Assessment questionnaire results – AFC committee**

Commissioner Mathieson explained the background and asked for questions.

### **(d) 2019/20 Self-Assessment results – the Board**

Commissioner Mathieson was pleased to report that the whole Board had completed the questionnaire. It was agreed to focus on the 'don't know' responses, which Head of Compliance and Board Support will help the Convener work through.

### **(e) Q4 Key Performance Indicators**

There were no comments on the KPIs.

### **(f) Operational Risk Register**

There were no comments on the Operational Risk Register.

## 9 STRATEGIC RISK REGISTER

There were no comments on the Strategic Risk Register.

## 10 EXTENDING THE SCHEME OF DELEGATION

Head of Regulatory Support explained the need for the extension, which was about signing Directions and Orders, the change being propelled by having to move to electronic signatures. This has been moved forward speedily, with everything relevant in place. This was approved.

<b>Decision</b>	<b>Commission approved widening Scheme of Delegation</b>
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## 11 RALUT REPORT

Garry Laws from the Regulatory and Land Use Team had joined the meeting to cover this item. He explained the background and asked if any clarification was needed. Commissioners regretted that staff resources were taken away from the team, as their work was critical. Much more could be done with the necessary resources.

There was a discussion on non-return of crofting census forms and forms which are not filled in correctly. Mr Laws confirmed that the Team have proposals for acting against serial non-returners. Sponsor Division confirmed the data from the Commission is seen by the Cabinet Secretary. It was confirmed that it is an offence not to complete a Crofting Census return. Commissioners were also urged to consider the impact of long-term sublets on the work of the team. The Commission solicitor said he would consider whether there was a possibility of using a Late Penalty Notice.

Commissioners commended the paper and the work of the team.

## 12 DATE OF NEXT MEETING

The next meeting of the Commission will take place via Skype on 25 June 2020.

## 13 AOB

An item had been raised by Commissioner Maciver with the Convener prior to the meeting, as per Standing Orders, as it was felt the issue of charges in care homes should be discussed by the Board. It was explained that the Western Isles Council is pursuing the Executors of late crofters, in some cases, in order to recover care homes fees by utilising the family croft as a financial asset. Commissioners are agreed that the Crofting Commission should take a view on this, so that a clear public position can be stated.

The Convener's view was that some crofts would represent a financial liability to the family, rather than an asset. It is certain that there will be enormous financial pressures on local authorities in the near future but, if the view of councils veers towards crofts being valuable assets that can be used, it would seem to run contrary to the view of banks and lenders, who are reluctant to lend because of the lack of freehold rights on crofts.

There was a concern that it is not only a question of monetary worth but a question of pressure being put on families to decroft, to cover care home debt, thereby depriving the next generation of being able to enter crofting.

It was agreed that the CEO should be asked to seek legal advice and that, once this is forthcoming, the matter will revert to the Board.

## **14 EXCLUSION OF PRESS AND PUBLIC**

The Convener thanked everyone for their contribution and closed the meeting at 15:27.