

**DUE TO THE OUTBREAK OF CORONAVIRUS, SCOTTISH GOVERNMENT ADVICE ON REDUCING TRAVEL AND SOCIAL DISTANCING AND CONCERNS REGARDING POSSIBLE RESTRICTIONS TO ACCESS TO GREAT GLEN HOUSE, THE MAJORITY OF COMMISSIONERS JOINED THE BOARD MEETING VIA SKYPE**

## **CROFTING COMMISSION**

### **MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE AND BY SKYPE ON 19 MARCH 2020**

Present:	Rod Mackenzie	Convener
	Andy Holt	Commissioner, by Skype
	Mairi Mackenzie	Commissioner, by Skype
	Malcolm Mathieson	Commissioner, by Skype
	Iain Maciver	Commissioner, by Skype
	David Campbell	Commissioner
	Cyril Annal	Commissioner, by Skype
	James Scott	Commissioner, by Skype
	Bill Barron	Chief Executive
	Mary Ross	Head of Operations & Workforce
	Aaron Ramsay	Head of Digital & Improvement
	David Findlay	Commission solicitor, by Skype
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulatory Support
	Betty Mackenzie	Communications Manager

#### **1 APOLOGIES AND WELCOME**

The Convener welcomed everyone to the meeting. Apologies for absence were received from Commissioner Neilson, who was unable to attend either in person, because of restraints, and by Skype because of IT issues of connectivity, and Jane Thomas, Head of Compliance.

The Convener noted that most Commissioners and the Commission solicitor were attending remotely, as a precaution in the light of the Covid-19 pandemic. He noted that Great Glen House was already half empty, as Scottish Natural Heritage and some tenant organisations had largely stopped using the building. Some Commission staff were already working from home but the majority were in the office, though managers and staff were urgently considering, in consultation with Scottish Government, whether and for how long this should continue. The Commissioners **commented** that the safety and wellbeing of Commission staff was their primary concern and priority.

Regrettably, it was not possible for members of the press or public to attend the meeting, because the building had been closed to the public for health reasons. Nevertheless, the majority of the meeting still has the status of a public meeting, with the agenda and papers published in advance and the minutes to be published once they have been approved.

Because several members were attending remotely for the first time, it was agreed to change the order of the published agenda. These minutes record the business in the order it was conducted on the day.

<b>ADDENDUM TO MINUTE</b>	<b>Please note, at their meeting on 14 May 2020, the Commission wished to replace the word “commented” in red above, with the word, “stated.”</b>
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**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 MINUTES OF 6 FEBRUARY 2020**

The Minute of the Meeting of 6 February 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**

At the previous meeting, it had been agreed that the issue about the constituencies would be raised and discussed at the meeting with Fergus Ewing proposed for June 2020. However, given the current situation with Covid-19 it is possible that this meeting may not take place. Commissioner Maciver suggested we take time over the next few weeks to revisit this issue and make sure we have a unified vision. CEO said that if the Commission wished to make representations on the issue ahead of the 2022 elections, it would need to do so within about the next 6 months.

**5 DRAFT BUSINESS PLAN**

CEO advised that since the Board’s consideration of the previous draft in February, he had added the foreword. After discussion the Board agreed to approve the document for publication, once final details such as statistical baselined have been added, provided that a caveat was included to explain that this plan predated the pandemic, and that implementation may deviate as a result of Covid-19.

<b>Decision</b>	<b>The Board approved the Business Plan subject to final adjustments</b>
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**6 ANY URGENT BUSINESS: Budget 2020-21**

Commissioner Mathieson introduced the draft budget for 2020/2021. He explained that considerable work had been invested by the AFC and Finance Manager to draw together this budget. All non-staff expenditure had been cut back, keeping it to an absolute minimum. Payroll costs would need to be reduced during the year if the budget was to be met. Commissioner Mathieson suggested approval of the budget recognising that any further cuts may have an effect on regulatory performance.

The Board noted the challenging budget and asked about potential cost implications of Covid-19. CEO said he had already alerted Scottish Government to the likelihood of additional costs as a result of working from home and other indirect effects of the pandemic. But management would respond flexibly as the situation developed.

Commissioners were of the view that it was important to fulfil their statutory duties and agreed the budget for 2020/2021 in line with Commissioner Mathieson's recommendation.

<b>Decision</b>	<b>The Board approved the Draft Budget for 2020-21</b>
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## 7 'ROUND THE TABLE' UPDATES FROM COMMISSIONERS

Commissioner Mathieson advised he understood that the SG were paying IACS payments in Pounds Stirling and there was no longer an option for payments to be made in Euros. He said this would create problems for some claimants. Commissioner Campbell confirmed this was also his understanding. CEO confirmed that he would establish the position with SG.

Commissioner Mathieson advised he found the recent Cross Party meeting very interesting.

Commissioner Holt advised that he had been in contact with Matt Roberts from Shetland Amenity Trust. The Trust has made an application to the National Lottery Climate Action Fund to progress a project on Climate Literacy with a view to making crofting more environmentally friendly.

Commissioner Annal said he believed the Board should meet once a week or fortnightly and the meetings should be shorter.

Commissioner Maciver said the current situation with Covid-19 has affected his planned trip to Uist. He also said he thought it would be a good time to develop the proposal to deploy staff to the Western Isles.

Commissioner Scott said his private business had taken a hit. There are no 'face to face' meetings taking place and this is very difficult as it is an essential part of his business.

Commissioner Mackenzie said it was an anxious time for crofters. Covid-19 is causing difficulty and crofters' mind sets have changed.

On the other hand, looking to the future, Commissioner Mathieson said that there was an interesting article in the Glasgow Herald (19/03/2020) about local food production and mobile abattoirs. Commissioner Mackenzie said she believed that Covid-19 would provide some opportunities for local food production and the sharing of food.

Commissioner Campbell added that rural areas may be best placed to deal with the Covid-19 issues. It is an opportunity for us to be promoting the crofting lifestyle. He also advised that he had recently been appointed to the board of the SG Rural Action Team.

Convener advised that this week's scheduled meeting of the Convention of the Highlands & Islands had been cancelled. He and the CEO had been intending to present a paper about crofting, population retention and land use. Commissioner Campbell said, as a Board, we will all have plenty of time over the next 12-14 weeks to discuss these issues.

Commissioners agreed that it would be valuable and important to have contact with Assessors during the Covid-19 crisis, to take part in teleconferences about crofting issues.

Commissioner Mackenzie asked were livestock sales going ahead? Some auctions were being carried out digitally and others were proceeding. Commissioner Campbell said that livestock sales would need to go ahead as they were vital for the food chain.

## **8 DEVELOPMENT OF CROFTING – ROLE FOR THE COMMISSION?**

CEO invited comments on the draft Development Role letter to be sent to SG.

Commissioners welcomed the draft letter, and felt that stakeholders would support the Commission taking on a development role. The Board agreed that the letter should now be sent to SG, after further minor revisions, including more clarity about the headlines. Commissioners noted that the practical implementation of some of the ideas, in particular about peat restoration on common grazings, would need further thought.

The Board approved the letter to Scottish Government, subject to minor revisions.

## **9 RALUT**

### **(a) Residency and Land Use Team – Report**

This item was not taken. It will be discussed at the next Board meeting.

### **(b) Policy relating to Sublets and the Enforcement of Duties**

Head of Policy introduced the paper on the policy relating to Sublets and the Enforcement of Duties. He advised that a Board decision in 2014 had effectively encouraged subletting for up to 10 years in cases where crofters were not meeting their duties. While it had been claimed that this would provide the opportunity to sublet to new entrants to crofting, statistics showed that this rarely happened. In practice, what happened was existing crofters enlarged their pool of croft land, which the report on support for crofting commissioned last year had suggested was detrimental to the delivery of government policy for crofting. The paper questioned whether, from a strategic perspective, the Commission was content to continue with a process that may be contributing to the decline of a system it was there to promote.

The paper seeks consent to review the decision taken in 2014 by the previous Board.

Commissioners agreed that the ready availability of long-term sublets and the trend towards aggregation of croft holdings meant there could be far fewer opportunities for new entrants. Commissioner Holt said this was evident in Shetland. He added that there were other issues with enforcement of duties such as that crofters do not like to report their neighbours.

Commissioner Campbell noted that a recent Tier 3 decision had refused an application to sublet a croft because there was no plan for the absent crofter to return to their croft.

On the other hand Commissioner Scott noted that, when a croft is being sublet, then the land will be worked. He questioned whether the paper was focusing on the most important priority.

Head of Regulatory Support said there could be issues with attempting to refuse applications based on a change of policy only. Would we be able to establish grounds for refusal in cases where there were no objections from the community and the only negative was our policy?

Head of Policy agreed that each application would need to be considered on its merits and that there may well be cases where a longer term sublet is justifiable. However, the facts were that there have been cases where the Commission has granted subletting applications for 10 years when the absent crofter had been refused consent to be absent for 4 years. The fact that such applications can be refused but longer term sublets can be approved at the first tier of delegated decision-making, did not appear consistent. He added that there could also be a major issue with the process being employed in the duties' cases. Currently when notification of a breach of duty is received, the crofter is

told how that may be rectified, with subletting the most obvious choice. However, the Act indicates that the crofter should receive a notification of a breach from the Commission. By using the steps indicated by the Act, the Commission would have much more control of the process and could ensure that undertakings are in place that would provide realistic timescales for the genuine resolution of duties. At the same time this could prevent some of the problems that are seen as possible if sublet applications, irrespective of their time period, are refused.

The paper also pointed out that the duties enforcement powers were an important part of the 2010 Act and were viewed as one of the tools for reducing speculation on croft land. Looked at in the context of enabling affordable entry to crofting – an important subject in the Commission’s proposed strategy development – there appears to be little attempt to use these powers in a manner that makes crofts more readily available and consequently more affordable.

Commission Maciver said he has sympathy with the paper but felt that over-inflated prices for croft assignments was a wider problem. The Commissioners noted that the known high prices of many crofts interfered with expressed demand and made it hard to be categorical about the level of demand. In response, Head of Policy suggested that the high price of croft land was itself indicative of high demand.

All Commissioners agreed the paper and its recommendation that these issues needed to be re-examined. Head of Policy confirmed that a further paper would make concrete proposals, regarding sublet policy and related issues including policy on consent to be absent.

The Board requested a further paper on this issue to analyse the options for policy change.

## **10 DATE OF NEXT MEETING**

The next meeting of the Commission will take place using remote technology on 14 May 2020.

## **11 AOB**

The one item of urgent business had been taken earlier in the meeting (point 6 above).

The Board thanked the Head of Digital & Improvement and his colleagues for getting Skype up and running at such short notice.

## **12 EXCLUSION OF PRESS AND PUBLIC**

The Convener thanked everyone for engaging in the meeting and closed the meeting at 3.30pm.