

DELEGATED DECISION MAKING AND ESCALATING CASES

Where an application complies with the published Commission policy and delegation parameters; a decision may generally be taken by the Case Officer at Tier One of the delegated authority structure as approval of such applications has been delegated to those officials.

Cases which do not meet these guidelines, generally, require us to collect further information e.g. obtaining a SGRPID report. The decision making for such cases is escalated to a panel of three senior officials at Tier Two and potentially to a Casework Group of Commissioners at Tier Three.

As a result, these cases will tend to take longer for the Commission to consider. Where the Commission has concerns about the boundaries of the proposed division, it may enter into discussions with the applicant with a view to amending the proposed boundaries of the divided crofts. Where an applicant is unwilling to amend their application, it is likely that the case will be escalated to Tier Two or Tier Three who will either approve the unmodified proposed division or refuse the proposal entirely.

Applications for Commission consent to divide a tenanted or owner-occupied croft are generally escalated to Tier Two and/ or Tier Three due to the failure to comply with one or more of the following:

1. Ensuring adequate access to the croft (and other croft land) remains

Policy	Tier One Parameters
<p>The Commission's Policy Plan states at paragraph 115 that:</p> <p>"The Commission will apply its standard policy on access to ensure that all new crofts have the required standard of access available."</p>	<p>The parameters for delegation require that:</p> <p>Any application should be escalated where the division will create any access issues for the new crofts created by the division and/ or to other croft or common grazing land.</p> <p>The Commission would look to have each new croft created by the division to have its own dedicated unfettered access arrangements, and not be reliant on having to be accessed through other croft or other common grazing land.</p>



Gheibhear tuilleadh
foisrachaidh
Rioon air ar làrach-lìn
[www. Coimisean na
Croitearachd](http://www.Coimisean na Croitearachd)

You can find more
information on Division
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www.crofting.scotland.gov.uk

2. Ensuring a croft is not fragmented into unsustainable units

Policy	Tier One Parameters
<p>The Commission's Policy Plan states at paragraph 112 that:</p> <p>"...the Commission will not generally consent to divisions unless satisfied that the croft will not be fragmented into unsustainable units, because the Commission recognises that proper control of the division of crofts prevents unnecessary fragmentation of croft land. It will consider the following factors, amongst others, in assessing the matters to which the Commission must have regard to in terms of section 58A(7) of the Act:</p> <ul style="list-style-type: none"> • The size of the new crofts to be created by the division; • The quality of the land; • The use to which the crofts will be put; • The impact, where relevant, on the use of any associated shares in a common grazings." 	<p>The parameters for delegation require that:</p> <p>Any application which creates concern about the creation of one or more unsustainable crofts should be escalated.</p> <p>As a guideline, in order to be sustainable, the Commission would look for any new croft to be created by the division to be a minimum of:</p> <ul style="list-style-type: none"> • 3 hectares in extent (with or without an associated grazing right) • 1 hectare (with an associated grazing right)

A full list of the delegated decision making parameters for division applications can be viewed on our website www.crofting.scotland.gov.uk/division

During the course of the processing of a case, an applicant will generally be given the opportunity to modify their application to comply with the foregoing policy and guidelines and delegation parameters. If an applicant proposes such a modification, the case could still be dealt with at the Tier One level of decision making. However, it should be noted that modification of any application will not guarantee that the Crofting Commission will approve an application.

If a modification is not proposed, the Commission will process the case on the applicant's understanding that it will be subject to escalation and potential refusal. Although, the Commission will consider every application on its own circumstances and the evidence gathered during the processing of the case. Also, the applicant is legally required to advertise their division application in order to notify members of the crofting community of the application and provide them with the opportunity to comment on the proposed division. Where objections are received, even if an application has been modified to amend the proposed boundaries of the divided crofts, a decision on the application must be taken at either the Tier Two or Tier Three level.