

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 13 MAY 2015

Present:	Colin Kennedy	Vice-Convener
	David Campbell	Commissioner
	IG Macdonald	Commissioner
	William Swann	Commissioner
	Murdo MacLennan	Commissioner
	Marina Dennis	Commissioner
	Arnie Pirie	Commissioner
	Kathleen Sinclair	Commissioner (from 09:55 hrs)
	Catriona Maclean	Chief Executive
	Trudi Sharp	Deputy Director, Scottish Government
	Donna Smith	Head of Information Systems
	John Toal	Head of Policy
	David Findlay	Commission Solicitor
	Posy MacRae	Communications Manager
	Morag Menzies	PA to Convener, Minute-taker
	Alasdair MacLennan	BBC (from 09:45 hrs)

1 APOLOGIES AND WELCOME

Apologies were received as follows:

Joseph Kerr, Head of Regulation
Jane Thomas, Head of Corporate & Customer Services
Neil Macdonald, Interim Head of Finance

Vice-Convener Kennedy chaired the meeting and welcomed everyone, especially Trudi Sharp, Deputy Director of Agriculture, Rural Development and Land Reform.

Vice-Convener Kennedy explained that he expected there would be media interest following the recent resignation of the Convener, Susan Walker and he read out the following statement:

'It has been a difficult time for the organisation and it had been hoped that the matter would have been dealt with internally, but that was not the way that things panned out.

The Commission would like to wish Susan well, and are grateful for the contribution she has made during her time as both Commissioner and Convener.

As the Minister said yesterday, we will discuss the matter with the Minister when we meet her later this month, as it is for Scottish Ministers to select a new Convener or to decide to delegate that function to the Commission.

I am sure that I speak on behalf of everyone when I say that today we are all equal with collective responsibility. In fact we are all Conveners, working together for the betterment of the Crofting Commission. I am simply fulfilling my duty as Vice-Convener in the interim.

Moving forward as a Board, I think it is of vital importance that we all pull together and I'm sure that we will, to progress what we have started, and I can assure everyone that the Board will continue to be engaged in creating leadership and taking decisions required to provide for the Executive to carry out the task of regulating crofting.

I would also like to assure our Chief Executive and all crofters that it is business as usual and that the Board will afford the time and space for her and her Management Team to deliver the service to everyone in the appropriate manner, and she has our unanimous support.

So we will now begin the business of the day, concentrating on the primary function of the Commission and staff, which is to focus on the effective regulation of crofting.'

2 DECLARATION OF INTERESTS

None

3 APPROVAL OF DRAFT BOARD MINUTE OF 25 MARCH 2015

The Minute of the Meeting of 25 March 2015 was approved subject to the following amendment:

Page	Item	Paragraph	Amended/Additional text should read
2	4	1	Amend 'North Ronaldsay' to say 'South Ronaldsay'.

4 MATTERS ARISING FROM PREVIOUS MEETING

The Action Points from the previous meeting on 25 March 2015 were reviewed:

- Page 4, Item 8, the Chief Executive advised that the new application forms have gone live and are available on the Commission's website. There is a 28 day period where anyone using the new application forms can make comments or suggest improvements to the Commission. If old versions of the application forms are received in the office, they will be processed.
The Commission were pleased with the advertising campaign that was used prior to the launch of the new forms.
- Page 5, Item 10, Commissioner MacLennan wished to report that he has heard that two people have gone forward under the Tighean Innse Gall Scheme to do up two derelict croft houses, and this is very positive news.
- Page 5, Item 10, fourth paragraph, the Chief Executive agreed to discuss with Stewart Wilson of Tighean Innse Gall, the issue of croft land not having to be decrofted when doing up derelict croft houses.

5 E-MAILED PAPER FOR HOMOLOGATION

(a) Best Value Arrangements

The Chief Executive advised that no negative comments had been received by Commissioners about the e-mailed Paper. The Paper was approved.

Decision	The Commission approved the e-mailed Paper on Best Value Arrangements.
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6 UPDATE FOLLOWING AUDIT & FINANCE COMMITTEE MEETING

(a) Commissioner Swann gave an update following the recent Audit & Finance Committee (AFC) Meeting on 29 April 2015.

- On the Action Points the AFC have agreed the development of the Anti-Fraud Policy which is going ahead with the Internal Auditors.
- Discussion took place at the AFC about Declarations of Interest and generic Registers of Interest, and how to deal with conflicts of interest with regard to regulatory work.
- There was concern about the Commission not originally having the systems in place to deal with the large sums of money that were received by the Commission on behalf of Registers of Scotland for applications to register crofts, but it was agreed that this problem has been resolved. It is hoped to streamline the process and be able to accept electronic transfers of money from applicants in the future.
- Audit Scotland have advised that they have no concerns about the Interim Audit.
- The Internal Auditors carry out reviews each year on specific areas of the Commission's activity and for 2016/2017 it was the original intention that they would look at Stakeholder Engagement. The AFC have recommended that a review be done on Governance and Risk Management instead, due to the fact that the current Commission is approaching the end of its life, and in terms of handing over to a new Commission it was felt this was much more important.
- Regarding the Risk Register, the AFC agreed that the Commission needs to work closely with the Scottish Government regarding succession, to try and reduce the risk to the organisation.
- Another area that was highlighted as a risk was a need to look at matters that are reserved for the Board and matters that are appropriate for sub-committees to deal with. The On-board Guidance makes it very clear that sub-committees have a duty to report fully to the Board and this must be made clear in the Commission's Standing Orders.
The Chief Executive advised that Standing Orders were due to be discussed at the Board Meeting today but it was decided that they will now be discussed on 27 May at the Commissioner Training Day, to make sure that they are in line with the On-board Guidance. It is then hoped that a Paper will come to the Board Meeting in June.
- The AFC would like to encourage Commissioners to attend the AFC meetings as observers where time allows, purely to give them experience of the work and a familiarisation of the AFC.
- The Chief Executive advised that the Commission's Annual Report and Annual Accounts will be simplified this year, following advice from Audit Scotland.

Commissioner Sinclair entered the room at 09:55 hrs.

(b) Risk Register

Discussion took place about the need to plan ahead for succession to the Board and also to think about succession to the Chief Executive post, if the need were ever to arise. Commissioners expressed concern about what would happen if the Chief Executive were to be off sick for a period of time.

The Chief Executive advised that all members of the Senior Management Team took turns to cover for her when she was out of the office, but there was no deputy as such.

Trudi Sharp, Deputy Director advised that this was a very good point to raise and she would think about this and discuss it in more detail with the Chief Executive. She advised that Sponsor Division were going to give more support to the Commission and the Chief Executive.

The Chief Executive advised that, following the Head of Finance Gordon MacDonald's early retirement, Jane Thomas, Head of Corporate & Customer Services has taken over from Gordon, and Neil Macdonald works under Jane.

Discussion took place about the problem of crofters not using their grazings shares and what could be done to improve this situation. It was felt that there would be a better awareness of the use of grazings shares once the information from the Census was analysed.

It might be possible to set up a Pilot with Highlands & Islands Enterprise to work with grazings committees on a local scale and the Commission agreed that if this was possible, they would like to move forward with this in the next few months. Commissioner Swann said that he will make sure this issue stays on the HIE radar.

HIE are already in discussions with the Chief Executive regarding where they would like to see development in crofting and once the information from the Census is known they will be able to move forward on this.

The Commission agreed to let HIE lead on this Pilot.

Decision	The Commission agreed to let HIE lead on a possible Pilot to try and encourage more crofters to use their grazings shares.
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The Commission would like a member of staff to be appointed as a point of contact to liaise with HIE and the Chief Executive agreed to appoint someone and advise the Board who that person is.

The Vice-Convenor thanked Commissioner Swann and the AFC for their work on the Committee.

7 SHORT TERM WORKING GROUP UPDATES

Duties Working Group – Commissioner Campbell advised that the group met on 23 April 2015 where a broad discussion took place. The group agreed that there was a need to engage with crofters who had advised the Commission that they are in breach of their duties and write to the crofters who haven't returned their Census, advise them that they are in breach of their duties and that they will be put on a list to be investigated. No detail of timescale for that investigation will be given.

The Commission needs to prioritise who to investigate and a Paper will come to the June Board Meeting with details of the group's thoughts on this.

Records Management STWG – Commissioner MacLennan advised that he had not attended a Records Management STWG meeting recently but it will be discussed later in the agenda.

Grazings Regulations STWG – Commissioner Dennis advised that she had attended the Grazings Regulations STWG but it will be discussed later in the agenda.

8 UPDATE FOLLOWING COMPLAINTS COMMITTEE MEETING

John Toal, Head of Policy declared an interest in items 5.4 and 7.1.

Vice-Convener Kennedy advised that he didn't think that anyone needed to declare an interest for this item as no decisions were being made. The minutes were purely for information but if a more detailed discussion were to take place, interest should be declared at that point.

Commissioner Macdonald gave an update on the Complaints & Investigations Committee Meeting that took place on 23 April 2015 to discuss the quarter 1 January 2015 to 31 March 2015.

He advised that all Stage 2 complaints had been investigated and resolved and there were currently no Stage 2 complaints outstanding.

SPSO guidance states that complaints figures must be published on the Commission's website within 28 days of the end of the quarter and this has already been done. The Board should also note that the 2014/2015 year-end figures for complaints have also been published on the Commission's website, as per SPSO guidance and they will also be included in the Commission's Annual Report.

Staff are regularly reminded about logging Frontline Complaints and training is provided for new staff.

All Investigating Officers are to be issued with an Investigation Plan which will include a summary of complaints received, the decisions taken and the identified learning outcomes, and by doing this it is hoped that all Investigating Officers will deal with complaints in the same way.

The Commission has to publish on a quarterly basis the complaints, the outcomes, the trends, actions taken, and use case studies and examples to demonstrate how complaints have helped to improve the service given by the Commission.

On lessons learned the Commission has to ensure that it has a structured handover for when staff leave their position within the Commission and new staff take over. The Commission needs to ensure better co-ordination in contacting particular third parties e.g. SGRPID, Assessors, Registers of Scotland etc and try to iron out the delays which are affecting applications being processed.

Application forms have been amended to advise customers that there may be a delay to applications being dealt with due to the applicant having to register their croft first. Hopefully this will reduce the number of complaints received.

A Paper will be prepared for the Board on how the Commission handles allegations of misappropriation of funds or allegations of fraud by a grazing committee.

Commissioner Macdonald, as Chairperson of the Complaints & Investigations Committee, felt that it would be more appropriate to have three Commissioners on the C&IC instead of two and the Commission agreed to this. Commissioner Campbell volunteered to be the third Commissioner along with Commissioner Macdonald and Vice-Convener Kennedy. The Committee's remit should be changed to reflect this change.

Decision	The Commission agreed that there should be three Commissioners on the Complaints & Investigations Committee instead of two and Commissioner Campbell volunteered to join the Committee. The Committee's remit should be changed to reflect this change.
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Vice-Convener Kennedy wished to thank former Convener Susan Walker and Ian Bryce for their valuable input to the Complaints & Investigations Committee.

9 POLICY PLAN

David Findlay, Commission Solicitor presented the Paper and advised that the Chief Executive had asked for the Policy Plan to be refreshed so that it focuses more on what the Commission has to do as opposed to what the Commission could do.

Where there were areas that were unclear or confusing, the language has been simplified and linked more closely to the legislation. These areas are identified by tracked changes.

Where there are parts that are contradictory, Mr Findlay feels these should be amended. Once the Policy Plan is stripped down, careful thought should be given to the development of new policies. The Act provides the Commission with a lot of discretion and it would be useful if the Policy Plan outlined how the Commission will use its discretion and clearly state what its Executive functions are.

Part 74 and paragraphs 95 and 96 were amended following the North Ballachulish decision.

After discussion the Board agreed that it was vitally important that the Policy Plan was aligned to legislation. Mr Findlay will continue to work on the Policy Plan and will provide a working draft for Commissioners as soon as possible. If Commissioners are in any doubt in the meantime they should focus on legislation and consult the Commission Solicitor if required.

Linda Gourlay, Crofting Regulatory Manager entered the room at 10:50 hrs.

The Commission asked for 'Report on State of Crofting' to be added to the Bibliography of the Policy Plan. The list of respondents to the draft Policy Plan in 2012 will be removed.

Decision	The Commission agreed that the Policy Plan should be refreshed as explained by the Commission Solicitor and that a working draft should be provided to Commissioners as soon as possible. The Bibliography should have 'Report on State of Crofting' added, and the list of respondents to the draft Policy Plan in 2012 will be removed.
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10 GRAZINGS REGULATIONS

Linda Gourlay, Crofting Regulatory Manager presented the Paper which consists of a revision of the Grazings Regulations which was carried out by the Grazings Regulations STWG. It takes account of feedback received from respondents following consultation with key stakeholders.

The regulations have been reduced and the guidance has been increased.

There was concern expressed about the fact that grazing committees have to write out to all shareholders every time they want to hold a meeting and it was agreed that this point will be looked at by the Commission Solicitor.

After discussion the Commission agreed that the draft Grazings Regulations were still too complex and that the Commission Solicitor should review and refine them to keep them as simple as possible, taking into account the legislation and what the Commission can enforce.

The Commission would like 'fixed equipment' clarified. They would also like a thank you letter sent to Joyce Wilkinson, Assessor for the work she has put into the Grazings Regulations STWG.

Mr Findlay will start work on the Grazing Regulations immediately and will advise Commissioners when they are likely to come back to the Board for approval. He will e-mail an edited copy to Commissioners when it is ready.

Decision	<p>The Commission agreed that the draft Grazings Regulations were still too complex and that the Commission Solicitor should review and refine them to keep them as simple as possible, taking into account the legislation and what the Commission can enforce.</p> <p>The fact that grazing committees have to write out to all shareholders every time they want to hold a meeting will be looked at by the Commission Solicitor.</p> <p>'Fixed equipment' is to be clarified.</p> <p>A thank you letter is to be sent to Joyce Wilkinson, Assessor to thank her for her work on the Grazings Regulations STWG.</p> <p>The Commission Solicitor will advise Commissioners when the revised Grazings Regulations are likely to come back to the Board for approval and he will e-mail an edited copy to Commissioners when it is ready.</p>
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11 REPORT ON CENSUS RETURNS

The Head of IS gave an update on the Census returns.

Out of 17,000 Census forms issued, just over 14,000 were returned which equates to 84%.

The percentage returns for each crofting area are as follows:

Argyll & Bute	78%
Highland	84%
Western Isles	85%
Orkney	78%
Shetland	87%

The Commission thought this was an excellent return rate and would like this information released to the public through the media.

Discussion took place about whether the Census needed to be issued annually and stressed that it was important that crofters are told what will be done with the information that they provided in the Census.

Trudi Sharp, Deputy Director advised that she was sympathetic but the Commission was tied to the constraints of legislation which states that the Census must be issued annually. The Commission should look at what is practically possible. This will be discussed at a Sponsor Division meeting.

Decision	The Commission would like the information regarding the excellent Census return rate released to the public through the media, along with information to crofters about what the Commission is going to do with the information provided by crofters in the Census.
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12 CORPORATE PLAN UPDATE

The Head of IS presented the Paper which presents an initial draft of the Corporate Priorities for 2015/2016 for consideration. It takes into account the Commission's current position on various pieces of work that were started in 2014/2015 and for the first time introduces some key outcome measures which will provide an indication of whether the Commission is working to meet its priorities which are Regulation, Evidence and Duties.

Discussion took place and Commissioners were also given handouts showing tables with baselines and targets, and a sample report which will show a breakdown for each measure and what has happened since the last report. These reports will be looked at by the Senior Management Team on a quarterly basis and will then come to the Board for information thereafter.

The Commission was very impressed with the new reports and it looks forward to receiving them in the future.

13 GAELIC LANGUAGE PLAN

Posy MacRae, Communications Manager presented the Paper which includes the updated Gaelic Language Plan for 2015-2020.

The current GLP expires in June 2015 and the targets have been updated to be more in line with the Corporate Plan and Communications Strategy.

To be able to achieve some of the targets, an application for Gaelic Language Implementation Funds has been made to Bòrd na Gàidhlig to help fund the communications side e.g. Gaelic leaflets, videos etc.

An application for funding has also been made to help with staff Gaelic training in conjunction with SNH.

Commissioner MacLennan wanted some amendments made to the Plan. On page 130 it should say 'The Crofters Commission developed a Gaelic Policy which was endorsed by its Board in **2009**' instead of '2002'.

Commissioner MacLennan asked that the Commission try to recruit Gaelic speakers where at all possible. The Chief Executive advised that the Commission is bound by Scottish Government rules on recruitment but that she would consider any available options.

The Commission agreed the Gaelic Language Plan for 2015-2020.

Decision	The Commission agreed the Gaelic Language Plan for 2015-2020 with the following amendment: On page 130 it should say 'The Crofters Commission developed a Gaelic Policy which was endorsed by its Board in 2009', instead of '2002'.
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14 SHORT REPORT ON EVENTS ATTENDED BY COMMISSIONERS

Commissioner Campbell – attended the Cross Party Group meeting in Edinburgh.

Vice-Convener Kennedy – attended vacant croft letting interviews in Sutherland.

Commissioner Sinclair – didn't attend any meetings but was invited to attend a Local Leader Programme Meeting which was taking place today 13 May, so she couldn't attend. The Commission asked if more information could be found out about this Programme and passed on to Commissioners for their information. The Chief Executive advised this will be done.

Commissioner Dennis – attended a Highland Land Use Strategy Meeting in Inverness and a Delivering Favourable Conditions meeting in Edinburgh.

15 RECORDS MANAGEMENT

Commissioner MacLennan presented the Paper which gives an update to the Board about the current Records Management Plan situation.

Everything is on track with regards to the Plan and there is online training on Records Management that all the Commissioners need to complete. The Head of IS will follow this up.

The Board needs to approve 'A Retention of Records Plan', which will set out clearly which records can be retained and which can be destroyed, at an early meeting.

The Chief Executive advised that in order to comply with legislation, this area of work will have resource implications for the Commission.

16 DATE OF NEXT MEETING

24 June 2015 – Great Glen House

17 ANY URGENT BUSINESS

- Vice-Convener Kennedy advised that Susan Walker, as Convener of the Crofting Commission, had been the Commission's spokesperson and he proposed that the Commission appoint the Chief Executive as the new spokesperson for the Commission, and Commissioner MacLennan as the Gaelic spokesperson. This was agreed.

Decision	The Commission agreed that the Chief Executive should be appointed as the new spokesperson for the Commission, and that Commissioner MacLennan will be the Gaelic spokesperson.
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- The Commission agreed that the Board should write to the former Convener, Susan Walker to thank her for her contribution to the Commission.
- The Commission agreed that the Board should write to Gordon MacDonald and Arthur MacDonald, previous members of staff who recently took early retirement, to thank them for their work with the Commission.

Decision	The Commission agreed that letters of thanks should be sent to Susan Walker, Gordon MacDonald and Arthur MacDonald and the Chief Executive will arrange for those letters to be prepared.
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18 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 12:50 hrs.