

CROFTING COMMISSION

MINUTE OF THE COMMISSION MEETING HELD AT GREAT GLEN HOUSE ON 9 DECEMBER 2015

Present:	Colin Kennedy	Convener
	IG Macdonald	Vice-Convener
	William Swann	Commissioner
	Murdo MacLennan	Commissioner
	David Campbell	Commissioner
	Marina Dennis	Commissioner
	Kathleen Sinclair	Commissioner
	Arnie Pirie	Commissioner
	Catriona Maclean	Chief Executive
	Donna Smith	Head of Information Systems
	David Findlay	Commission Solicitor
	John Toal	Head of Policy
	Joseph Kerr	Head of Regulation
	Jane Thomas	Head of Corporate & Customer Services
	Posy MacRae	Communications Manager
	Morag Menzies	PA to Convener, Minute-taker
	David Wright	SGRPID, Inverness
	Anne Williamson	Regulatory Casework Officer (13:10 hrs –14:18 hrs)

1 APOLOGIES AND WELCOME

Apologies were received from Michael Nugent, Scottish Government.

The Convener welcomed everyone to the meeting.

2 DECLARATION OF INTERESTS

The Convener declared an interest in item 14b, 17/18 Kilmoluaig.

Vice-Convener Macdonald declared an interest in the Mangersta case.

Commissioner MacLennan declared an interest in item 14a, the Hushinish Common Grazings case, and the Mangersta case.

3 APPROVAL OF DRAFT BOARD MINUTE OF 4 NOVEMBER 2015

The Minute of the Meeting of 4 November 2015 was approved subject to the following amendments:

Page	Item	Paragraph	Amended/Additional text should read
4	7	2	Amend the spelling from 'Macova' to 'Lackova'.

4 MATTERS ARISING FROM PREVIOUS MEETING

There were no Action Points from the previous meeting on 4 November 2015.

5 ADVANCED PAPER FOR APPROVAL

(a) Anti-Fraud Policy

The Head of Corporate & Customer Services advised that, following a request from Commissioners for more clarification on the Declaration of Interest form that has been provided to Commissioners, all Commissioners are now content with the Anti-Fraud Policy.

Decision	The Commission approved the Anti-Fraud Policy Paper.
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(b) Short Paper on Demand

The Head of Policy presented the Paper, which follows up from the Paper presented to the November Board Meeting, and summarises the Commission’s consideration of demand for croft tenancies in the context of determining regulatory applications. It recommends the requirements of the Commission for applications under section 58A and also for decrofting applications.

Concern was expressed about the issue of knowing whether there is demand for crofts in Commissioners’ own areas, and it was agreed that Commissioners should say if they can comment on demand or not. They are not expected to know if there is demand in every part of their own areas.

David Wright from SGRPID said that he advised his staff that it was very important that they did not record their personal opinion about demand in their reports. The Chief Executive advised that good guidance regarding demand will be sent to RPID staff.

It was agreed that when a vacant croft is advertised by the Commission, any demand expressed by applicants should be recorded, and this can be used to gauge demand for other applications.

The Commission recognised that although there may be strong demand for crofts in particular areas, the costs involved are often too high and people cannot afford them.

The Commission approved the Paper and its recommendations.

Decision	<p>The Commission approved the Paper and the following recommendations:</p> <p>The Commission will only consider specific expressions of demand resulting from the public notification when determining applications covered by section 58A.</p> <p>In its consideration of decrofting applications, the Commission will consider expressions of demand resulting from the public notification, in addition to the informed opinion of the Commissioner if possible.</p> <p>The Commission will take cognisance of any relevant Land Court guidance and adapt its policy, as necessary.</p> <p>Any expressions of demand received when vacant crofts are advertised by the Commission will be recorded and used to gauge demand in applications.</p>
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6 CAP PAYMENTS UPDATE FROM DAVID WRIGHT, SGRPID

David Wright from SGRPID advised that CAP Payment letters explaining payments and timetables for fields where boundaries have not changed had been issued to applicants at the beginning of December, and that payments would be issued in two parts: end of December and balance paid in April.

A telephone helpline has been set up in Edinburgh, although applicants can still call the Area Offices.

Some Commissioners advised that they had not received their letters yet and Mr Wright agreed to investigate this on his return to the office.

Investigations for fields where boundaries have changed are ongoing, and those letters have still to be sent out.

Mr Wright advised that RPID staff are under pressure as it is a complicated system, but they hope that CAP payments will be issued on time.

Commissioners expressed concern that backlogs were building up, particularly in the Stornoway and Oban areas. The Chief Executive advised that she would speak to Roy McLachlan urgently about this issue, and Mr Wright said he will take this back to the RPID offices.

The Convener thanked Mr Wright for attending the Board Meeting today and Mr Wright left the room at 10:30 hrs.

7 SHORT TERM WORKING GROUP UPDATES

There was nothing to report as none of the STWGs have met since the last Board Meeting.

8 REPORT FROM COMMISSIONERS – EVENTS PLANNED AND/OR ATTENDED

Vice-Convener Macdonald – Attended and led at the Future of Crofting Stakeholder Conference on 4 December, which was a good day. A lot of emphasis was put on creating large amounts of new crofts, but there are so many unused crofts that the Commission felt it was more important to deal with them first. The general feeling from the Conference was that there was no pressure on the Commission to create new crofts, but for the Scottish Government to take forward.

A discussion took place about crofting development being passed to HIE and how HIE's general remit is for job creation and resilient communities, and they have no facility to pay grants. Also, small businesses do not come into the remit of HIE unless they are specifically trying to create jobs.

This needs to be addressed and the Chief Executive agreed to write to the Minister, highlighting the Commission's concerns, and to meet informally with the Chief Executive of HIE.

In the Minister's speech at the Crofting Conference, development of crofts was highlighted as one of the Scottish Government's five priorities for the future.

The Commission wish to hold a meeting in January and crofting development will be on the agenda.

Decision	The Commission want the issue of crofting development addressed. The Chief Executive will meet with the CEO of HIE, and write to the Minister to highlight the Commission's concerns.
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Vice-Convener Macdonald attended the meeting with the Minister on 9 November, will attend a NFUS Meeting on 15 December, and will attend the Commission Christmas Lunch on 18 December.

Commissioner Swann – nothing to report.

Commissioner MacLennan – Had two meetings with Grazings Committees, attended the Eunson Consultation Meeting, attended Governance Training in Edinburgh, will visit Barra next week, and will attend the Lewis Sheep Producers AGM on 18 December.

Commissioner Dennis – Attended the Minister's Meeting on 9 November, the Vision for Agriculture Meeting on 16 November, a meeting in Nethy Bridge with the Land Management Department of the Cairngorms National Park Authority, and will attend a meeting of the Scottish Land Use Strategy Group.

Commissioner Pirie – Attended a Show Sale of prime stock at the Orkney Auction Mart, the Minister's Meeting on 9 November, and the funeral of a farmer in Orkney.

Commissioner Campbell – Attended the Minister's Meeting on 9 November, the Eunson Consultation Meeting, the Crofting Conference and will attend the Commission Christmas Lunch on 18 December.

Commissioner Sinclair – Attended the Minister's Meeting on 9 November and a meeting of the NFU in Shetland.

Convener – Attended the Cross Party Group Meeting in Edinburgh, a common grazings meeting in Stornoway, the Minister's Meeting on 9 November, the Eunson Consultation Meeting and the Vision for Crofting Meeting

The Head of Policy, John Toal advised that he had attended a Memorial recently for Allan MacRae from Assynt, who played an important role in his community.

The Convener thanked Mr Toal for attending the Memorial on behalf of the Commission.

9 CIS UPDATE

The Head of IS advised that the building of the new computer system (CIS) was progressing well. Staff are currently working on protecting data that is on the current CADs system, and importing data from the old system to the new system. The core data is all safeguarded.

Of the 34 essential workflows, 22 have been completed for the new system. There is a huge amount of work going on and it is hoped that the go-live date will be the beginning of February 2016.

10 CENSUS UPDATE

The Head of Corporate & Customer Services advised that preparations were progressing well for the issue of the 2015 Census forms. 18,000 standard letters and forms will be sent out on or around 31 December, with another 1,600 for grazing shares only.

Of the 9,000 changes reported from the 2014 Census, all but 158 have been updated, and the 158 crofts outstanding will not receive a new Census form, but will instead receive a letter explaining the situation.

The Commission wished to thank all the staff involved in dealing with the Census and data changes, and asked that a press release go out to advise the public of the biggest update of the Crofting Register in 60 years, and to stress that it was very important to complete the 2015 Census.

Decision	The Commission asked that a press release be issued to advise the public of the biggest update of the Crofting Register in 60 years, and to stress the importance of filling in the 2015 Census.
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11 THE FUTURE OF SCOTTISH AGRICULTURE

The Head of Policy presented the Paper, which concerns a discussion document on the Future of Scottish Agriculture from the Scottish Government.

Concern was expressed that there was a lack of the word 'crofting' in the document and although it is recognised that crofting is not central, it should not be marginalised.

A Commission group discussed the document in November and a response highlighting the significance of crofting has been drafted.

The deadline for comments is the end of March 2016 but the Commission were content for the response to be sent now.

The Commission approved the Paper and wished to congratulate the Head of Policy for drafting an excellent response to the document.

Decision	The Commission approved the Paper.
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12 DATE OF NEXT MEETING

3 February 2016 – Great Glen House

13 ANY URGENT BUSINESS

(a) Commissioner MacLennan wished to thank staff for the Delegated Decision Making Report that was recently issued to Commissioners. He noted that 70% of the cases decided on were in the Western Isles and this was a very good reason for creating jobs in the Western Isles.

(b) Report on Upper Coll Common Grazings

Before considering this case the Convener advised that he had received two telephone calls regarding the Upper Coll Common Grazings: one from Ivor Matheson and one from Kenneth MacLeod. On both occasions he advised the callers to contact the office in Great Glen House. Correspondence has been

received by the Commission and it is being dealt with via the proper channels. The Convener advised that he and Vice-Convener Macdonald recently attended a meeting in Upper Coll, along with Linda Gourlay, Grazings Manager.

Vice-Convener Macdonald advised that following the meeting in Upper Coll, on his way out the Clerk of the common grazings said to him *"I am unhappy about the chairmanship of this meeting. Who do I write to?"* The Vice-Convener said *"If you are unhappy about it, you should write to Catriona Maclean, the Chief Executive."*

Commissioner MacLennan advised that he had received one telephone call regarding the chairing of the meeting and he advised the caller to contact the office in Great Glen House.

Commissioner MacLennan said that last Friday he had a visit from a Mr MacIver of Upper Coll Grazings Committee and he told him that he was not going to discuss anything to do with the matter in hand with him as he wasn't at the meeting, and that the matter was going to be discussed at the Board Meeting. Mr MacIver formerly said that he just wanted to state that in his opinion records were being kept properly, and he showed Commissioner MacLennan historical minutes going back to the 1980s. He said that in his opinion the financial statements were recorded properly. Commissioner MacLennan did not comment, and is of the view that this meeting should not preclude him from discussing the matter further.

The Chief Executive advised that correspondence had been received and that she was gathering information. The Chief Executive advised that her home village adjoins Upper Coll, but she has no connection to anyone living in Upper Coll.

The Chief Executive presented the Paper, which is about a Section 47(8) investigation.

Two letters of complaint were received about the conduct of the grazing committee and under the Instrument of Delegation it is available to individual Commissioners to make decisions on the removal or otherwise of one member or the whole of a grazing committee. But in this particular case it was viewed that because of the complexity of the issues, a local meeting would be held and it was conducted in the same way as a Hearing. The report from that meeting, and other information gathered by the Regulatory Team, has formed the basis of the Paper.

It comes to the Board because it is likely to raise a number of issues that will become more common as grazing committees see more development opportunities, and also to get a steer from the Board on the process it would like to see going forward.

On page 5 of the Paper under 'Auditing of accounts,' the Commission asked for the words 'or (ii) seek amendment of the Regulations to remove the auditing requirement' to be removed.

The Commission asked that a Paper be prepared for the February Policy in Development Meeting that will look at the processing of Section 47(8) complaints.

After discussion, the Commission agreed that a letter should be sent to Upper Coll Grazing Committee advising them of the issues that they must correct, and giving them a period of 3 months to comply. The Committee must reply to the Commission by the 3 month date. If the issues have not been resolved within that timescale, the Committee will be removed and a Constable or Investigating Officer will be appointed to run the Common Grazings.

No extension will be given to the 3 month period unless there is a significant reason for the late reply, in which case one more month would be allowed for the issues to be resolved.

The Commission went through each complaint highlighted in the Paper and decided if they were 'musts' which must be complied with within 3 months, 'shoulds' which should be complied with within 3 months, or 'coulds' which could be complied with within 3 months, as follows:

Complaints 1, 2 & 4: timing of committee meetings and AGM

Suggested actions:

First paragraph – Must

Second paragraph – Must

Third paragraph – Could

Complaints 3, 12, 13 & 14: Township funds, resumptions/land taken out of the common grazings, croft registration and crofter forestry scheme monies

Suggested actions:

First paragraph – Must

Second paragraph – Take out

Third paragraph – Take out

Complaint 5 – Subdivision

Suggested actions: Should

Complaint 6 – Soumings

Suggested actions:

First paragraph – Should (first part), Could (second part)

Second paragraph – The Board agreed that an action point for the Commission is to work with the committees regarding updating the Regulations.

Complaint 6 – Selective stockholder levy

Suggested actions:

First paragraph – Must

Second paragraph – Change the wording to say 'The committee should review the old regeneration schemes and consider whether they should be wound up and take appropriate action after such consideration'.

Complaint 7 – Township boundaries and restriction of stock or activities from part of the grazings (machair and moor)

No suggested actions.

Complaints 9 & 10: Bulls and Tups

Suggested actions:

First paragraph – Could

Auditing of accounts (does not appear to relate to a specific complaint)

Suggested actions: Must

Final points

Suggested actions:

Final bullet point – change wording to say 'to consider removal of the committee members and clerk'.

The Commission agreed that the decision, if it is required, as to who the Constable or Investigating Officer should be, will be taken by the Convener, Vice-Convener and Chief Executive from the three names agreed at the November Board Meeting.

The process of putting a Committee out of office will have to be looked at.

The Commission agreed that Upper Coll Grazings Committee will have until 10 March 2016 to reply to the decision letter.

<p>Decision</p>	<p>The Commission asked that a Paper be prepared for the February Policy in Development Meeting that will look at the processing of Section 47(8) complaints.</p> <p>The Commission agreed that a letter should be sent to Upper Coll Grazings Committee advising them of the issues that they must correct, and giving them a period of 3 months to comply. The Committee must reply to the Commission by the 3 month date. If the issues have not been resolved within that timescale, the Committee will be removed and a Constable or Investigating Officer will be appointed to run the common grazings.</p> <p>No extension will be given to the 3 month period unless there is a significant reason for the late reply, in which case one more month would be allowed for the issues to be resolved.</p> <p>The Commission went through each complaint highlighted in the Paper and decided if they were 'musts' which must be complied with within 3 months, 'shoulds' which should be complied with within 3 months, or 'coulds' which could be complied with within 3 months, as follows:</p> <p>Complaints 1, 2 & 4: timing of committee meetings and AGM Suggested actions: First paragraph – Must Second paragraph – Must Third paragraph – Could</p> <p>Complaints 3, 12, 13 & 14: Township funds, resumptions/land taken out of the common grazings, croft registration and crofter forestry scheme monies Suggested actions: First paragraph – Must Second paragraph – Take out Third paragraph – Take out</p> <p>Complaint 5 – Subdivision Suggested actions: Should</p> <p>Complaint 6 – Soumings Suggested actions: First paragraph – Should (first part), Could (second part) Second paragraph – The Board agreed that an action point for the Commission is to work with the committees regarding updating the Regulations.</p> <p>Complaint 6 – Selective stockholder levy Suggested actions: First paragraph – Must Second paragraph – Change the wording to say 'The committee should review the old regeneration schemes and consider whether they should be wound up and take appropriate action after such consideration'.</p> <p>Complaint 7 – Township boundaries and restriction of stock or activities from part of the grazings (machair and moor) No suggested actions.</p>
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	<p>Complaints 9 & 10: Bulls and Tups Suggested actions: First paragraph – Could</p> <p>Auditing of accounts (does not appear to relate to a specific complaint) Suggested actions: Must</p> <p>Final points Suggested actions: Final bullet point – change wording to say ‘to consider removal of the committee members and clerk’.</p> <p>The Commission agreed that the decision, if it is required, as to who the Constable or Investigating Officer should be, will be taken by the Convener, Vice-Convener and Chief Executive from the three names agreed at the November Board Meeting.</p>
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14 EXCLUSION OF THE PRESS AND PUBLIC

The meeting ended at 14:40 hrs.