

Richard Leonard MSP
Convener
Public Audit Committee

By Email

27 May 2022

Dear Richard

SCOTTISH GOVERNMENT RESPONSE TO THE PUBLIC AUDIT COMMITTEE'S REPORT ON THE 2020/21 AUDIT OF THE CROFTING COMMISSION

Thank you for producing your comprehensive report on the 2020/21 audit of the Crofting Commission. I am grateful to the work of the Committee members and to all those that provided evidence to the Committee in preparing this report and wish to apologise for the delay in responding.

I want to reassure the Committee, and all those concerned with crofting, that lessons have been learned and the appropriate action has been taken to address the issues identified. The Crofting Commission and the Scottish Government have reflected on the findings and recommendations, and I hope that the following evidence provides the necessary reassurance that these issues are being addressed.

Previous governance concerns

Paragraph 18 - We believe that neither the Scottish Government or the Crofting Commission took appropriate action to address the serious concerns raised in the independent governance review requested by the Scottish Government in 2016. The Committee is therefore very concerned that these fundamental issues could reoccur in the future and seeks reassurance from both organisations that lessons will be learned to ensure this situation does not arise again.

The Scottish Government and the Crofting Commission would like to reassure the Public Audit Committee that lessons have been learned from the 2020/21 audit report and that action has been taken to address the issues identified. Officials, the Crofting Commission and Ministers have reflected on the findings of this report, and appropriate action has been initiated through an Improvement Plan. As at May 2022, 38 of the 41 recommendations

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contained in the audit report have been addressed and completed. The remaining three are to be considered by the Crofting Commission's Board at its June meeting. Through regular sponsorship meetings and liaison, we continue to monitor the actions laid out in the Commission's Improvement Plan to ensure that the desired improvements are achieved and maintained. The Scottish Government is actively ensuring that the Board, through the office of the Convener, is better sighted and more formally engaged in all strategic discussions involving the Commission. Sponsor Division officials have also attended training workshops with the Commission's CEO, Board and SMT, which focused on clarifying the roles and responsibilities of everyone involved.

The role of Scottish Government sponsorship teams

Paragraph 21 – The Committee asks for an update on the progress of the Scottish Government's short life review into its current relationship with public bodies.

On 28 February 2022 the Scottish Government published a report conducted by Glen Shuraig Consulting into its relationships with public bodies. The report, consisting of 14 recommendations, alongside the Scottish Government response has been published [here](#). Paul Johnston is due to attend the Public Audit Committee for an oral evidence session on 16 June 2022.

Lack of clarity of roles and relationships

Paragraph 33 – We therefore recommend that the Crofting Commission and the Scottish Government put plans in place to regularly review the revised framework document to ensure it remains fit for purpose.

Guidance states that a Framework Document (FD) should be reviewed at least every 2-3 years. The latest revision of the FD between the Scottish Government and the Commission was agreed and signed off in December 2021. The FD will continue to be reviewed at appropriate intervals.

Role of the Board

Paragraph 44 – It is clear that a lack of clarity of roles and responsibilities has contributed to a significant breakdown of trust between the chief executive and the board which will take time to rebuild. We seek reassurance from the Scottish Government on how it intends to support the Crofting Commission rebuild key relationships.

Since the audit and section 22 reports, the Commission and the Scottish Government have reviewed and drafted a new Framework Document which clearly sets out the roles and responsibilities of all parties and will serve to strengthen relationships. Furthermore, the Convener and CEO attend all sponsorship meetings with the minutes shared by the Convener to the rest of the Board. In addition, I meet with the Convener and CEO on a regular basis to discuss a range of topics of mutual interest, including communications; how the new Board is functioning; and progress that has been made on the implementation of its Improvement Plan. These meetings are working well and the outcome of these meetings are shared with the rest of the Board.

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Paragraph 45 – We also wish to emphasise the importance of the Scottish Government’s role in ensuring that boards are aware of their role and responsibilities and the requirements of good governance. It is critical that both the Scottish Government and the Crofting Commission start planning its training and development programme for new and existing Commissioners now. This will be critical to the success of the Board moving forward.

The training sessions provided to the previous Board, that clearly sets out their roles and responsibilities, will be made available to the new Board (four newly elected Commissioners took up post on 18 March 2022). Sponsor Division will participate in these training workshops where it is appropriate and necessary to do so. It is also recognised that in addition to the basic training provided to new Board members at the outset, that this is followed up with further training at appropriate intervals, which will be provided.

Role of the former Convener

Paragraph 51 – We seek confirmation from the Scottish Government that effective arrangements are in place to monitor the performance of the Convener of the Crofting Commission.

The Framework Document sets out clearly that it is the Director ARE or the Head of the Agriculture Policy Division, depending on the grade of the Head of the APD, that has appraisal responsibilities for the Convener.

In addition, I meet with the Commission’s Convener and CEO on a regular basis to get an update on the performance of the Commission. These meetings provide an opportunity for the Commission to provide updates on the progress that is being made on its Improvement Plan, as well as performance generally. There are also scheduled Sponsorship meetings at official level, during which progress towards Business and Policy Plan objectives are discussed. The Commission has a Corporate Plan agreed with the Scottish Ministers, and this contains indicators against which performance can be judged. The Commission also has a more detailed Business Plan, which includes key targets and milestones for the year ahead, aligned to the National Performance Framework. This, in turn, is linked to budgeting information so that, where possible, resources allocated to achieve specific objectives can be identified.

National Development Plan for Crofting

Paragraph 56 – We note with concern the Crofting Commission’s comments that ongoing tensions exist with the Scottish Government as a result of it being asked to retrospectively agree and implement actions in the National Development Plan for Crofting.

Paragraph 57 - We ask the Scottish Government to set out the steps it will be taking to resolve these tensions

All of the aforementioned actions will help to strengthen and improve relations between the Crofting Commission and Sponsor Division. Of particular note is that the Convener and/or deputy now attend all Sponsorship meetings and that briefing is provided to Commissioners by the Convener on all relevant discussions that take place. In addition, all key email and other communications are shared with both the Convener and Chief Executive. Recognising

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the comments that the CEO gave in evidence, officials continue to work closely with the Commission, ensuring we have all the necessary communication lines in place.

Once again, I would like to thank the Committee for its report and I hope that you find this response helpful.

MAIRI GOUGEON

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