



SCOTTISH LAND COMMISSION
COIMISEAN FEARAINN NA H-ALBA

Minute of the meeting of the Scottish Land Commissioners held on Tuesday 5th September 2023 at An Lochran/Teams

Commissioners Present: Andrew Thin (Chair), Sally Reynolds, Lorne MacLeod, David Adams, Megan MacInnes (Land Commissioners), Bob McIntosh (Tenant Farming Commissioner)

In Attendance: Hamish Trench, Nikki Nagler, Karen Grant, James MacKessack-Leitch, Gillian Brown (Scottish Land Commission), Fiona Taylor (Scottish Government)

Malcolm Combe (LAHRAF Chair) attended until agenda item 3.

Apologies: None

Declarations of interest: None

1. Minutes of previous meeting 8th August 2023

The minutes were agreed as a true and accurate reflection of the discussion, subject to the following amendment.

Page 1 remove 'subject to amendment'.

Action tracker

One action is scheduled for the October board meeting, all other actions are discharged.

Hamish advised that the Cabinet Secretary has now approved the Commission's new Strategic Plan and Programme of Work.

2. Land and Human Rights Advisory Forum

James gave reflections on the Forum's work to date. The Forum has been running for 2 years and to date the staff have found it very useful, particularly when forming the response to the Land Reform Bill. The forum keeps the Commission sighted in developments elsewhere in human rights and the wider legal context.

Malcolm gave his perspective of the Forum and examples of subjects discussed and the expertise that's involved in the meetings that can be drawn on.

Discussion considered the following:

- The board sought assurance that there is sufficient diversity of opinion and challenge within the forum, in order that it can offer robust advice;
- That there will be a significant focus for the forum's advice on the land reform bill and human rights bill, but other topic specific areas should continue to be considered;
- That the board's preference is that the forum is able to hold focused discussions that are sufficiently in-depth on key topics to provide advice, rather than take a broad overview of many topics;

- That it would be helpful to keep under review the meeting format and membership to ensure it draws on an effective range of expertise for specific topics.

The chair thanked Malcolm, and all involved in the forum for their contributions and passed on his thanks to Elisa as she steps down from the forum.

The board sought clarity on the timeline for the forum, James confirmed it was initially set up for three years given the wider legislative context. The board asked that this is reviewed so that there is a clear time horizon for the forum linked to its purpose.

Action 23090501	Report back to the board under matters arising on the future programme for the forum.
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3. Guidance on social and economic community benefits from land

Hamish and Karen presented the paper setting out the drivers behind the guidance, the scope and stakeholder engagement. Hamish noted that while the context for this is evolving rapidly, there is value in getting some clear guidance out as a starting point, which can be developed over time. He reminded members of the expectations set out in the Scottish Government’s Principles for Responsible Investment in Natural Capital and the Commission’s Protocols. This guidance is about how these are implemented in practice.

The board endorsed the scope of the guidance, particularly that it should apply beyond the initial prompt of natural capital investment, and be used in a wider context of responsible land ownership. The board emphasised that the guidance should be framed in a way that makes clear the expectation to deliver community benefit, and that it applies to all, not just the ‘willing and interested’, albeit recognising this is good practice guidance, not presently a regulatory requirement.

The board also asked staff to work further on the drafting in order to make the document more user-friendly and concise. The following particular considerations for drafting were raised:

- Review whether case studies should be included and whether they are all appropriate. The board questioned whether all the case studies used set the bar high enough in terms of expectations;
- Include some guidance pointing to the use of mediation if negotiated approaches break down, the Commission could also consider supporting mediation as per the TFC experience;
- Suggest streamlining the document by sign posting to links rather than fully explaining in the guidance;
- Ensure the guidance is sufficiently clear in setting the expectations;
- Signal that cross compliance could be considered if necessary.

The board asked staff to work further on the document before it is ready for publication, agreeing that a final version should be signed off by the Chair.

Action 23090502	The board agreed that the Chair will sign off after amendments
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4. Strategic Risk Review

The board agreed the risk appetite statements presented, subject to amendment of the wording around research risk which should be revised to reflect a low risk appetite to poor quality research and a medium appetite to developing sufficiently ambitious research that will move forward the land reform programme.

The board reviewed and discussed the risk register, noting the following:

- Board succession risk will change as we approach new appointments and as they come into place, plans are in place to ensure an effective transition

- Discuss at ARC whether target risk scores remain appropriate, in context of overall risk appetite, and use ARC discussions to focus on where current and target risk scores remain apart.

Action 23090503	Discuss target risks at next ARC meeting
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5. Communications update

Nikki provided a verbal update noting that there has already been several applications submitted for the Communication and Engagement Manager post. She also provided an outline of upcoming communications:

- Strategic Plan and Programme of Work is with the designer and due to be published in September
- Land Focus briefing on Land Governance is due for publication September/October
- Guidance on social and economic community benefits from land due to be published early October
- James drafting a response to the Human Rights Bill consultation

The board asked for an update on conference plans. Nikki confirmed we plan to hold a smaller and in-person conference event in March, focused on specific areas of work in the new strategic plan. It is also an opportunity to introduce the new chair and Commissioners. The board asked staff to liaise closely with sponsor team on arrangements for the conference, noting the need for careful planning given the timing in relation to the Parliamentary process of the land reform bill.

6. Board recruitment and succession planning

Andrew provided an update and confirmed his appointment has been extended by 3 months to support an effective transition given the delay in the public appointments process. Megan and David's appointments will finish as planned in December 2023. The board noted consideration has been given to continuity of good governance and transition.

7. Feedback on meeting with Cabinet Secretary

Andrew provided an update following the meeting he and Hamish had with Ms Gougeon. He noted the Cabinet Secretary gave positive feedback on the value of the work of the Commission and indicated her support for the direction of the new strategic plan and programme of work. Hamish will liaise with sponsor team on timing for the next meeting of the full board with the Cabinet Secretary, taking into account the timing of new board appointments and the land reform bill.

8. Scottish Government update

Fiona Taylor provided an update from the Scottish Government including staffing and priorities within the sponsorship team and current work on the Register of Controlling Interests.

Date of Next Meeting: 3rd October 2023

**Scottish Land Commission
September 2023**