

The 2021/22 audit of the Crofting Commission



AUDITOR GENERAL 

Prepared for the Public Audit Committee by the Auditor General for Scotland
Made under section 22 of the Public Finance and Accountability (Scotland) Act 2000

December 2022

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Introduction

1. I have received the audited annual report and accounts and the independent auditor's report for the Crofting Commission (the Commission) for 2021/22. I am submitting these financial statements and the auditor's report under section 22(4) of the Public Finance and Accountability (Scotland) Act 2000, together with this report that I have prepared under section 22(3) of the Act.

2. This report brings to the Scottish Parliament's attention progress made by the Commission, during 2021/22, to address the significant weaknesses raised in the 2020/21 audit. I reported on these weaknesses in October 2021 in my report [The 2020/21 Audit of The Crofting Commission](#).

3. The auditor has issued an unmodified audit opinion on the Commission's 2021/22 financial statements, confirming that the accounts present a true and fair view, meet accounting standards and comply with relevant legislation.

Key messages

- The Commission has acted quickly to address the leadership and governance issues reported in the 2020/21 audit.
- All recommendations from the 2020/21 audit have been fully implemented. This includes revising and clarifying roles and decision-making responsibilities, establishing a more formal budget-setting process, and concluding an independent review of workforce needs.
- It is important that the Commission maintains the positive momentum it has demonstrated to date.

Background

4. Crofting is a system of landholding which is unique to Scotland and an integral part of life in the Highlands and Islands. A croft is a relatively small agricultural land holding which is normally held in tenancy and which may or may not have buildings or a house associated with it. There are around 20,800 crofts with an estimated 33,000 people living in crofting households. Crofts can

range in size from less than half a hectare to more than 50 hectares, although most are around five hectares.

5. The Crofting Commission is a non-departmental public body, established in 2012. Its main functions are to regulate crofting, promote the interests of crofting, consider issues of relevance to crofting, and investigate breaches of duties by tenants and owner-occupier crofters. As a non-departmental public body, the Commission is supported by a sponsor division within the Scottish Government. This is currently the Agriculture and Rural Economy Directorate.

6. The Commission is made up of six commissioners elected from geographic areas in the crofting counties and three commissioners appointed by the Scottish Government. Elected commissioners serve for a term of five years. The Scottish Government appoints one of the commissioners to the role of convener. Commissioners meet as a board, with meetings normally held every seven weeks. A Chief Executive leads a staff of around 70, who support the operational activity of the Commission. The Chief Executive is supported by an executive team and a senior management team.

The 2020/21 audit of the Commission identified significant weaknesses

7. In 2020/21 the auditor gave an unmodified opinion on the Commission's financial statements. However, the auditor found significant weaknesses in relation to leadership, governance, transparency, and the Commission's business planning arrangements. The auditor reported on these in the [2020/21 Annual Audit Report](#) and associated [Audit Dimensions and Best Value report](#).

8. The Commission did not have in place an overarching code of corporate governance or equivalent framework. Instead, its governance arrangements were set out in general terms across various documents. There had been a breakdown of trust between the board and senior management in place at that time. The board had stated that it lacked confidence in the Chief Executive. There was evidence of excessive involvement of the board in operational decision-making of the Commission and a lack of involvement of the board, and other stakeholders, in the budget-setting process.

9. The auditor further reported on weaknesses in the leadership of the then convener of the Commission. Performance appraisals had not been carried out for other board members, meetings were not being effectively chaired to ensure a focus on strategic issues, and the distinct roles of board members and officials was not being recognised and respected.

10. There was a lack of clarity about the appropriate role of the Scottish Government sponsor division. The auditor identified instances where the sponsor appeared to consider its main relationship to be with the senior management team rather than with the Convener. There were also instances of the Chief Executive seeking the guidance and support of the sponsor division, rather than working with the board, to manage areas of anticipated disagreement.

11. The auditor was unable to conclude that the Commission could demonstrate financial sustainability over the medium-to-longer term due to weaknesses in its overall business planning. The medium-term financial plan

was too heavily reliant on previous performance with insufficient attention to the forward-looking financial outlook. There was limited use of scenario planning and inadequate connection to the Commission's corporate plan, workforce plan and board priorities. The workforce plan had been updated during 2021 but it did not appropriately consider skills and capacity gaps or set out how future workforce needs would be met.

12. The auditor set out 41 recommendations for the Commission, to support improvement. Of these, 34 related to governance and transparency and seven to financial sustainability. The Commission accepted all the recommendations.

13. Following consideration of the Auditor General for Scotland's report on the 2020/21 audit of the Crofting Commission, the Public Audit Committee undertook an inquiry into the findings. The Committee took evidence from the Auditor General for Scotland, the Chief Executive and Convener of the Commission, and the Scottish Government.

14. The Committee published its [inquiry report](#) in February 2022. It expressed extreme concern at issues highlighted in the audit report, noting that the Commission had fallen below the standards expected of public bodies in Scotland. The inquiry highlighted the critical importance of effective leadership and found the weaknesses in leadership at the Commission to be unacceptable. The Committee welcomed the Auditor General for Scotland's intention to monitor the situation and to report publicly on the matter in the future.

The Commission has acted quickly to address the issues raised

15. Through the 2021/22 annual audit, the auditor has concluded that the Commission has made significant progress on the issues raised. The auditor has assessed all 41 recommendations made in the 2020/21 annual audit as being fully implemented by the Commission. The auditor is satisfied that the Commission's financial planning arrangements now support a sustainable position over the medium-term. However, the financial context remains challenging for public bodies.

16. Details of the activity undertaken by the Commission to address the recommendations is set out in annex one of the [2021/22 Annual Audit Report](#). Key actions and progress include:

- In July 2021 the Commission's Convener resigned and a new convener was appointed. Following a meeting with the Cabinet Secretary for Rural Affairs and Islands in September 2021, and engagement between the board and senior management team, the board withdrew the concerns it had raised regarding its lack of confidence in the Chief Executive.
- The Commission has clarified governance roles and decision-making responsibilities across the board, the Convener, and the Chief Executive. This includes the approval of a new overarching Code of Corporate Governance. This clarifies roles and responsibilities by bringing together in one place the Commission's interpretation of its governing legislation and applicable Scottish Government guidance.

- A refreshed Framework Agreement has been put in place, informed by engagement between the board, the Chief Executive, and the sponsor division. This clarifies roles and lines of accountability. Engagement between the Convener, Chief Executive and sponsor division is now documented, and an update provided as a standing item at board meetings.
- Standing Orders have been updated to specify arrangements for informal meetings of board members. This specifies where there should be engagement with the Chief Executive and clarifies that no decisions can be taken outside of formal meetings. Board meetings now have an action log as a standing item and updates are provided in writing as standard practice, with oral updates only used by exception.
- Performance appraisals for commissioners have taken place during 2021/22 and a training plan has been put in place. Joint training sessions have taken place, attended by the board, Chief Executive and sponsor division, focussed on governance arrangements and communications.
- A more formalised budget-setting process was established for the 2022/23 budget. The process ensures that the Audit and Finance Committee and the board have appropriate opportunities to input to the development of the budget rather than only being involved at the approval stage.
- The medium-term financial plan has been revised to address the issues raised by the auditor. It now covers a five-year period, includes scenario planning and links more clearly to the Commission's corporate and business plans.
- The Commission has accepted the report and findings of an independent review of its workforce needs. The report and its recommendations were used to inform the Commission's business case to the Scottish Government, resulting in additional grant aid being approved for 2022/23. A revised workforce plan was signed off by the board in June 2022.

It is important that the Commission maintains momentum

17. The make-up of the Commission's board has changed following elections in March 2022. This resulted in the re-appointment of two commissioners and the appointment of four new commissioners, two of whom have previously been commissioners. Two new commissioners were also appointed by the Scottish Government in September 2022.

18. It is important that the new board works effectively, together with the Chief Executive and with the support of the Scottish Government sponsor division, to maintain the positive momentum that the Commission has made over the last year.

19. It remains a very challenging time for public bodies, as they continue to recover from the Covid-19 pandemic and manage the financial pressures, for themselves and their communities. Clear and effective leadership is crucial to

manage these challenges. The auditor will continue to monitor the Commission's governance and leadership arrangements through the annual audit process.

20. The progress made by the Commission over the last year is welcome. The activity and actions taken will require time to bed-in and this must remain an area of focus for the Commission to ensure that the improvement is sustained. I will continue to monitor the Commission's progress and consider further reporting in public as necessary.

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