Minister for Environment, Climate Change and Land Reform
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Rob Gibson MSP
Convener RACCE Committee
c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
EDINBURGH
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22 June 2015

Dear Rob

Further to my letter of 11 May 2015 concerning the resignation of the Crofting Commission Convener, I am writing to advise you of how I intend to proceed with the succession arrangements for the vacant positions of Convener and Commissioner.

I had a constructive meeting with the Crofting Commission Commissioners on 22 May 2015 to discuss how to progress matters. I am now in receipt of a proposal for the Crofting Commission to select its own Convener from the pool of remaining Commissioners. This involves the use of a secret ballot overseen by the Crofting Commission’s Chief Executive, a copy of this is enclosed.

Having considered this proposal and, given the circumstances of the vacancy falling in-term, I intend to delegate the selection of the Convener to the Commission on this occasion. The successful candidate would take up the post of Convener until 31 March 2017, covering the remainder of the period of tenure for the current Board.

This delegation arrangement is permitted by paragraph 3 of Schedule 1 to the Crofting (Scotland) Act 1993, as amended. The delegation of the selection of the Convener on this occasion would not be a precedent and it will be open for Scottish Ministers to appoint, or to choose to delegate, in the future.

The Commission has also proposed allowing that body to continue with the remaining complement and the workload being shared amongst the remaining 8 Commissioners. I am also minded to accept this advice. I wanted to keep the Committee updated on these developments and would, as always, welcome the Committee’s views.

Kind regards

AILEEN McLEOD

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**Paper for the Minister for Environment, Climate Change and Land Reform from the Chief Executive of the Crofting Commission**

**Issue**
This paper from the Crofting Commission proposes a method for selecting a Convener for the Crofting Commission following the resignation of the previous Convener.

**Recommendation**
It is recommended the Minister delegates the responsibility of selecting a Convener to the Crofting Commissioners and that the Commissioners appoint the next Convener by secret ballot of the Commissioners.

Commissioners also recommend that the Commissioner post that became vacant with the resignation of the Convener is not filled at this time.

**Background**
The 2010 Crofting Act allows the Convener of the Crofting Commission to be either a direct Ministerial appointment or for the Minister to delegate this function to the Commission themselves.

This proposal has the buy-in of Commissioners who have all categorically stated that, if it is accepted, they will support whoever is successful in being elected into office which should result in more internal cohesion and externally will be seen as a form of local decision making. This recommendation is also in the spirit of the legislation which is weighted towards using elections to recruit the majority of members.

**Issue**
The role of Convener of the Crofting Commission is currently vacant.

At their meeting with the Minister on 22nd May it was agreed that Commissioners would consider options for filling the Convener post and present proposals to the Minister for consideration.

**Proposal**
It is proposed that the Minister delegates the task of choosing a Convener for the Crofting Commission to Commissioners. Commissioners that were willing to act as Convener would submit their names. The Commissioners would then participate in a secret ballot, overseen by the Chief Executive, to select a new Convener from the short list. The candidate with the most votes would be successful in the ballot.

It is also proposed that the Commissioner post that became vacant with the resignation of the Convener is not filled at this time. Rather that the workload be redistributed amongst the remaining Commissioners and their hours will be amended accordingly.
Legal issues
Schedule 1 section 3 deals with membership of the Commission and sub-paragraph 3, 4, and 5 state:-

(3) The Scottish Ministers must select a member to chair the Commission (the “convener”)
(4) The Scottish Ministers may delegate to the Commission the duty to select a member to chair the Commission
(5) A delegation under-subparagraph (4) may be varied or revoked at any time

Sub-paragraph (3) and (4) gives Ministers the option to either appoint directly from the existing members or to delegate this function to the Commission. The foot note associated with these paragraphs also states clearly that the Convener can come from either the elected or appointed members.

Sub-paragraph (5) also provides a degree of control should Ministers wish to reverse any decision to delegate, however to do so may create presentational issues.

Presentation
Current press coverage surrounding the resignation of the previous Convener has focussed on the elected/appointed issue calling for all Commissioners to be elected. Allowing the Board to elect their Convener is likely to be seen as a positive step.

Implementation
Commissioners recommend that they use the same process as they used to select their Vice-Convener (a post that is used by the organisation but not recognised in legislation). This was done by individuals who expressed an interest facing a secret ballot. The ballot was conducted on a first past the post basis and the Chief Executive Officer acted as Returning Officer. It is proposed that the Commission Solicitor would act in support of the CEO.

Should more than one candidate achieve equal votes, their names would be put forward for a further round of voting. This process would continue until one candidate had secured a larger number of votes than the other(s).

Should the Vice-Convener stand and be the successful candidate then a second ballot would take place to appoint a new Vice-Convener.

Timing
If this recommendation is acceptable to the Minister, the Commission would wish to see it implemented as soon as possible. They would be prepared to have the ballot at an early date with the potential to announce this around the time of the next Commission meeting on 24th June, if that timing was acceptable to the Minister.

Catriona Maclean
Chief Executive
Crofting Commission
29 May 2015