

19 October 2018

Mr Andrew Thin  
Scottish Land Commission  
Longman House  
28 Longman Road  
Inverness  
IV1 1SF

Dear Andrew

Further to Sarah-Jane's discussions with Hamish, I am writing to express my dismay at your recent comments relating to Buccleuch. Whilst I do not wish to comment on the specifics of the Telfer case, I do think that the wider ramifications of your comments have to be acknowledged and addressed.

Your assertion that you cannot understand why the Telfers cannot remain in their tenancy until they retire may very well be a valid personal opinion but when made in your capacity as Chairman of the Scottish Land Commission, it infers that the landlord is required to define the term of fixed term tenancies to suit the tenant. Whilst the aspirations of the tenant, and indeed joint aspirations for the land, will feature in tenancy discussions, the Scottish Government, the Tenant Farming Commissioner and indeed yourself have recognised the validity of the landlord legitimately ending tenancies at the end of their term. This latest comment appears to contradict this and seems to send a clear message to the sector that the fixed term is neither acknowledged or respected.

Not all landlords are of the magnitude of Buccleuch, and your comments are unlikely to encourage smaller landlords or current owner occupiers to enter into fixed term agreements such as the new MLDT. Instead they reinforce that landlords lay themselves open to political and SLC criticism at the legitimate ending of a fixed term contract, especially if the tenant doesn't get the result they wish. This appears to be at odds with the Tenant Farming Commissioner Code of Practice approach – which clearly recognises that parties may not always be 100% happy with the outcome of a process which is carried out in accordance with the Code.

SLE has worked very hard to deliver the Scottish Government's land reform ambitions, and as you are aware have taken some fairly brave sector leadership positions. I fear that your comments will have undone some of the positive work we have done together to date.

With regards to the criticism over the change in land use – it does seem ironic that given the SLC's focus on productivity, the estate is being criticised for plans which will undoubtedly increase the productivity of the land. We have worked very hard alongside Scottish Government and others to move the sector on from the sheep versus trees debate – and we are very disappointed that your comments have reignited this debate.

I have publicly stated that we are of the opinion that your comments will impact negatively on the sector, and indeed could undo some of the positive work being done to encourage letting. Nor will it do much to encourage landowners to increase their efforts to increase forestry and woodland creation.

It is no exaggeration to say that your comments on this particular case could have significant and long term implications for the tenanted sector. I do hope that this can be recognised and mitigated by a clear statement on the legitimacy of the fixed term nature of tenancies.

We have had numerous emails from concerned members directly about your comments, primarily wondering what you and the SLC's long term intentions are with any form of fixed term agricultural

tenancy and your apparent desire to do away with the fixed term aspect, but also in our view just as important a question is the independence and impartiality of the SLC.

The SLC has a statutory basis which the membership understands and respects and that your agenda for change will be driven by an evidential and even-handed manor, that is not afraid to speak truth to power, whether that is to the Scottish Government of the day, Tenants, rural communities or us as a landowning community. The integrity of the SLC for me comes more from that than any statutory basis and the comments in the press have made some landowners question if that really is the way that you intend to carry out your role.

I would be very happy to discuss this further, and could ask Sarah-Jane to arrange a meeting if that would be useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Johnstone', with a long horizontal stroke extending to the right.

David Johnstone  
**Chairman**