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Dear Andy,

You shared the Chancellor of the Duchy of Lancaster's letter to Sir John Holmes with the Scottish Government and asked us for any comments on the content of the letter.

The Scottish Government is grateful to the Electoral Commission for the opportunity to comment on this matter, and in doing so we are mindful of the independent role of the Commission.

Throughout the passage of the Referendums (Scotland) Act 2020, the Electoral Commission was clear that in its view, all referendum questions should be tested and that the 2014 question would require re-testing before a independence referendum.

The Scottish Government has been clear that a referendum on independence must be legal and legitimate, and meet the highest standards. The Cabinet Secretary for Constitution, Europe and External Affairs therefore accepted the Commission's advice on this matter.

In his letter to Dame Sue Bruce of 5 February 2020, he asked that, under the terms of section 10(1) of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission provides advice and assistance to the Scottish Government by considering the wording and intelligibility of the question used at the 2014 referendum.

That request was mandated by the Scottish Parliament in the following motion, passed on 29 January 2020.

That the Parliament recognises the sovereign right of the people of Scotland to determine the form of government best suited to their needs; agrees with the cross-party Smith Commission report published after the 2014 referendum and backed by the UK Government that "nothing in this report prevents Scotland becoming an independent country in the future should the people of Scotland so choose"; recognises that there has been a material change in circumstances since 2014 and that a referendum should be held so that the people of Scotland can decide whether they wish it to become an independent country, and calls on the UK Government to reach an agreement with the Scottish Government on such a



referendum taking place on a date and in a manner determined by the Scottish Parliament, which the Scottish Government proposes should take place in 2020.

Scottish Ministers consider that this is a legitimate request for assistance from the Electoral Commission. Our reasons for this are those set out in the motion. This states clearly the policy objective of the call from the Scottish Parliament on the UK Government to agree to a referendum taking place, and the wishes of the Scottish Parliament on when and how it should take place. It also states that question testing is in the interests of ensuring the Commission's desire for transparency at any referendum held.

We therefore do not consider that the correspondence from the UK Government raises relevant considerations.

Of course we are also mindful of the wider context in relation to COVID19 at this particular time. Accordingly if the Electoral Commission agrees to undertake testing, as we believe it should, we would then concur with any decision by the Commission to postpone actual testing until such time as it was appropriate to do so in the light of current public health concerns and the need to avoid unnecessary contact for the duration of the Coronavirus crisis.



Penny Curtis
Head of Elections and Freedom of Information