



Ministry
of Justice

Alex Davies-Jones MP
Parliamentary Under-
Secretary of State

Gweinyddiaeth
Cyfiawnder

Calum Kerr MSP
Convener
Delegated Powers and Law Reform Committee
The Scottish Parliament
Edinburgh
EH99 1SP

MoJ ref: ADR138156

24 September 2026

Dear Calum,

PUBLIC OFFICE (ACCOUNTABILITY) BILL LCM AND SUPPLEMENTARY LCMs

Thank you for your letter of 16 September regarding a question raised by the Scottish Parliament's Delegated Powers and Law Reform Committee during its consideration of the Scottish Government's Legislative Consent Memorandum to the Public Office (Accountability) Bill. The question relates to the Secretary of State's power to make amendments under clause 16 of the Bill, particularly where those amendments relate to matters within devolved competence in Scotland.

Clause 16 defines who "holds public office" for the purposes of the two new statutory misconduct in public office offences in Part 3, by reference to the list in Schedule 4 to the Bill. Clause 16(3) provides a power for the "appropriate national authority" to amend that list by affirmative regulations, including by adding, removing, or modifying descriptions of public office holders. The appropriate national authorities are defined in clause 24 and include the Secretary of State, Scottish Ministers, Welsh Ministers and the relevant Northern Ireland department. Scottish Ministers may exercise the power in relation to Scottish devolved matters, with equivalent provision for the other devolved administrations.

I understand the Committee has expressed concern that amendments made by the Secretary of State affecting Scottish public office holders may not receive appropriate scrutiny, particularly by the Scottish Parliament. I can assure the Committee that the Bill includes safeguards in relation to devolved matters. Clause 24(2)(a) makes clear that the Secretary of State may not make regulations under the Act containing provision "which relates to a Scottish devolved matter unless the Scottish Ministers have consented to that provision". This means that the Secretary of State could not make changes relating to Scottish devolved matters without the consent of Scottish Ministers. Where a change relates entirely to Scottish devolved matters, Scottish Ministers may exercise the power themselves, subject to the relevant scrutiny procedures in the Scottish Parliament.

Officials in this department worked closely with colleagues in the devolved administrations, including Scottish Government officials, to develop and refine the definitive list of public office holders that will be subject to the new misconduct offences. Having a definitive list of who is a

public office holder addresses one of the key criticisms of the current common-law offence: that it is insufficiently clear who is in scope. In recognition that it would be almost impossible to name every organisation that should be caught in an exhaustive list, we also included a “catch-all” provision for other public bodies and offices exercising functions of a public nature, in Part 27 of Schedule 4. This means that, where an office is not specifically listed, it may still be captured if it meets the three conditions set out in that Part.

To ensure the list can also be kept up to date, we included the power to amend Schedule 4. However, the scope of the power is limited by the statutory context: it can only be used to amend the descriptions of those who are to be treated as “holders of public office” for the purposes of the offences. It cannot therefore be used to change the core elements of the offences, including their defences, penalties or other definitions.

The power to amend Schedule 4 is a delegated power to amend primary legislation and is subject to the affirmative resolution procedure in Parliament. This means that a draft statutory instrument must be laid before, and approved by a resolution of, both Houses of Parliament before the regulations can be made. The UK Government agrees that Parliament should have the opportunity to debate and approve any changes to the offices which fall within scope of the new offences before they take effect, given the impact that this could have on those who hold such offices.

I hope this provides the Committee with the assurances it needs regarding the purpose and limited nature of any future changes to the list of public office holders in Schedule 4 of the Bill. I am also grateful to Scottish Government officials who contributed to the work to ensure that Schedule 4 appropriately reflects public office holders in Scotland.

Yours sincerely,

A handwritten signature in dark ink that reads "Alex Davies Jones .". The signature is written in a cursive, slightly informal style.

ALEX DAVIES-JONES MP
Minister for Victims, Violence Against Women and Girls,
and International Justice