

# **Review of the circumstances that led to the resignation of the Chair and three Commissioners from the Poverty and Inequality Commission (the Commission)**

## FINDINGS

What was very clear in all of the interviews was a common sense of purpose, commitment and dedication to deliver on the objectives of the Commission; which are –

- Providing advice to Ministers on Child Poverty Delivery Plans
- Commenting on annual progress towards the targets and what further progress is needed to meet the targets.
- Advising Scottish Ministers on any matter relating to poverty or inequality in Scotland, including the impact of policies and the use of resources in reducing poverty and inequality
- Monitoring progress in reducing poverty and inequality in Scotland
- Promoting the reduction of poverty and inequality in Scotland

There was also an evident sense of pride about what has been achieved so far as a result of that collective commitment with examples of success such as the Commission's:

- Advice on the Scottish Child Payment;
- Response and urgent work related to Covid and its impact and poverty and inequalities;
- Response and advice on the ongoing cost of living crisis;
- Establishment of a tax working group; and
- Innovative approach of establishing the Experts by Experience panel, ensuring the lived experience of poverty is core to its work.

While the events leading up to the resignations of the Chair and three of the Commissioners has undoubtedly had a very significant impact on all involved, the legacy of the Commission and its successes should not be defined by those events.

Many of those interviewed asked me to make it explicitly clear in the submission, how highly thought of the Secretariat team is. The consensus in feedback was that the team had provided and continues to provide a professional level of support to the Commission, collectively and individually, and of a very high standard.

Further, the relationship between the sponsor team and the Secretariat was considered to be both strong, appropriate and mutually supportive.

I am clear that, though the resignations of the Chair and Commissioners has had a significant impact on all involved, there is no single event or interaction that led to where the Commission finds itself. It is in my view a series of issues that individually could have been remedied and mitigated but collectively led to much more synergistic challenge that became eventually irreparable.

These issues, though interrelated, can be divided into four headings:

- **Process**
- **Communication**
- **Performance management**
- **Welfare**

## **Process**

Though the Framework Document for the Commission lays out roles, remits and responsibilities of: the Chair; the Commissioners; the Secretariat; and, the sponsor team there was none-the-less some confusion about who led on the process to reappoint (or not reappoint) Commissioners. This was further compounded by the fact that there was not a shared understanding of what reappointment meant. This was largely because there had already been an extension to the first appointment tenure of the Commissioners which had been a relatively informal process and from what I can determine did not require the approval of the Social Justice and Social Security Committee (the Committee). The Commissioners approached for reappointment had informally, and in only one interaction with the Chair, indicated that they were content to be put forward for a further extension to their tenure. They had understood that this extension would support transition and succession planning but were uncertain as to whether they would be able to or would want to commit to a full reappointment of a second term. They would need to consider the personal and professional impact of doing so and as appropriate discuss with their employers.

Their initial positive indication was, with no mal intent, misinterpreted by the Chair and the formal process of reappointment for full second tenure was therefore initiated by him. The Commissioners to be recommended for reappointment were only made aware of this 5 months later when the Committee formally wrote to them about the re-appointment process.

In response to concerns raised, the Chair convened a meeting with the three Commissioners concerned. While there is no record of this meeting, all who attended entered it with the expectation that a resolution could be found. While it is not appropriate to go into any detail, it is clear that the Chair was under very significant personal pressure unrelated to these events. This may have impacted on how the meeting was conducted and resulted in a route to resolution becoming less structured and clear than it might have otherwise been.

As neither the Secretariat nor the sponsor team were at that meeting – at the request of both the Chair and the Commissioners - neither could meaningfully intervene to resolve any existing or further gaps in communication which led to further anxiety, ambiguity and distress for all involved.

## ***Recommendations***

(1) The Framework Document does offer clarity on the role, remit and responsibility for the Chair, the Secretariat and the sponsor team regarding the appointment process. Though given the context outlined above it would be worth considering if a meeting at the outset of the appointment or reappointment process should be convened with the Chair, Commissioners for reappointment, the Secretariat and the sponsor team to discuss the process and timeline with agreement as to who will lead on updating the Commissioners at each stage. At the outset it should be explained what reappointment would mean in terms of Ministerial and Parliamentary approval with an opportunity for the Commissioner(s) to review and confirm if they are happy to proceed.

(2) In the case whereby a Commissioner is not being recommended for reappointment then the Chair should convene a meeting as soon as possible with the Commissioner and a member of the Secretariat to take a note. The Commissioner should be given the opportunity to respond and if appropriate make any case for that decision to be reviewed by the Chair. A time frame for doing this would be agreed at that meeting.

## **Communication**

Despite the strong working relationship between the Chair, the Commissioners, the Secretariat and the sponsor team it is clear that an unprecedented breakdown in communication led to distress, distrust and assumptions being made. When that breakdown in communication was between the Chair and the Commissioners it was not clear who was best placed to mediate. It may not be appropriate for the Secretariat to have a formal role in this given their responsibilities as set out in the Framework document. Further if they (the Secretariat) wish to raise concerns this would typically be via the Chair but where that is not possible or appropriate there is no clear route for them to do so. Given the Commission is independent from Scottish Government it is also not appropriate for the sponsor team to be formally involved in any mediation process. It is clear that well intended approaches were made to offer support, but this was, and could only be done, within the bounds of each team's role, and in this example, rightly, meant the Commission were at arm's length. While there is potentially a role for the Chief Social Policy Adviser (as line manager of the Chair) and the Head of Social Policy Unit (as line manager to the Secretariat team), both are also Scottish Government employees and so must be mindful of the Commission's independence from Government.

I accept that the issues that led to the resignation were unprecedented with no participant reporting any knowledge of prior significant or ongoing issues. The level of the communication and feedback between the Chair and Secretariat was appropriate as was the communication between the Secretariat and the sponsor team. The issue was primarily the lack of a clear (route for the Commissioners to raise any concerns, whether that was about the Chair, the Secretariat or the sponsor team, so as to surface and address any issues early on. A remedy to this is a more robust performance management process which I cover in the next section.

Also, while I don't judge this as an issue for consideration in this review, there should be a process by which any member of the Secretariat can raise concerns informally or formally about the Chair in confidence with the Chief Social Policy Adviser. Again, I raise this not because the Secretariat raised any concerns about the Chair but because while there is a clear line for them to raise concerns about any Commissioner with the Chair, the route is less clear if the Chair is the focus of concern (for example in terms of welfare).

Finally, while I acknowledge mediation was offered, the importance of having swift access to a third-party professional mediator can make the difference between a successful resolution or further irreparable deterioration in relations. While it cannot be said with any certainty, I would assert had both parties been persuaded to work with a mediator directly after the meeting on the 25<sup>th</sup> July, and provided an appropriate person could have been urgently identified, the outcomes might have been quite different.

## ***Recommendations***

(3) The Scottish Government's Chief Social Policy Adviser (SGCSPA) as line manager to the Chair and the Head of Social Policy Unit as line manager to the Secretariat should develop and agree a process whereby the Secretariat can raise concerns in confidence with assurance as to how that can be handled sensitively. A process that is similar to that whereby civil servants can raise issues of concern about Ministers might be helpful.

(4) Mediation as an option can only work if it can be arranged quickly and with individuals who have the right experience and expertise. Scottish Government People and Wellbeing Team should be approached to advise on whether on a process can be agreed for mediation within 5 working days of a request being made, subject to both sides agree to mediation, then any further communication is paused while the mediation process is set up. Again, there is already precedence for this within the Scottish Government.

### **Performance management**

The value of a clear, consistent, and constructive approach to performance management cannot be understated. That said, in the context of a Commission where the Chair and the Commissioners are not employees and only undertake duties for up to 4 days or 1 day per month respectively it's not feasible to replicate an approach to performance management that is used for employees. Within the Commission, performance management was mainly informal and used more as an opportunity to check in with each other. Whether it be between the Chair and the SGCSPA or the Chair and the Commissioners there was a lack of guidance as to the expectations of effective performance management with the context of their respective roles. This is not unique to this Commission and while guidance needs to put in place, there needs to be a careful balance between offering constructive support and the perception of government interference in an independent body.

Further some fed back they have not received enough time to prepare for the "appraisal" conversation, did not receive any written record of the conversation and were not clear as to its value and purpose. There was a shared view that a better structured performance management process would offer a feedback loop to raise concerns about performance earlier, identify areas where more support was needed (both individually & collectively), and help flag any welfare and resilience issues earlier on.

Some also felt that any performance management seemed more unilateral than collaborative and did not allow for any 360-degree feedback regarding successes, challenges, and areas for further development.

### ***Recommendations***

(5) At the outset of any appointment to the Commission there should be an induction session led by the Secretariat with the Chair and the Commissioners on performance management expectations. Each member of the Commission and the Chair should have a clear set of agreed objectives aligned to the purpose of the Commission.

(6) There should be a mid-year and annual conversation led by the Chair where the Commissioner should be given one month's notice to consider their own successes, their own challenges (and potential areas for improvement and support) as well as their feedback for the Chair. If appropriate a member of the secretariat could be present to take a note which will be agreed by both and held in confidence. If it's not appropriate, the Commissioner would take a note and share it with the Chair for them both to agree and sign off. Having the Commissioner take the note underlines this is not a unilateral conversation it is a shared and agreed narrative on performance.

(7) The same process would be applied between the Chair and SGCSPA. Additionally, the Chair would participate in a 360-degree feedback review once every two years. This would be led by a third party (for e.g. the Keil Centre) the participants would include the Commissioners, the Secretariat, and several stakeholders – not including Scottish Government who would not participate. There is a well-established and regarded process within the Senior Civil Service that could be easily replicated for the role of the Chair.

(8) If appropriate any Commissioner could opt-in to a 360-degree review once in their tenure and the participants would include the Chair and/or the deputy Chair, fellow commissioners, the Secretariat, and any stakeholders – but not include Scottish Government who would not participate.

(9) Additional time within the number of days the Chair is currently eligible for remuneration for should be considered to support this process and further thought as to whether a deputy chair could contribute and have an enhanced role in terms of supporting the Chair with the performance management, welfare, and development of the Commissioners.

### **Welfare**

I was struck by the level of personal commitment to the work of the Commission expressed by all participants in this review. It is clear that individuals apply for these posts not from the perspective of their own personal benefit and reward but in terms of wanting to make a positive contribution to the lives of those living in poverty and experiencing inequality. While the Chair and the Commissioners are remunerated each year for a set number of agreed days, it was evident to me that they gave much more of their time than they were compensated for. That shared personal commitment was equally as evident in my interviews with the sponsor team, the Secretariat, a current Commissioner, the SGCSPA and the Head of the Social Policy Unit. With that personal commitment comes a clear personal cost and impact on all of those involved when things go wrong, which some participants described as a highly distressing series of events that had a perceived professional impact on reputations as well as impact on their mental health.

It was evident that as soon as it was clear there were significant issues the sponsor team moved to find and offer appropriate welfare support for those involved. While some felt that it was offered too late, for the reasons outlined earlier in this report many of the issues of concern were unknown and only exposed when relationships and communication had already broken-down. Therefore, I judge that the support put in place was appropriate at that time given this context.

### ***Recommendations***

(10) My only recommendation here is to explore with SG People Advice and Wellbeing Team whether the reactive welfare support offered at the time was on an exceptional basis or could be a more substantive offer to the Commission going forward. If the former, then a third party should be contracted to offer this kind of support when needed for e.g. the Kiel centre.

### **Summary**

My overarching view is that while the eventual resignation of the Chair and three of the Commissioners could have been avoided, it was not due to a single significant issue or event. Nor was it due to a failure of duty by any single person or team. It was an unfortunate convergence of a series of events that was exacerbated by a breakdown in communication, the inability to persuade participation in mediation, ambiguity around the re-appointment processes in terms of roles and remit, the lack of a route by which concerns could be raised early and in

confidence, and the very difficult and challenging personal circumstances the Chair was experiencing.

The recommendations above are largely common sense and I note many of them have already been proactively actioned or are being thought through by the sponsor team.

The legacy of the Commission is not and must not be judged by this difficult and very unfortunate set of circumstances. It is much more appropriately defined by its significant achievements which, along with this way forward, offer a strong inheritance for the next Chair and set of Commissioners to build upon.

A list of those interviewed for this review is held at **Annex A**.

**John Somers**  
**Deputy Director Police Division**  
**14/12/2023**

## **Annex A**

The following were interviewed as part of the review.

- Lead Sponsor for the Commission (Julie Humphreys, Deputy Director for Tackling Child Poverty and Financial Wellbeing)
- Members of the Scottish Government Sponsorship Team for the Commission
- Commission's Secretariat
- A current member of the Commission
- Resigning Chair of the Commission
- Three resigning Commissioners
- The Scottish Government Chief Social Policy Adviser (Professor Linda Bauld)
- Head of Social Policy Unit, Scottish Government