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Dear Graham

Thank you for your letter of 3 February and our subsequent constructive discussion. I thought it would be helpful to set out my position in writing to you and the Standards, Procedures and Public Appointments Committee.

First, as you are aware, the Scottish Government agreed the general principles of the Bill at Stage 1, with that support conditional on changes being made to the Bill to reflect the significant concerns raised across the Chamber, and in the Committee's Stage 1 report.

I can confirm that the Government still supports in principle the introduction of a form of recall in the Scottish Parliament. That position has guided the Government's approach to Stage 1 and in 2, both in relation to its own amendments and its response to amendments lodged by others. The Scottish Government's approach to Stage 2 was also informed by areas where the Government would have a particular role. For example, in relation to Ms Webber's amendments on the inclusion of remand as a trigger for recall or removal, we had concerns about the Convention-compatibility of the amendments; and in relation to Mr Cole-Hamilton's amendment, given that Disclosure Scotland operates on behalf of Scottish Ministers, where we took a view about the operability of the proposed amendment.

I was also happy to work with you on a number of your amendments and supported more than 70 of your amendments apart from 65 for the reasons I set out at the time. This amendment was unanimously opposed by the Committee, and of course this decision was theirs to make, and theirs alone.

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Your central point is that amendment and you are seeking the Scottish Government views on that issue. My overriding concern, as I set out during Stage 2, is that the Bill places the responsibility on Scottish Ministers for setting out in regulations how the new regional recall poll process will work, without any directions or steer on matters of detail on the face of the Bill.

I firmly believe it should not be for Scottish Ministers to be making policy decisions on how the regional process works. Whilst I am happy to set out some of the Government's thoughts about specific elements that are missing from amendment 65, I have been clear from the beginning that this Bill, and especially the design of any new process, must be a matter for Parliament to take the lead on. These thoughts therefore represent only one perspective on the issue. As all parties on the Committee voted against amendment 65 at Stage 2, I expect you will be consulting across the parties to ensure their perspectives are taken account of in the development of this important new process. If the amendment is truly to be designed by Parliament that engagement will need to take place.

The sections covering the constituency petition clearly set out the key elements of process and the roles and responsibilities of individuals in delivering the petition process. Given that the regional poll process is entirely new, it would be helpful if your amendments mirrored the level of detail attached to constituency recall provisions. I note that the Electoral Commission in its Stage 2 Briefing Note also expressed a desire for a consistency of approach in relation to the constituency and regional processes.

For example, and this list is non-exhaustive, the Electoral Commission noted the need for:

- detail on the role of Constituency Returning Officers (CROs), including being consulted on in the delivery of a regional recall poll
- a consistent approach to the power to amend dates relating to the recall process so that amendment 65 mirrors the sections of the Bill on constituency recall, including confirmation that the responsibility rests with the Presiding Officer.

The Scottish Government would add to that consideration of:

- detail on who is responsible for setting the date of a regional poll
- detail on the approach to polling stations
- when voter registration closes ahead of the poll.

I hope you will agree that, to date, I, my predecessor, and Scottish Government officials, have engaged extensively with you and colleagues in the Non-Government Bills Unit during the progress of your Bill. We have discussed areas of policy and my officials have shared written material, and draft amendments, with you and I hope you have found that useful and constructive engagement.

However, I will reiterate as I have done throughout the process, that this is not a Government Bill – indeed, it is a Bill that we have consistently said Parliament should take the lead on – and that I would expect design of the central element of the revisions to the Bill at Stage 2, the regional recall chapter, to be led by you and NGBU, and to involve all of Parliament. That position has not changed in relation to any revised amendments at Stage 3. My officials would be happy to review your revised amendment or amendments, and provide comments on technical integration within the wider Bill provisions, as well as on workability. The final policy and drafting decisions of course rest entirely with you as member in charge, following your discussions with other parties.

As I said when we met, I would be happy to discuss further, should there be a need to do so.

Yours sincerely



GRAEME DEY

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