



The Scottish Parliament
Pàrlamaid na h-Alba

Committee on the Scottish Government Handling of Harassment Complaints

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Dear Lord Advocate

Thank you for your written submission to the Committee dated 4 August. The Committee would now like to invite you to attend a Committee meeting to give evidence on the judicial review process on the morning of Tuesday 8 September, starting at 10.15 am.

The Committee intends to hold an initial exploratory session with you and Government officials on the judicial review. This would involve witnesses including the Permanent Secretary, yourself and any key decision-making officials involved in the judicial review process. Given the high-level nature of the evidence provided by the Government on the judicial review the Committee is not aware of who the key decision makers were leading the process from the Government side. In addition, the Committee remains unclear on the dates and details of key Government decisions that influenced the direction of the review.

The Committee's primary purpose for this exploratory session, is to establish the extent to which it will receive the detailed account of the review process in oral evidence that the Deputy First Minister referred to in his [letter dated 14 August](#) and in the [letter dated 13 August](#) from the Permanent Secretary. Having established what the Government is willing and able to share in initial oral evidence, the Committee can then consider further steps to obtain the evidence it requires to scrutinise the judicial review process in more detail later in its inquiry. The session on 8th September may also give initial consideration to:

- the extent to which legal professional privilege has been applied to documents held by the Government;
- the timing of decisions taken by the Government during the review;

- the Government's approach to sharing information during the review to inform the process; and
- the associated cost.

To inform this session, the Committee also repeats its request from its [letter dated 11 August](#):

“..the Committee asks for elaboration on [the SG] position in the judicial review statement “that documents which form part of the court process in relation to the judicial review are the property of the Court and cannot be disclosed by the Scottish Government, unless they are already in the public domain”. The Committee seeks a breakdown of the documents withheld, including those forming part of the process of the case and in each case the Government's understanding on any restrictions in providing it to the Committee.”

As you are aware the Committee has also sought documents from Alex Salmond, and where these documents cannot be shared for example due to an associated court order, the Committee has sought details of the type of documents that come into this category. This includes documents provided to the judicial review by the Government. Given the lack of documentation provided by the Scottish Government, the Committee is also now actively exploring whether specific documents not bound by the associated court order, can be accessed directly from the courts if required.

I will write to the Permanent Secretary in similar terms. I would be grateful if you could confirm attendance as soon as is practicable.

Yours sincerely

Linda Fabiani MSP
Convener, Committee on the Scottish Government Handling of Harassment Complaints