



## **Committee on the Scottish Government Handling of Harassment Complaints**

John Swinney MSP  
Deputy First Minister

c/o Clerk to the Committee  
Room T1.03  
The Scottish Parliament  
Edinburgh  
EH99 1SP

BY EMAIL

[SGHHC@parliament.scot](mailto:SGHHC@parliament.scot)

2 March 2021

Dear Mr Swinney

### **Legal advice**

I am writing in response to your letter yesterday evening informing the Committee the Scottish Government will release what the Government considers to be the key legal advice to the Committee.

Firstly, the Committee unanimously agreed what it considered to be key legal advice, and that includes all external counsel advice and details such as minutes of all meetings involving counsel. I attach the minutes of the Committee meeting in December. This the minimum of what constitutes key legal advice in the Committee's opinion.

Secondly, the Committee requires that this legal advice is initially published on the Scottish Government website as a matter of urgency and at the point at which it is passed to the Committee. Given the incredibly tight timescales the Committee is subject to as a result of the late receipt of this advice and in the interests of transparency, the Committee requires the processing and publication of these documents to be completed by the Scottish Government as quickly as possible.

Thirdly, the Committee requires as much evidence as possible to be put into the public domain and so redactions must be kept to an absolute minimum. The Committee notes that the published version of the report from the former DGODO included numerous redactions and the paraphrasing was so general that it did not, in the Committee's view, constitute paraphrasing of the text it reflected. This has impacted our scrutiny of the judicial review and the Committee therefore requests that the legal advice provided is done so with legal professional privilege having been waived over its contents.

The Committee requires the Scottish Government to respond, by return, on this matter.

Yours sincerely

**Linda Fabiani MSP**

**Convener, Committee on the Scottish Government Handling of Harassment Complaints**



The Scottish Parliament  
Pàrlamaid na h-Alba

## COMMITTEE ON THE SCOTTISH GOVERNMENT HANDLING OF HARASSMENT COMPLAINTS

### MINUTES

18th Meeting, 2020 (Session 5)

Tuesday 15 December 2020

Present:

Dr Alasdair Allan	Jackie Baillie
Donald Cameron (Committee Substitute)	Alex Cole-Hamilton
Angela Constance	Linda Fabiani (Convener)
Margaret Mitchell (Deputy Convener)	Maureen Watt
Andy Wightmand (Committee Substitute)	

The meeting opened at 10.17 am.

1. **Work Programme (in private):** The Committee considered its work programme.

The committee agreed, in relation to the judicial review phase of its inquiry—

That the Committee considers that in order to discharge its duties, it needs to see the legal advice from counsel and associated minutes of meetings relating to the Judicial Review with LPP waived and that this needs to be published in the interests of transparency; agrees to continue discussions with the Scottish Government including to secure access to this legal advice in a reading room to be provided by 14 January 2021; in the interim accepts the Scottish Government offer to read the former DGODO's report of 29th December 2018; subject to agreement that notes can be taken to refer to in questioning Scottish Government witnesses and that these witnesses should not refer to legal privilege in answering questions relating to the report; insists that the SG waives LPP over the document so as to enable publication of whatever contents the Committee deems fit.

The meeting closed at 1.03 pm.

Clerk to the Committee on the Scottish Government Handling of Harassment  
Complaints  
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