



John Swinney BPA/MSP
F/T: 0300 244 4000
E: dfmcse@gov.scot

Linda Fabiani MSP
Convener – Committee on the Scottish
Government Handling of Harassment Complaints
c/o Clerk to the Committee
Room T1.03
The Scottish Parliament
Edinburgh
EH99 1SP

8 March 2021

Dear Convener

The Committee Clerks were in contact with my officials on Friday afternoon and again today following the Committee's meeting and my letter to the Committee of the 5 March 2020 confirming the release of further legal documents on the Scottish Government website. The clerks raised three specific questions.

My letter of 5 March confirmed that the Scottish Government does not hold formal minutes of meetings with Counsel during the Judicial Review and, in response to the clerks' follow-up question, we have not identified any record of minutes having been prepared or previously held by the Scottish Government. I asked officials to check what documents are available, prioritising the meetings on 2 and 13 November 2018, which the Committee has highlighted. Officials have identified a small number of contemporaneous email exchanges referencing these meetings. This includes exchanges following the meeting on 2 November and emails ahead of the meeting on 13 November 2018, attended by the First Minister and Permanent Secretary. These exchanges make clear that the focus of the meetings was on discussing and agreeing with external Counsel adjustments to the pleadings for the judicial review. I have asked officials to urgently make necessary checks for compliance with court orders and data notifications, and then to publish these email exchanges as soon as possible this week. The process of adjustments to the pleadings is already set out in the timeline issued in response to the Committee's letter of 7 October 2020, and in the actual pleadings already shared with the Committee.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

Scottish Ministers, special advisers and the Permanent Secretary are covered
by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Taigh Naomh Anndrais, Rathad Regent, Dùn Èideann EH1
3DG
St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



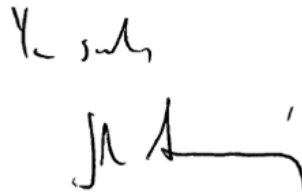
INVESTORS
IN PEOPLE

Accredited
Until 2020



The Committee has asked about any external legal advice received after the Lord Advocate's note of 16:00 on 31 December 2018, which the Scottish Government has already published in document [LA08](#). There are no further formal written notes from Counsel on 31 December 2018 or thereafter. As you would expect, there was extensive engagement between Counsel and Scottish Government lawyers in preparing for the concession of the case in early January 2019.

I hope this reply is helpful in response to the matters raised by the Committee.



JOHN SWINNEY

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Taigh Naomh Anndrais, Rathad Regent, Dùn Èideann EH1
3DG
St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020

