



The Scottish Parliament  
Pàrlamaid na h-Alba

## COMMITTEE ON THE SCOTTISH GOVERNMENT HANDLING OF HARASSMENT COMPLAINTS

### AGENDA

1st Meeting, 2021 (Session 5)

Tuesday 12 January 2021

The Committee will meet at 11.00 am in a virtual meeting.

1. **Declaration of interests:** Stuart McMillan will be invited to declare any relevant interests.
2. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
3. **Complaints Handling:** The Committee will take evidence from—  
  
Leslie Evans, Permanent Secretary, Scottish Government.
4. **Review of Evidence (in private):** The Committee will review the evidence heard on the inquiry.
5. **Work programme:** The Committee will review its work programme.

Clerk to the Committee on the Scottish Government Handling of  
Harassment Complaints  
Email: SGHHC@Parliament.Scot

The papers for this meeting are as follows—

**Item 2**

Paper from the Clerk	SGHHC/S5/21/1/1
Written submission from the former First Minister, Alex Salmond	SGHHC/S5/21/1/2
Correspondence from Deputy First Minister – legal advice	SGHHC/S5/21/1/3
Private paper	SGHHC/S5/21/1/4 (P)

**Item 5**

Private paper	SGHHC/S5/21/1/5 (P)
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**Committee on Scottish Government Handling of Harassment Complaints****1<sup>st</sup> Meeting, 2021 (Session 5), Tuesday 12 January 2021****Phase 2: Complaints Handling****Evidence session 11: 12 January 2021****Background**

1. This paper has been produced prior to the Committee on the Scottish Government Handling of Harassment Complaints' eleventh evidence session where the Committee will hear evidence from the Permanent Secretary, Leslie Evans.
2. The Permanent Secretary to the Scottish Government is the most senior civil servant in Scotland and is the principal policy adviser to the First Minister as well as secretary to the Cabinet. The Permanent Secretary is the principal accountable officer for the Scottish Government and is personally responsible to the Scottish Parliament for the exercise of their responsibilities.
3. The evidence session will focus on the complaints handling phase of the Committee's inquiry. The purpose of this session is to examine the process followed, not to revisit the criminal trial or consider the substance of the complaints originally made to the Scottish Government.
4. In line with the Committee's [written statement on the handling of information and evidence](#) all participants must comply with the court order made by the Lord Justice Clerk, Lady Dorrian, on 10 March 2020 preventing publication of the names and identity, and any information likely to disclose the identity, of the complainers in the criminal trial.
5. [The Committee's remit and approach to its inquiry](#) is available on the Committee's webpage.
6. A written statement from the Scottish Government, timeline and supporting documents were subsequently received by the Committee on Monday 30 November. The [written statement](#) and [covering letter from the Deputy First Minister](#) have been published on the Committee's webpage, the supporting documents listed in the footnotes of the statement are currently being processed and will be published in due course.
7. The Scottish Government subsequently provided the Committee with an updated written statement on 18 December, along with a further batch of supporting documents. These documents have also been posted on the [Committee's webpage](#).
8. The Deputy First Minister wrote to the Convener on 22 December 2020 providing an update on the Scottish Government's own review of its procedure for the handling of harassment complaints involving current or former ministers. This letter can be found at **Annexe A**.

*Previous evidence sessions on the complaints handling phase*

- The Committee heard from four Scottish Government Officials: Judith Mackinnon, Head of People Advice; Gillian Russell, Director, Health Workforce; Nicola Richards, Director of People; and John Somers, Principal Private Secretary to the First Minister on Tuesday 1 December.

The Official Report of this evidence session is available [here](#).

*The Judicial Review*

The Permanent Secretary may also give evidence on the judicial review phase of the inquiry. Following an [agreement with the Scottish Government](#), on 22 December 2020 Committee members were given access in a reading room to a report prepared by the then Director General for Organisational Development and Operations (DGODO) in late December 2018 for the Permanent Secretary. A [redacted version of this report](#) along with an [accompanying letter](#) and [statement](#), as well as a [summary of the Lord Advocates evidence](#) have been published on the Committee's website.

Following this, the Convener [wrote to the Deputy First Minister](#) on 23 December 2020 regarding the Committee's access to legal advice. This letter is included with this paper.

Deputy First Minister and Cabinet Secretary for  
Education and Skills  
John Swinney MSP



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

ANNEXE A

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

22 December 2020

Dear Linda

### **Scottish Government Review of its Handling of Harassment Complaints Procedure**

I am writing to provide you with an update on the Scottish Government review of its procedure for the handling of harassment complaints involving current or former ministers. Laura Dunlop QC has advised that she is making progress and her review will conclude by Spring 2021. This is in line with our original intentions, as set out in the Permanent Secretary's letter to you of 21 August, where we anticipated that the Review might be concluded by the end of 2020 but that the final timeframe would be decided by the reviewer.

I will provide a further update in February 2021 and hope that this information is helpful to you.

**JOHN SWINNEY**

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[www.gov.scot](http://www.gov.scot)



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**ADDITIONAL REFERENCE MATERIAL****Previous correspondence on complaints handling documents***Written Evidence from the Scottish Government*

9. The Committee asked the Scottish Government to retain all documents which may be relevant to the inquiry in its [letter of 26 February 2019](#).

10. On 3 June 2020 the [Permanent Secretary provided an update](#) to the Committee on the timescales for providing documentation and written evidence, noting a delay in the complaints handling batch of evidence.

11. On 31 August 2020 the Deputy First Minister [wrote to the Committee](#) to update members on the forthcoming batch of evidence relating to complaints handling. This letter noted that a formal objection has been received by the Scottish Government on behalf of an individual which would cause a delay in the provision of these documents to the Committee.

12. On 26 October 2020 the Deputy First Minister [wrote again to the Committee](#) with an update on the progress the Scottish Government was making to provide the material relating to complaints handling.

13. Following this letter, the Convener [wrote to the Deputy First Minister](#) on 6 November 2020. This letter noted that, notwithstanding the legal issues related to the documentation, the Committee wished to receive from the Scottish Government as soon as possible, a timeline or written submission giving information on the process undertaken by the Scottish Government in investigating the complaints. The Deputy First Minister [responded to this letter](#) on 13 November 2020, noting that the Scottish Government will look to provide material as soon as possible.

14. On 12 November 2020, the [Convener wrote to the Deputy First Minister](#) informing him that the Committee was considering beginning hearing oral evidence on the complaints handling process in the absence of relevant documentation. This letter noted that, in the absence of this documentation, Scottish Government officials would need to spend more time in Committee covering matters in person that should have been covered by the Scottish Government's written statement and associated documentation. The letter also noted the Committee has evidence from the inquiry phases on the development of the procedure and the judicial review and other sources of information it can draw upon to inform these sessions.

15. In a [letter to the Committee on 19 November 2020](#), the Deputy First Minister indicated that he could not agree to Judith Mackinnon and Gillian Russell appearing before the Committee on 24 November due to the risk of jigsaw identification caused by the fact that the Scottish Government had not finalised the timeline and statement for this phase of the inquiry. The Convener [responded to this letter](#) on 19 November 2020.

16. The Deputy First Minister subsequently [wrote to the Convener on 24 November 2020](#) updating the Committee on the timescales for the production of relevant material from the Scottish Government, noting that he was prepared to allow the witnesses to appear before the Committee with certain mitigations.

### **Previous evidence sessions on other phases of the inquiry**

17. The Committee agreed to conduct its inquiry in phases. It has previously taken evidence on the development of the handling of harassment complaints policy and on the Judicial Review as follows:

#### *Development of the procedure on the handling of harassment complaints*

- The Permanent Secretary gave evidence on 18 August. The *Official Report* is available [here](#).

Following this evidence session, the Permanent Secretary submitted further written evidence, this letter can be found [here](#).

- Senior Scottish Government Officials James Hynd; Head of Cabinet, Parliament and Governance Division, and Nicola Richards; Director of People gave evidence on 25 August 2020. The *Official Report* is available [here](#).

Following this evidence session, James Hynd and Nicola Richards submitted further written evidence. The letter from James Hynd can be found [here](#) and Nicola Richard's letter can be found [here](#).

- Dave Penman, General Secretary, FDA; and Malcolm Clark, Convenor of the Council of Scottish Government Unions and PCS Scottish Government Group President gave evidence on Tuesday 1 September. The *Official Report* is available [here](#).

Following this evidence session, Dave Penman submitted further written evidence, this can be found [here](#).

- The Permanent Secretary was asked to give further evidence on policy development on 8 September 2020. The *Official Report* is available [here](#).

Following this evidence session, the Permanent Secretary submitted further written evidence, this can be found [here](#).

- Sir Peter Housden, former Permanent Secretary; and Barbara Allison, former Director of People at the Scottish Government, gave evidence on 15 September. The *Official Report* is available [here](#).

Following this evidence session, Barbara Allison sent two letters to the Committee which can be found [here](#) and [here](#).

The Committee [wrote to Sir Peter](#) to follow up on his evidence session. This letter and [Sir Peter's response](#) have been published on the Committee's webpage.

18. Documentation, information and relevant correspondence related to the policy development phase of the inquiry can be found [here](#).

#### *The Judicial Review*

- The Committee held an exploratory session with the Permanent Secretary and the Lord Advocate on the Judicial Review as part of its evidence session on 8 September. The Official Report is available [here](#).
- Judith Mackinnon, Head of People Advice; and Barbara Allison, former director of people, at the Scottish Government, gave evidence on 27 October. The *Official Report* is available [here](#). Prior to this evidence session, Barbara Allison wrote to the Committee, this letter can be found [here](#). Following this evidence session, Judith Mackinnon wrote to the Committee, this letter can be found [here](#).
- Paul Cackette, former Director of Legal Services at the Scottish Government; and Sarah Davidson, former Director General Organisational Development and Operations at the Scottish Government gave evidence on 3 November. The *Official Report* is available [here](#).
- The Lord Advocate and Permanent Secretary gave evidence on 17 November 2020. The *Official Report* is available [here](#). Following this session, both the [Lord Advocate](#) and [Permanent Secretary](#) wrote to the Committee.

19. Documentation, information and relevant correspondence related to the Judicial Review phase of the inquiry can be found [here](#).

#### *Ministerial Code phase*

20. The Committee heard from Peter Murrell, Chief Executive of the Scottish National Party on 8 December 2020. The Official Report of this evidence session is available [here](#)



*[Note from the Clerk – redactions have been made by the Parliament, the basis for the redactions was not supported by the former First Minister]*

## **SUBMISSION TO COMMITTEE ON LATEST DOCUMENTS RELEASED BY SCOTTISH GOVERNMENT AND PREVIOUSLY UNDISCLOSED DOCUMENTS**

### **INTRODUCTION**

The Committee has asked if I could assist with a submission on the latest documents sent by the Scottish Government to the Committee. Some of these had remained previously undisclosed, despite the Judicial Review and criminal disclosure process.

I am happy to do so and will repeat these comments in summary form in my full submission.

My legal team have thus far identified 46 of the near 400 documents in the recent Scottish Government data release, which have not previously been seen by us in either the civil or the criminal process. These are listed using the Scottish Government notation at Footnote 1. Many other relevant documents in this data release had not been disclosed prior to the search warrant served on the Scottish Government of autumn 2019.

Of these, some are of limited interest but many are crucial and could have been significant in both the civil and criminal proceedings. Given that the Judicial Review was won and I was cleared of all charges in the criminal case, it might be asked what does this matter now. It does for two reasons.

First, some of these withheld documents would have added a further powerful argument to the Judicial Review on bias, not just reinforcing the revelations about the role of the Investigating Officer, but also introducing an argument of bias in the actions of the decision maker, the Permanent Secretary.

[Redacted]

Notwithstanding the above, the withholding of relevant evidence to either proceedings contrary to a requirement for disclosure in the civil case and a search warrant in the criminal case, may amount to a contempt of court. We shall therefore refer the matter to the Lord Advocate who has already described before this Committee the rate of disclosure in the civil case as “unsatisfactory”. I suggest it is a great deal more than that.

### **KEY MATERIAL WITHHELD**

#### **1. MEETING OF PERMANENT SECRETARY WITH COMPLAINERS**

(DOCUMENTS 633, 524,249, 140, 520, 299, 300 and 270)

These documents show the extent of the prepared briefing by the Investigating Officer in advance of a meeting with the two complainants and the Permanent Secretary in the week beginning 5th March 2018. They reveal that the Investigating Officer, whose role under the procedure is meant to be an impartial collector of facts and preparer of reports, met herself with the Permanent Secretary, was in frequent communication with the complainants and witnesses and was also recommending wide ranging organisational responses. Document INV 270 shows the preparation notes for the meeting with the Permanent Secretary and the complainers.

Given that the first information of any procedure or complaints under it was intimated to me on 8th March 2018, this suggests that the decision maker, the Permanent Secretary, met the complainers before I was even informed of the existence of any complaints.

In her evidence before the Committee, the Permanent Secretary suggested that it would have been “inappropriate” for her to know the identities of complainers before the complaints procedure was approved. It is a much graver matter for the decision maker to be meeting complainers in mid-process.

The procedure adopted by the Scottish Government could have been declared unlawful on many grounds. One of these was that it uses a process by which the person complained about does not even get to present his or her own case, but that it is left to the Investigating Officer to make an “impartial” collection of facts for the decision maker to pronounce upon.

The bias of the Investigating Officer was determined not just because of the breach of clause 10 in the process, but because of the reason that such a clause exists. There is an assumption in common-law against actions which would be seen by a reasonable observer to be unfair. If impartiality of the Investigating Officer is important then the impartiality of the decision maker who thereafter makes a determination based on that information, is even more important.

To withhold this information is reprehensible. To attempt to excuse the withholding of this information is indefensible. However it is not only indefensible it is also inaccurate.

I understand that the Scottish Government are attempting to explain the withholding on the grounds that the information was not caught in the Specification of Documents in the Judicial Review.

That is irrelevant. As Lord Pentland indicated to the court at a procedural hearing of the Judicial Review on 6th November 2018 a public authority has a general duty of disclosure of relevant information and it would be unusual to require a court order to fulfil that duty. The Scottish Government indicated that they would take a responsible approach. The Permanent Secretary knew of this meeting (and the associated notes) and chose not to disclose it, until now, which I find staggering.

If this material had been disclosed, then the apparent bias of the Permanent Secretary as decision maker would have been introduced in our pleadings at the Judicial Review as an additional ground of review. Given the decision of Lord Pentland on apparent bias, it seems highly likely the Judicial Review would have succeeded on that ground also.

[Redacted]

[Redacted]

[Redacted]

## **2. REVELATION OF LEGAL ADVICE TO COMPLAINERS AND WITNESSES**

(DOCUMENTS 640, 625, 507, 659, 462, 213, 210)

Documents in this series demonstrate contact between the Investigating Officer and the complainers throughout the process. The duty of the Investigating Officer under the policy, is to provide an impartial collection of facts. That is not compatible with regular contact with the complainers in the manner and type suggested by these documents.

In these documents the Investigating Officer describes her view of my legal position to both complainers and indeed witnesses.

My legal advice is subject to legal professional privilege. It was presented to the Permanent Secretary to explain to her that the policy she had introduced was neither fair nor lawful. It has now been released to the Committee to assist in the parliamentary process. No permission was ever sought, or given, for that legally

privileged correspondence to be summarised in a partial and incomplete version to others and, in particular, to the complainers in the case.

The irony of civil servants willing to freely dispense my privileged legal advice, while the Scottish Government continues to refuse to divulge its own, will not be lost on the Committee. It seems that the principle of legal professional privilege is a highly selective one as far as the Scottish Government is concerned.

In a letter to the Committee (7th December) Ms MacKinnon seeks to argue that she was merely fulfilling her role of informing the complainers of the progress of the case and relaying information such as the offer of mediation. This is seriously misleading for three reasons.

First, the offer of mediation was relayed to the complainers AFTER it had been rejected by the Permanent Secretary. This is shown for example by document INV 202. The Scottish Government's attempts in its timeline and explanations to conceal this from the Committee are reprehensible.

Second, the Scottish Government were quite entitled in terms of any duty of care to stay in touch with the complainers and keep them up to date with the progress of the procedure. That is not the issue. The issue is that this should not have been done by the "impartial" Investigating Officer and that information should not have included my privileged legal advice. The dangers inherent in these actions are illustrated by document INV104 where the Investigating Officer not only interprets the legal arguments of Levy and McRae, but then goes on to speculate with Ms B on my "thinking" behind the response. These are not the actions of an impartial Investigating Officer.

Thirdly, the documents (eg INV 461) now disclose that the Investigating Officer was revealing her version of the contents of my legal advice not just to complainers, but to witnesses in the case as well.

Similar to the revelations on the Permanent Secretary's meeting, this material should have been disclosed as part of a general duty of disclosure in the Judicial Review and would have enabled my legal team to introduce yet further arguments on the bias of the Investigating Officer.

[Redacted]

I was therefore placed at a disadvantage in both cases by the lack of disclosure.

### **3. MATERIAL ON CIRCUMSTANCES OF POLICE REFERRAL AGAINST WISHES OF COMPLAINERS**

(DOCUMENTS 130, 320, 317, 316, 323 and 325)

The documents make it clear that the reference to the police via the Crown Office was against the wishes of both complainers. In early August 2018, first Ms McKinnon then Ms Richards acting on behalf of the Permanent Secretary, 'sounded out' the complainers on their attitude to a criminal case.

The Permanent Secretary told the Committee in her evidence session on 17th November, that the interests of the complainers were always at the "forefront" of her consideration. Earlier documentation released to this Inquiry indicated that the view of the civil servants when embarking on the process in November 2017 was that any police referral had to respect the wishes of complainants and it will presumably not be contested that this assurance would have been given to the complainers. Another hitherto undisclosed document (INV 584) indicates that they were still being told this as late as 25<sup>th</sup> July 2018 that their views were "central to decisions that's made" on police referral.

However, when it came to August 2018 (as document INV320 makes clear), Ms Richards specifically highlighted the view of the complainers against criminal proceedings, and this was apparently ignored by the Permanent Secretary.

The Permanent Secretary claimed before the Committee (8<sup>th</sup> September 2020) not to be "completely aware" of how the police referral; was made. As we now know from these documents, it was made on her instruction by Ms Richards via the unusual route of the Deputy Crown Agent (INV 323) who was sent documentation on 22<sup>nd</sup> August 2018 although the letter was dated 20<sup>th</sup> August 2018. The Sunday Post newspaper reported on 26<sup>th</sup> August 2018, that this was on the advice of the Lord Advocate. The Permanent Secretary said in her

evidence to the Committee that the referral was made “on legal advice”. It would be important to know if something similar was said to the complainers.

The Deputy Crown Agent in turn arranged a meeting with the Chief Constable and another senior officer who, quite correctly, refused to accept the documentation on the grounds that it might prejudice their enquiries.

[Redacted]

#### **4. DOCUMENTS WHICH REMAIN UNDISCLOSED**

Despite the general admonition from Lord Pentland in the civil case on the general requirement of disclosure by the Scottish Government, a Commission and Diligence in December 2018, a search warrant in the criminal case, and the repeated calls for documents made by this Committee, it is still far from clear that all relevant documents have been provided. My legal team, the Committee and indeed the Crown Office have all experienced similar frustration, obstruction and delays in securing documentation.

[Redacted]

The Committee has heard evidence that there were 17 meetings between Scottish Ministers, civil servants, a Special Adviser and external Counsel between late August 2018 and early January 2019. It is likely that there were additional meetings before that date, when Counsel were first instructed. The Committee has heard evidence from Mr Cackette that, in addition, there were daily meetings to discuss the progress of the Judicial Review and Ms McKinnon indicated that she herself attended such meetings some three times a week. She also told the Committee that she continued her role of reporting back to the complainers.

Despite this, minutes, ‘OneNote’ notes and exchanges between civil servants about the progress of the Judicial Review are missing entirely from the documentation presented to the Committee. In her evidence on 1<sup>st</sup> December Ms McKinnon referred to the “update emails that went to the complainers.” These updates should be provided to the Committee.

Document INV 212 provides an indication of why that might be the case. In this email of 28<sup>th</sup> August 2018, Ms Richards provides an update on the early stages of the Judicial Review, including what appears to be legal advice from the SGLD which includes the prospects of “sisting” (suspending) the Judicial Review behind the criminal investigation.

The question of sisting has been mentioned by a number of witnesses including Mr Cackette and the Lord Advocate. It is certainly a matter which was discussed at these meetings, on which advice was given and information was forwarded on to the complainers and perhaps others. This has now been confirmed by Ms Mackinnon in her letter to the Committee of 7<sup>th</sup> December 2020 but as yet there are no documents provided to show how this was done.

It would be instructive for the Committee to see the notes and minutes of any of these meetings and the communications and emails of civil servants attending them, to judge how the prospects of success in defending the Judicial Review were being regarded in Government and whether it was hoped or believed that the Judicial Review (and the likely consequences of losing that Judicial Review) might be delayed indefinitely behind the prospect of criminal proceedings.

#### **SUMMARY**

My legal team has identified a large number of documents which have not been previously disclosed in the civil or criminal proceedings.

These materials have been provided to me and my legal team in a drip feed manner from the beginning. I was forced to pursue a lengthy and very expensive Commission process over Christmas 2018 to enable recovery of documents which the judge had said in November ought to have been provided without formal orders and which the Scottish Government had previously claimed did not exist. [Redacted]

A number of these are highly relevant and could have been influential in both proceedings. There seems to be no reasonable explanation for this apparent and flagrant violation of court direction, orders and search warrants.

The documents, as produced, have followed a familiar pattern. The documents produced via orders of court have generally been damaging to the case of the Scottish Government. The same applies to these documents extracted by the Committee and now being seen for the first time. It raises the question of what further documentation remains unseen.

In the Judicial Review, this behaviour resulted in expenses being awarded on the punitive 'agent/client, client paying' basis. [Redacted] We accordingly will pursue that matter with the Lord Advocate.

Alex Salmond  
14 December 2020

Footnote 1: List of undisclosed documents

- 576, 673, 6, 357, 161, 135, 356, 17, 286, 54, 80, 584, 156, 633, 535, 524, 96, 249, 140, 520, 299, 300, 270, 662, 640, 625, 507, 659, 462, 213, 210, 425, 421, 204, 329, 530, 661, 324, 110, 209, 130, 320, 317, 316, 323, and 325.

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

John Swinney MSP  
Deputy First Minister

c/o Clerk to the Committee  
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Edinburgh  
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BY EMAIL

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

23 December 2020

Dear Mr Swinney

I am writing to inform you that the Committee has now considered the former DGODO report referred to in your letter dated 21 December and accompanying documents.

The Clerks have highlighted to your officials which confidential elements of the report the Committee would wish to be able to refer to in public session when questioning witnesses. The Committee looks forward to receiving the paraphrased text of the redactions to inform all future evidence sessions.

The Committee has asked me to highlight that it wishes to see the unredacted report again in the New Year in a further 'reading room' in part to ensure the paraphrased wordings provided by the Government encapsulates the redacted text. I appreciate that any such paraphrasing will be framed to take account of the fact that the Government continues to assert legal privilege over the text.

The reading room and the ability to view information of relevance to the inquiry's remit is progress. However, there are elements of the legal advice which the report does not cover, for example any counsel advice from August to the beginning of October 2018 including counsel advice on the initial petition. There are also elements of the judicial review process that the Committee understands to have been key moments, about which the report goes into very little detail. For example, details of legal advice around the 19 October 2018 when, the Committee understands from evidence, prior contact of the investigating officer with the complainers became a focus for internal and external lawyers.

Given the Committee's unanimous agreement that sight of the legal advice itself is required, you will be unsurprised to hear that the Committee remains determined to see further advice, in line with the terms of the motion agreed on 15 December which states:

*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 29<sup>th</sup> 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.*

As such, I should be very grateful if you could confirm the Government's position on the remainder of the motion and in particular the Government's position on the Committee viewing the legal advice referred to in the motion by 14 January 2021.

The Committee seeks confirmation that the Government is amenable to such a request given the terms of recent negotiations. In addition, given the restrictive timescales the Committee is working to, in order to complete its inquiry before the end of the Parliamentary session, I would be grateful for an indication as soon as is practicable as to whether viewing these documents in a reading room would be possible in mid-January as per the Committee's motion.

Yours sincerely

**Linda Fabiani MSP**

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



John Swinney BPA/MSP

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Convener – Committee on the Scottish  
Government Handling of Harassment Complaints  
c/o Clerk to the Committee  
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8 January 2021

Dear Ms Fabiani

Thank you for your letter of 23 December 2020 following the Committee's reading room session on 22 December to view, in confidence, the submission from the former Director General for Organisational Development and Operations (DGODO) of 29 December 2018, summarising the legal advice ahead of the final decision to concede the judicial review brought by the former First Minister.

I note the Committee's request for a paraphrased version of the DGODO's submission, replacing the confidential text which is subject to legal privilege. Officials will arrange to provide a version through the normal arrangements for sharing documents with the Committee, ahead of the Committee's meeting on 12 January. The additional text in the version will paraphrase the confidential text where possible and otherwise will draw on the evidence already provided to the Committee, in particular by the Lord Advocate in his oral evidence on 17 November 2020 about the Scottish Government's legal position at each stage. In line with legal professional privilege, the paraphrased text does not reveal the sources or content of legal advice.

As requested, our officials are also engaging around the practical arrangements for the unredacted former DGODO submission to be made available to named Committee members and staff in a further reading room session. This is subject to the same terms of agreement as for the reading room session on 22 December. As set out in the agreement, if Committee members subsequently want to ask any Scottish Government witnesses questions about information that is legally privileged this should be undertaken in a private session. In line with established principles, witnesses in public sessions are not able to refer to legally privileged information in open session. I understand that the Committee has indicated that it wishes to question the Permanent Secretary on the former DGODO submission at its session on 12 January and that it intends to do so in open session. Notwithstanding the provision of the new

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





paraphrased material, the Committee should be fully aware of the restrictions placed on the Permanent Secretary in answering questions about this submission in open session.

I note the Committee's request for access to further information about the content of legal advice between August and October 2018. I confirm that the Committee has already received copies of the pleadings which set out the Scottish Government's response to the initial grounds for the judicial review brought by the former First Minister in August 2018. These pleadings were developed based on the legal advice received at the time. The Government was satisfied that all of the grounds could, and should, be resisted. As set out in previous evidence, the issue relating to prior contact with the complainers – which ultimately led to the judicial review being conceded - was not one of the grounds on which the petition was initially raised.

You ask specifically about any legal advice received around 19 October 2018. The position has already been set out by the Lord Advocate in his evidence to the Committee on 17 November 2020. In late October 2018, the Scottish Government first identified the possible issue relating to contact between the investigating officer and the complainers. In response the Government had to consider that issue relative to the interpretation of the wording of the procedure and secondly to investigate the factual position of the nature of the prior contact. As the Lord Advocate set out in his evidence: *"...when an issue is raised in the context of litigation, it is rarely a kind of binary point. Almost invariably, it is a matter that needs to be considered and investigated and, if there are facts that must be explored, they must be explored as far as they can be, before a conclusion is reached."* That process was undertaken in late October and early November and led to the Scottish Government making factual averments on 5 November about that contact, and voluntarily disclosing documents to the petitioner. The Committee already has access to the pleadings that set out the legal position following that process. The Committee has also seen, in confidence, a summary of the legal advice received at the end of October following the identification of this issue. Scottish Government witnesses have acknowledged that the process of establishing and collating the detail of the nature of the prior contact during October to December 2018 was not sufficiently robust and ultimately led to the circumstances of the Commission on 19 and 21 December 2018 that caused the judicial review to be conceded.

Finally, I note the Committee's request for the Government to waive legal privilege over legal advice from external Counsel and associated minutes. My view remains as set out previously, including in my letter to the Parliament of 1 December.

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

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The Scottish Government has already taken significant steps to share information with the Committee, including providing copies of the pleadings; oral evidence from both the former interim Director of Legal Services and the Lord Advocate; and, exceptionally, confidential access to a legally privileged summary of the legal advice that led to the decision to concede the judicial review. I am confident that the Committee has access to information to enable it to fulfil its remit.

**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](http://www.lobbying.scot)

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Permanent Secretary

Copy to: Ken Thomson, DG Constitution and External Affairs  
Director of Legal Services  
Chief Financial Officer  
Director, Communications, Facilities and Ministerial Support

## JUDICIAL REVIEW – NEXT STEPS

1. You asked me to coordinate the provision of urgent advice in order to allow you to consider how to proceed in relation to the Judicial Review which is set down to commence before Lord Pentland in the Court of Session on January 15<sup>th</sup>. In doing so, I have drawn heavily on contributions **[directly or indirectly from legal advisers involved with the case]** from the Chief Financial Officer, and from the Director of Communications, Facilities and Ministerial Support. I am grateful to them all for responding so promptly to this request.

### Prospects: advice from Counsel

2. As you are aware, Counsel has offered advice on a number of occasions in relation to the prospects of the Scottish Government's (SG's) arguments prevailing in court. This advice has principally turned on Counsel's views on the appointment and actions of the Investigating Officer. The full chronology and summaries of that advice are set out at **Annex A**.
3. The key point to note is the "watershed moment" of last Friday (21<sup>st</sup> December 2018), at which point the SG's case became, [Redacted], unstateable, given what emerged that day about the degree and nature of the contact between the IO and the prospective complainers prior to their formal complaints having been made. This information was contained in documents which were identified and produced for the Commission and Diligence Hearing last week, and had not been elicited by previous document searches. While there is no reason to believe that the IO was motivated by anything other than her desire to fulfil her role properly, we recognise that her actions give rise to a perception that there was an unfairness in the operation of the procedure in this case.
4. Counsel has said in terms that there was nothing about the way in which havers gave evidence to the Commission that would suggest that they were acting in bad faith in relation to the production of information, but it is clear that the process of searching for and producing relevant documentation under the duty of candour has not been systematic and comprehensive. It is for this reason that the full picture of the IO's actions and the risk of the perceptions that these could give rise to, only became visible to Counsel and to SGLD at the end of last week.

5. **[Scottish Government legal advisers]** share the view of Counsel about the likely prospects of success in defending the decision at Judicial Review and the consequent advisability of conceding the petition at the earliest possibly opportunity.

Conceding the petition

6. If a decision is taken to concede the petition, the process would involve a Counsel to Counsel discussion of the SG's offer and the best and most efficient way of achieving settlement, with a view to agreeing a Joint Minute setting out the basis of conceding and appropriate declarators (making clear what is and is not the basis of the concession), and agreeing expenses. In parallel, the Court would be advised of SG's decision not to proceed with our defence on the basis that there were ongoing discussions about disposal.
7. In such circumstances, the decision which was being Judicially Reviewed would be set aside and referred back to the decision maker. In this case, for a range of reasons (not least the views of the complainers about going through the process again), consideration needs to be given to whether the SG could restart and re-run the procedure and ensure fairness. The Petitioner may look for assurances that this will not happen, but it is premature to decide or indicate whether and how this would happen, and the views of the complainers would of course be something you would want to take into account.
8. **[It is not considered feasible for the SG to]** formally withdraw from the Court case without conceding flaws in the application of the procedure in this particular case. The Petition contains a number of pleas-in-law, most of which SG would not be conceding. **[N.B. The SG ultimately conceded the case on the single ground of a possible perception of apparent bias.]** [Redacted]
9. While we will be simply indicating a decision to concede when announced, the terms of disposal by the Court will be adjusted by counsel in the days ahead (in a Joint Minute) and we will seek to narrow the terms to the minimum of conceding that the decision cannot legally stand and is set aside and, as above, the pleas-in-law which the court will uphold in doing so. We would not be negotiating in any way about future decisions. If the Joint Minute cannot be agreed, the court will itself make an Order to the same effect.
10. In handling terms, once a decision has been taken it would be beneficial to intimate the concession as soon as practicably possible following the events of last week: **[the Scottish Government considers that]** it would be essential for the Court to be told at the same time as the Petitioner's Counsel and that it should be possible to get a message to Lord Pentland next week. This would be easier on Monday or Thursday when the Court is open, but might still be possible, although less straightforward, on Tuesday or Wednesday when the Court is closed. The Court

would not look favourably on any public statement being made before Lord Pentland was advised of the position.

#### Implications of conceding

11. Clearly, conceding the petition gives rise to a new set of issues and risks which would require to be managed. The immediate practical implications are dealt with in the section below on communications and handling.
12. It is impossible of course to be certain how the Petitioner will react, although we can certainly speculate about how he may seek to portray the concession in public statements. The only limitation in practice on what information he may deploy in the public domain are the reporting restrictions on naming the complainers. It is less easy to imagine what, if any, legal remedies he might pursue and there are limits to the value at this stage of second-guessing how he will respond, on what grounds, or with what prospects of success. These issues are of course not germane to the decision on how to proceed, [Redacted].

#### PAO Considerations

13. In reaching a decision in relation to these proceedings, you will also want to have regard to your duties as Principal Accountable Officer. The overall Accountable Officer test addresses the four key considerations of regularity, propriety, value for money and feasibility. You will be familiar with these of course, but the application of each as they might apply in current circumstances is summarised at **Annex B**.
14. In considering the PAO tests, you will wish to take account, in particular, of both the costs to date and further projected costs that might be necessary to continue to defend the action to its conclusion. You will also wish to give consideration to the possibility of having to meet even greater opposing counsel costs should you decide not to concede now and the Petitioner is ultimately successful in both his petition and recouping his costs.

#### Communications and handling

15. As noted above, in the event of a decision being taken to concede the petition, there are strong arguments for moving to confirm this quickly. In order to allow you reasonable time to consider this advice, we are using Thursday 3<sup>rd</sup> January as a central planning assumption, but can of course update this if required. Further detailed handling advice including a draft statement has therefore been developed separately by Communications colleagues, and is attached for illustrative purposes as **Annex C**. We anticipate that in any external and internal statements, you would wish to be clear on two points in particular: the fundamental robustness of the procedure itself and the fact of having responded appropriately to the complaints which were made. Conceding the JR does not erode either of these positions.

16. Although not within the scope of this advice, there are clearly a number of lessons to be learned by the organisation and we can discuss in due course how best to ensure that this is done.

17. Subject to decisions taken and further refinement, an SG statement might therefore read along the following lines, (subject to agreement by the Lord Advocate):

“We remain confident that the procedure under which complaints are investigated is robust, fair and necessary and that it would have been found to be so had it been tested by the Court. However, we acknowledge that the operational application of the procedure may have fallen short. We have therefore [today] informed the court and the petitioner that we have decided to concede the Petition on this basis. We will consider and decide on our next steps in the light of this decision.”

18. We are also mindful of our duty of care obligations to the complainers and to other members of staff who would be affected by the concession and its aftermath in different ways. This will include our next steps in relation to the complaints raised by Ms A and Ms B which still, of course, sit with us for determination. Work is being undertaken to identify all those who would require to be informed about a decision to concede and the support that might be offered to them. We can discuss this with you when convenient.

### Conclusion

19. Having reviewed the material contained in this note, you may conclude that the Scottish Government is in a position where the only sensible and defensible action is to concede the petition and to plan for managing the attendant reputation and legal risks. The risks associated with proceeding to defend the Judicial Review could appear to be greater.

20. I hope that this advice provides you with the necessary basis on which a formal decision to concede on the terms set out in paragraph 8 above can be reached.

21. Colleagues and I stand ready to discuss any aspect of this note.

**Sarah Davidson**

DG Organisational Development and Operations

29<sup>th</sup> December 2018

## ANNEX A

## SUMMARY OF COUNSEL’S ADVICE – SALMOND v SCOTTISH MINISTERS &amp; PERM SEC

This summary sets out the development of advice from counsel, as assessed by **[the Scottish Government]** in relation to the following two issues-

- 1) Whether paragraph 10 of the Procedure requiring the IO to have had no prior involvement “in any aspect” of the matter being raise creates a difficulty where the actings of the IO, though not a member of SG staff in 2013, indicate that she was involved in discussions of any nature around the time of the complaints being made and the IO being appointed (issue 1)
- 2) Whether, if issue 1 is answered in the negative, the actual actings of the IO in her discussions with one or both complainers in the period from November 2017 to January 2018 created in the eyes of a reasonable, objective outsider an impression that of a real risk (whether in fact correct or not) that there was an unacceptable possibility of bias in her role as an impartial gatherer of the facts – a concept known as apparent bias (issue 2).

**[The petition that was served against the Scottish Government at the end of August 2018 contained a wide-ranging attack on the procedure and its application. The Government addressed each of the grounds and was satisfied that all of them could, and should, be resisted. The petition said nothing about the role of the investigating officer and contact with the complainers - that was not one of the grounds on which the petition was raised.]**

**At the end of October, the Government identified the issue relating to prior contact between the investigating officer and the complainer. Consideration was given to whether this issue should be disclosed. The Scottish Government was satisfied that it continued to be proper to defend the judicial review. The Government’s position was that paragraph 10 of the procedure was directed at prior involvement of the investigating officer with the matters being complained about – a natural reading of the words - such that the contact between the investigating officer and the complainers in the case was not a breach of the procedure. The Government considered that the arguments could properly be advanced in favour of its interpretation, and that the issue should be put before the court for determination.]**

The position on these two issues is summarised in the following table.

Issue	<b>[Scottish Government Legal Position.]</b>
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Issue 1 and 2 pre-31 Oct	[Issue 1 was not raised in the petition so there was no reason to assess risks based on facts as then known]
Issue 1 after 31 Oct	[While understanding the risk of the implications for the case of issue 1, Government was satisfied that there were good arguments supporting its interpretation of paragraph 10, on a natural reading of the procedure.]
Issue 2 31 Oct-19 Dec	[SG aware that paragraph 10 of the procedure was open to an alternative reading that could appear as creating a risk of apparent bias. However, the Government considered that the arguments could properly be advanced in favour of its interpretation, and that the issue should be put before the court for determination.]
Issue 2 19 Dec- 21 Dec	[Documents produced at the Commission contradicted a statement that the Government had made in its pleadings. Emergence of the documents also contradicted assurances that had been given about disclosure of documents.]
Issue 2 21 Dec -	[Further evidence given to the Commission on 21 December.]

**[A chronology on the legal position is provided below:]**

19 October: Meeting with counsel to consider in detail the documents around the development of the procedure and the appointment of the IO, in assessing what should be disclosed in fulfilment of the respondents duty of candour

**[31 October: SG considering whether prior contact with the complainers could be reconciled with paragraph 10 of the procedure (Issue 1). At this stage, Issue 2 was not in focus. Only limited documentation was available at this stage on the nature of the prior contact.]**

2 November: Consultation between counsel [Redacted] and Director Legal Services **[and other Scottish Government legal advisers]** confirming the importance of complying



with the duty of candour and disclosing the materials identified in the 19 October meeting. Focus at the consultation was on paragraph 10, with discussion about the proper interpretation of that paragraph. **[Scottish Government legal advisers]** inclining to the SG interpretation which was supported by documents indicating the clear intention and understanding of how it had been applied, including note from James Hynd.

6 November: Procedural hearing when the judge stressed his expectations of full compliance with the respondents duty of candour.

6 December: **[SG reviewing its legal position,]** about issue 1, the level of involvement of the IO with the complainers based on information emerging from the searches for information, leading to adjusted averments by the Petitioner that “the appointment of the IO was in contravention of the Procedure” (statement 2) and that “Prior to her appointment the IO (Ms Mackinnon) had involvement and contacts with the complainers” (statement 19) and that that the Permanent Secretary’s decision, in the view of the Petitioner was ‘tainted by bias’ (statement 4). [Redacted]

**[10 December: The Government’s position was that paragraph 10 of the procedure was directed at prior involvement of the investigating officer with the matters being complained about – a natural reading of the words - such that the contact between the investigating officer and the complainers in the case was not a breach of the procedure. The Government recognised that paragraph 10 of the procedure was open to an alternative reading and that this represented a risk to the proceedings, although the level of risk was not clear. The Government considered that the arguments could properly be advanced in favour of its interpretation, and that the issue should be put before the court for determination. In deciding whether to continue to defend a case, a legitimate factor for Government to take into account was the substantial benefit in having the clarity that a judicial decision would give — about the legitimacy and legality of the procedure or if the application of the procedure was flawed.]**

**[19 December: At the first day of the Commission]** on issue 2, it was emerging from documents from the IO produced that day (& causing her evidence not to be heard that day but adjourned to 21 December) **[information that contradicted a statement that the Government had made in its pleadings. The emergence of the documents also contradicted assurances that had been given about disclosure of documents.]**

[Redacted] agreed that, whatever view might be taken on completion of the commission, they would continue to act until 21 December when the IO gave evidence.

21 December: IO gave evidence [Redacted] on the events of 16 January concerning other documents **[at a further Commission hearing. Scottish Government acknowledged from that hearing that the process of investigation, identification and collation of documents within the Government had not been as robust as it should have been.]**

21/22 December: [Redacted] events on 19 and particularly the 21 December were **[assessed by the Scottish Government]** as a “watershed” moment **[for the case.]**

28 December: Junior Counsel indicate (& it seems clear that Senior concurs) that, in light of their professional duties [Redacted] they will require to withdraw from acting on 3 January if matters are not resolved by then.

**ANNEX B****PAO Considerations**

When a course of action is it not immediately obvious, the need to make a difficult decision calls for judging risks, balancing competing objectives and dealing with uncertainty. It is the Accountable Officer's role to make the best assessment he or she can, integrating, sifting and weighing all the factors. Rather than rely on piecemeal advice, it is usually most helpful to bring all the considerations which have been applied together in an overall Accountable Officer test that addresses the four key considerations:

- Regularity (of expenditure) – The key test here is whether there are legal powers. Given this would have been flagged by SGLD at the outset if there was any doubt, unless anything associated with the types of expenditure being incurred has changed significantly, it is unlikely that the initial test applied here will now be in doubt as a consequence of the current status of the case.
- Propriety – The key test here is whether expenditure falls within the boundary of what Parliament might expect for the use of taxpayers' money. Just because expenditure is regular, does not automatically mean that it can be assumed to meet a propriety test too. Unlike the regularity test, it is possible for the propriety test to shift over time. Three specific areas are worthy of consideration here:
  - Expenditure must be sustainable, which includes whether sufficient public resources are available and are likely to continue to be available. Any doubt here calls into question whether further spending would meet the propriety test in the future.
  - If risks deemed acceptable to people, resources, assets etc. at the outset have escalated to the point whether they are no longer manageable or able to be sufficiently mitigated, again there is a question about whether the initial propriety test can continue to be met.
  - Finally, consideration must also be given to the reputation of the Civil Service or the Government itself – where action that might initially have been considered within the bounds of acceptability might now result in unacceptable damage to that reputation, again the propriety test is in doubt.
- Value for money – This can often be a subjective test that can again shift over time, in particular if the costs shift beyond initial expectations. There is no identifiable point at which initially justifiable expenditure tips over to no longer being unjustifiable, even when the initial benefits associated with that spending remain constant (e.g. would a 10% increase be acceptable but a 20% not?). Where both costs escalate beyond initial estimates and the 'benefits' associated with the action taken deteriorate to a level where they are questionable that should be a stark warning to the Accountable Officer that overall value for money may no longer be justified. It can often make sense to bring into account unquantifiable factors when

considering benefits, in the value for money assessment, as is likely to be the case here, in particular the impact on reputation and behaviours of either action or inaction. Accountable Officers are always urged to treat these factors with caution and when they are in play there is usually, as noted above, resonance with propriety.

- Feasibility – This test is normally reserved for government's ability to practically deliver on its initially intended course, but there is some relevance here too. In particular, whether that intended course can continue to be carried out both effectively and credibly and is likely to be successful in securing its initially intended result at reasonable cost. Where either or both are in doubt, again there is a risk to whether this test can continue to be met. It is worth noting that there are clear overlaps with value for money and/or propriety here.

These four tests must be taken and considered together and the overall judgement is whether the Accountable Officer can **confidently defend spending (or further spending) as a satisfactory use of public resources and do so in a dispassionate fashion**. It is also important to carry out this test periodically as circumstances change, rather than rely simply on the initial judgement, in particular if one or more of the four tests no longer complies with the standards expected and/or there is a material change that calls into doubt that initial assessment.

## **ANNEX C**

### **Judicial Review – Day One plus seven illustrative handling plan**

#### **Day One – Thursday, January 3**

- 12noon. Communication between Counsel or SGLD and Levy and MacRae notifying SG position.
- Immediate release of statement to Press Association.
- Immediate statement on SG website
- Immediate internal comms statement on Saltire

#### **Other actions**

- Reactive media calls to be handled by Newsdesk but nothing to issue before following process outlined below.
  - All calls to be logged by Newsdesk – no initial response given.
  - 4pm - All calls to be taken in to central hub discussion attended by Comms, SGLD and HR. This to ensure consistency across replies and due consideration given to consequences of responses.
- All subsequent responses and to whom to be logged by Newsdesk.
- A previously cleared QandA will be held by Comms upon which to draw for responses or to build on for responses.
- Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

#### **Bids**

Permanent Secretary not to undertake bids. Statement sets out position.

#### **Duty**

Comms Officers on duty over the period will not handle calls on this matter. They will forward any calls directly to either [Redacted] or [Redacted] who will work shifts handling duty calls in the initial period.

#### **Day Two – Friday January 4**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

Media monitoring pull together press cuts.

9am Meeting to consider media reaction, next steps.

12noon Comms meeting to consider lines

4pm Comms meeting to consider lines.

Duty to route any queries about the above to [Redacted] in the first instance

### **Day Three – Saturday Jan 5**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

10am Conference call to assess coverage and any next steps.

Duty to route any queries about the above to [Redacted] in the first instance

### **Day Four – Sunday Jan 6**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

10am Conference call to assess coverage and any next steps.

Duty to route any queries about the above to [Redacted] in the first instance

### **Day Five – Monday Jan 7**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

9am Meeting in SAH to discuss coverage

Mid-morning – FM is in Perth to announce additional funding for Tay Cities. Media attendance will be considered in advance in discussion with FMPO and Spads on Thurs, Jan 3 or Fri Jan 4.

12noon Comms meeting to consider lines

4pm Comms meeting to consider lines.

Duty to route any queries about the above to [Redacted] in the first instance

#### **Day Six – Tuesday Jan 8**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

Media monitoring pull together press cuts.

9am Meeting in SAH to discuss coverage

12noon Comms meeting to consider lines

4pm Comms meeting to consider lines.

Duty to route any queries about the above to [Redacted] in the first instance

#### **Day Seven – Wednesday Jan 9**

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

Media monitoring pull together press cuts.

9am Meeting in SAH to discuss coverage

12noon Comms meeting to consider lines

4pm Comms meeting to consider lines.

Duty to route any queries about the above to [Redacted] in the first instance

#### **Day Eight – Thursday, January 10**

First FMQs of New Year

Consideration to be given to movements of FM and Perm Sec on the day, as well as that of named key players who may also be approached by media. Support to be offered by Comms.

Media monitoring pull together press cuts.

9am Meeting in SAH to discuss coverage

12noon Comms meeting to consider lines

4pm Comms meeting to consider lines.

Duty to route any queries about the above to [Redacted] in the first instance