Elaine Murray MSP
Deputy Convener
Justice Committee
c/o Justice Committee Clerks
Room T2.60
The Scottish Parliament
Edinburgh
EH99 1SP

23rd February 2016

Thank you for your letter of 12 January 2016 in relation to the above in which you seek further information about the process to ensure impartiality when there have been complaints about COPFS handling of the case.

The allegations made by JFM are being considered by Police Scotland in accordance with due process. An independent senior counsel at the Scottish bar, with no prior involvement in the Lockerbie investigation and associated prosecution, has been appointed to undertake prosecutorial functions in relation to the Police investigation. This role includes providing an independent legal overview of the evidence, conclusions and recommendations and directing the inquiry when required.

I note that JFM suggest that because Mrs Dyer considered, and did not uphold, a complaint by Mr Ashton in her correspondence to him in February 2013 that she cannot be said to be impartial. Mrs Dyer’s correspondence with Mr Ashton was stage 3 of the then COPFS complaints process and related to Mr Ashton’s complaint about what he alleged was a misleading statement issued by COPFS media relations in March 2012 about the Lockerbie investigation. The media release followed the publication of Mr Ashton’s book “Megrahi: You are my Jury”. Mrs Dyer considered the correspondence from Mr Ashton in that context, and in particular Mr Ashton’s interpretation of the COPFS media release, and did not uphold the complaint.
I reject wholeheartedly the suggestion that because she failed to uphold a complaint in this context, she cannot exercise impartiality and independence regarding Operation Sandwood.

I do not agree that the process in place in COPFS requires to be amended to address this sweeping and unfounded assertion that Scotland's Prosecution Service cannot act independently in the public interest in a criminal investigation.

Best wishes,

FRANK MULHOLLAND QC