Dear Mr Dornan

Thank you for your letter of 25 January regarding the evidence session with the Scottish Public Services Ombudsman (SPSO). Apologies for the delay in response.

It is correct that the Scottish Government has had discussions with the Ombudsman. The Ombudsman has asked for a package of, mainly technical, amendments to the Scottish Public Services Ombudsman Act 2002. My officials have also discussed the proposals previously with Scottish Parliament Corporate Body officials.

The SPSO has also asked for powers to conduct own initiative ‘Public Value’ investigations, i.e. to be able to undertake an investigation without an individual having made a complaint. This change would require primary legislation to amend the SPSO Act 2002. Giving the SPSO the power to conduct ‘Public Value’ investigations would be a fundamental change to the role of the SPSO. Parliament has previously rejected this request and in my view, there has been no material change in circumstances since that time which would require this decision to be revisited. Discussions took place between my officials and the SPSO in July 2019, and they are aware of our position regarding ‘Public Value’ investigations.

The Ombudsman has also requested technical amendments be made which would be intended to support the efficiency and transparency of the Ombudsman’s service, including power for the SPSO to take complaints in any format. The Ombudsman’s proposals would aim to ensure the service remains as accessible as possible now and in the future. Whilst we are supportive of the proposals, we are of the view that they could only be delivered by way of an affirmative SSI under section 14(1) of the Public Services Reform (Scotland) Act 2010 (the 2010 Act), which enables Ministers to make any provision to improve the exercise of public functions, having regard to efficiency, effectiveness and economy.

Tha Ministearan na h-Alba, an luchd-comhairleachd 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

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Whilst we are supportive of the majority of technical amendments, due to competing demands and current pressures, there is not, at this time, sufficient resource to progress matters and finalise a way ahead with the SPSO resulting in the desired changes. This is unfortunate and disappointing, especially to those who have been working towards taking forward these amendments. My officials will keep matters under review, as I am keen to resume discussions around these requests and progress matters as soon as expediently possible in the near future.

I hope this information is helpful.

HUMZA YOUSAF