

PE1843/B

Presiding Officer submission of 28 January 2021

Thank you for your letter of 15 January in relation to petition 1843 which seeks a review of the Commissioner for Ethical Standards in Public Life in Scotland.

Before I comment on the merits of the petition, it might be helpful if I provide some background in relation to the office of the Commissioner for Ethical Standards in Public Life in Scotland. The post was established on 1 July 2013, subsuming the role of the previous Commissioner for Public Standards and Public Appointments in Scotland. The current Commissioner, Caroline Anderson, was appointed on 1 April 2019, and her role as an independent officeholder is to:

- (i) investigate complaints about the conduct of Members of the Scottish Parliament (MSPs), local authority councillors and members of public bodies and about non-compliance with the lobbying regime; and
- (ii) regulate how people are appointed to the boards of public bodies in Scotland.

The Commissioner reports her findings in relation to an MSP and to lobbyists, to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament. Her findings in respect of a local authority councillor are reported to the Standards Commission for Scotland as with her findings in relation to a member of a public body. Where it appears to the Commissioner that the Code of Practice for Ministerial Appointments to Public Bodies in Scotland has not been complied with in a material regard, this is reported to the Standards, Procedures and Public Appointments Committee.

As you know, the Commissioner is appointed by the SPCB with the agreement of the Parliament and the SPCB provides funding for that office. The Commissioner is required to submit annually to the Parliament, a general report on the activities of her office. They must also, in respect of each 4-year period, lay before the Parliament, a Strategic Plan setting out how she proposes to perform the Commissioner's functions during that time. Crucially, in the performance of the Commissioner's functions, the Commissioner is not subject to the direction or control of any member of the Parliament, any member of the Scottish Government, or the SPCB. This is a statutory provision to protect her independence.

I note that the petitioner's complaint goes back to 2011. Since that time there have been two Commissioners in post and the current Commissioner undertook a strategic review in 2019 to increase the efficiency and effectiveness of the office. Given the independence of the Commissioner and the statutory governance arrangements that are in place, we have no plans to ask the Scottish Government to undertake a review as requested by the petitioner, at this time.

Rt Hon Ken Macintosh MSP

Presiding Officer