

Submission to the Public Audit and Post-legislative Scrutiny Committee

SPA Annual Report and Accounts 2016/17

From Amy McDonald former SPA Director of Financial Accountability following a request for evidence on;

- The Auditor General's 2016/17 Report on the Scottish Police Authority;
- Financial management;
- Decision making processes; and
- Governance arrangements in place during 2016/17 at the SPA.

1. Background

1.1. During the 2016/17 financial year I brought to the attention of the former SPA Chief Executive Officer and SPA Chair information which, in my reasonable belief, appeared to show that public funds had been used improperly in respects of severance and expenses payments made to senior SPA and Police Scotland employees. During the financial year 2016/17 I was employed in the role of Director of Financial Accountability, my duties included oversight of all of the SPA's finances.

1.2. There was a delay on the part of the SPA to investigate the allegations which I brought to their attention. I raised my concerns in July 2016, December 2016 and January 2017 which included the lodging of a formal written grievance under the SPA's Grievance Procedures. It wasn't until May 2017 that the SPA appointed their internal Auditors, Scott Moncrieff to investigate my concerns.

1.3. In January 2018 Scott Moncrieff reported the outcome of their investigation to the SPA's Audit Committee. Scott Moncrieff issued two Reports in March 2018 – a main report and a summary Report. I have never been issued with a copy of the main report. The SPA insisted that my Solicitor make an FOI request for the summary Report. The summary Report was issued in redacted form only and highlighted failures of process in a number of respects.

1.4. The matters which formed the basis of the Scott Moncrieff report were also investigated by Audit Scotland.

1.5. To support the Governance Statement in the SPA 2016/17 Annual Report and Accounts all Directors are required to provide a Certificate of Assurance to the Accountable Officer, who is also the Chief Executive Officer. This assurance statement confirms whether the controls are working effectively in the area of the organisation for which you hold responsibility. In light of the concerns I'd raised and the fact that no one in SPA seemed to be acting on them, I prepared my Certificate of Assurance stating that in light of the allegations I'd raised I could not confirm that all controls in my area were working effectively. My Certificate was passed to the PA of the SPA's then CEO on the 1st of June 2017. My understanding is that my Certificate was then passed to Police Scotland's CFO and also would have been subject to audit by Audit Scotland. There was no mention of the control issues I had highlighted in my Certificate of Assurance in the Governance Statement despite there having been an investigation carried out into these very issues at the time the Governance Statement was published by the SPA in December 2017.

2. Empowerment

2.1. As a Director I was only able to raise whistleblowing concerns after incidents had occurred and the public funds in question paid out. I did not have the authority to stop alleged improper payments being made.

3. Employment Tribunal Case

3.1. I raised legal proceedings against the SPA in June 2017 essentially alleging that I had been victimised because I was a whistleblower.

3.2. The ET upheld my claim and found that the SPA had subjected me to a detriment since two Board members, who heard my grievance appeal, had suggested that I had acted improperly and unprofessionally by raising concerns about misuse of public funds. The ET also found that the SPA and its witnesses had not given any real explanation for their failure to timeously investigate my allegations. The ET stated that the SPA immediately saw the need to investigate my concerns but only after it was clear that litigation was pending. Before the ET it was argued that the SPA's lengthy delay in failing to investigate my concerns amounted to a detriment. The ET agreed that there were significant delays on the part of the SPA to

investigate some of my allegations and that it ought to have been apparent to them that my grievance appeal was making allegations of improper use of public funds. The ET stated *“The Tribunal accepted that a reasonable person would have considered the failure to investigate these fully and promptly to be a detriment as she felt her concerns were not being taken seriously”*. I also alleged that I had been subjected to three further detriments by the SPA arising from their failure to investigate my allegations. Although these three alleged detriments were found by the ET to be out of time (and so they did not have the jurisdiction to make a determination on them) they nevertheless stated in their judgement that if they had the power to determine these allegations it would have upheld them because the SPA had not provided any reasons for their failure to promptly and fully investigate my allegations.

3.3. The ET awarded me £7,440 compensation for injury to hurt feelings in respect of the comments made by the two Board members referred to in paragraph 3.2 above. The ET stated that this was a *“reasonably serious incident. It is important that whistleblowers are supported when they make allegations.....”*

Amy McDonald

November 2018