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**From:** [REDACTED – FOISA 2002 section 38(1)(b)] On Behalf Of Cabinet Secretary for Social Security and Older People

**Sent:** 09 July 2018 13:22

**To:** [REDACTED – FOISA 2002 section 38(1)(b)]; Cabinet Secretary for Social Security and Older People

**Cc:** Cabinet Secretary for Finance, Economy and Fair Work; Minister for Business, Fair Work and Skills; First Minister; Permanent Secretary; DG Organisational Development & Operations; Kerr S (Stephen) (Social Security Director); Richards N (Nicola); McVie A (Ann); Wallace D (David); McClintock A (Andy); Baron-Broadhurst L (Lisa); Byrne A (Alison); [REDACTED – FOISA 2002 section 38(1)(b)]; [REDACTED – FOISA 2002 section 38(1)(b)]; Legislation and Operational Policy; [REDACTED – FOISA 2002 section 38(1)(b)] SSPD Comms and Engagement Mailbox; Campbell J (Jeanette)

**Subject:** RE: FOR ACTION: Submission - Scottish Commission on Social Security - Chair and Member Appointments - 6 July 2018

[REDACTED – FOISA 2002 section 38(1)(b)]

Thanks, Ms Somerville has seen your note and is:

- Content to approve the selection panel;
- Content to delegate the fit and proper person tests to the panel;
- Content to proceed without a choice of candidates should the outcome of the appointment round result in this.

Ms Somerville didn't have any particular comments on draft Person Specifications.

Thanks.

[REDACTED – FOISA 2002 section 38(1)(b)]

The Scottish Government

St Andrews House, Regent Road, Edinburgh, EH1 3DG

[REDACTED – FOISA 2002 section 38(1)(b)]

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**From:** [REDACTED – FOISA 2002 section 38(1)(b)]

**Sent:** 06 July 2018 15:01

**To:** Cabinet Secretary for Social Security and Older People

**Cc:** Cabinet Secretary for Finance, Economy and Fair Work; Minister for Business, Fair Work and Skills; First Minister; Permanent Secretary; DG Organisational Development & Operations; Kerr S (Stephen) (Social Security Director); Richards N (Nicola); McVie A (Ann); Wallace D (David); McClintock A (Andy); Baron-Broadhurst L (Lisa); Byrne A (Alison); [REDACTED – FOISA 2002 section

**38(1)(b)** SSP : Legislation and Operational Policy; **[REDACTED – FOISA 2002 section 38(1)(b)]**;  
SSPD Comms and Engagement Mailbox; Campbell J (Jeanette)  
**Subject:** FOR ACTION: Submission - Scottish Commission on Social Security - Chair and Member  
Appointments - 6 July 2018

PS/Cabinet Secretary for Social Security and Older People,

Please see the attached submission on the Chair and Member appointments for the  
Scottish Commission on Social Security:

<< File: Social Security Programme - Scrutiny - SCoSS - Chair & Members - 1st Sub....docx >>

The asks of the Cabinet Secretary are outlined at paragraph 14. Note that although  
this submission has been classified as priority level 'Routine', it would be helpful to  
receive a response by 13 July (see paragraph 2).

Officials are ready to provide further information to the Cabinet Secretary or discuss  
directly, if required.

Kind regards,

**[REDACTED – FOISA 2002 section 38(1)(b)]** | Legislation and Operational Policy | Social Security  
Policy Division | Social Security Directorate | DG Organisational Development and Operations  
Scottish Government | Area 2C South (*Mail Point 6*) | Victoria Quay | The Shore | Edinburgh | EH6  
6QQ

☎ **[REDACTED – FOISA 2002 section 38(1)(b)]**

[REDACTED – FOISA 2002 section 38(1)(b)]  
Social Security Policy Division  
Social Security Directorate  
6 July 2018

Cabinet Secretary for Social Security and Older People

## **SCOTTISH COMMISSION ON SOCIAL SECURITY – CHAIR AND MEMBERS APPOINTMENTS**

### **Purpose**

1. To seek your views on the appointment of a Chair and up to three Members of the Scottish Commission on Social Security (SCoSS) Board.

### **Priority**

2. **Routine.** As the selection panel will be meeting on either 9 or 10 August 2018, it would be very helpful to have a response **by 13 July 2018**. Panel diaries cannot be formally confirmed until you have approved the members (see paragraphs 7 and 14).

### **Background**

3. Officials in the Social Security Directorate are working with colleagues in the Public Bodies Unit and the Public Appointments Team (PAT) to establish the SCoSS. The body is mandated for in the Social Security (Scotland) Act 2018.

4. Due to length of time it will take, the immediate priority is to commence the public appointments process. More detailed information on the SCoSS was provided to you in a briefing note on 2 July 2018 (a summary of this is included at **Annex A**).

### **New Appointments**

5. The Scottish Government is seeking to make public appointments more diverse, better reflecting the population of Scotland, with the initial aim of achieving gender balanced boards by 2020. To that end, PAT is working with policy colleagues who are running appointment rounds to improve the process, ensuring that we identify talent from a broad range of backgrounds, that each public board has the skills and experience it needs to deliver its functions, and has the diversity of contribution that will enable it to do so more effectively and efficiently.

6. The principle of 'merit', as set out in the Commissioner for Ethical Standards in Public Life in Scotland's (CESPLS's) Code of Practice for Ministerial Appointments to Public Bodies in Scotland ('the Code'), requires that where candidates best meet the selection criteria in the person specification, only those candidates are recommended to Scottish Ministers for appointment. This is to ensure the integrity and transparency of the process. It is therefore important that what merit means is

clearly defined at the outset in any appointment round, as it is against that definition that candidates will be tested and, at the conclusion of the process, the most able recommended for appointment.

### Selection panel

7. As part of the process, the Code requires you to **approve the proposed selection panel for the appointment round**, which will remain the same throughout:

- Ann McVie, Deputy Director, Social Security Policy Division (*Panel Chair*)
- Dr Lindsay Burley CBE FRSA FRCPE FRCGP (*Independent Member #1*)
- Prof Jim McGoldrick (*Independent Member #2*)
- Alec Spencer (*CESPLS Adviser*)

8. CESPLS allocates Public Appointments Advisers to appointment rounds dependent on the level of scrutiny. This appointment round has been rated as High Medium level by the Commissioner, therefore Alec Spencer will be a full member of the selection panel throughout the entire appointment round.

### Fit and proper person test

9. Under the Code, Ministers can delegate the responsibility to the panel to ensure a candidate is a fit and proper person for the position to which they may be appointed. The fit and proper person test will identify if a candidate is able to fulfil the requirements of the role (for example, time commitment) and that their past or present activities and/or behaviours do not render them unsuitable (for example, no unmanageable conflict of interest).

10. Please **note your approval to delegate responsibility** for the fit and proper person test to the panel.

### Ministerial choice

11. The Code's principle of 'merit' is set out at paragraph 6 above. Although the application of this principle may restrict the panel's ability to offer you a choice of candidates, the panel will recommend to you the candidates that best demonstrate the definition of merit for this competition. **Please indicate whether you are content to proceed without a choice of candidates** (i.e. there is only a single candidate recommended by the panel for each advertised position) should the outcome of the appointment round result in this, subject to the principles of 'merit and most able' set out in the Code.

### Defining merit

12. We have identified indicative skill requirements for these appointments, taking into account the skills required for this new Board. The draft Person Specifications are attached at **Annex B**. Note that these are not final versions, as the full selection panel will discuss further when they first meet. You will be asked to sign off on the final versions in August. However, **you are invited to provide your views at this**

point, which will be fed into the selection panel's discussions on the final drafts (a few areas in particular are noted in bold and italics).

13. The previous Minister for Social Security wrote to the Social Security Committee for their views on the skills and experience that should be looked for when vetting SCoSS appointment candidates. They replied on 22 June 2018, noting that they had no comments to make in this regard.

## Conclusion

14. You are invited to:

- Approve the selection panel for the appointment round (see paragraph 7);
- Confirm you are content to delegate all the fit and proper person tests to the selection panel (see paragraph 10);
- Confirm you are content to proceed without a choice of candidates (i.e. there is only a single candidate recommended by the panel for each advertised position) should the outcome of the appointment round result in this, subject to the principles of 'merit and most able' set out in the Code of Practice (see paragraph 11); and
- Provide any comments on the draft Person Specifications at Annex B, which will be passed on to the selection panel in advance of their planning meeting (see paragraph 12).

[REDACTED – FOISA 2002 section 38(1)(b)]

[REDACTED – FOISA 2002 section 38(1)(b)]

Legislation and Operational Policy Unit

[REDACTED – FOISA 2002 section 38(1)(b)]

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Finance, Economy and Fair Work					X
Minister for Business, Fair Work and Skills					X
First Minister Permanent Secretary DG Organisational Development & Operations Stephen Kerr Nicola Richards Ann McVie David Wallace Andy McClintock Lisa Baron-Broadhurst					

Alison Byrne

[REDACTED – FOISA 2002 section 38(1)(b)]

SSP : Legislation and Operational Policy

[REDACTED – FOISA 2002 section 38(1)(b)]

[REDACTED – FOISA 2002 section 38(1)(b)]

SSPD Comms and Engagement Mailbox

Jeanette Campbell

## ANNEX A

**BACKGROUND – SCOTTISH COMMISSION ON SOCIAL SECURITY**

1. The Scottish Government has committed – via the Social Security (Scotland) Act 2018 (“the Act”) – to establish an independent scrutiny body for social security. This will be called the Scottish Commission on Social Security (SCoSS).

2. The Act sets out an over-arching legislative framework for the administration of social security in Scotland and describes the different types of benefits to be provided. The detailed rules relevant for each benefit will then be set out within regulations, which will tell the ‘whole story’ in relation to that benefit. This was a deliberate approach as one of the key criticisms of UK legislation is that it is labyrinthine, complex and very difficult for individuals to navigate. The aim was therefore to make Scottish legislation as simple, accessible and as easy to understand as possible.

3. Stakeholders raised concerns during Stage 1 of the Bill process that, as secondary legislation does not go through the same scrutiny process as primary legislation, future governments could change the benefit rules with little independent or stakeholder input. The Scottish Government made it clear during the Bill process that this was not the intention and that it recognised there was a need for independent scrutiny.

4. The Scottish Government therefore invited views from the Social Security Committee, the Disability and Carers Benefit Expert Advisory Group (DACBEAG) and the wider stakeholder community on what appropriate independent scrutiny would look like.

5. The SCoSS functions as set out in the Act were amended in during the Bill process, delivering on the recommendations made and broadly supported by the DACBEAG, the Social Security Committee and stakeholders.

6. The SCoSS’s functions are to:

- Provide expert independent scrutiny of benefit regulations as part of a ‘super affirmative’ procedure;
- Prepare a report from time to time containing an assessment on how well the expectations of the social security charter are being fulfilled and recommendations for improvement when they are not (to be submitted to both Scottish Ministers and the Scottish Parliament);
- Report on any matter relevant to social security that Scottish Ministers or the Scottish Parliament ask it to; and
- Further functions can be conferred onto the SCoSS by regulations (though it must be consulted first by Scottish Ministers).

7. In carrying out all of its functions, the SCoSS has a legal duty to have regard to relevant human rights instruments. In practice, this means that the Scottish

system will be independently held to account for meeting international human rights standards.

8. The SCoSS will consist of a Chair plus two to four Members. It also has the power to set up expert committees on subject areas that its core membership may not have sufficient knowledge and experience of. For example, if it does not believe it has the collective knowledge to scrutinise regulations on Employment Injury Assistance, it may seek to create a committee made up of experts with relevant third sector stakeholders and those with experience of the previous UK-level Industrial Injuries Disablement Benefit. The SCoSS will serve a function analogous to – but have key differences from – the UK-level Social Security Advisory Committee.

[REDACTED – FOISA 2002 section 29(1)(a) – 6 pages

