

**From:** Johnston P (Paul) <[REDACTED]>  
**Sent:** Thursday, 28 December 2017 21:04  
**To:** Russell GE (Gillian); McGillivray D (Donald); Cabinet Secretary for Justice; McFarlane J (John); DG Education, Communities & Justice; [REDACTED]  
**Subject:** FW: 171228 - Public Audit and Post-Legislative Scrutiny Committee

Colleagues

See attached letter from Kate Frame re the PAPLSC session.

Grateful if this could be shared with the Cabinet Secretary for information. It confirms the position of the PIRC - and the absence of proper consultation with them. We could send it alongside the letter that we are working up for PAPLSC - or invite Kate to send it separately. I'm happy to have a conversation with Kate to see what approach she'd prefer.

Paul

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**From:** [REDACTED] <[REDACTED]@pirc.gsi.gov.uk>  
**Date:** Thursday, 28 Dec 2017, 4:34 pm  
**To:** Johnston P (Paul) <[REDACTED]>  
**Subject:** 171228 - Public Audit and Post-Legislative Scrutiny Committee

Good afternoon

Please find attached correspondence from Ms Frame in regards to the above.

Kind regards

[REDACTED]

[REDACTED] | **Executive Assistant to the Commissioner**  
Police Investigations & Review Commissioner  
Hamilton House, Hamilton Business Park, Caird Park, Hamilton ML3 0QA  
t: [REDACTED] e: [REDACTED]  
Twitter: [@PIRCNews](https://twitter.com/PIRCNews)  
[www.pirc.scot](http://www.pirc.scot)  
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Kate Frame  
Police Investigations & Review Commissioner  
Hamilton House, Hamilton Business Park, Caird Park, Hamilton ML3 0QA  
Telephone: 01698 542900 e: enquiries@pirc.gsi.gov.uk

[www.pirc.scotland.gov.uk](http://www.pirc.scotland.gov.uk)

**pirc**

Police Investigations &  
Review Commissioner

Mr Paul Johnston  
Director General  
Communities and Justice  
St Andrew's House  
Regent Road  
Edinburgh

28 December 2017

Dear Paul

### **Public Audit and Post-Legislative Scrutiny Committee**

I refer to your appearance before the Public Audit and Post-Legislative Scrutiny Committee hearing on 21 December and am concerned that Mr Neil proceeded with a number of lines of questioning that were based on false assumptions which were not corrected. In particular, he said that before Mr Flannigan made the request for the Chief Constable to be reinstated, he presumed that "it had been cleared by PIRC – unless you are telling me that is not the situation".

I consider that to ensure that there is no ambiguity about the circumstances surrounding my engagement (or rather the lack of it) in the process, the following facts require to be presented to the Committee;

- There was no consultation by the SPA with me in advance of the Chief Constable announcing that he had agreed with the SPA that he would take a period of special leave.
- There was no consultation by the SPA with me between the date of the Chief Constable going on special leave and the departure of the former SPA Chair, Mr Flanagan.
- I was not consulted in advance of Mr Flanagan approaching the Cabinet Secretary with the proposal for the Chief Constable to return to his duties.
- The first time that my input was sought was on 4 December 2017, when the new Chief Officer of the SPA sought my views on the potential impact on my investigations of the Chief Constable returning to work before the investigations were concluded.

- Had my views been sought at the outset of these investigations, I confirm that I had real and significant concerns that the PIRC investigations may have been prejudiced if the Chief Constable had not been suspended. My concerns mainly arose from the fact that a number of witnesses had expressed a fear that if they spoke up whilst the Chief Constable remained in post, due to the position of power and influence he held, their careers or future promotion prospects would be damaged or jeopardised.

The Chief Constable's period of leave in England, has enabled my investigation to complete interviews of the more junior members of staff, who perhaps had the greatest fear or repercussions and provided them with a safe space to be interviewed without any immediate fears.

- The investigations have now progressed to a stage where most, if not all junior staff have been interviewed and the interviews which remain outstanding are those with a number of senior staff, where the threat of repercussions and damage to career and future promotion prospects is much less than those staff in more junior positions.
- I advised the new Chief Officer of the SPA on 11 December 2017 that as things currently stand, should the Chief Constable not be suspended, there would be no prejudice to the PIRC investigations but that I would advise him if that situation changed.

On the basis that many of these points are relevant to the questions posed by Mr Neil to you, I wonder whether you would wish to furnish him with the above information or whether you would prefer that I separately wrote to the committee with this information.

I would be pleased if you could let me know which course of action you consider to be most appropriate.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kate Frame', with a stylized flourish below it.

**Kate Frame**  
**Commissioner**