

[Redacted]

**From:** Richards N (Nicola) <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>  
**Sent:** 03 November 2018 02:36  
**To:** Richards N (Nicola) <[\[Redacted\]@gov.scot](mailto:[Redacted]@gov.scot)>  
**Subject:** RE: Personal

## RE: Personal

08 January 2018  
12:14

<b>Subject</b>	<b>RE: Personal</b>
<b>From</b>	Mackinnon J (Judith)
<b>To</b>	[Redacted]; Richards N (Nicola)
<b>Sent</b>	19 December 2017 16:31

[Redacted]

[Redacted]

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From: [Redacted]  
Sent: 19 December 2017 10:07  
To: Richards N (Nicola)  
Cc: Mackinnon J (Judith)  
Subject: RE: Personal  
Sensitivity: Private

Nicky,

Thank you for this email and for the latest version of the complaints process.

I think that I would like to go ahead with making a formal complaint, but I'd find it helpful to better understand a) the practical ramifications of disclosing my name versus withholding it, and b) how the process set out below might look if the former Minister chose to involve a solicitor. Perhaps as you suggest it would be helpful to get something arranged for January to pick up on next steps?

In the meantime, wishing you a lovely time over the holidays!

[Redacted]

[Redacted]

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From: Richards N (Nicola)  
Sent: 14 December 2017 13:42  
To: [Redacted]  
Cc: Mackinnon J (Judith); Richards N (Nicola)  
Subject: Personal  
Sensitivity: Private

Hi [Redacted]

I hope all is OK with you. We wanted to follow up on our conversation of last week.

We have now spoken to two other people who are also considering their position. We have also done more work on the policy since our discussion – in particular around the approach to complaints against an incumbent FM - and I attach that here for your interest. Grateful if you could treat in confidence for the moment given it is still in draft.

I'm not sure if you've had a chance to do any further thinking on your position? Given the time of year, we're wondering if it may be best to take stock and reconvene on decisions in the new year. How does that sound to you? We can get a date in the diary?

We also thought that it might be helpful to set out the options around these next steps for you to consider. These draw upon our policy so apologies that they are set out quite formally. In the case of it being a formal process then it is likely that Judith would take the role of the 'senior officer', given she had no involvement at the time and her professional experience.

The options could include:

Notify us that you would like to submit a formal complaint, with disclosure of your name.

You would be interviewed to take a formal statement, and other individuals you may name in your statement. You would have an opportunity to review the statement.

Once we have all the statements these would be put into a report for Perm Sec. The former Minister would then be provided with details of the complaint, including names, and given an opportunity to respond.

At this point the former Minister may wish to provide a statement setting out their recollection of events to add to the record. They may also request that statements are taken from other witnesses. They may also decline to take part in the process.

If additional statements are collected the senior officer will revise their report to include this information and submit this to the Permanent Secretary. The Permanent Secretary will consider the revised report and decide whether the complaint is well-founded. The outcome of the investigation will be recorded within the SG.

In line with our usual policy, the SG would not disclose details of the case publically.

There is a risk that your name could find its way into the public domain – the SG would not comment or confirm (but would offer you the support and protection within our power).

The outcome of the investigation would be passed to the leader of the appropriate party, to consider any further action.

2. Notify us that you would like to submit a formal complaint, without disclosure of your name. We would proceed as above but withhold your name. There is a risk that from the nature of the complaint, you may still be identifiable to the individual.

3. You may conclude that you do not wish to submit a formal complaint, and if this is the case, your wishes will be respected.

It's important that you don't feel that no action will be taken unless you take a personal decision to pursue this. In addition to agreeing the policy we will be taking forward work on the lessons learned – particularly your points about the way a culture builds up over time to such a point that reference points for standards of behaviour seem lost. We are looking at addressing that through sessions with senior staff and through setting out the conversations and standard setting that needs to be put in place early in an administration, and at regular points through it. Also the responsibilities of key roles such as the SCS positions within the [Redacted] line to have regular check ins around culture and

behaviour so they can intervene quickly and early – rather than relying on individuals to have the courage to come forward. We will need to look back in order to shape the way ahead on this.

Thanks for your engagement with this so far and for stepping forward – this is a moment when we can take action to reset the culture and expectations of behaviour in the workplace and we're grateful to you for helping inform and shape that response.

I'm on leave from close today, returning on 9th Jan but Judith is very happy to be contacted if you want to talk at any time. Her personal mobile is - [Redacted]

with best wishes for a good break over Christmas and new year,

Nicky

<< File: Complaints against Ministers and former Ministers Dec 2017.docx >>

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