

STRICTLY PRIVATE & CONFIDENTIAL

6 June 2018

For the attention of the Permanent Secretary

On Monday 2 April I was informed by Alex Salmond that you were investigating a complaint from within the civil service about his conduct while First Minister and that the complaint relates to alleged conduct of a sexual nature.

It was clear, from what he told me, that the complaint was being investigated under the guidance put in place towards the end of last year as part of the Scottish Government's response to the public discussion around sexual harassment cases, and which contained provisions for the handling of any complaints against former Ministers. I recalled and explained that as First Minister I had no role in this process, and that I would be advised of a complaint against a former Minister only when you have concluded your investigation.

The former First Minister (FFM) contacted me again on Monday 23 April to say that he intended to propose mediation.

I told the FFM on both occasions that it would not be appropriate for me to seek to intervene in the process in any way and I did not do so.

[Redacted]

After careful consideration, I decided not to inform you of these approaches as I did not want there to be any suggestion that I was seeking to intervene in the process.

However, I have now had a further approach from the FFM and, given its nature and that it represents a potential challenge to the process, I have decided that I should make you aware of it.

The FFM has told me that he considers the process being followed by the Scottish Government to be unlawful, that he has legal advice to the effect that he would be successful in an application for Judicial Review of the process, and that if any finding is made against him, it is his intention to lodge an application for Judicial Review to seek to have the process declared unlawful.

I want to be very clear that my purpose sending this note is not to ask you to cease the investigation or to influence its course in any way – it is to be transparent with you about my knowledge of a potential challenge to the process. You and I have discussed on many occasions the importance of a zero tolerance approach to sexual harassment within the Scottish Government and the importance to building confidence in such an approach of taking such complaints seriously and ensuring proper investigation. I am clear that the seniority, political affiliation or relationship to me or my government of any person subject to

a complaint should have no bearing on how it's handled. To that end, you have my support in taking whatever steps you consider necessary and appropriate to investigate any complaint about inappropriate conduct within the Scottish Government.

It remains my view that it would be inappropriate for us to discuss the substance of the investigation prior to its conclusion.

I intend to inform the FFM that I have told you about his approach to me and to advise him again that it would not be appropriate for me to intervene in the process.

Finally, I am also mindful of the public interest considerations that arise when allegations of this nature are made. At this stage, however, it is my view that the interest of ensuring that the conduct of the investigation is fair to all parties and respects the confidentiality of the complainant(s) is the priority.

NICOLA STURGEON