

Annex A

Briefing – 10th January 2019 First Minister Questions

Harassment

- It is with deep regret that this decision had to be taken but it was the right thing to do once an issue about the application of the procedure had been identified. The Permanent Secretary has apologised to the complainants that this issue has arisen, they had the right to expect the process to reach a lasting conclusion. They also have my apologies that on this occasion that has not been the case.
- The concession was taken solely on the basis that there could have been a perception of bias on the part of the Investigating Officer. There is no suggestion that the Investigating Officer did in fact act in a partial way or that either the investigation or the decisions reached were, in fact, partial. As was set out in court on 8 January the government does not accept claims that this was in any way encouraging the complaints.
- The Judicial Review was never about the substance of the complaints, but about the process that took place to investigate those complaints. The Permanent Secretary has commissioned an internal review of the specific application of this one element of the application of the procedure in this case. We do, however, consider our Procedure for handling complaints about current and former Ministers to be robust and it is still in place.
- The initial contact made by the investigating officer before their appointment was in line with their HR professional duties. This was solely for the purpose of protecting the welfare of the potential complainants. It is clearly of deep regret that this has led to the setting aside of the investigation but all actions taken prior to the investigation were taken in good faith. We still have confidence in the procedure and it is still open for complaints to be brought forward under it. The Permanent Secretary has commissioned an internal review of the specific application of this one element of the procedure. Even so, it will still be important for those wishing to bring forward complaints in the future to do so with appropriate support from the Scottish Government.
- In Nov 2018, Mr Salmond added a further ground of challenge to his case. This was that contact between the investigating officer and the complainants prior to the formal complaints being made undermined the investigation. The procedure set out that the Investigating Officer should have “no prior engagement in the matters raised”. The Scottish Government is clear that the contact that the Investigating Officer did have was legitimate and in the course of their HR professional duties. A process such as this requires not just impartiality in fact, but also demonstrable evidence for this impartiality.
- In late December 2018, while re-assessing the material to be provided to the court in advance of the main hearing, the Perm Sec concluded (on 2nd Jan) there was a risk the prior contact could give rise to a perception of bias. At that point, just last week (on 3rd Jan), we sought the agreement of the petitioner to settle.
- From the outset of the review of our processes it was clear that we needed to cover former Ministers as well as serving Ministers. In particular it was thought that complaints should not be prevented from being formally considered because a Minister has resigned or is no longer in post.
- Since this process was developed, the Scottish Parliament and Westminster have reviewed how to address historic complaints against individuals who are no longer members of Parliament. The proposals published by the Presiding Officer include the ability for complaints in relation to former members or by former staff to be investigated thoroughly. The SG process sought from the outset to provide that clarity and to ensure individuals have a route for issues to be considered and addressed. As a precaution, in August 2018 we carried out a detailed review into how information relating to the complaints was handled. We are satisfied that information relating to this case has been processed in accordance with

our legal and information handling obligations. We are also satisfied that there is no evidence of any data breach. I have no information to suggest that either the Crown Office or Police Scotland were responsible for unauthorised disclosure of information. Both organisations have separate legal responsibility for data protection.

- We received details of a complaint to the Information Commissioner's Officer from Alex Salmond on 5 December 2018.
- I was not aware of any complaint against Alex Salmond until he told me that two complaints had been made. In the period between 2 April and 18 July, I met with Alex Salmond on three occasions and had two telephone conversations as follows:
 - o 2 Apr 2018 – we met at my home.
 - o 23 Apr 2018 – phone conversation.
 - o 7 June 2018 – we met at SNP Conference.
 - o 14 July 2018 – we met at my home.
 - o 18 July 2018 – phone conversation.
- In the first meeting, my chief of staff, Liz Lloyd and two advisers to Mr Salmond attended. In each interaction I made clear to him I would not intervene in the process. I made clear, and he knew, that I had delegated investigation of such complaints to the Permanent Secretary. I did not initially inform the Permanent Secretary of the contact from him in the early summer. This was because I did not wish to create any inference that I wanted to influence the process in any way.
- On 6 June, I did however inform the Permanent Secretary in writing of my contact with him as it had become clear to me that he was preparing a legal challenge. I made clear to her that I supported her decision to fully investigate the complaints and that I would not intervene. I have not spoken with Alex Salmond since 18 July 2018.
- It has been reported that one of the complaints was previously investigated in 2013 under the Fairness at Work Procedure in place at the time. It has also been reported that Mr Salmond apologised for that behaviour at the time. At no point prior to January 2018 had any complaint been received or investigation conducted about the former First Minister under the provisions for handling complaints against ministers within the Fairness at Work procedure. Similarly, as the government has repeatedly stated, at no point prior to January 2018 did the Scottish Government have any recorded complaints of harassment against Alex Salmond. I was unaware of any complaints about Alex Salmond's behaviour while he was First Minister until he informed me of the two formal complaints in April 2018.
- Due to the ongoing police inquiry we are highly constrained in what we can say. The issues raised by this judicial review underline the sensitivities regarding such cases. That means we will await the conclusion of the police's investigation before commenting in more detail. This settlement is, however, on the narrow basis of the circumstances around the appointment of the investigating officer, each of the other grounds has been dismissed.

HMY Lolaire

- The Commemoration for the loss of HMY Lolaire on 1 January was indeed very moving and clearly the event is still keenly felt by the local community. The bodies of around one third of those lost were never recovered.
- We are supportive of calls to have the wreck of HMY Lolaire recognised as a War Grave. Members of the Scottish Commemorations Panel, which is appointed by the Scottish Government, and others, have raised this with the Ministry of Defence, with whom the decision rests.

Hourstons

- I am concerned to learn of developments in relation to Hourstons in Ayr and the impact this may have on employees, their families and the local area.

- We are monitoring the situation very closely and are providing support for the affected individuals through our PACE initiative.
- Through providing skills development and employability support, PACE aims to minimise the time individuals affected by redundancy are out of work.
- The local PACE team met with Hourstons store management on 7 January to outline the services available and a PACE Presentation was delivered by PACE Partners to around 40 staff.

Industrial Investment Tayside

- We are prepared to invest £200 million into the Tay Cities Region and we have delivered on that promise. I remain disappointed that the UK Government chose not to match the scale of our ambition.
- The £10 million investment I announced on Monday 7 January will support the needs of manufacturing businesses across the region. I am sure that future options for the Michelin plant in Dundee will be a key focus of the discussions with regional partners as they work with us to shape the industrial investment programme.
- However, we are absolutely clear that we will provide additional support to deliver on the MoU signed with Michelin on 17 December. As a member of the Michelin Action Group I expect the UK Government to do likewise.
- Our additional £40 million investment will support the Council's own very significant financial commitment to delivering this game-changing piece of infrastructure.
- Our additional £10 million investment in a strategic regional Industrial Investment Programme will support the existing and future needs of manufacturing businesses across the whole region.

Kaiam

- Scottish Enterprise worked with Kaiam to explore options to support the business and its staff.
- Unfortunately, a solution could not be found by the company. The Scottish Government learned on 21 December that the company was to enter administration.
- The individuals affected by this closure are our immediate priority.

Brexit

- Both a 'no deal' Brexit and the Prime Minister's deal should be ruled out now.
- I hope the meaningful vote goes ahead next week so that MPs can say they do not support the withdrawal agreement.
- That will allow the House of Commons to then coalesce around an alternative, and that should be another EU referendum.
- This is necessary in order to protect the Scottish economy, our businesses and workers – as far as that is possible.

Universal Credit

- Sadly, as we now know, those reports did not represent a light in the tunnel for those being caused harm by Universal Credit.
- Just as people thought the UK Government had finally paid attention to the evidence showing the damage caused by Universal Credit, the DWP Secretary made clear that she has no plans to make the serious changes needed to make it work for people. Instead she will press ahead with a pilot for the managed migration from legacy benefits to Universal Credit.

- Despite repeated calls for the roll-out to be halted, it is now available and causing harm in every part of the country. We will not stop urging the UK Government to make the changes that Universal Credit desperately needs to stop it pushing more people into poverty.

Anti-Semitism

- We are committed to tackling hate crime and prejudice and I want to reassure Scotland's Jewish communities that there is absolutely no place in Scotland for any form of anti-Semitism or religious hatred. We value our relationships with our Jewish communities and recognise the significant contributions they make to Scottish society.
- As well as our ambitious programme of work to tackle hate crime and build community cohesion, we have also adopted the International Holocaust Remembrance Alliance's definition of anti-Semitism. This sends a strong message that we believe anti-Semitism to be entirely unacceptable in Scotland.

Annex B

Briefing - 17th January 2019 First Minister Questions

Harassment

- I am happy to answer any questions that people want to pose on this topic. However, there are now a number of different inquiries into these issues. I have backed the proposal to set up a parliamentary inquiry. I have referred myself to the independent advisers on the ministerial code. The Scottish Government is co-operating fully with the Information Commissioner's process. The Permanent Secretary has commissioned an Independent review of the Scottish Government process. And there is, of course, still a live police inquiry ongoing. So, I will answer any question to the fullest extent possible and my government will co-operate with all the inquiries. I will not do anything to compromise those investigations, and neither should they.

- This process was ongoing within the Scottish Government for eight months and was kept entirely confidential throughout that period. The SG has never commented on the content of the allegations against Mr Salmond and we will not do so. As a precaution and in line with our legal obligations, we instructed a detailed review into our handling of Mr Salmond's data in August 2018. We are satisfied that information relating to this case has been processed in accordance with our legal and information handling obligations. We are also satisfied that there is no evidence of any data breach. We are in correspondence with the Information Commissioner, and will cooperate fully with them. The Permanent Secretary has apologised to the complainants that this issue has arisen, they had the right to expect the process to reach a lasting conclusion.

- The concession was taken solely on the basis that there could have been a perception of bias on the part of the Investigating Officer. The Judicial Review was never about the substance of the complaints, but about the process that took place to investigate those complaints.

- I was not aware of any complaint against Alex Salmond until he told me on 2 April that two complaints had been made. In the period between 2 April and 18 July, I met with Alex Salmond on three occasions and had two telephone conversations as follows:

- o 2 Apr 2018 – we met at my home.
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- In the first meeting, my chief of staff, Liz Lloyd and two advisers to Mr Salmond attended. In each interaction I made clear to him I would not intervene in the process. I made clear, and he knew, that I had delegated investigation of such complaints to the Permanent Secretary. I did not initially inform the Permanent Secretary of the contact from him in the early summer. This was because I did not wish to create any inference that I wanted to influence the process in any way.

- On 6 June, I did however inform the Permanent Secretary in writing of my contact with him as it had become clear to me that he was preparing a legal challenge. I made clear to her that I supported her decision to fully investigate the complaints and that I would not intervene. I have not spoken with Alex Salmond since 18 July 2018. We have made clear that any allegation that I knew of the complaints prior to 2 April is not true.

- In Nov 2018, Mr Salmond added a further ground of challenge to his case. This was that contact between the investigating officer and the complainants prior to the formal complaints being made undermined the investigation. The procedure set out that the Investigating Officer should have "no prior engagement in the matters raised". The Scottish Government is clear that the contact that the Investigating Officer did have was legitimate and in the

course of their HR professional duties. A process such as this requires not just impartiality in fact, but also demonstrable evidence for this impartiality.

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- It has been reported that one of the complaints was previously investigated in 2013 under the Fairness at Work Procedure in place at the time. It has also been reported that Mr Salmond apologised for that behaviour at the time. At no point prior to January 2018 had any complaint been received or investigation conducted about the former First Minister under the provisions for handling complaints against ministers within the Fairness at Work procedure. Similarly, as the government has repeatedly stated, at no point prior to January 2018 did the Scottish Government have any recorded complaints of harassment against Alex Salmond. I was unaware of any complaints about Alex Salmond's behaviour while he was First Minister until he informed me of the two formal complaints in April 2018.

Stoneywood Mill

- I was concerned to learn of the situation with Arjo Wiggins based in Aberdeen.
- The Minister for Business has spoken directly with the Managing Director of Arjo Wiggins and the General Manager of the Stoneywood Mill and communicated our full support. He also spoke to Unite union this morning.
- Our focus at this stage is on supporting the business in finding a new buyer and on doing all we can to try to minimise the impact on the workforce.
- Scottish Enterprise have been in contact with the management at Arjo Wiggins to support the company in its plans going forward to secure a new buyer.

Gender Based Prejudice

- I have been shocked and appalled by the BBC's investigation into so called 'gaming.'
- There is a clear need for action to be taken to tackle gender based prejudice.
- Lord Bracadale's view in his report on hate crime was that there are patterns of offending which relate particularly to hatred based on prejudice towards the victim's gender, and which should be addressed through reformed hate crime legislation.
- Our current consultation on hate crime seeks views on how best to tackle misogyny and gender-based prejudice in Scotland. I would encourage anyone who has an interest in this area to make their views known through the consultation process which runs until 24 February.

Teaching

- An additional 447 teachers in our classrooms over the past year.
 - Teacher number in our classrooms have increased by 1,239 since I took office – from 50,720 to 51,959 – and were up 447 last year alone.
- Negotiations are ongoing and progress is being made.
- The Scottish Government has made an enhanced proposal to the EIS [on teachers pay] and asked COSLA to also agree this. It would mean that all teachers would receive a minimum 9% increase between January 2018 and April 2019, with a further 3% in April 2020.
 - This is a clear indication of our commitment to recruit and retain teachers and is the best offer in the public sector anywhere in the UK.
 - In order to make this pay offer as attractive as possible, we are prepared to improve our contribution to the offer.
 - This will be around main grade restructuring and revaluation of all other SNCT pay scales.

- This is a clear indication of our commitment to recruit and retain teachers and I urge the teaching unions to consider this favourably.
- The Deputy First Minister made this proposal to the EIS last Thursday.
- It is an enhanced contribution and we will ask COSLA to agree this and to formally offer it to the unions after 25 January.
- Industrial action is in no one's interests, not least our children and young people.
- Any additional budget allocation to fund a negotiated agreement will need to be agreed with COSLA.
- We value the whole education workforce, and recognise the aspiration for parity between teachers and other staff.
- However, these are two very different workforces with different negotiating arrangements.
- Pay for other local government staff is negotiated between COSLA and the unions and we are not part of that process.

Brexit

- The Prime Minister's deal has been rejected in the House of Commons by an overwhelming majority.
- There is no more time for delay – the clock must be stopped on Article 50.
- This is the only way to avoid any possibility of the UK crashing out of the EU on 29 March without a deal.
- The UK Government must immediately rule out a “no-deal” scenario
- No deal would be catastrophic, with severe and disproportionate impacts on Scotland – on food supply, on medicines, on transport, and rural matters.
- Instead, a second EU referendum should now be the priority and an extension to Article 50 should be negotiated to allow that to take place.
- The European Court of Justice judgment of 10 December creates a clear route for the UK to revoke notification under Article 50 and remain in the EU.
- The UK Government must bring forward legislation to enable a second referendum to take place.

Cancer

- We continue to monitor progress of our five-year £100 million cancer strategy. This report identifies that half way through the 5-year Cancer Strategy that 87% of its actions have either been delivered or are on track.
- We recognise there can be challenges in recruiting the right specialist staff for some services. That's why the Scottish Cancer Taskforce is feeding into the development of the Scottish Government Integrated Workforce Plan, which aims to address workforce needs across Scotland.
- These challenges are seriously exacerbated by the prospect of Brexit and freedom of movement being ended.

Universal Credit

- Whilst welcome, the recent UK Government announcements in relation to universal credit do not go nearly far enough in addressing the systems fundamental flaws.
- The changes do not address other clear issues with universal credit such as the minimum 5 week delay or the use of sanctions.

Thrombectomy for Stroke

- This is a relatively new clinical intervention and we recognise that it can significantly improve outcomes and quality of life for people who have suffered an ischaemic stroke.
- That is why the Directors of Planning Thrombectomy Advisory Group have produced a national planning framework for the provision of thrombectomy for Scotland.

- The framework will be presented to the National Planning Board at their January meeting and will provide the basis for the implementation and spread of thrombectomy provision in Scotland.

Local Government Finances

- Our block grant will be almost £2 billion lower in real terms for 2019-20 compared to 2010-11.
- The uplift in our budget in 2019-20 comes from additional Health funding, which we have passed on in full.
- After removing the Health uplift the SG fiscal resource block grant funding goes down by £340 million or 1.3% in real terms.
- Despite that reduction we have still maintained the overall funding for Local Government as a share of our overall budget at around 27%.
- We have also provided a 2% real terms uplift in the total Local Government settlement for 2019-20.
- Councils also have the option to raise an additional £80 million if they choose to increase the council tax by 3%.
- As at 31 March 2017 local authorities' usable reserves amounted to £1.9 billion.
- This represents more than 18% of the total funding being provided to councils by the Scottish Government.
- Between 2007-08 and 2016-17 local authorities' usable reserves increased by over £708 million, from £1.2 billion to £1.9 billion.