

PRIVATE

INV123

From: [Private Secretary 1]
To: [Redacted]@lemac.co.uk
Date: Wed, 18 Jul 2018 14:55:29 +0100
Attachments: LE to L&M 18 July 2018.pdf (167.62 kB)

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Dear [Redacted]

Please find attached letter from the Permanent Secretary. Grateful if you would acknowledge receipt.

[Private Secretary 1]

[Redacted]

Permanent Secretary
Leslie Evans



Scottish Government
Riaghaltas na h-Alba
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Levy and McRae
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Private and Confidential

18 July 2018

Dear [Redacted]

Thank you for your recent letters, in which you have raised your concern about the fairness of the Scottish Government Procedure. I want, first of all, to assure your client that I am approaching these important issues with the greatest of care and with an open mind. It remains the view of the Scottish Government that our Procedure is fair and legally sound.

We have ensured from the outset that your client had every opportunity to provide a statement of his recollection of the events described in the “causes for concern” set out in my letter of 7 March. We granted a number of extensions to the initial deadline for such a statement to be provided. Your client was also offered the opportunity to speak to the Investigating Officer directly but he declined to do so.

Your client has chosen not to provide a substantive response to the complaints made by Ms A and Ms B (causes for concern A – I) although he has made clear his denial that any harassment took place. Your letter of 26 April included quotations “in short none of the allegations are admitted” and “I categorically deny that I have ever harassed any civil servant”.

Although you continue to express concern about the overall fairness and legality of the Procedure your letter of 26 April did include a substantive response to causes for concern J – K. That letter also identified 5 witnesses to be interviewed - limited to those causes for concern only.

Contact information for those witnesses was provided by you on 8 May. Witnesses were interviewed by the Investigating Officer and their statements were finally agreed by all parties by 28 June after a number of postponements and delays.

You have proposed arbitration in relation to the Procedure and explained why you consider it to be appropriate. The Scottish Government has explained in previous letters and in exchanges between legal representatives why we do not agree. However, for completeness and to ensure our position is understood we make the following points.

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- First, we consider that we have given your client a fair opportunity to address the complaints, and that the procedure which we have followed is a fair one.
- We do not consider that arbitration would be appropriate to the circumstances. This is an investigation of serious complaints made by civil servants involving a former Minister. Submitting the process to an external decision maker would not be appropriate.
- As the decision maker, I have to balance a range of interests, and to ensure a Procedure which is fair both to your client and to the complainers. Arbitration of the SG process would not involve the complainers.
- As decision maker I have a duty to bring the investigation to a conclusion as efficiently and timeously as possible. Arbitration would cause unavoidable further delay.
- However tightly a remit were drawn, it seems unlikely that it would be possible to separate the procedural points which you have raised from issues of substance or content in a way which would allow those procedural concerns to be addressed.

Your client has provided a substantive response to causes for concern J – K. However, it remains my view that his interests and those of the investigation as a whole would best be served by him providing a substantive response to each of the causes for concern – and it is a matter of regret that he has chosen not to do so.

Consequently I am offering your client, even at this late stage, a final opportunity to provide any further representations about the complaints made by Ms A and Ms B.

Given the time that has elapsed since first notifying your client of the investigation you must confirm if your client wishes to take up this opportunity no later than 11 am on 19 July. Any further representations must be received by 3 pm on Friday, 20 July if they are to form part of my consideration.

Should your client choose not to take up this final opportunity I shall proceed to consider the report on the basis of the information he has already provided and will write to you again to inform you of the outcome.

Yours sincerely

[Redacted]

LESLIE EVANS

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