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Margaret Mitchell MSP
Convener
Justice Committee
Room T2.60
The Scottish Parliament
Edinburgh
EH99 1SP

23 June 2020

Dear Margaret,

Thank you for your correspondence regarding the Policing Governance review and the appointment of the Chair of the Scottish Police Authority.

The Policing Governance Roundtable took place as scheduled on 11 March. I chaired the meeting, and it was attended by the Auditor General for Scotland, HM Inspector of Constabulary in Scotland, the Vice Chair of the Scottish Police Authority, the Chief Constable and his colleague DCC Taylor, and by the Police Investigations & Review Commissioner. The relevant senior Scottish Government officials were also in attendance, including the Director General for Education, Communities and Justice, the Director for Safer Communities and the Deputy Director of Police Division.

It was a very constructive discussion, with a work plan agreed for 2020. I hope you will understand that, given the current focus of all parties concerned on COVID-19, the follow-up activity to this meeting is still progressing, and I will respond in more detail to your specific questions on this shortly.

You also asked about the role of the Justice Committee in the process to appoint a new Chair of the SPA. I note your comment about awaiting the results of the governance and accountability work, but the importance of this role in Scottish policing means that, as far as is possible at the current time, I am continuing with the process of recruitment, albeit within any limits imposed by the need to maintain public health and safety in the light of the Corona Virus pandemic.

Although there is no legislative basis for Parliamentary involvement in appointments made by Scottish Ministers to the board of the Scottish Police Authority, I would welcome Justice Committee's involvement in respect of having wider engagement in this appointment at this time, without it setting a precedent. I am, therefore, setting out my ideas for Committee involvement and invite you to express your view.

The process of making Ministerial appointments to the Scottish Police Authority board is independently regulated by the Ethical Standards Commissioner. This means that I must ensure that the process aligns with the Ethical Standards Commissioner's Code of Practice for Ministerial Appointments to Public Bodies in Scotland. The core principles of the Code are merit, integrity, and diversity and equality; aspects of the appointments process are then laid out in sections A through to H, to achieve alignment with these principles.

I propose this involvement to be in two parts, offering the Committee a very high degree of involvement in the process. Please note that the second part is likely to require that I seek from the Ethical Standards Commissioner an exception to her Code of Practice. It will of course be the decision of the Commissioner to grant, or not, that exception but before seeking that I would like your views on the proposal.

First, I propose to invite a nominated member of the Committee to become a member of the selection panel; this aligns with A7 of the Code of Practice and does not require an exception to the Code. Being a panel member ensures involvement with all elements of the appointment process including, for example, role specification design, selection criteria, and the various stages of assessment up to and including making a recommendation to the appointing Minister of the most able applicant(s).

Second, I propose an additional element to the process in which the Committee may play an important role in the second stage assessment. In this:

- Applicants will be assessed by the selection panel at the shortlisting stage (first stage of assessment)
- The applicants selected at the shortlisting stage will then have a discussion with selected members of the Justice Committee, outwith core Committee business.
- The purpose is to offer views to the selection panel on the extent to which the shortlisted applicants meet some or all of the agreed selection criteria. This will form part of triangulated evidence from multiple sources.
- The Ethical Standards Commissioner's Public Appointments Adviser (PAA) will be in attendance throughout all of the discussions.
- After individual discussions with each shortlisted applicant, the Committee members will offer their views to the PAA (orally or in writing) around the extent to which the applicant meets the criteria, with the scope to suggest particular areas that the Selection Panel should explore in final interview.
- The PAA will then brief the Selection Panel prior to the final interview, setting out the findings from the Committee.
- This part of the wider assessment will be made clear to applicants and will link into the skills required for the role forming part of the person specification.

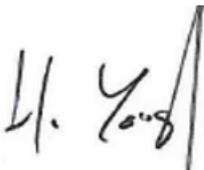
For this second part, it is clearly important that any exception to the Code is made on the understanding that:

- The Selection Panel established at the outset has responsibility for the process at all stages.
- The Commissioner's Public Appointments Adviser has oversight of all aspects of the process.
- The Selection Panel must agree the criteria at the start of the process and these criteria must be adhered to at all points.
- All applicants should be clear about the process from the outset.
- Following the final interview, the selection panel will recommend, to the appointing Minister, applicant(s) identified as most able. The appointing Minister will then decide whom, and whether to, appoint. The appointing Minister may wish to meet the recommended applicant(s) before making the final decision.

In the current circumstances, I will also need to ensure that all elements of this appointments process are conducted in line with government advice on physical distancing and isolation that is current at that particular time. To that end, it seems likely that some or all may need to be conducted remotely using electronic means.

I hope you will agree that this proposed approach could afford the Committee an unprecedented input into the appointment of the Chair of SPA. I would be interested in the Committee's views on my proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Yousof', written in a cursive style.

HUMZA YOUSAF