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Ken Macintosh
Presiding Officer
Scottish Parliament

26 August 2020

Dear Ken

SCOTTISH BIOMETRICS COMMISSIONER ACT 2020 – PROPOSAL TO EXTEND THE COMMISSIONER'S OVERSIGHT TO RELEVANT UK-WIDE POLICING BODIES WHO OPERATE IN SCOTLAND AND THE POTENTIAL IMPACT ON THE COMMISSIONER'S REMUNERATION.

In my response to the Justice Committee's stage 1 report on the Scottish Biometrics Commissioner Bill ("the Bill"), I indicated that the Scottish Government was exploring with the National Crime Agency; the British Transport Police; and the Ministry of Defence Police as to whether they should be included as bodies that would be subject to the oversight of the Scottish Biometrics Commissioner ("the Commissioner").

I can confirm that an agreement in principle has now been reached with these respective bodies to pursue their inclusion in the list of bodies subject to the Commissioner's oversight including compliance with any code of practice to be prepared by the Commissioner.

As these bodies operate UK-wide, the Scottish Government considers that a section 104 order under the Scotland Act 1998 would be the appropriate mechanism for conferring duties on such bodies should the UK Government agree that such bodies should be subject to the oversight of the Commissioner. My officials are currently liaising with the UK Government on that basis. If a section 104 order is agreed then this order will be laid and debated in the UK Parliament. A timetable for this workstream is yet to be agreed, however it is expected that such changes if approved would not take effect until Summer 2021 at the earliest.

I also understand the Scottish Parliamentary Corporate Body (SPCB) will be undertaking a recruitment exercise in the Autumn to appoint the Commissioner and an appointment is envisaged to be in place in early 2021.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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The supplementary financial memorandum prepared following the Bill's amendment after stage 2 estimated that the Commissioner's remuneration would be increased to 0.8 full time equivalent (FTE) rate as a result of the amendments agreed at that stage. None of the amendments agreed at Stage 3 resulted in any additional time requirements for the Commissioner and therefore the costings continued to be based on 0.8 FTE.

If an agreement with the UK Government is reached to confer duties on the aforementioned bodies and an order is approved by the UK Parliament, then it is expected that this would subsequently make the role of the Commissioner a full time post when such changes take effect. In accordance with the information supplied in the Bill's financial memorandum prepared at introduction, it is expected this would increase the Commissioner's remuneration to £96,000. This would equate to an estimated increase of around £19,000 on the projected running costs for the Commissioner's office.

Acknowledging the prospect of additional bodies becoming subject to the Commissioner's oversight from Summer 2021 and the additional work in the set-up period, I can confirm that if the SPCB is minded to advertise the post as full-time from the outset then I have no objection to this.

I have copied this letter to the Convener of the Justice Committee which considered the Bill.

I hope this is helpful.



HUMZA YOUSAF

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