



The Scottish Parliament
Pàrlamaid na h-Alba

Presiding Officer
Scottish Parliamentary Corporate
Body

**Public Audit and Post-legislative
Scrutiny Committee**

Room T3.60
The Scottish Parliament
EDINBURGH
EH99 1SP

By e-mail only

Direct Tel: (0131) 348 5390
Email: papls.committee@parliament.scot

30 May 2019

Dear Presiding Officer,

Disclosures by “whistleblowers” to MSPs

The Public Audit and Post-legislative Scrutiny Committee has agreed to write to the Scottish Parliamentary Corporate Body (SPCB) about the current law governing disclosures by “whistleblowers”.

Members of the Committee are contacted from time to time by employees of Scottish public bodies raising serious concerns about the financial management and governance of such bodies. However, Committee Members are limited in how they can respond in such cases on the basis that individuals who “blow the whistle” to MSPs are not protected under current employment legislation.

The Committee understands that the Employment Rights Act 1996 (“the 1996 Act”) protects the interests of employees where they make a “[qualifying disclosure](#)” to a person prescribed by an order made by the Secretary of State (a “prescribed person”). This gives the individual the right not to be treated unfairly, or dismissed, for having “blown the whistle”. A series of orders prescribing persons have been made by UK statutory instrument and are largely consolidated in the [Public Interest Disclosure \(Prescribed Persons\) Order 2014](#).

A number of Scottish bodies are “prescribed persons” for the purposes of the 1996 Act, including the Accounts Commission for Scotland, the Auditor General for Scotland, the Commissioner for Children and Young People in Scotland, the Scottish Environment Protection Agency and the Scottish Information Commissioner. It is

understood that a number of these bodies were added by order in 1999, and others by subsequent order. However, unlike their counterparts in the UK Parliament, MSPs are not on the list of “prescribed persons”.


The Committee is concerned about the general level of awareness of the current law among MSPs and whether it is widely understood that individuals who seek to “blow the whistle” to MSPs will not be protected. The Committee is seeking the SPCB’s assistance in publicising the current legal position among MSPs more widely.

The Committee also wishes to ascertain whether consideration has ever been given to MSPs being added to the list of “prescribed persons”. The Committee is writing to the Scottish Government in this regard (given that a number of Scottish public bodies have already been “prescribed”). However, the Committee would welcome clarification from the SPCB as to whether the Scottish Parliament has ever been consulted on MSPs being added to the list of “prescribed persons”.

Finally, the Committee would welcome the views of the SPCB on whether the law should be changed.

I am copying this letter to the Conveners Group and to the Convener of the Standards, Procedures and Public Appointments Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jenny Marra', with a long horizontal flourish extending to the right.

Jenny Marra MSP
Convener