

Mr Kenneth Gibson MSP,  
Convener, Finance and Public Administration  
Committee,  
The Scottish Parliament,  
Edinburgh,  
EH99 1SP

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25<sup>th</sup> June 2024,

Dear Kenneth,

**FINANCE AND PUBLIC ADMINISTRATION COMMITTEE MEETING – 4<sup>TH</sup> JUNE –  
SCOTLAND'S COMMISSIONER LANDSCAPE**

Following my recent appearance at the Finance and Public Administration Committee Meeting on 4<sup>th</sup> June. I advised I would respond to the points raised by John Mason MSP regarding methods of scrutiny in the Scottish Government (SG) for His Majesty's Inspectorate of Prisons for Scotland (HMIPS) and His Majesty's Inspectorate of Constabulary Scotland (HMICS) as well as any involvement SG may have in reviewing the Scottish Fiscal Commission (SFC). I have structured my response to address each of the bodies in turn.

**His Majesty's Inspectorate of Prisons for Scotland: Accountability**

His Majesty's Chief Inspector of Prisons for Scotland (Chief Inspector) is appointed by His Majesty under section 7(1) of the Prisons (Scotland) Act 1989 to carry out the functions set out in section 7(2) of that Act. HMIPS operates under the Chief Inspector who is legally independent from Scottish Ministers.

The Chief Inspector is accountable to Parliament and to the Scottish Ministers through the publication of reports, including an annual report. The Chief Inspector must also report to Scottish Ministers on the exercise of functions under section 7(2)(a)-(d) of the 1989 Act.

As set out in the Memorandum of Understanding between SG and HMIPS, the Permanent Secretary of the Scottish Government (in his role as Principal Accountable Officer for the Scottish Administration) designates the Director-General for Education and Justice as the Portfolio Accountable Officer for the budget for HMIPS.

The Portfolio Accountable Officer is personally answerable to the Scottish Parliament for ensuring that the financial and other management controls applied by the SG are appropriate and sufficient to safeguard public funds and, more generally, that those being applied by HMIPS conform to the requirements both of propriety and of good financial management.

## **HMIPS: Funding**

The allocation of resources to the Chief Inspector is the responsibility of Scottish Ministers. Finance, Human Resources and other elements including buildings, IT, etc. are provided by Scottish Government.

The budget for HMIPS is allocated from the Justice and Home Affairs Portfolio Budget and agreed by the Cabinet Secretary for Justice and Home Affairs. The HMIPS budget is subject to regular scrutiny through the Scottish Government monthly monitoring processes. Quarterly monitoring arrangements are in place and SG officials meet with the Chief Inspector as part of a sponsor relationship which recognises the statutory and independent role of HMIPS

## **His Majesty's Inspectorate of Constabulary in Scotland: Accountability**

HMICS is an independent scrutiny body. The responsibilities of HMICS are enshrined in legislation, namely Sections 71-82 of the Police and Fire Reform (Scotland) Act 2012 Act. Section 71(3) of the Act allows for the role of HM Chief Inspector to be appointed. HMICS lays its reports before the Scottish Parliament.

While there is appropriate independence from Ministers, sections 74(1) and 78 of the 2012 Act do allow for Scottish Ministers to direct HMICS to make inquiries about any matter relating to the Scottish Police Authority or the Police Service as they see fit. In practice, this legislation is engaged sparingly, with HMICS having been directed to inquire into three matters in the previous 10 years. Where such direction occurs, it is a matter for HM Chief Inspector to determine how the inquiry will be carried out, including the methodology, key findings, recommendations, and areas for improvement etc.

## **HMICS: Scrutiny**

HMICS must prepare a plan setting out priorities for inquiries to be carried out. This is currently published in the form of a 3-year Scrutiny Plan. HM Chief Inspector has complete independence in setting out this plan, with section 75(3) of the 2012 Act requiring HM Chief Inspector to "consult such persons as they consider appropriate".

Similarly to HMIPS, the budget for HMICS is allocated from the Justice and Home Affairs Portfolio Budget and agreed by the Cabinet Secretary for Justice and Home Affairs. The HMICS budget is subject to regular scrutiny through the Scottish Government monthly monitoring processes.

## **Scottish Fiscal Commission**

The SFC is a Non-Ministerial Office (NMO) and forms part of the Scottish Administration outside of government. It is directly accountable to Parliament for the performance of its functions. Being independent of government, both structurally and operationally, and appearing so, is critical to its effectiveness and credibility and follows international best practice. Therefore, it would not be appropriate for government to review it.

The SFC Act 2016 requires an independent external review of the SFC's performance against its functions every 5 years. The second review, which is currently underway by the Organisation for Economic Co-operation and Development is due for completion this October. Paragraph 19 of the Public Finance and Accountability Scotland Act 2000 also

requires the Scottish Fiscal Commission to send its accounts to the Auditor General for auditing each year, and these are laid in the Scottish Parliament.

SFC submits a multi-year funding bid to Scottish Ministers annually. Its funding needs are assessed in line with its Business Plan and the Scottish Government Strategic Approach to Budgeting and Public Service Reform exercises, to ensure that it has the resources it needs to perform its functions.

I hope this clarifies the points raised. However please be assured of my continued support should any further clarification be required.

Yours sincerely,

**Ivan McKee**