

T: 0300 244 4000
E: scottish.ministers@gov.scot

Collette Stevenson MSP
Convener
Social Justice and Social Security Committee

By email: sjss.committee@parliament.scot

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Dear Convener

Further to my letter dated 3 October 2023, I am writing to update you on the outcomes of both the review of circumstances that led to the resignations from the Poverty and Inequality Commission (the Commission) and the review of the Commission's Framework Agreement. These findings have already been shared with the participants of the review.

RESIGNATIONS REVIEW OUTCOME

The review concluded while the eventual resignation of the Chair and three of the Commissioners could have been avoided, it was not due to a single significant issue or event. Nor was it due to a failure of duty by any single person or team. It was an unfortunate convergence of a series of events that was exacerbated by a breakdown in communication, the inability to persuade participation in mediation, ambiguity around the reappointment processes in terms of roles and remit, the lack of a route by which concerns could be raised early and in confidence and wider challenging circumstances.

RECOMMENDATIONS

To help avoid a similar situation occurring in the future, the reviewing officer has made ten recommendations – some for the Scottish Government and some for the Commission.

Process

(1) The Framework Document does offer clarity on the role, remit and responsibility for the Chair, the Secretariat and the sponsor team regarding the appointment process. Though given the context outlined [by the reviewer] it would be worth considering if a meeting at the outset of the appointment or reappointment process should be convened with the Chair, Commissioners for reappointment, the Secretariat and the sponsor team to discuss the process and timeline with agreement as to who will lead on updating the Commissioners at each stage. At the outset it should be explained what reappointment would mean in terms of Ministerial and Parliamentary approval with an opportunity for the Commissioner(s) to review

and confirm if they are happy to proceed. **(The Scottish Government and the Commission).**

(2) In the case whereby a Commissioner is not being recommended for reappointment then the Chair should convene a meeting as soon as possible with the Commissioner and a member of the Secretariat to take a note. The Commissioner should be given the opportunity to respond and if appropriate make any case for that decision to be reviewed by the Chair. A time frame for doing this would be agreed at that meeting. **(The Commission).**

Communication

(3) The Scottish Government's Chief Social Policy Adviser (SGCSPA) as line manager to the Chair and the Head of Social Policy Unit as line manager to the Secretariat should develop and agree a process whereby the Secretariat can raise concerns in confidence with assurance as to how that can be handled sensitively. A process that is similar to that whereby civil servants can raise issues of concern about Ministers might be helpful. **(The Scottish Government)**

(4) Mediation as an option can only work if it can be arranged quickly and with individuals who have the right experience and expertise. The Scottish Government's People and Wellbeing Team should be approached to advise on whether a process can be agreed for mediation within 5 working days of a request being made, subject to both sides agreeing to mediation, then any further communication is paused while the mediation process is set up. Again, there is already precedence for this within the Scottish Government. **(The Scottish Government)**

Performance management

(5) At the outset of any appointment to the Commission there should be an induction session led by the Secretariat with the Chair and the Commissioners on performance management expectations. Each member of the Commission and the Chair should have a clear set of agreed objectives aligned to the purpose of the Commission. **(The Commission)**

(6) There should be a mid-year and annual conversation led by the Chair where the Commissioner should be given one month's notice to consider their own successes, their own challenges (and potential areas for improvement and support) as well as their feedback for the Chair. If appropriate a member of the secretariat could be present to take a note which will be agreed by both and held in confidence. If it's not appropriate, the Commissioner would take a note and share it with the Chair for them both to agree and sign off. Having the Commissioner take the note underlines this is not a unilateral conversation it is a shared and agreed narrative on performance. **(The Commission)**

(7) The same process would be applied between the Chair and SGCSPA. Additionally, the Chair would participate in a 360-degree feedback review once every two years. This would be led by a third party (for e.g. the Keil Centre) the participants would include the Commissioners, the Secretariat, and several stakeholders – not including the Scottish Government who would not participate. There is a well-established and regarded process within the Senior Civil Service that could be easily replicated for the role of the Chair. **(The Scottish Government)**

(8) If appropriate any Commissioner could opt-in to a 360-degree review once in their tenure and the participants would include the Chair and/or the deputy Chair, fellow commissioners,

the Secretariat, and any stakeholders– but not include the Scottish Government who would not participate. **(The Commission)**

(9) Additional time within the number of days the Chair is currently eligible for remuneration for should be considered to support this process and further thought as to whether a deputy chair could contribute and have an enhanced role in terms of supporting the Chair with the performance management, welfare, and development of the Commissioners. **(The Commission)**

Welfare

(10) My only recommendation here is to explore with the Scottish Government's People Advice and Wellbeing Team whether the reactive welfare support offered at the time was on an exceptional basis or could be a more substantive offer to the Commission going forward. If the former, then a third party should be contracted to offer this kind of support when needed for e.g. the Kiel centre. **(The Scottish Government and Commission)**

SCOTTISH GOVERNMENT'S RESPONSE

The Scottish Government, for their part, accept all of the recommendations and will ensure that appropriate steps are put in place in response. Further to this officials will work with the Commission to support, as appropriate, the implementation of those recommendations which fall to them respecting their independence from Government; statutory role and functions.

I very much welcome and echo the view of the Review which set out that 'the legacy of the Commission is not, and must not be, judged by this difficult and very unfortunate set of circumstances. It is much more appropriately defined by its significant achievements which, along with this way forward, offer a strong inheritance for the next Chair and set of Commissioners to build upon'.

REVIEW OF THE FRAMEWORK DOCUMENT

The Commission's Framework Document sets out the relationship between the Scottish Government and the Commission. A revised Framework Document¹, agreed by the Commission and Scottish Ministers, was published on 20 November 2023.

This document already partially actions recommendations one, six and seven above by providing further clarity on who is responsible for leading any reappointment discussions with Commissioners and ensuring that more robust performance appraisal systems are in place for the Chair and Commissioners.

Yours sincerely



SHIRLEY-ANNE SOMERVILLE

¹ [Framework document - Poverty & Inequality Commission \(povertyinequality.scot\)](https://www.povertyinequality.scot/framework-document)