I refer to the Committee’s invitation for comments on the Public Services Reform Bill (PSR Bill).

The SPCB’s interest lies primarily with Section 2 and Schedule 3 of the Bill. These provide Scottish Ministers with Order making powers to reorganise Scottish public bodies, including the transfer and modification of functions and the abolition of bodies under certain conditions. As drafted, Schedule 3 includes bodies supported by the SPCB amongst those to which the power to make Ministerial Orders apply.

The SPCB fully supports measures to improve public services and is committed to the sharing of services across public authorities. However, we were surprised to see the bodies we support included in Schedule 3.

As you will recall, an ad-hoc Committee (the Review of SPCB Supported Bodies Committee) was established to consider proposals for changes to the bodies we support in light of the ongoing review of the public sector landscape which reported in June 2009. In that context, we had understood the position of Scottish Ministers to be that it would not be appropriate for them to initiate proposals for change to the SPCB supported bodies as this was rightly a matter for the Parliament.

At official level we have corresponded with the Scottish Government to seek clarification on the matter and were advised that the Scottish Government did not have any specific proposals for changes to the functions or roles of the SPCB supported bodies, other than the proposed transfer of responsibilities as set out in their evidence to the RSSB Committee. The PSR Bill was submitted for consideration of legislative competence before the RSSB Committee had reported. It was as a means of keeping open the potential for recommendations by the RSSB Committee for future legislative changes to be taken forward that the SPCB supported bodies were included. A copy of the Scottish Government’s letter is attached at Annex A.

We are, of course, aware of the timing issues involved in the introduction of two Bills, and we are mindful of the need to make good use of the legislative opportunities.

In advance of making this submission, we invited comments from the SPCB supported bodies. The views of some of these bodies are attached at Annex B for the Committee’s information. We are aware that the Committee has, separately, received written evidence directly from a number of these bodies and others who assert that the proposed Order making powers could impact on, or put at risk, the independence of these bodies. This is an important issue of principle.

The Committee will be aware that all the bodies we support have been established through primary legislation, including Committee Bills establishing the Scottish
Parliamentary Standards Commissioner and the Commissioner for Children and Young People in Scotland. All are independent of Government. We consider that it is important to avoid actions which could limit or compromise that independence.

Although we understand that it could be helpful to have Order making powers to effect minor changes as and when required, for example in relation to the changes to the remit of the Scottish Public Services Ombudsman following from the Crerar Report, we would invite the Committee to consider the impact, real or perceived, on the independence of the SPCB supported bodies of Scottish Ministers having powers over these bodies. On balance we consider that the current situation, which would require primary legislation to effect changes, is preferable to reliance on the consultation requirements and order making procedures set out in the PSR Bill but we are happy to explore this further with the Committee and the Cabinet Secretary if necessary.

We also note the inclusion of the Scottish Commission for Public Audit (SCPA) in Schedule 3. While we have not consulted the SCPA, it is clearly a Parliamentary body and we would suggest similar concerns would equally apply to it being subject to Ministerial Order Making powers.

On a separate issue, we are aware that the Committee took evidence on 8 September from the chair of the Accounts Commission and the Auditor General for Scotland and noted that evidence was led to transfer the role of determining the terms of appointment of the Auditor General from the SPCB to the SCPA.

The Committee will be aware that this matter was considered by the SCPA during its Review of the corporate governance of Audit Scotland. In its report, the SCPA recommended maintaining the current arrangements. The SCPA report was also considered by the RSSB Committee as part of its recent inquiry on SPCB supported bodies. The Corporate Body would invite the Committee to consider both the Committees’ Reports in this regard.

A copy of this letter has also been sent to the Committee Clerk.

Alex Fergusson
Dear Bill

Thank you for your letter of 9 June, following our helpful meeting on 3 June to discuss the Scottish Government’s Public Services Reform (Scotland) Bill (PSR Bill).

You asked about the inclusion of the six SPCB supported bodies amongst the bodies listed in Schedule 3 of the PSR Bill and the links with the recommendations arising from the Review of SPCB Supported Bodies (RSSB) Committee.

I am not aware of the Scottish Government having any specific current proposals for changes to the functions or roles of SPCB supported bodies, other than the proposed transfers of responsibilities to these bodies identified in our evidence to the RSSB Committee. As we discussed, the PSR Bill was finalised and submitted for consideration of legislative competence before the RSSB Committee reported its recommendations. We were keen, therefore, to keep open the potential for how any recommendations by the RSSB Committee for future legislative changes might be taken forward. Ministers have indicated that they will consider Stage 2 amendments to the PSR Bill in light of Parliament’s consideration of the RSSB Committee report.

It may be helpful if I provide some further general clarification on the proposed order making power within Part 2 of the PSR Bill. The primary purpose of the order making power is to help public bodies better deliver their public functions. Section 10 of the PSR Bill will allow Ministers, subject to certain pre-conditions, to seek Parliament’s approval for a legislative change to modify, transfer, add to or abolish the existing functions of public bodies listed in Schedule 3 of the Bill, which would improve the delivery of public services, having regard to efficiency, effectiveness and economy. Any proposed order through Section 10 of the PSR Bill must be subject to prior consultation with all relevant interests and would require affirmative approval by the Scottish Parliament. In all cases, it would be for Parliament to determine whether Section 10 was an appropriate and proportionate mechanism for making and scrutinising a proposed change to the functions of a public body listed in Schedule 3.
The order making power would provide a consistent and transparent process for Parliament to consider changes to the existing functions of public bodies and avoid situations where such changes are either delayed or do not progress because of the lack of a suitable primary legislative vehicle. As noted in the supporting documents to the Bill, the need to respond quickly to changing circumstances is particularly important in light of tightening budget settlements and the requirement for more efficient and co-ordinated public services.

As reflected in the Government’s evidence to the RSSB Committee and the Committee’s final report, there are circumstances where proposed improvements to the efficient delivery of public functions will impact on the relative statutory responsibilities of both Government and SPCB supported bodies, for example where functions might transfer from one body to another. The inclusion of both Government and SPCB bodies within Schedule 3 of the PSR Bill would, potentially, allow for such changes in future to be proposed and considered using the order making power.

Ultimately, any proposal to modify the statutory functions of a public body, whether through primary or secondary legislation, is subject to scrutiny and approval or rejection by Parliament.

As we discussed, we acknowledge fully that the SPCB and individual bodies will have an interest in considering the proposed operation of the Section 10 order making power and the potential inclusion of the SPCB supported bodies within the list bodies to which an order might apply. We are happy to discuss this matter further with you and, if necessary, with individual bodies to ensure that any relevant issues are taken into account during the consideration of this element of the PSR Bill.

I am happy for this letter to be copied to SPCB supported bodies. We also agreed that it would be helpful for SPCB officials and the Bill Team to remain in regular contact on this and any other relevant issues as the PSR Bill progresses.

Yours sincerely

NEIL RENNICK
Public Services Reform (Scotland) Bill Team
Email from Scotland’s Commissioner for Children and Young People

The overarching concern is the shift in the balance of power over SCCYP from the Parliament to the Government that Part 2 of the Bill effects. SCCYP supports the model that Parliament embarked on when it passed the Commissioner for Children and Young People (Scotland) Act 2003. This established the office in functional independence from Government and accountable to the Scottish Parliament, in line with the Paris Principles (the United Nations’ Principles relating to the Status of National Human Rights Institutions) in this respect. The Review of Scottish Parliamentary Corporate Body-Supported Bodies (RSSB) Committee’s recent inquiry report reaffirmed the current arrangement by retaining the SPCB as the sponsoring body for the ‘parliamentary’ commissioners (recommendation 1). In SCCYP’s view, the proposed ‘enabling power’ would create tensions with regard to the Paris Principles and is not consistent with the RSSB recommendation.

SCCYP is aware that the Bill Team are of the opinion that Part 2 provides sufficient safeguards for public bodies listed in Schedule 3, which includes SCCYP. However, SCCYP does not share that view. The Bill requires consultation with officeholders, stakeholders and the general public; consultation may be dispensed with if there had previously been consultation. SCCYP understands that the RSSB inquiry could be argued to satisfy the requirement to consult in relation to structural changes to SCCYP. The Bill provides that no ‘necessary protections’ may be removed by an order made under the powers in Part 2 of the Bill. There is no stated consensus that the promotion and safeguarding of human rights, and children’s rights specifically, is a ‘necessary protection’ and in SCCYP’s view it is critical that bodies that are charged with the promotion and safeguarding of rights enjoy the protection offered by the full parliamentary process. Yet, under the ‘enabling power’ in Part 2 of the Bill, parliamentary scrutiny of any proposals for change and abolition of human rights institutions is reduced to a minimum. For instance, SCCYP understands that under the process that the Bill provides for, limited parliamentary time spent will be spent on making decisions that may have major impacts on the human rights protections that are available to the most vulnerable people in Scottish society.

SCCYP was established by means of the Commissioner for Children and Young People (Scotland) Act 2003, a Committee Bill that was brought forward after an extensive parliamentary inquiry into the need and feasibility of such an office. This rather illustrates the point – detailed consideration of often complex issues is required to make decisions about the structures and processes that are needed to promote and safeguard the rights of children and young people in a modern Scotland. The power and process provided for in Part 2 of this Bill breaks with these important principles and shifts the balance of power over Scotland’s independent human rights institutions from Scottish Parliament to the Scottish Government.

For these reasons SCCYP considers this move inappropriate and will urge Scottish Government remove SCCYP from the list in Schedule 3.
Dear Janice

Thank you for the opportunity to comment on the Public Services Reform bill.

We have been in touch with the other Commissioner bodies and the Ombudsman about the bill. Some of them have serious concerns about the level of power this bill will give the Government. I understand they are concerned that material changes could be made to our structures without proper parliamentary scrutiny or due consideration of our founding legislation.

We have reviewed the bill and taken some initial legal advice which we have shared with the other bodies. This is below. At this stage, we have no comments to make on the bill. However, we will monitor its progress and will continue to liaise with the other bodies.

Legal Advice on Public Service Reform Bill
You have raised with me the provisions in Part 2 of the Public Services Reform (Scotland) Bill which if passed by Parliament would appear to grant Scottish Ministers wide-ranging powers to reorganise Scottish public bodies, including transfer and modification of functions, and abolition of bodies under certain conditions, by order (s.10). The list of bodies that are to be subject to this power includes the current parliamentary commissioners/ombudsmen (schedule 3).

Other parliamentary commissioners/ombudsmen have indicated some concern to the Office regarding the extent and impact of these proposals as they did not anticipate the Scottish Government taking such powers over bodies that were to be overseen by the Parliament.

You have asked me to provide views on the current drafts of the proposals in light of the fact that the Scottish Ministers already have extensive powers under the Act which set the Commissioner's office (which include in summary amending the list of bodies with OCPAS regulates; adding/removing any function of OCPAS in relation to regulated bodies where it considers it appropriate)

Drafting of the 2009 Bill
Section 10 is very widely drafted. It provides the Ministers with an ability by order to abolish bodies, create them, merge them, changes their functions entirely - by deletion/addition. In most cases this will require amendment of primary legislation (presumably of both the Scottish Parliament and the UK Parliament given the historic nature of some of these bodies). Though Ministers of course have the power to amend primary legislation of both Parliaments already any amendment in this instance would be by secondary legislation (order). On the face of it this seems an incredibly wide and unfettered power - more so because it is being achieved by secondary legislation that can often lack of the full scrutiny of primary legislation. I would expect it is this issue of lack of Parliamentary scrutiny perhaps that has raised unease in practice. The fundamental point about Commissioners for example reporting to Parliament yet having their functions amended by Ministers is a longstanding issue. However I think it is accepted as appropriate for
Ministers to retain some ability to change the nature of these bodies but subject to clear justification/accountability and debate through Parliament.

The potential concern here then (to my mind) is whether the accountability to Parliament/Parliamentary scrutiny of Ministers influence/control of these bodies is sufficient and appropriate in the public interest.

There are three ways that the Bill would constrain Ministers in this regard:

1. **Section 12 "preconditions"** - Ministers can only make provisions within any order that (in summary) - (i) need to be achieved by legislation rather than policy; (ii) proportionate to the policy objective (iii) strike a fair balance between public interest and adversely affected parties; (iv) don't remove necessary protections; (v) don't prevent any person from continuing to have a right or freedom where they would expect to have this.

2. **Sections 20 and 21** - Ministers can only make an order if (i) they have consulted organisations that represent interests of those substantially affected; if they have consulted those persons, bodies, officeholders whose functions may be under review; if they have consulted the Scottish law Commission and any other "appropriate" persons. Ministers are also required to further consult if, as a result of consultation first time around, it would be appropriate to amend the proposals. (ii) The draft of the order must also be debated and positively approved by Parliament. These sections offer better protection/opportunity for scrutiny. The effect is (almost) to create an equivalent process for primary legislation where a draft bill is published, consulted upon, evidence is taken and considered in detail and debated by Parliament. However ultimately this is a more (and is of course intended to be so!!) streamlined process and does not offer quite the same process as any changes that might be effected by way of a Bill than an order. However the fact that any order must be published in draft, consulted upon and debated by Parliament should provide a reasonable degree of transparency and scrutiny to give comfort to any current Commissioner/officeholder that there will not be undue interference 'by the back door'.

3. **Section 22 - Explanatory Documents** - when laying any draft order for debate, Ministers must provide an explanatory document which gives reasons for the amendments, how they would improve the exercise of public functions and give details of the consultation and responses given. The requirement to publish such content in a Parliamentary document helps to put reasonable pressure on Ministers to justify their policy and to ensure that any consultation undertaken is not simply "window dressing".

**Conclusion**

The whole concept for this bill is to allow Ministers to effect change to public bodies in Scotland in a more rapid and streamlined fashion taking less Parliamentary time up - particularly when many changes may be reasonably non-controversial. However the corollary of course is that changes which may well be controversial will equally be dealt with through this new streamlined process which inevitably lessens the amount of scrutiny they will receive by Parliament and probably stakeholders (it is understandable that more people give recognition to "bills" than draft "orders").
However the process explained above does embed a number of reasonable procedural safeguards in the system for proposals which are more fundamental and far-reaching. Interestingly enough OCPAS like other statutory bodies has, in their founding statute, the ability to have its functions amended by Ministers. Although orders to amend OCPAS functions at present also require positive debate/resolution of Parliament they do not require the other safeguards eg statutory consultation etc that the new Bill proposes. The litmus test will be how Ministers actually propose to manage and draft these orders and conduct consultations in practice. Whilst I understand the anxiety around what appears to be a wide reaching power of this nature (section 10) in practice I believe that what is proposed are reasonable safeguards in the instance. However I would urge the Commissioner to keep the Bill and these provisions under review to ensure that the current safeguards are not diluted in any way to reduce scrutiny

Kind regards, Karen
Scottish Human Rights Commission

While the Scottish Human Rights Commission welcomes the purpose of the Public Services Reform (Scotland) Bill (PSR Bill), we are concerned that bodies such as the Commission which have their independence from the Scottish Government protected by statute are included within the scope of the PSR Bill.

The Commission welcomes the purpose of the PSR Bill, which is:
“to help simplify and improve the landscape of Scottish public bodies, to deliver more effective, co-ordinated government that can better achieve its core functions for the benefit of the people of Scotland.”

This purpose links closely with one of the strategic priorities of the Commission which is to use human rights based approaches to increase the ability and accountability of Scottish public bodies with responsibility for fulfilling rights. The Commission will be doing this at the local as well as the national level. The use of a human rights based approach ensures that better decisions are made and public bodies function more effectively.

The Commission was established by Act of the Scottish Parliament in 2006. In creating the Commission the Scottish Parliament followed the best practice for the creation of a National Human Rights Institution set out in the United Nations Principles relating to the status of national institutions - the “Paris Principles”.¹

In order to be recognised internationally as a legitimate National Human Rights Institution, the Commission will be evaluated according to the Paris Principles. The Commission may also be re-evaluated if a change in the legislative framework affects independence from Government in the future.

The Paris Principles provide that a National Human Rights Institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text. In June 2009 interpretive guidance was issued for bodies wishing to be accredited at compliant with the Paris Principles. This guidance provides that creation by an instrument of the Executive is not adequate to ensure permanency and independence.²

The Paris Principle place a great deal of weight on independence. The Scottish Commission for Human Rights Act 2006 guarantees the Commission’s independence, setting out that the Commission in the exercise of its functions, is not subject to the direction of the Scottish Parliament or the Scottish Executive.³ The accountability mechanisms built into the Act provide for direct accountability to the Scottish Parliament. The complete independence from the Scottish Government provided for by the Act is the best way to ensure the Commission can fulfil its function as a National Human Rights Institution. The Commission has recently applied for accreditation as compliant with the Paris Principles. The

³ Paragraph 3, Schedule 1 to the Scottish Commission for Human Rights Act 2006
delegation of authority to Scottish Ministers of order-making powers that could fundamentally change the Commission would undermine this independence and may affect the Commission’s application for accreditation.

Section 10(1) of the PSR Bill confers order-making powers on Scottish Ministers which would allow them to make changes to public bodies in the pursuit of ‘effectiveness, efficiency and economy’. Provisions include modifying, conferring, abolishing, transferring, or providing for the delegation of any function or amending the constitution of, or abolishing, a person, body or office-holder listed in schedule 3.

The Scottish Government sets out that the reason for seeking this power in the Delegated Powers Memorandum:

“14…public functions and responsibilities are sometimes for historical reasons enshrined in legislation or established by royal prerogative in the case of chartered bodies. If primary legislation is needed, this makes any change not only dependent on the legislative process but also on finding legislative time which may not be possible or may be subject to a wait of years. “(emphasis added)

While an order could only be made subject to the approval of Parliament, the stated purpose of this provision is to reduce the amount of Parliamentary scrutiny on future changes.

The wide scope of the powers delegated to Scottish Ministers under section 10 may be appropriate for bodies that are accountable to Scottish Ministers, but they are not appropriate for bodies which have their independence from Scottish Ministers protected by statute. They are particularly inappropriate for our Commission which secures its legitimacy not only from the Act of the Scottish Parliament which created it, but also from its international accreditation and place within the UN human rights system.

The Scottish Government has stated that it currently has no intention of bringing any order in relation to the Commission. The Scottish Government has also referred to the preconditions under section 12, requirement for consultation under section 20 and 21 and for explanatory documents under section 22 as possible safeguards. However, the delegation of powers to Scottish Ministers would in itself undermine the independence of the Commission.

Subordinate legislation is necessary for some technical matters in relation to the Commission. For example the Scottish Commission for Human Rights Act 2006 provides for Her Majesty by Order in Council to add additional international instruments to the scope of the Commission’s inquiry functions. However, the proposed order-making power in the PSR Bill is so broad in scope that it would allow Scottish Ministers to bring forward an order modifying or abolishing the Commission.

The Cabinet Secretary for Finance and Sustainable Growth gave evidence to the Review of SPCB Supported Bodies Committee on 7 December 2008:
“The clear distinction between the powers of the Executive and the Parliament must be properly recognised in meeting the essential requirement of ensuring that public concerns are properly and dispassionately considered, free of any relationship with the Government. That point of principle helps us to understand the distinction between those parts of the scrutiny process that are properly the preserve of the Government to change and those that are more appropriately the preserve of the Parliament. The distinction is clear.”

http://www.scottish.parliament.uk/s3/committees/rssb/or-08/rssb08-0202.htm

In its letter of 16 June 2009 the Scottish Government sets out that there may be circumstances where proposed improvements to the efficient delivery of public functions will impact on the relative statutory responsibilities of both Government and SPCB supported bodies, for example where functions might transfer from one body to another. It suggests that the inclusion of both Government and SPCB bodies within Schedule 3 of the PSR Bill would, potentially, allow for such changes in future to be proposed and considered using the order making power. However, the provisions as currently drafted provide for very broad powers, not just the transfer of additional functions.

In its letter the Scottish Government states that:

“The PSR Bill was finalised and submitted for consideration of legislative competence before the RSSB Committee reported its recommendations. We were keen, therefore, to keep open the potential for how any recommendations by the RSSB Committee for future legislative changes might be taken forward. Ministers have indicated that they will consider Stage 2 amendments to the PSR Bill in light of Parliament’s consideration of the RSSB Committee report.”

Given that the RSSB Committee recognised the need to remain compliant with the Paris Principles throughout the inquiry4 the Commission considers that it would be appropriate to seek an undertaking from the Scottish Government that the Commission be removed from the list of bodies set out in Schedule 3 to the PSR Bill.

4 August 2009

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4 Paragraph 224, 1st Report 2009 (Session 3), Review of SPCB Supported Bodies Committee (SP Paper 266)
Letter from the Scottish Information Commissioner

Dear Janice

Public Services Reform (Scotland) Bill

Thank you for your email of 22 July, asking for my comments on any concerns I have relating to the Public Services Reform (PSR) Bill, currently at Stage 1 before the Finance Committee.

I am currently considering my response to the Committee’s call for evidence, and am happy to share my thinking to date with you. I am meeting with Bill Thomson and Huw Williams on 11 August, which will provide an opportunity to discuss issues further, and I will finalise my submission to the Finance Committee after that meeting.

I intend to restrict my comments to Part 2 of the PSR Bill, which proposes new order making powers for Scottish Ministers with respect to those bodies set out in Schedule 3 of the Bill – which currently includes the Scottish Information Commissioner as well as other SPCB supported bodies.

In summary:

- I support the principles of clarity, efficiency and effectiveness in the public sector generally, and recognise that the PSR Bill seeks to achieve these for public bodies for which Ministers have responsibility.

- I do not seek to exclude my office from scrutiny and the possibility of change, but I contend that the PSR Bill is not the appropriate route for this.

- The Review of SPCB Supported Bodies (RSSB) Committee considered the governance, structure and performance of SPCB supported bodies at length.

- My understanding is that it was the intent of Ministers and Parliament that a Committee Bill, resulting from these deliberations, was the correct route for dealing with any necessary changes to SPCB supported bodies.

- Indeed the Committee’s recommendations for the Committee Bill make provision for the type of changes that the PSR Bill anticipates, and for which the order making powers in Part 2 of that Bill are intended.

- Including SPCB supported bodies within Schedule 3 of the PSR Bill appears therefore to be anomalous, and may in fact contradict the strengthened role of the SPCB which underpins many of the Committee’s recommendations.

- There are three further reasons why inclusion of the Scottish Information Commissioner in Schedule 3 could be detrimental to Scotland’s FOI regime:
  - The enforcement provisions of FOISA were deliberately drafted in such a way that they are embodied by a Commissioner who is independent of
Ministers, for the purposes of exercising those functions. Introducing powers for Ministers to amend these functions by order would undermine this founding principle.

- By their nature, statutory instruments require less parliamentary scrutiny than primary legislation. I do not believe that 40 days is sufficient time in which to consider changes which may have far reaching implications for Scotland’s FOI regime.

- 27% of appeals to my office, since January 2005, have concerned Scottish Ministers, the Parliament, SPCB and non-ministerial office holders. It is important that the public remains confident that the Commissioner operates without direct influence or control, if they are to continue to exercise their right to appeal.

- In response to assurances which have been offered about the potential use of order making powers, they are of course welcome, but I offer the following comments:
  - Assurances that there are no plans by the current Government to make changes to my office do not alter the fact that such order making powers would allow future administrations to direct or control the structure and functions of the Scottish Information Commissioner;
  - The provisions for preconditions and consultation prior to the laying of any orders could not, in my view, ensure that scrutiny of fundamental changes would equal that afforded to primary legislation. For example, Ministers could determine that consultation be waived.
  - I am also of the view that safeguards such as a power of veto for the SPCB in relation to orders brought under Part 2, would not be sufficient to ensure proper scrutiny.

In conclusion, I am minded to suggest that SPCB Bodies, and specifically the office of Scottish Information Commissioner, be removed from Schedule 3 of the PSR Bill.

I look forward to the opportunity to discuss these matters with Bill and Huw on the 11 August. I would welcome a copy of any representation that the SPCB makes to the Finance Committee in due course.

Yours sincerely
Kevin Dunion
Scottish Information Commissioner
Email from the Scottish Parliament Standards Commission

Dear Janice,

I refer to our conversation earlier today in regard to the Public Services Reform Bill.

As you know, I am an advocate of the mergence of the posts of Chief Investigating Officer and Scottish Parliamentary Standards Commissioner and am content that the SPCB Supported Bodies Committee’s report recommends that and that there is a commitment to a Committee Bill to give effect to that recommendation (among other measures).

In so far as the post of Standards Commissioner is concerned, I think that is the correct approach. He is appointed by the Scottish Parliament and his functions relate to the regulation of conduct of members; he is accountable to the Scottish Parliament not the Scottish Government. The principal responsibility of deciding on the need for the post (or otherwise) should be that of the Parliament and a Committee Bill seems to me to be a constitutionally apposite way of addressing proposals for change.

I do not consider that the post should be included in the bodies listed in schedule 3 of the Public Services Reform Bill as it should be for Parliament to consider change by specific legislation rather than by Ministerial order (no matter the statutory pre-requisites and the provisions requiring Parliamentary approval of the order).

Having said that, I should make it clear that - and I think this reflects the principle of this approach - that the post of Chief Investigating Officer who is appointed by and is accountable to Government can properly be included in schedule 3.

I appreciate that what I am saying means that, if that is accepted, the amalgamation of the posts of CIO and Standards Commissioner could not be effected under the provisions of the Public Services Reform Bill but I consider that principle has to be given greater weight over convenience. In any event as I have already said, the proposed Committee Bill will provide the appropriate vehicle for promoting this change.

I further appreciate that the principle of what I am saying also has implications in relation to other postholders who are also appointed by and accountable to Parliament.

I hope you find these comments constructive. If you wish any further comments, please do not hesitate to get back in touch.

Kind regards.

Stuart.