Dear Alex

The Standards, Procedures and Public Appointments (SPPA) Committee has been following with interest the progress of the Public Services Reform (Scotland) Bill given Schedule 3 of the Bill includes the Scottish Parliamentary Standards Commissioner (‘the Standards Commissioner’) and the Office of the Commissioner for Public Appointments Scotland (OCPAS). The functions of both the Standards Commissioner and OCPAS fall within the remit of the SPPA Committee and the Committee provided written evidence to the Finance Committee at Stage 1 on the possible implications of the Bill on these two Commissioners.

I note that at Stage 2 amendment 48 was agreed to by the Finance Committee and that, as a result, Scottish Ministers may not propose to make provision under Section 10 or 13(1) in relation to the Standards Commissioner or OCPAS unless requested to do so in writing by the SPCB. This amendment also provides that Scottish Ministers may not lay a draft order containing such provision before the Scottish Parliament without SPCB consent. I am aware that this amendment may have come about as a result of correspondence between the SPCB and the Cabinet Secretary for Finance and Sustainable Growth (on 18 December 2009 and 22 January 2010).

The Standards Commissioner’s Act reflects the desire of the Parliament to have all complaints against MSPs handled in an independent and transparent way. It would be helpful if any changes to the way in which such complaints are considered are proposed in an equally transparent way. In addition any changes to the Standards Commissioner’s Act (including those made by way of a SPPA Committee direction or Parliamentary Determination) may require changes to the Code of Conduct which can only be proposed by the SPPA Committee.

The SPPA Committee would expect therefore that, in relation to the Standards Commissioner or OCPAS, any changes to their functions (which are to be the
subject of a Scottish Government Order) would be initiated by or through the SPPA Committee as is presently the case. This would enable the SPPA Committee to consider all the implications of any proposed change including any impact on the Code of Conduct or other matters within the SPPA Committee remit. As a result of its consideration the Committee would be able to report on any detail it might expect any subsequent order to contain.

I would welcome confirmation from the SPCB that the Committee’s expectation accords with the views of the SPCB on how it sees amendment 48 being implemented. It would be helpful, if when responding, the SPCB could set out any further detail on how it envisages this procedure working in practice, particularly in relation to SPCB consent to the laying of draft Orders under section 20(2)(b)(i).

I would be grateful if the SPCB could provide any comments by 19 February in order that they may be considered by the Committee at its next meeting and in advance of the Stage 2 completion deadline of 12 March.

Yours sincerely

Gil Paterson MSP
Convener
Standards, Procedures and Public Appointments Committee