

Crown Office and Procurator Fiscal Service

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Your ref:

Our ref: JAD

23 December 2015

Dear Ms Baxendine

Thank you for your letter dated 24 September 2015 to the Crown Agent regarding Members' Interests and referral to the Procurator Fiscal. I am the Procurator Fiscal who receives the reports about potential criminal offences under the Interests of Members of the Scottish Parliament Act 2006 (the 2006 Act) and have therefore been asked to respond to your letter.

You have asked that we give consideration to an amendment to the 2012 Directions to the Commissioner for Ethical Standards in Scotland to allow more discretion about referral to the Procurator Fiscal of breaches of the 2006 Act. I have now had the opportunity to discuss the issues raised in your letter with the Lord Advocate.

It may be helpful if I outline that where a case alleging criminality against an MSP under the 2006 Act is reported to me, I may ask for further inquiries to be carried out before I report the case to Crown Counsel, the most senior lawyers in Crown Office who will make the final decision on whether action should be taken in any case. This procedure demonstrates how seriously COPFS takes such allegations against MSPs. It is considered that this level of scrutiny by the independent prosecutor is important to ensure that there is the utmost transparency in relation to allegations of criminality against MSPs. Therefore it is not considered that it would be appropriate to amend the 2012 Directions to the Commissioner from the Committee to remove the step of reporting to the Procurator Fiscal.

I have been in discussion with the Commissioner to ensure that decisions in these referrals are taken by COPFS in good time commensurate with the need to carry out any necessary further investigations.

I hope that this information is helpful

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J A Dunn', with a horizontal line underneath.

J A DUNN
Procurator Fiscal, East of Scotland