

Mr John McCormick
Chairperson
The Commission Secretariat
Room CG.07
The Scottish Parliament
Edinburgh EH99 1SP

13 February 2017

PARLIAMENTARY REFORM

Dear Mr McCormick,

I would like your Committee to look into the inability to review advice given to the Presiding Officer about the competence of proposed legislation.

In 2014, while making enquiries on the Air Weapon Bill as it was then, the Cabinet Secretary for Justice informed me that the Presiding Officer received 'robust advice' on the subject. When I asked the Presiding Officer for a copy of this advice, she refused, stating that doing so might inhibit future submissions.

I repeated my request, and when this failed, I took the matter up with the Freedom of Information Commission. Sadly the Commissioner supported the withholding of information citing that it comes under attorney/client privilege.

I believe that the attorney/client relationship does not apply because the Presiding Officer's request was not personal but made on behalf of the people of Scotland. While in no way wishing to imply any improper behaviour of either the then Presiding Officer or her counsel, the lack of available scrutiny leaves important questions unanswered, e.g.:

Was the advice complete?

Was it accurate?

Was it taken?

The only way to answer these questions is via Judicial Review, which is beyond the resources of all but a very small percentage of the population. This, in turn, means the current system may facilitate criminal and/or ideological corruption.

Making given advice open to review would demonstrate that not only Presiding Officers but also their advisors carry out their appointments competently and faithfully. If advice proved incomplete/incorrect, it would make amending a Bill before putting it to a vote easier.

Would allowing verification of received advice not provide an opportunity for Holyrood to cultivate the confidence of the electorate?