

Alison Johnstone MSP
Presiding Officer
The Scottish Parliament

By email: presidingofficers@parliament.scot
cc: SPCBsecretariat@parliament.scot

8 November 2021

Dear Presiding Officer

Freedom of assembly and association at the Scottish Parliament

Thank you for your letter of 11 October in which you responded to concerns raised in our letter of 29 September regarding the recent alteration to the status of the Scottish Parliament building and its grounds. We appreciate your response to our concerns and would like to take this opportunity to obtain some clarification in order that we can better understand the potential human rights impact of this change.

We appreciate that in your view the re-designation of the Parliament and its grounds as a protected site “will have no bearing on campaign groups, trade unions and other organisations or individuals who protest in a robust but peaceful way at Holyrood”. However, the re-designation means that anyone who enters the Parliament or its grounds “without lawful authority” will be committing a statutory offence under the Serious Organised Crime and Police Act 2005 (“the Act”), and thereby be at risk of a maximum sentence of 1 year in prison and/or a £5,000 fine. That is a significant change which could potentially impact on many people.

While you have advised that “the powers this provides will only be used in exceptional cases,” it remains unclear how someone, or some group,

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is to know if they have lawful authority or not. We would especially like to clarify whether the position under the Act is that people have lawful authority to be on the Parliament grounds unless and until SPCB notifies Police Scotland that they do not have such authority. In your letter, you reference “very disruptive or dangerous activities which impede the Parliament’s democratic role, the safety of those working in or visiting the Parliament or the rights of others to engage with the Parliament.” It is unclear whether this is the test being adopted by SPCB in terms of notifying Police Scotland that those involved in such activities do not have lawful authority, thereby triggering the potential use of powers under the Act. We would therefore welcome more information on the intended approach.

You have referred to having been in discussion with Police Scotland over a period of time to agree a protocol for the exercise of the powers. Please could you provide us with a copy of that protocol, or direct us to where it has been made public?

The above points of clarification will help us to better assess what the human rights implications of the change may be.

With thanks in anticipation of your response.



Kavita Chetty
Head of Strategy and Legal

On behalf of the Scottish Human Rights Commission

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