Cabinet Secretary for Social Justice, Communities and Pensioners’ Rights
Alex Neil MSP

T: 0300 244 4000
E: scottish.ministers@scotland.gsi.gov.uk

Ms Alison Johnstone MSP
The Scottish Parliament
EDINBURGH
EH99 1SP

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Dear Alison,

Thank you for your letter of 16 February addressed to the Minister for Local Government and Community Empowerment. You ask several questions arising from the story that appeared in the press regarding the ownership of Parliament House, High Street, Edinburgh, currently the home of the Court of Session. Perhaps it would be helpful if, at the outset, I set out the history of Parliament House.

History

Parliament House has a long history. The oldest part of Parliament House is Parliament Hall which was built at the request of Charles I in 1632 to house the Parliament, the Court of Session and the Privy Council. It was paid for by Edinburgh Town Council. After the Act of Union in 1707 Parliament House (Hall) was used almost exclusively as the Court of Session with the Laigh Hall (or lower Hall) being used by the Faculty of Advocates. In the Early 19th Century, around the same time as the Town Council is understood to have handed over responsibility to the Crown for the upkeep of the building, improvements to the accommodation of the court began.

Initially this included the expanding into the neighbouring Treasury Chambers. Following the Great Fire of 1824 further expansion took place. Surrounding private buildings were bought up by the Crown. In 1852 the current Parliament House complex (which comprises a series of interlinked properties including the original Parliament Hall) was vested in the Commissioners of Public Works by virtue of section 4 of the Commissioners of Works Act 1852. The statutory successor to the Commissioners was the Secretary of State for the Environment and then the Scottish Ministers on devolution.
1852 Parliament House would have included the areas of courts 1, 2, 3, 9, 12, 13, 14, the
tall and the Exchequer building on the North East corner of the Square (now the judicial
library). The land for courts 4 & 5 was bought from the Union Bank in 1880 and the land for
courts 6, 7 and 8 was bought from the Council in the 1970s & 80s.

Concerning the questions raised by you:

Confirmation of the role of the Scottish Government in the registration of Parliament
House in the name of the Scottish Ministers.

Prior to the beginning of a major refurbishment project of Parliament House, officials within
the Scottish Government undertook extensive research to put beyond doubt what Parliament
House fully comprised. Specifically, they commissioned Millar and Bryce, an independent
arch company, to undertake a search of the Register of Sasines; they examined relevant
islation including the effect of Commissioner of Works Act 1852; and they contacted all
those who may potentially have had an interest, including City of Edinburgh Council.

Knowledge of the Scottish Government at the time [of registration] about the
ownership of Parliament House.

The research undertaken by officials indicated that Scottish Ministers owned Parliament
House but, in the absence of one clear title deed (with a plan), it was not possible to
establish the precise boundaries of the land, and in particular how the land purchased
between 1825 and 1852 relates to Parliament House today. It was for that reason that they
took the precaution of registering their title.

Confirmation of the recent reports that Parliament Hall was a part of the common
good property of the city.

The history set out above indicates, in 1852 the buildings forming Parliament House at the
time, including the original Parliament Hall, were vested in the Commissioners of Public
Works by virtue of section 4 of the Commissioners of Works Act 1852. The statutory
cessor to the Commissioners was the Secretary of State for the Environment and then
Scottish Ministers on devolution. If Parliament Hall was part of the common good
property of the city it ceased to be so at that time (1852).

Whether the legal status of the land and buildings retains any common good status
despite the 2006 voluntary registration in the name of Scottish Ministers.

The Commissioners of Works Act 1852 transferred ownership of Parliament Hall to the
Scottish Ministers were entitled to register a title in 2005. In
amination, the Keeper issued a Land Certificate without exclusion of indemnity which has the
right of the Keeper having to indemnify a proprietor who suffers a loss as a result of the title
being successfully challenged. Any question regarding the legal status of Scottish Ministers'
registration is therefore for the Keeper in the first instance.

Grounds and reasons for parts of the building being subsequently transferred to the
ownership of the Faculty of Advocates?

Until the interior of Laigh Hall, which sits beneath Parliament Hall, was transferred by
Scottish Ministers to the Faculty of Advocates in 2006. Title was transferred due to the fact
the Faculty has occupied the property since the early 18th Century and is responsible for
maintenance and upkeep. The Faculty is restricted by its title to using the Hall as a
library and study area for members of Faculty.
Could the current Scottish Government be open to transferring title back to the common good if it is established that Parliament House was a common good asset? It was transferred by Scottish Ministers to the Scottish Court Service, an independent body corporate led by the Lord President, in 2010. However, in response to your FMQ on 19 February, the First Minister suggested that the Council might meet Mr Biagi to discuss the matter. A meeting has yet to be arranged. I also understand that in consequence of a decision passed by the Council on 24 February the Chief Executive has now written to the permanent Secretary.

Community Empowerment Bill

The Community Empowerment Bill will require local authorities to carry out a public consultation before publishing a list of their common good property, and to consult communities in the area before any disposal or change of use of any common good asset. This will allow people to be aware of what is held for the common good, to highlight any property they believe to be common good which the council may not have listed, and to have their views known before any proposed changes take place. The timescale for completing the register will be set once the Bill is passed, but I do not expect it to take long for any local authority to publish the list of common good property that they should already have.

Local authorities are responsible for the management of their Common Good Funds and other common good assets. In performing this and their other functions local authorities are under statutory duties to deliver Best Value and to observe proper accounting practices. Any failure in this regard would be a matter for audit.

ALEX NEIL