

FOI reference number: 202300380839

- Letter from First Minister to Fiona Duncan - revised ministerial appt terms.
- Letter from Deputy First Minister to LK

Rt Hon Nicola Sturgeon MSP

First Minister of Scotland

St Andrew's House, Regent Road, Edinburgh EH1 3DG T: 0300 244 4000

29th August 2022

Dear Fiona,

Invitation to Accept Revised Appointment as Independent Strategic Advisor for the Promise

I am writing to invite you to accept the revised terms of your appointment as Independent Strategic Advisor for the Promise. This appointment commenced in May 2020 and will end in May 2025 unless you are reappointed subject to you providing satisfactory evidence of your right to work in the United Kingdom and evidence of that continued right as may be reasonably requested from time to time, and the terms and conditions set out in Annex A to this letter.

For the avoidance of any doubt, this invitation is made on the basis that your appointment will not give rise to any contractual relationship between you and Scottish Ministers and/or the Crown, and by acceptance you agree to that condition.

I am clear that under this appointment you are to operate independently of the Scottish Government. In particular, I welcome your continued role challenging existing and future government policy as you support Scotland to keep The Promise.

I give you the assurance that the Scottish Government will continue to provide The Promise Scotland with the necessary resources to effectively discharge its responsibilities.

I should be grateful if you would confirm in writing your willingness to accept this appointment on the above terms by signing and dating the box provided on the final page of Annex A. Please return the completed originals to:

Gavin Henderson
St Andrews House
2 Regent Road
Edinburgh
EH1 3DG

A Duplicate of Annex A is also enclosed which you may wish to keep for your records. If you have any questions, please contact Gavin Henderson.

NICOLA STURGEON

1. Status

1.1 Subject to Clause 1.2 you are appointed as Independent Strategic Advisor for the Promise. As part of your appointment you will undertake the role of Chair of The Promise Scotland. You will operate independently of the Scottish Government. These terms and conditions amend your original appointment from May 2020 and will take effect from 1 September 2022. In these terms and conditions, except where stated, “you” and related expressions refer to the holder of that appointment.

1.2 It is a condition for the duration of the appointment that you notify the Scottish Ministers immediately if you no longer have a right to work in the United Kingdom.

1.3 You are not a servant or agent of the Crown or a civil servant, and do not have any status, immunity or privilege of the Crown.

1.4 The terms are not to be construed as constituting a contract of employment or service, or a contract for services between you and the Scottish Ministers or the Crown.

2. The Terms

2.1 The terms are to be read in a way that is consistent with any enactment. If such a reading is not possible, the terms do not apply to the extent that they are inconsistent with any such enactment.

2.2 Where relevant, statutory terms, conditions and other requirements of your role also apply to you.

3. Functions

3.1 Specific functions may vary but, unless otherwise agreed, you will:

Strategy – Independent Strategic Advisor for the Promise:

- Setting the strategic direction and culture to ensure the Independent Care Review’s conclusions are fully realised by 2030;
- Where appropriate, represent work to #KeepThePromise;
- Maintain and develop strategic relationships with key organisations to drive change consistent with realising the vision of the Independent Care Review

Delivery - Chair of The Promise Scotland:

- Provide strategic direction and mentoring to The Promise Scotland to drive delivery consistent with the vision of the Independent Care Review;
- Maintain and develop strategic relationships with key organisations to ensure The Promise Scotland can deliver its dual functions;
- Work with the Chief Executive of the Promise Scotland to devise, develop, maintain and refresh the strategic change model of The Promise Scotland through structured planning and budgeting cycle;
- Lead appointment of the Chief Executive and other Directors of the company.

- Ensure an independent and impartial secretariat function is provided to the organisation known as The Promise Oversight Board to enable that organisation to effectively discharge its role of holding Scotland to account for keeping The Promise.
- Discharge duties as a Director of the company (the Promise Scotland)
- Provide extensive leadership to The Promise Scotland including:
 - establish and oversee required governance and accountability structures;
 - strategic input relating to appointment and establishment of the role of the Chief Executive;
 - develop plans to extend ownership and any subsequent changes in board structure;
- Chair key governance meetings, including the board, annual and any special general meetings.

Relationship with Ministers

- Regular progress meetings will be held between the First Minister, and other Ministers as appropriate in addition to the submission of annual The Promise Scotland reports to the Scottish Parliament.

3.2 You will carry out other tasks that may reasonably be required in relation to the functions for the roles set out above in clause 3.1.

3.3 You will provide active healthy and effective leadership, direction, support and guidance to ensure that the Promise Scotland delivers, and is committed to delivering, its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers.

3.4 You will provide a strong healthy 'challenge function', carefully scrutinising planned and underlying assumptions before decisions are taken. In exercising this function, you will, where necessary, challenge other members of the Promise Scotland Board and the Promise Oversight Board, and external stakeholder organisations.

3.5 Together with other members of the Promise Scotland Board, you are responsible for ensuring that the Promise Scotland has in place a comprehensive policy in relation to the making of a qualifying disclosure (Whistleblowing) by staff of the Promise Scotland and Board members; and for ensuring that the staff and Board members have confidence in the fairness and

4. Accountability

4.1 You are individually accountable to the Scottish Ministers for your actions and decisions of appointment.

5. Period of Appointment

5.1 You are appointed to May 2025, in accordance with your original appointment of May 2020, or to such earlier date as is specified in or by virtue of clause 5.2 or to your date of resignation or removal (whichever date comes first). Unless reappointed, you vacate your role when your period of appointment ends (whatever the reason).

5.2 If the Promise Scotland is dissolved, abolished or wound up while you are in your role, your period of appointment ends on the date that the Promise Scotland is dissolved, abolished or wound up, or such other date as may be specified in any enactment.

5.3 If any other change is made to the Board of the Promise Scotland which the Scottish Ministers consider requires your period of appointment to end, your period of appointment ends on such earlier date as the Scottish Ministers may, by one month's written notice, specify.

5.4 If a future administration decides on a change of policy on how the Board of the Promise Scotland should operate and considers that an alternative appointee should be appointed as Chair of the Promise Scotland, your period of appointment ends on such earlier date as the Scottish Ministers may, by

5.5 You may resign your appointment in respect of any of the roles set out at clause 3.1 by giving one month's written notice to the Scottish Ministers.
one month's written notice, specify.

6. Remuneration and time commitment

6.1 You are entitled to receive remuneration from Scottish Ministers of a fee of £700 for every day devoted to performing your functions for up to 144 days per year, up to a maximum total fee of £100,800 per financial year;

6.2 You will receive no fee for any time devoted to performing your functions which exceeds the relevant days stipulated in clause 6.1 above, in any financial year. However, the Scottish Ministers may, exceptionally, approve additional remuneration if they consider it necessary or expedient that you devote significantly more time to performing your functions during any particular financial year.

6.3 You are not entitled to a pension in respect of your appointment, and you are not entitled to any gratuity or compensation when your appointment ends (whatever the reason).

6.4 Remuneration for your role will be paid through payroll and is taxable. PAYE deductions in respect of income tax and National Insurance will be made, but you are otherwise responsible for your tax liabilities.

7. Expenses

7.1 You are entitled to be reimbursed by Scottish Ministers for expenses that appear to Scottish Ministers to be necessary or expedient for the proper discharge of your functions. These expenses will be reimbursed through The Promise Scotland. Please note that you are responsible for the payment of tax and any other liabilities in relation to expenses.

7.2 Reimbursement will be at the Scottish Ministers agreed rates and may be reviewed periodically.

8. Termination of Appointment

8.1 The Scottish Ministers may terminate your appointment if they are satisfied that you: no longer have a right to work in the United Kingdom;

- have had your estate sequestrated or have made a trust deed for the benefit or use of your creditors or a composition contract;
- have been absent from three consecutive meetings of the Board of the Promise Scotland otherwise than for a reason approved by the Scottish Ministers;
- are otherwise unable or unfit to discharge your functions of appointment or
- are no longer suitable to continue in your role, including where you have failed to perform satisfactorily.

9. Changes to the Terms

9.1 The Scottish Ministers may, by one month's written notice, change the terms, including relevant fees.

10. Conduct

10.1 You will observe the following principles of public life:

Duty You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Promise Scotland and the Promise Oversight Board of which you are a member.

Selflessness You have a duty to take decisions solely in terms of public interest. You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.

Objectivity You must make decisions solely on merit and in a way that is consistent with your functions when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

Accountability and Stewardship You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the Promise Scotland uses its resources prudently and in accordance with the law.

Openness You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership You have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of the Promise Scotland and its Board members in conducting public business.

Respect You must respect fellow members of the Promise Scotland's Board and employees of the Promise Scotland and the role they play, treating them with courtesy at all times. Similarly you must respect members of the public when performing duties.

10.2 You will not accept gifts, hospitality or entertainment in performing your functions or in consequence of your appointment (unless wholly trivial and of minimal value) and will report any such offers to Scottish Ministers.

11. Liability

11.1 If legal proceedings are brought against you by a third party in respect of your roles in clause 3.1, the Scottish Ministers will meet any civil liability incurred in performing your functions, provided that you acted honestly and in good faith, and did not act recklessly or negligently.

12. Confidentiality

12.1 You will exercise due care in the use of information to which you have access in the course of performing your functions or in consequence of your appointment, and you will protect information that you receive in confidence from unauthorised disclosure.

12.2 When your appointment ends (whatever the reason) you will continue to owe a duty of confidentiality to the Promise Scotland, in relation to information of a confidential nature to which you had access during your period of appointment.

12.3 When your appointment ends (whatever the reason) you will continue to owe a duty of confidentiality to the Scottish Ministers in relation to information of a confidential nature to which you had access during your period of appointment.

12.4 Further to clause 8 above, you may be considered unfit to be Independent Strategic Advisor for the Promise and removed from your role if the Scottish Ministers are satisfied that you disclosed information, without authority (statutory or otherwise), that you received in the course of performing your functions or in consequence of your appointment, or used it for personal gain or advancement.

13. Intellectual property rights

13.1 "Intellectual Property Rights" includes any materials, works and any right in the nature of intellectual property, whether or not registered, in any form which are created, produced or generated by or for you on behalf of the Scottish Ministers, the Promise Scotland or the Promise Oversight Board for use in relation to the performance by you or in connection with your functions of appointment.

13.2 All Intellectual Property Rights belong to the Scottish Ministers and you agree to assign them to the Scottish Ministers. This assignation takes effect on 1 September July 2022 or as an assignation of future rights which takes effect immediately on the coming into existence of the Intellectual Property Rights.

13.3 You grant to the Scottish Ministers a royalty-free, irrevocable and non- exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed by you in your role which the Scottish Ministers reasonably require

13.4 Scottish Ministers agree not to exercise their functions in relation to intellectual property of The Promise Scotland in any manner which compromises or appears to compromise your independence or the independence of The Promise Scotland from the Scottish Government.

14. Conflicts of Interest

14.1 You will not take part in activities which conflict with the exercise of your functions and, in particular, you must not misuse your appointment, or any information acquired in the course of your appointment, to further your private interests or those of others.

14.2 You will declare any personal or business interest which might be perceived to influence your judgement in performing your functions. If any such interest arises in relation to a matter under consideration by the Board of the Promise Scotland, you will declare that interest at the relevant meeting for recording in the minutes. You will ensure that such interests are recorded in a register held by the Board and you will take appropriate action to remove or mitigate any such conflicts of interest.

15. Political Activity

15.1 Further to clause 8, your appointment may be terminated if the Scottish Ministers are satisfied that the acceptance or holding of any other appointment, office, role, position or interest means you would be disqualified from appointment.

16. Performance

16.1 You will meet annually with the Permanent Secretary to discuss your performance in relation to the functions described in clause 3 above. Particular recognition will be given to the independent nature of your appointment.

16.2 A note of that meeting will be taken and you will have the opportunity to comment on and sign it. This note may be disclosed to the Scottish Ministers.

16.4 Further to clause 8 above, your appointment may be terminated only if the Scottish Ministers are satisfied that your performance means that you are no longer suitable for your role. A note of the meeting may also be used by the Scottish Ministers in assessing your suitability for re-appointment.

I accept appointment as Independent Strategic Advisor for the Promise, on the terms set out in Annex A.

Signature:

Date: 31 August 2022

Full name (in block capitals): FIONA DUNCAN

An Leas-phrìomh Mhinistear agus Ath-shlànachadh
Cobhid
Deputy First Minister and Cabinet Secretary for
Covid Recovery
John Swinney MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: dfmcscr@gov.scot

Luke McCulloch
Chair, Corra Foundation
Riverside House, 502 Gorgie Rd, Edinburgh EH11 3AF

By e-mail: chair@corra.scot

«Date»

Dear Mr McCulloch,

Thank you for your letter of 12 October.

I really appreciate your support and the support of the Corra Foundation Board in this matter. I am particularly grateful for your willingness to operate in the flexible and constructive manner which has demonstrated the kind of collaborative approach that we in the Scottish Government continue to seek to realise with our partners.

The Scottish Government wishes Corra every success in the future as Scotland collectively works to keep The Promise and to realise the ambition that all our children grow up to feel loved, safe and respected.

Yours Sincerely,

Signature

John Swinney

