



For the Convenor and Members of the Committee

Finance and Public Administration Committee

The Scottish Parliament

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Via email to [FPA.committee@parliament.scot](mailto:FPA.committee@parliament.scot)

11<sup>th</sup> December 2025

**Dear Mr Kenneth Gibson**

Firstly, before we address the substantive matter, it is a matter of public knowledge that Aamer Anwar and Humza Yousaf are friends. There are many photos of them online, and Mr Anwar attended the event where Mr Yousaf was confirmed as First Minister, which was widely covered in the press along with his family.

Although some may find it hard to understand, Aamer Anwar's commitment to our clients always comes first, and as can also be seen from many newspaper articles that despite a personal friendship he has not hesitated in being brutally critical of decisions taken by Mr Yousaf, or the Government he was part of, if those that we represent are of that view. Again, a

simple google search would confirm this, to anyone who is not up to date with Scottish civic society.

We question, therefore, why are questions being asked now of Mr Anwar's friendship with Humza Yousaf? It would not require Hercule Poirot to work out the connection, never mind a Police Force unlawfully retaining intelligence records on Mr Anwar.

### **Who advised the Government to hold a Public Inquiry**

The timing of these questions we think, are particularly sinister. It is clear that there are forces in Scotland who do not want the families of Sheku Bayoh to find justice for him, justice which the then Lord Advocate James Wolffe KC understood could not be obtained by a Fatal Accident Inquiry, but required for there to be a Public Inquiry. Without his say so a Public Inquiry that the Sheku Bayoh family began asking the First Minister for in 2015 would never have happened.

We note below a transcript of the evidence of former Lord Advocate James Wolffe KC at the Sheku Bayoh Public Inquiry:

[day 101 – 30 April 2024 – page 28]

*“Q. Thank you. In terms of the terms of reference of this Inquiry, however, **the Chair is obligated to look at Article 2 and Article 14.***

*A. Yes. Oh and that -- that is absolutely -- well, first of all, it's the terms of reference, but secondly of course that's, you know, that's part of the state fulfilling its obligation under those articles is the establishment of this Inquiry with the terms of reference that it has and, you know, **that was one of the reasons for setting up this inquiry.**”*

[day 101 – 1 May 2024 page 118]

*“Q. Because I'm reflecting in that on your view that there were other considerations under Article 2 ask Article 14 and I'm just wondering that your being the person that that lands with at the end of the day --*

*A. Yes.*

*Q. -- whether or not -- whether or not you knew of that, but the answer is appears no?*

*A. No, I mean the key thing for me from the outset and my recollection is, you know, relatively limited, I am I think clear in my own mind that from the outset I was acutely conscious that Article 2 required a thorough investigation of the circumstances of Mr Bayoh's death. I mean this was not a case that called for a mandatory fatal accident inquiry, but I certainly took the view that it fell to be treated as if it did for Article 2 reasons. I -- we've seen the minute. **The initial question was whether criminal proceedings should be brought and that issue was exhausted. I always envisaged that certainly -- certainly if there were no criminal proceedings that there would need to be a process of inquiry and as things moved on, I came to appreciate that there was going to be an inquiry, should be an inquiry regardless of whether there was criminal proceedings.***

***The shape of that inquiry, you know, I remained in a sense openminded about until quite late in the day and then ultimately took the view that a fatal accident inquiry couldn't adequately deal with the range of issues that fell to be addressed and advised the Government -- recommended to the Government that they should set up this inquiry.***

*But I entirely take your point, there are other processes which are all part of the state's response which, you know, if one is looking holistically at Article 2 and the compliance of the United Kingdom as the contracting state of its Article 2 obligations or those processes, and potential processes are part of the system which responds to Mr Bayoh's death.”*

Attempts at de-railing the Public Inquiry have failed, as a new Chair will be found to complete the task, those feeding information to this Inquiry would now appeared to have turned in desperation to asking these questions. Let us be clear, absolutely nothing will derail the families of Sheku Bayoh finding justice for him or our efforts to assist them in that fight.

It is suggested by Michelle Thomson at the Committee, that as Humza Yousaf gave a statement that he was friends with Aamer Anwar in relation to the Covid Inquiries, and that somehow a failure to do so at an earlier stage gives rise to some ethical concern.

It does not follow that because he has expressed this on an occasion that not expressing it on another is proof of a failure, and such analysis is not in any way persuasive to the argument made. Let us examine that rationale of the concern in the question posed: Mr Yousaf was Cabinet Secretary for Justice 2018 to 2021, and the Sheku Bayoh Inquiry was announced in 2019. It is then asserted that was “*with Mr Anwar, the campaigning lawyer, being a beneficiary of significant public funds.*”

There is no small irony at the outset of Michelle Thomson’s question to highlight the independence of a Public Inquiry and then to suggest that the decision to grant a Public Inquiry has a connection with me being “*a beneficiary of significant public funds*”.

A Public Inquiry is granted in the public interest. In the present case the most senior law officer in the Scottish Government, Lord Advocate James Wolffe KC publicly stated that this was his legal advice on the matter that there should be a Public Inquiry, having elected not to prosecute.

It is also of note that you throughout the committee evidence forget that the Core Participants whether it be Sheku Bayoh's mother, sisters or partner, or in Emma Caldwell's case her mother Margaret, that it was they who requested a Public Inquiry and campaigned for one.

The independent advice received by Humza Yousaf was stressed by Dan McGillvary in his response to your Inquiry. Once a Public Inquiry is called it is entirely independent of Government: the setting up of that Inquiry, the form it decides to take evidence, whether or not to ask for evidence at a hearing, whether or not there are Core Participants, who those Core Participants are, are entirely at the discretion of the Chair.

### **The Legal Procedure for granting of Core Participant status**

As a committee, we hoped you would have been aware that Government/Minister has no locus on who can become a Core Participant, a process that normally takes place a year to two years down the line. Rule 4 of the Inquiries (Scotland) Rules 2007 ("the 2007 Rules") provides the criteria by which the Chair may decide whether to designate an individual, organisation or entity as a Core Participant. Applications to be designated a Core Participant must be made in writing to the Solicitor to the Inquiry, following which the Chair will grant or refuse the application.

When the Chair is deciding applications, matters he/she will consider several criteria and whether it fair in all the circumstances to designate the applicant as a Core Participant, having regard also to the need to avoid any unnecessary cost (Section 17(3) of the Inquiries Act 2005). The Chair is not obliged to designate every person or organisation meeting the requirements of Rule 4(2) (and set out in paragraph 3 above) as a Core Participant. The Chair will take into

account all relevant factors. The Chair will exercise his discretion whether to designate an applicant as a Core Participant fairly, consistently and with an open mind.

Where a Core Participant has appointed a qualified lawyer to act on their behalf, the Chair must regard that lawyer as that person's recognised legal representative in respect of the Inquiry proceedings. The Bayoh's required to submit such an application, the Covid bereaved did the same, and Margaret Caldwell will require to do so in due course.

### **Cost of legal representation**

At that stage, if a Core Participant cannot afford to pay their lawyer's fees, they can apply to the Chair for an award to be made for the cost of legal representation. More information can be found in the protocol for costs of legal representation. There is no direct link with the decision to grant a Public Inquiry and the allocation of public funds to anyone other than the Inquiry itself.

### **The Lord Advocate**

The idea that the Nolan principle that "*Ministers should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends.*" is engaged when the then Justice Minister decided as the law required for him to act on the terms of the advice he was given by the Lord Advocate.

If it is suggested that there was gain of financial or other material benefits for themselves, their family or friends, then we would say with the greatest of respect possible, the decision to have a Public Inquiry was taken because the Lord Advocate gave advice that a Fatal Accident Inquiry

could not deal with a whole range of issues that arose. That was the legal advice (as seen above) tendered by the country's most senior law officer.

The decision was taken in the public interest, on legal advice from the Lord Advocate. Is it really being suggested by Michelle Thomson that it was not in the public interest to have this Inquiry?

After all, you state in the remit: *"The inquiry will not make recommendations on the merits or otherwise of individual Scottish Government decisions on whether to hold a specific Public Inquiry, or recommendations made by individual public inquiries."*

If so, on what basis is she suggesting the analysis of the Lord Advocate (which she has access to with no small irony as part of the Sheku Bayoh Inquiry). In the intervening years since the Inquiry was granted not one person, not one public body suggested that this Inquiry was, put colloquially, made by Humza Yousaf to benefit his friend.

We also note the evidence of Kate Forbes to your committee: *"... In 2019, the then Cabinet Secretary for Justice set out to the Parliament that the Lord Advocate, as head of the system for the investigation of deaths in Scotland, had concluded that a fatal accident inquiry into the death of Sheku Bayoh would not allow all the issues that required to be investigated to be addressed. We then had several years of examining the issues..."*

Might we suggest that the only person who has posited a suggestion of possible bias has done so on a clear misunderstanding as how Public Inquires work and on what basis the decision to take it is made. The idea that there is some concern of bias might arise in the public mind cannot

be seriously contemplated in a decision that was taken in 2019, over six years ago, has been constantly in the public eye and not one person or public body has suggested such an appearance of bias. The only person who has done so, has done so with the privilege of parliamentary immunity.

### **Commenting on evidence given at the Sheku Bayoh Public Inquiry**

We note on a number of occasions, members commented on evidence given at the Sheku Bayoh Inquiry, on occasion they stated certain information as facts, formed conclusions with no basis for doing so, whilst usurping the position of the Chair.

We note in your remit you stated: *“The inquiry will not make recommendations on the merits or otherwise of individual Scottish Government decisions on whether to hold a specific Public Inquiry”* – but that is precisely what you chose to do with an overwhelming concentration on the evidence of the Sheku Bayoh case, but not even with the correct factual matrix.

We note the Convener Kenneth Gibson stated the following: *“We heard compelling evidence about the officers who are left on the front line being overwhelmed, because so many of their colleagues have been tied up in the Sheku Bayoh case, for example. That case involved 68 detectives or some other ludicrous number, for an incident in which—as Michael Marra pointed out— 15 or 20 people were involved.”*

Please advise as to who provided you these figures? Had you watched or attended the Sheku Bayoh Inquiry you would know that it simply not true that 68 detectives were tied up in the Inquiry or that the frontline was overwhelmed as colleagues were tied up in the Inquiry.



The fact is that the Inquiry took place with evidence heard over 122 days over the course of some three years. Officers would be have been provided dates for their evidence months in advance and at most their evidence would have lasted a few hours, with a very small handful lasting a whole day.

The total number of detectives that gave evidence was 12 and we do not understand what the relevance of 68 detectives is as claimed by the Convenor of the Committee. If you were provided this information, it is in the public interest for you to advise who did so and to ask them why such information was provided the Committee, and why it has not been published.

However, if that is not the case then that any organisation whether the Scottish Police Federation or Police Scotland gave this information to you then can you provide the families, I represent the basis for repeating such numbers at committee.

We note that Michelle Thomson also stated: “... *His actions led to the perception of bias, whether or not that was the case, so I was surprised that the First Minister recently met Sheku Bayoh’s family but not the police officer Nicole Short...*”

We would again ask who provided this information to the Committee, because when the First Minister met with the Bayoh family, he advised that as soon as the Scottish Police Federation asked for a meeting the request was granted, yet in the media it was claimed otherwise.

Can you advise once again who provided such information to the Committee? Was it the Scottish Police Federation and if this information was provided, how was it provided, and we

would seek full disclosure of this and for it to be published on your website, as you chose to in relation to the request for advice tendered to Humza Yousaf.

### **Conclusion**

If this Inquiry of yours is not to be tarred by being accused of bias, then the families we represent ask you to respond as a matter of urgency – after all, you chose to take their names, quote them, make allegations and repeat a narrative that has been promoted by those whose agenda it is to stop Public Inquiries shining a glaring spotlight on malpractice, corruption and potential criminality. For the families it is deeply troubling that from you there is no real critical analysis, but you are simply repeat what you are told by parties who are clearly conflicted or might be perceived as having an agenda.

As well as asking why this comes now, we ask this – why is this question being asked about Humza Yousaf and Aamer Anwar? What underlies this question? Who else is being placed under this scrutiny? It seems no one, which begs the question, why not?

This committee should take a long hard look at its own ethics and ask, have any of your committee members who have been so vocal chosen not to declare anything that maybe perceived as a serious conflict of interest?

We really do wonder at their unhealthy obsession with an Asian lawyer and not a single name mentioned from the army of lawyers who have benefited to the tune of hundreds of millions defending the state, the police, prisons or our Health Trusts. In each battle we have fought, it has always been one of David versus the Goliath with their unlimited state resources, which is why the families we represent find the actions of this committee so utterly shameful.

With regards to costs of Public Inquiries, they are a vital part of procedural safeguards of public life. Without these Inquiries governments and public bodies could not be held to proper account for breaches of rights; societal problems could not be addressed at a high level.

The first way to reduce the number of Public Inquiries is to reduce the need for them by having public bodies act in a way that does not fundamentally violate people's most basic rights. The cost of the Sheku Bayoh Inquiry has caused some concern, somewhat ironically in relation to Police Scotland.

Furthermore, the whole parliament, all your parties supported these Public Inquiries, the families have never conducted their legal campaigns in secret, but always in the full glare of the public spotlight. It should not to have taken a Public Inquiry for instance for a Chief Constable to finally accept the existence of not just institutional racism but also misogyny in Police Scotland, but with the Inquiry this fact would never have been accepted.

We also ask why your Inquiry is concentrating on the merits of Public Inquiries that involve suspected police killing of a black man, racism and the rapes, murder and sexual assault of women – yet your fire was not concentrated on a Trams Inquiry that cost the public purse millions of pounds.

If you wished an impartial discussion on Sheku Bayoh, Margaret Caldwell, or even Aamer Anwar, then you should not have refused to take any written or verbal evidence from us when we requested to do so in June this year.

However, it is noted that you took evidence from the following: Lord Hardie, Former Chair, Edinburgh Tram Inquiry; Rebecca McKee, Senior Researcher, Institute for Government; Dr Emma Ireton, Associate Professor, Nottingham Law School, Nottingham Trent University; Michael Clancy, Director of Law Reform, Law Society of Scotland; Laura Dunlop KC, Convener, Law Reform Committee, Faculty of Advocate; Richard Pugh KC, Compass Chambers.

Not one victim, not one family, not one representative of those who have suffered at the hands of our criminal justice system was invited to give evidence in public - why did you not think it appropriate to have their voices amplified for once? We note our letters to you in June were not even published online on your website.

**Emma Caldwell's mother, Margaret**

We note that the Convenor Kenneth Gibson stated: “...*With regard to the Emma Caldwell case, her mother has said that she will be dead by the time the inquiry concludes, so who is justice being delivered for?*”

Should you wish to quote Mrs Caldwell, then we would ask you to quote her correctly, especially as you refused to take evidence from her representatives or directly from her – it is only right that she is issued an apology by this committee. Margaret had actually said: “*I will meet with Solicitor General Ruth Charteris next Wednesday and plead with her to stop this delay, time is not on my side, some victims have already died – **this Public Inquiry must start now before it's too late for me or others.***”

Margaret Caldwell and Kadi Johnson (Sheku Bayoh's sister) are disgusted that you chose to pass judgment on them, insult their struggles and patronise them by assuming their demand for a Public Inquiry was dictated by anyone other than them. Furthermore, the Convenor chooses to comment on the merits (outside your remit) of the Caldwell Inquiry and the Bayoh Inquiry.

Let us leave you in no doubt who justice is for, by concluding with the words of Margaret Caldwell and she asks that this correspondence is published on your website as you chose to quote her and insult her:

*"How dare you insult me, the struggle I have fought and the memory of my daughter Emma with your comments Mr Gibson – the Committee should hang its head in shame – you say who will justice be delivered for if I die.*

*You never bothered to invite me to speak and refused my lawyers the opportunity of doing so. But to be very clear to you and whoever that is so frightened of this Public Inquiry, I am not dead yet and I will fight until my very last breath for the truth and how dare you forget the women who suffered at Iain Packer's hands?*

*I have already spoken out in recent days at the cynical attempts to exclude Police Scotland's role in the Inquiry, as well as excluding the voices of the victims, yet here I am now having to explain to you, what as a mother I have fought over two decades for. Who are you actually fighting for? The victims, ordinary people like me? Or those who allowed these crimes to carry on?*

*In 2016 I asked my lawyer Aamer Anwar to help me put Iain Packer behind bars, the fact is that he has done so without fear or favour and not earned a single penny for doing so. Following Packer being found guilty, I asked Aamer on the steps of the court on my behalf to honour those women, some of whom were sex workers, those who were vulnerable who spoke up not just for Emma, but for the many unknown victims of Packer, and I acknowledged those who have been lost due to illness, overdose and other forms of harm.*

*Those women were a part of our communities, they were important to their loved ones and should have been important to the police, yet they failed so many women who came forward to speak up against Packer – instead of receiving justice and compassion, they were humiliated, dismissed and in some instances arrested, whilst the police gifted freedom to an evil predator who after murdering my daughter was able to rape and rape again.*

*I believe that the officers who sabotaged the investigation into Packer have for far too long remained in the shadows, but they must answer for their betrayal. How dare you insult my struggle, the many victims, my daughter Emma and patronise me by asking the question ‘who is justice to be delivered’ for if I die. Don’t you ever dare quote me or repeat my daughter’s name again, I am shaking with anger and am sick of being patronised.*

*I never heard one word from your committee about pain of the survivors at the hands of a serial rapist or about my 20 year struggle as a grieving mother for justice – but it was only because of the survivors, their bravery that Packer is in prison now, unable to harm other women. They deserve their place at the heart of this Inquiry, and they want to know why they were failed; they want the truth because without that there will never be justice.”*

We await your response as a matter of urgency and as a matter of decency and respect for our clients, including Margaret Caldwell, they deserve a full response. Please note our clients consent to this letter being published.

Kind Regards

**Aamer Anwar**

Cc: First Minister John Swinney; DFM Kate Forbes; Cab Sec Justice Angela Constance

Humza Yousaf MSP