



21 October 2020

Our Reference: DMK/LL/STE039-0003

Linda Fabiani MSP
Convener, Committee on the Scottish Government Handling of Harassment Complaints

Dear Ms Fabiani,

We are going to consult with our client shortly on your recent letter of 19th October 2020.

Before we can do so, can you please clarify two points.

1. Evidence disclosed in preparation for the criminal trial

Does the Committee have any proposals to make as to how our client can make reference to the essential material which was disclosed to him as part of the preparations for the criminal trial?

We have raised this question repeatedly. The committee has simply avoided giving an answer beyond that in your recent letter which was to note

'I appreciate there is also evidence from the criminal trial, including collateral evidence from the preliminary hearings, that you consider central to your ability to provide a full account to the Committee. I also appreciate that the COPFS has made clear to your lawyers that provision of this to the Committee would be in breach of the terms of Criminal Justice and Licensing (Scotland) Act. **The Committee has considered this matter but wishes to reiterate the central importance of any evidence submitted to the Committee being clearly within remit.**'

With respect, that is not an answer which offers us any prospect of giving him informed legal advice.

Is the committee taking this issue further with the Lord Advocate?

Has the Committee sought the Lord Advocate's permission for limited use of the documents relevant to the remit to be referred to by our client?

If not, can we at least have the clarity from you – in writing - that the Committee has reached a conclusion that it cannot or will not act further to secure that evidence?

2. Evidence which requires to be redacted, or on which advice is required

By e-mail dated 15th October we sought clarity on which of the two avenues for providing documents you preferred. That choice was either

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- a) access to unredacted documents in a data room with the assumption but the Committee of all liability and responsibility for legal compliance; or
- b) meeting our reasonable costs for carrying out that work.

Can we press for an answer please as to which is your preferred option?

Yours sincerely,

David McKie
Levy & McRae