



20 November 2020

Our Reference: DMK/MOR/STE039-0003

Committee on the Scottish Government Handling of Harassment Complaints

By email:

Dear Sirs

**Alex Salmond**

We enclose further correspondence which we have sent to the Scottish Government by way of update on progress.

As you will see, the exercise is complex and voluminous and has already taken many hours both of our client's and our time.

It is ongoing and our client is committed to completing it but a number of documents require consideration, possible redaction and many have potential legal consequences arising on which our client requires to take advice and consider his position.

The critical question of funding to assist our client help the Committee to fulfil its extremely important remit remains unanswered by both you and by the Scottish Government, despite now having been raised many months ago and on numerous occasions. It cannot be fair that our client has been left to fund this personally when both the Inquiry and the Scottish government have legal support, provided by the public purse. In spite of that obvious disadvantage, which we have pointed out to you on numerous occasions, the Convener has nonetheless publicly criticised our client for delays in providing a statement creating the impression that he is being uncooperative. Nothing could be further from the truth. This, notwithstanding the fact that, as a private citizen, he has spent many hundreds of hours and thousands of pounds supporting the inquiry and that he has explained in detail why he cannot make submissions or give evidence under oath in a partial or piecemeal fashion.

We have reached a stage, therefore, where the Committee has to make a choice whether to fund our client supporting the work of the committee or not. Please address this question clearly and without any further delay.

Yours faithfully

David McKie  
Levy & McRae

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**Attachment to L&M Letter of 20 November – email from Levy & McRae  
to the Scottish Government of 19 November**

Dear Sirs

Our client and we have now continued the exercise of document approval. We attach the list of documents which can be released to the Parliamentary Inquiry. We presume that many of the documents have already been released by you already to enable the Inquiry to make progress. The total number of these documents is 289.

Document 673 is missing. Can you please send that?

It is clear that there are a significant number of documents (101), however, on which our client will need to consider his position very carefully and take legal advice. He anticipates that the vast majority of them will either be approved for release either in whole, or in part (with proposed redactions).

However, that exercise requires detailed legal advice given that much of the material relates to legal processes and involves technical questions of law. It has become clear that we cannot complete that by 5pm on Friday, as originally hoped. Both we and our client have spent significant time and resource on this already, however.

We raise again the issues we first set out in our letter of 10 November from which we have not received any response - and now therefore seek your urgent response to enable matters to progress with a view to assisting the Inquiry, namely:

***1. Many documents now produced have never been produced or seen by us or by our client previously. This is in spite of three formal orders/processes (the interlocutor for specification, the granting of a commission and also the search warrant in the criminal case) as well as a lengthy process for Commission and Diligence for recovery of those documents where a number of witnesses from the Scottish government gave evidence under oath. Some of these documents would, on the face of them, have made a material difference, and been directly relevant, (and of potential benefit to our client) to both the judicial review and the criminal trial. They include discussions with and representations made to the crown in advance of trial. What possible explanation can you offer for the failure to produce these documents in response to the orders of the court in either the criminal proceedings or the judicial review? This is an issue of considerable gravity and our client is considering his position in relation to that matter.***

***2. In relation to that material, there is still significant documentation which our client wishes to discuss with us and on which he requires to take legal advice. That process will not be complete by your self-imposed deadline. We do, however, hope to have a finalised position by 5pm on Friday 20th November 2020. If we require further time, we will let you know. Please confirm that no attempt to raise proceedings prior to that date will be made. Any proceedings prior to that date will be premature and unnecessary. This letter will be founded upon.***

**3. As you are doubtless aware, our client has been put at a significant financial disadvantage in this whole process. Your proposal to produce documents reduced by the court as unlawful inevitably involves our client's intervention in any such proceedings to protect not only the orders he fought successfully to obtain, but also his reputation. He is a private citizen. He has already incurred significant personal expense. He does not, like you, have the benefit of a publicly funded legal department. He does not have access to the advice of Counsel paid for by the taxpayer. The inequality of arms is stark.**

**Given that position, our client requires assistance on funding a) to enable him to take legal advice on these documents and b) to make further representations to you on these documents and on that subject to the Parliamentary Inquiry.**

**Please confirm that you will assist our client with that funding, which would also include his representation in any proposed court action raised by you. If you are not willing to assist him, please outline the basis for that refusal.**

Can we now please hear from you urgently on those issues to enable the Inquiry to fulfil its remit, which the Government has publicly indicated it will fully support.

Yours faithfully

David McKie  
Partner