



## **SHEKU BAYOH INQUIRY**

### **PROCEDURAL HEARING**

#### **AUTHORITIES ON BEHALF OF THE BAYOH FAMILIES**

1. The Inquiries Act 2005: post-legislative scrutiny - Select Committee on the Inquiries Act 2005 (Chapter 7, Paragraphs 238 to 241 inclusive) .....	2
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## **1. The Inquiries Act 2005: post-legislative scrutiny - Select Committee on the Inquiries Act 2005 (Chapter 7, Paragraphs 238 to 241 inclusive)**

### **Assistance to core participants and witnesses**

238. Most inquiries include as witnesses, and in certain circumstances as core participants,[363] people who have been directly affected by the matter under investigation. These people, especially victims and victims' families, will usually have no experience of any previous form of inquiry. We heard that for them participating in an inquiry can be a daunting task. Julie Bailey suggested that some people were reluctant to give evidence "because it was going to be in public and adversarial." [364] Sir Robert Jay agreed that some witnesses are frightened to give evidence, although he explained that this could be for a variety of reasons.[365]

239. Our witnesses who had been core participants told us that they were generally well provided for. Julie Bailey told us: "We felt very supported. I felt we had a very good team at the public inquiry and I think we felt supported when we gave evidence ... we had a separate room and were given all the help we needed ... we were offered counselling if we needed it, and some witnesses did take up that offer." [366] She detailed the assistance given to her even prior to the start of the inquiry. Christopher Jefferies emphasised that he was satisfied with his legal support, and did not need emotional support.[367] But where it was needed, we heard evidence of inquiry teams organising support such as counselling.[368] Collins, Kemish and Underwood told us that they set up a dedicated "witness support team" for one inquiry, which proved successful.[369]

240. Some inquiry chairmen met witnesses in advance. Lord Cullen of Whitekirk explained the value of this: "Certainly I find it helpful to have meetings with the bereaved and possibly the injured—mostly the bereaved—before the inquiry gets going, so they have a chance to see what I am like and they can put questions to me and we can discuss how the inquiry is going to be carried out." [370] Lord Gill agreed: "You have to make it clear to them at the outset that everything is coming out in the open, that nothing is being held back and that everything that they want to know, to the extent that it can be known, will be brought out. I think it also helps if you speak to them directly, person to person, just to let them know that all you are there to do is to help to get to the truth." [371] Sir Brian Leveson told us that he was keen that counsel to the inquiry met informally with witnesses beforehand.[372] We can see the value of doing so.

**241. Inquiry chairmen and counsel to the inquiry should as a matter of course meet victims and families as early as possible in the inquiry process. There should be a dedicated team or named members of staff responsible for liaising with witnesses.**

**2. The Inquiries Act 2005: post-legislative scrutiny - Select Committee on the Inquiries Act 2005 (Summary of Conclusions and Recommendations, Recommendation 24, Paragraphs 38 to 41 inclusive)**

38. **Recommendation 24:** The fourth and sixth Salmon principles, which allow a person the opportunity of being examined by his own solicitor or counsel, and of testing by cross-examination any evidence which may affect him, are over-prescriptive and have the effect of imposing an adversarial procedure on proceedings which should be inquisitorial. They should no longer be followed. Reliance should be placed on the chairman who has a duty to ensure that the inquiry is conducted fairly. (paragraph 235)

39. We believe that it is right to leave to chairmen of inquiries the discretion of whether the cost of legal representation of core participants and witnesses should be met out of public funds. (paragraph 237)

40. Inquiry chairmen and counsel to the inquiry should as a matter of course meet victims and families as early as possible in the inquiry process. There should be a dedicated team or named members of staff responsible for liaising with witnesses. (paragraph 241)

41. We urge the inquiry secretariat to ensure that witnesses and core participants are handled sensitively, so that victims and families do not come into contact with those they believe to be responsible for any harm. (paragraph 242)

### **3. HOUSE OF LORDS, Statutory Inquiries Committee, Report of Session 2024–25: Public inquiries: Enhancing public trust (Paragraph 47)**

47. Many, though not all, public inquiries concern a disaster that has a direct and devastating effect on a group of people and their families. The term “victims and survivors” describes those people who have been directly affected by the major event of public concern which triggered the inquiry, as well as their families. Other inquiries investigate failures which might entail a cost to society, but lack an obvious “victim” (for example, the Edinburgh Tram inquiry, which looked into costs and delays to an infrastructure project).

#### **4. HOUSE OF LORDS, Statutory Inquiries Committee, Report of Session 2024–25: Public inquiries: Enhancing public trust (Paragraph 52)**

52. While we are not making detailed recommendations on the day-to-day running of inquiries, we have included the contributions made by witnesses, in written and oral evidence, on good practice in the involvement of victims and witnesses in an inquiry in Appendix 5. The better that inquiries are at sharing best practice with each other, including on the best way to involve victims and survivors, the more effective the overall governance structure for public inquiries will be and the more trust victims and survivors can have in the process. The enhanced Inquiries Unit described in Chapter 5 should be involved in sharing best practice between inquiries on the best way to involve victims and survivors.