

Sheku Bayoh Public Inquiry

SUBMISSION BY SCOTT MAXWELL, DANIEL GIBSON and JAMES

McDONOUGH

In relation to

APPLICATION FOR RECUSAL BY SPF, PC CRAIG WALKER

AND NICOLE SHORT

[1] In their Opening Statement to the Inquiry, Sgt Maxwell and PCs Gibson and McDonough expressed their hope that the Inquiry would be a thorough and transparent process. They noted that “Everyone with an interest in this Inquiry now has to place their trust in the Chair.” They demonstrated their willingness to do so by fulfilling their commitment to co-operate fully with the Inquiry.

[2] It has been ten years since the incident at Hayfield Road. The Inquiry held its first procedural hearing on 18 November 2021, some three and a half years ago. The passage of time continues to weigh heavily on these three officers (as of course it does on others, most of all the family of Mr Bayoh). They want the Inquiry to reach its conclusion. But they want that to be achieved through a process that is both fair and seen to be fair.

[3] The disclosure that, unbeknown to these Core Participants, the Chair has met on a number of occasions with the family of Sheku Bayoh has dealt a significant blow to their trust in the Chair and to the critical issue of whether the Inquiry can be seen to be fair.

[4] This is particularly acute following the commencement of the evidential hearings in May 2022.¹ But the content of the meetings in November 2021 and April 2022 also give rise to concern.² In November 2021 the Chair asked the family to

¹ Reference is made to the SPF application paras 24-38 in that regard

² Preliminary Hearing Bundle, Items 4 and 10

describe their journey since 3 May 2015 and for their views on race.³ In April 2022, the Chair described his view of the family's account of their treatment on 3 May and after as 'powerful'.⁴ This was all in the knowledge that these issues were central to the Inquiry, that they were contested, and that determination of issues of credibility and reliability would be critical.

[5] At no time during the currency of the Inquiry has the Chair met, or offered to meet, with Sgt Maxwell, PC Gibson or PC McDonough or their legal representatives. They understand that the Chair has not met privately with any Core Participant other than the Bayoh family.

[6] The explanation provided by the Inquiry for the meetings is set out in a letter dated 5 March 2025.⁵ Principally it refers to maintaining the family's confidence and engagement with the Inquiry and to the obligation under Article 2 of ECHR to involve the next of kin in the Inquiry. There is no authority to support the proposition that fulfilment of the next of kin's rights in terms of Article 2 extends to private meetings with the ultimate decision maker. No explanation is provided as to why other Core Participants were not advised of the plan to hold such meetings and were not provided with minutes of the discussion that took place until the issue was forced, resulting in the recent disclosure.

[7] In these circumstances, and with considerable regret, Sgt Maxwell and PCs Gibson and McDonough concur with the application by SPF, Walker and Short. For the reasons set out in that application and as discussed above, they conjoin in the motion for the Chair and Mr Bhatt to recuse themselves from any further involvement with the Inquiry on grounds of apparent bias.

Shelagh M McCall KC

21 May 2025

³ See SPF application paras 17-19

⁴ See SPF application para 20

⁵ Procedural Hearing Bundle, Item 19, page 72-73