



**CROWN OFFICE
& PROCURATOR
FISCAL SERVICE**

SCOTLAND'S PROSECUTION SERVICE

Office of the Deputy Crown Agent
Crown Office
25 Chambers Street
Edinburgh
EH1 1LA

Alexandra Gherghiniş
Assistant Clerk
Finance and Public Administration Committee

Tel: 0300 020 3000
Text Relay prefix: 18001
DCALegalAssistants@copfs.gov.uk

Your ref:
Our ref: SMcG

By Email only: FPA.Committee@parliament.scot

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Dear Ms Gherghiniş

Cost Effectiveness of Scottish Public Inquiries

1. Thank you for the opportunity to contribute to the Committee's Inquiry.

Introduction

2. Crown Office and Procurator Fiscal Service (COPFS) is Scotland's prosecution service and death investigation authority. The Lord Advocate is the ministerial head of the system of criminal prosecutions and the investigation of deaths and COPFS fulfils this responsibility on her behalf. The work of COPFS is such that as a department it is often called upon to assist and to be scrutinised by Public Inquiries.

3. I note that the Committee does not intend to 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. The Lord Advocate and Crown Office and Procurator Fiscal Service fully support the Inquiries which are currently underway. As a core participant and as a party to a number of Public Inquiries, I hope that the Committee will understand that I am constrained by the ongoing proceedings in those Inquiries as to what I may say. Public Inquiries must act fairly. They regulate fairness by the procedures and rules by which they operate and as a party to an Inquiry any commentary in relation to the Inquiry itself or its processes could be seen as a criticism of the Inquiry. Whilst the Inquiries are ongoing their processes, procedures and working practices are matters for the Inquiries themselves and it would not be appropriate to comment upon them before the Committee. I do hope that the Committee understands our position on that matter, and that the other information that I am providing in this submission is of assistance to the Committee.

Current Inquiries

4. Currently, COPFS is a party to, or liaising with the following Scottish Inquiries:

- Scottish Child Abuse Inquiry (Core Participant)
- The Scottish Hospitals Inquiry
- The Sheku Bayoh Inquiry (Core Participant)
- The Scottish COVID Inquiry
- The Eljamel Inquiry
- The Emma Caldwell

5. A further Scottish Inquiry is to be established into the events surrounding what has become known as the “Rangers case”. The form and nature of this Inquiry has yet to be confirmed.

6. COPFS is also currently involved in two Inquiries established by the Government of the United Kingdom, namely:

- The United Kingdom COVID Inquiry
- The Post Office Inquiry

7. Each of these Inquiries has its own remit and terms of reference. The establishment of a Public Inquiry is one for Ministers and not one for COPFS.

8. The COPFS approach to Public Inquiries is that one Deputy Crown Agent coordinates our response to ensure that there is an overview of the way in which we deal with the Inquiries and to provide consistency in our response. This also allows for staff to be deployed flexibly in meeting the requirements of the various Inquiries and enables us to retain and develop corporate knowledge and expertise in the law and practice relating to Public Inquiries. Furthermore, it ensures that all costs incurred by COPFS in relation to Public Inquiries come together into one budget line to enable the better control of costs.

9. The exception to this is the Scottish Child Abuse Inquiry. The Scottish Child Abuse Inquiry work sits separately. That is for good reason. When the Scottish Child Abuse Inquiry began its work, the then Lord Advocate James Wolffe KC, made a commitment that where the Inquiry was considering a particular historical matter, any case in relation to that matter would be reconsidered in line with modern investigative and prosecutorial standards. Consideration by the Inquiry of historical events and our own reviews have led to further victims coming forward and additional investigations and prosecutions. In consequence liaison and engagement with the Scottish Child Abuse Inquiry is maintained by specialist Sexual Offences prosecutors who sit in the High Court function. There is, of course, regular liaison between all parts of COPFS dealing with public Inquiries to ensure that the efficiencies described above about all inquiries are maintained.

Ongoing Liaison

10. COPFS maintains regular liaison with the ongoing Public Inquiries. In relation to the Scottish Child Abuse Inquiry and the Sheku Bayoh Inquiry, COPFS through the Law Officers is a Core Participant. In relation to other Inquiries, there remains a need to maintain regular liaison both to ensure that we are doing all that we can to

assist the work of the Inquiry, for example through provision of evidence, and where necessary to ensure appropriate liaison and deconfliction of the work of the Inquiry and any ongoing criminal inquiries and prosecutions. This liaison ensures that where it is possible to do so, the important work of the relevant Inquiry and of the criminal justice system can go on in parallel without prejudicing the work of the other. This will not always be possible. An example of where this parallel approach has been facilitated is that the Scottish Child Abuse Inquiry has on several occasions published a report with initial redactions of detail where that detail might have prejudiced criminal proceedings.

11. The current Inquiries have not yet concluded and there are no recommendations for COPFS. The last occasion in which recommendations were made by a Public Inquiry for COPFS was the Fingerprint Inquiry which reported in 2011. The then Deputy Crown Agent up a structure for the purpose of implementing those recommendations.

12. In relation to the ongoing Inquiries, if recommendations are made for COPFS, those recommendations would be given full consideration by Law Officers and COPFS.

13. COPFS has an established structure for the oversight and implementation of recommendations from external reports such as Inspectorate reports. The COPFS Audit and Risk Committee which is externally chaired by a non-executive Director provides oversight and scrutiny of the implementation of recommendations from inspections. I anticipate that this structure would be adapted for any recommendations that were accepted arising from a Public Inquiry.

Costs

14. As I set out at paragraph 8, one team is responsible for most of the work that goes into preparing for the ongoing Inquiries. If possible, a separate cost code is used to keep track of the work in relation to Inquiries. Most of the costs relate to staff. The largest other cost is fees to Counsel.

15. Not all costs associated with Public Inquiries can be separately accounted for. Some of the input from specialist parts of COPFS, support services or senior management time is work done within the ordinary course of staff duties and cannot be disaggregated. Other work such as the cost of prosecutions arising from the work of the Scottish Child Abuse Inquiry is accounted for within the ordinary costs of sexual offences prosecutions.

16. Given that the Scottish Child Abuse Inquiry and Sheku Bayoh Inquiry have been ongoing the longest and given the stage that they are at, certain costs for those Inquiries are available. The costs to COPFS of the Scottish Child Abuse Inquiry can be disaggregated. From 2017 to 30 April 2025 the total cost to COPFS of work associated with the Scottish Child Abuse Inquiry amounted to £4,850,130. Costs can also be broken down for the Sheku Bayoh Inquiry. From November 2019 to 30 April 2025 the total cost to COPFS that can be attributed to that inquiry was £1,060,559.

17. The total expenditure that can be attributed to Public Inquiries between 2017 and 2025 is £5,910,689. A further breakdown of the costs is available at tables A and B.

18. As noted, not all costs of dealing with the Inquiries can be disaggregated as additional time is spent on the Inquiries by staff who deal with Inquiry matters as part of their ordinary work, and some staff work between Inquiries.

Other Comments

19. The establishment of a Public Inquiry, the Inquiry's Terms of Reference and the administration and costs of any Inquiry are solely matters for Scottish Ministers. Exceptionally, COPFS may express views in respect of the matters to be considered by an Inquiry. For example, prior to the setting up of the Sheku Bayoh Inquiry, COPFS and the then Lord Advocate were of the view that there were matters in relation to the circumstances of Mr Bayoh's death that would be outwith the scope of a Fatal Accident Inquiry and therefore there would be benefit in a Public Inquiry being held. Those views were communicated to Scottish Ministers by the Lord Advocate and informed the final terms of reference of the Inquiry.

20. Other than the exceptional circumstances of the Sheku Bayoh Inquiry, COPFS role is limited to providing background advice to Scottish Government officials in relation to the nature and quantity of material that a public inquiry may have to consider, and any other context that can be provided such as whether there is any ongoing or further criminal inquiries. These discussions will provide useful information to Government when they are considering the establishment of a Public Inquiry.

21. The Committee is interested in whether other types of Inquiry are available. Non-statutory inquiries may be set up. The Committee will note that following the death of Surjit Singh Chhokar, two enquiries were set up. Dr Raj Jandoo was asked to report on the liaison arrangements between the police, the Crown Office and Procurator Fiscal Service and the relatives and partner of Mr Chhokar. Dr Jandoo was also asked to consider and comment on racism and the police investigation of any racist motive for the crime. Sir Anthony Campbell was asked carry out an independent examination of the Crown's decision-making following Mr Chhokar's murder. These inquiries were set up in 2000 and reported in 2001.

22. Non-statutory Inquiries have been set up elsewhere in the United Kingdom. An example is The Angiolini Inquiry, a three-part Inquiry established to investigate how an off-duty police officer was able to abduct, rape and murder a member of the public in England and Wales, and thereafter to examine vetting, recruitment, police conduct and culture more generally. Whilst it is often correctly said that a non-statutory Inquiry does not have powers of compulsion, not all Inquiries would need these powers. Further, an Inquiry could be established as a non-statutory Inquiry but converted into a statutory Inquiry if powers of compulsion were thought to be required. The Chair of the Angiolini Inquiry confirmed in her Part 1 report that:

"The Inquiry has been able to fulfil the Terms of Reference for Part 1 successfully while operating on a non-statutory basis. This was outlined in a letter to the Home Secretary in June 2022, highlighting that the Inquiry had to date "benefited from positive cooperation from many individuals and organisations, which [...] greatly facilitated our task" [para B6 of Methodology at page 335]"

23. I hope that this is of assistance to the Committee.

Yours sincerely

Stephen McGowan
Deputy Crown Agent, Litigation

TABLE A**Scottish Child Abuse Inquiry Costs**

	2017	2018	2019	2020	2021	2022	2023	2024	2025	Grand Total
Staffing	392,405	145,637	133,326	508,194	633,454	935,251	949,694	963,457	83,394	£ 4,661,709
Case Related	8,250	4,260	13,983	16,316	106,058	16,957	20,630	4,500	5,400	£ 187,834
Office			25		27	38	157	320	22	£ 589
Total	400,655	149,897	147,333	524,510	739,539	869,142	970,481	968,277	88,816	£ 4,850,130

Case Related Costs

- Inquiry Costs including Fees to Ad Hoc ADs, Fees to Counsel,
- Ordinary Witness Costs relating to Inquiry, not prosecution case related

Office Costs

- Travel and Subsistence costs

TABLE B

Sheku Bayoh Inquiry Costs

	2020	2021	2022	2023	2024	2025	Grand Total
Staffing	8,489	62,250	83,103	168,248	96,071	7,304	£ 425,465
Case Related	4,875	46,850	128,805	131,863	284,451	38,250	£ 635,094
Total	13,364	109,100	211,908	300,111	380,522	45,554	£ 1,060,559

Case Related Costs Narrative

- Costs relate to Fees to Counsel and other professional services.