

EMAIL FROM ALEX SALMOND TO COMMITTEE CLERKS – 17 OCTOBER 2020

Dear Committee Clerks

I enclose a copy of a letter dated 6 October which I sent to Mr James Hamilton, the independent adviser on the Ministerial Code. Since it is relevant to your proceedings please draw it to the attention of your Committee and you are free to publish if you wish.

As you see I am representing myself directly to Mr Hamilton for the reasons stated. As yet I have received no reply or acknowledgement of this email.

Yours faithfully

Alex Salmond

Begin forwarded message:

From: Alex Salmond
Date: 6 October 2020 at 22:26:37 BST
To: Alex Salmond
Subject: Mr James Hamilton

Mr James Hamilton

Independent Adviser on the Scottish Ministerial Code

6th October 2020

Dear Mr Hamilton,

Thank you for your letter of 8th September.

I do indeed have information which will be of assistance to your enquiries and am happy to assist you if I can.

However I would like to accept your offer of clarification on your request and ask first for answers to the following points;

Firstly, I am prepared to represent myself in presenting you with evidence. I am a private individual and simply cannot afford to hire further legal representation as my lawyers are fully occupied dealing with the Scottish Parliamentary Inquiry. Vast sums of public funds have already been expended by Scottish Government officials in legal representation in this process. I am also informed that other witnesses are relying on their political party to finance their legal representation. I will represent myself and am therefore in no position to accept responsibility as to whether my submissions are in line with legal requirements as you suggest in your letter. That will require to be your responsibility and I will be grateful if you could now confirm this.

Secondly, on a related point, the remit drawn by the Deputy First Minister refers to the anonymity orders drawn up by the “court in the criminal proceedings”. I would draw your attention to the rather more relevant ruling of Lord Woolman in the civil proceedings of 8th October 2018. This was sought by my counsel and as I recall the Scottish Government were not even represented by counsel at that hearing. Also relevant would be the interlocutor of Lord Pentland of January 8th 2019 after concession of the Judicial Review, where certain Scottish Government documents were reduced by the Court as the product of an unlawful process. For ease of reference I have copied you both of these court interlocutors. Please confirm that you shall not be relying on, or accepting into evidence, said unlawful documents as any part of your enquiries.

You may also be aware that my solicitors have been informed by letter from the Crown Office that if they present or even describe to the Parliamentary Committee information gained in disclosure in the criminal proceedings they will be liable to prosecution. I am happy to provide you with this letter if you wish. Please confirm if this threat applies to your enquiry because there are indeed relevant documents under this restriction. However, given that much of this documentation was obtained by Crown search warrant from the Scottish Government it would be open for the Government to supply you with it. Your difficulty is that you do not know what it is and I am currently debarred from informing you.

Thirdly, I understand from the Parliamentary Committee hearings in answer to a question from Ms Jackie Baillie that the civil servant who has been allocated responsibility for leading support for your enquiry is Mr James Hynd. However Mr Hynd was himself deeply involved in the Scottish Government’s unlawful complaints procedure. Indeed he claimed under oath at both the Commission which was required as part of the Judicial Review in December 2018 and in front of the Parliamentary Committee last month to be the original author of the policy. I do not dispute Mr Hynd’s personal integrity although I note he was forced to write to the Committee to correct an impression he had unwittingly given about me in his evidence. However, please clarify his status and position in your enquiry given his prior involvement in this matter.

Fourthly, the remit given to your investigation by the Deputy First Minister lays a surprising stress on whether she interfered in the Scottish Government investigation. It might even be suspected that this remit has been set up as a straw man to knock down. There is no general bar on Ministers intervening in a civil service process of which I am aware and indeed there are occasions when Ministers are actually required by the code to intervene to correct civil service behaviour.

What I wish to know is whether matters which, by contrast, are specified in the Ministerial code such as the primary responsibility of not misleading Parliament (contrary to 1.3 (c) of the code), such as the failure to act on legal advice suggesting the Government was at risk of behaving unlawful (contrary to 2.30 of the code), and such as the Ministerial failure to ensure civil servants gave truthful information to parliament (contrary to 1.3 (e) of the code) will have at least equal status in your deliberations or are you confined to the political remit which you have been set? If your enquiry has been confined by Ministers then please tell me if you have the authority

to expand that remit unilaterally? If not, will you seek the authority of those in the Scottish Government who set the remit to expand it into these, and other, areas?

Finally since the Parliamentary Committee has demanded full transparency and expressed an interest in your deliberations I have copied them into this email.

As I am answering your enquires personally please direct all future correspondence to me directly at [\[Redacted\]](#)

Yours faithfully

The Rt Hon Alex Salmond

8 January 2019

Lord Pentland

Act: Clancy, Q.C. *et* D. Hamilton

Alt: R. Dunlop, Q.C. *et* C. O'Neill, Solicitor Advocate

The Lord Ordinary, having heard counsel, on the petitioner's motion, of consent, and in terms and in respect of the Joint Minute for parties No. 39 of process,:-

- (i.) finds and declares that the decisions of the first named respondent, *viz.* Leslie Evans, as set out in:-
 - (a) a Decision Report written by her dated 21 August 2018 entitled "Formal complaints against Former First Minister, Alex Salmond" (production No. 6/2 in the petitioner's First Inventory of Productions); and
 - (b) a letter from her to the petitioner's solicitors dated 22 August 2018 (production No. 6/1 in the petitioner's First Inventory of Productions)are unlawful in respect that they were taken in circumstances which were procedurally unfair and in respect that they were tainted by apparent bias by reason of the extent and effects of the Investigating Officer's involvement with aspects of the matters raised in the formal complaints against the petitioner prior to her appointment as Investigating Officer in respect of each of those complaints;
- (ii.) reduces the decisions of the first named respondent contained in the aforementioned Decision Report dated 21 August 2018 and letter dated 22 August 2018;
- (iii.) refuses the petitioner's opposed motion, made at the bar, for production of the three investigation reports prepared by the Investigating Officer dated 22 February, 18 July and 23 July 2018; thereafter, without production of the aforementioned reports requiring to be satisfied in these circumstances, reduces the aforementioned three investigation reports dated 22 February, 18 July and 23 July 2018;
- (iv.) finds the respondents liable to the petitioner:-
 - (a) in the expenses of the petition and proceedings following on from the order for commission and diligence pronounced in the interlocutor dated 14 December 2018, including the expenses of the open commission, all on an agent and client paying scale; and
 - (b) except in so far as already dealt with, including as already dealt with in the foregoing expenses order of even date, in the expenses of the petition and proceedings;remits the account of expenses, when lodged, to the Auditor of Court to tax;
- (v.) allows the undertaking offered on behalf of the respondents to be recorded in the minute of proceedings of even date;
- (vi.) discharges the substantive hearing fixed for Tuesday 15 January 2019 and the ensuing three days;
- (vii.) *quoad ultra* dismisses the petition and decerns.

8 January 2019

Lord Pentland

The Lord Ordinary decerns against the respondents for payment to the petitioner of the expenses referred to in the foregoing interlocutor, of even date, as the same shall be taxed by the Auditor of Court.

P850/18 Pet: Alex Salmond for J/R

DAC Beachcroft Scotland LLP

8 October 2018

Lord Woolman

The Lord Ordinary, in chambers and in light of the absence of Lord Pentland, having resumed consideration of the interim order granted by Lord Pentland on Thursday 4 October 2018, makes an order in terms of Chapter 102.3(5) of the Rules of Court withholding from the public in these proceedings the names and the designations, past and present, of the complainers referred to in the decision report which is the subject matter of this petition and any other information concerning those complainers which would lead to their identification; orders, in terms of section 11 of the Contempt of Court Act 1981, that no publication by any means, including on social media, of any of the aforementioned information relating to the complainers, be made; further, allows the complainers to be referred to as "Ms A" and "Ms B" respectively in the present proceedings.