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Convener
Scottish Parliament Justice Committee

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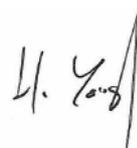
Dear Margaret,

PUBLIC INQUIRY INTO THE DEATH OF SHEKU BAYOH – TERMS OF REFERENCE

Following, my statement to Parliament on 24 January 2020 to announce the appointment of The Right Hon Lord Bracadale, as Chair of the Public Inquiry. I am pleased to enclose a copy of the final Terms of Reference, which, in line with the Inquiries Act 2005, I announced to the Scottish Parliament today.

I had a statutory obligation to consult Lord Bracadale on the Terms of Reference and I also met with a range of interested parties to discuss the remit of the Inquiry. While the final Terms of Reference that I published today do not feature all of the issues raised with me during my discussions, I am confident the scope is broad enough to include consideration of the operational and procedural aspects suggested by different stakeholders and will allow Lord Bracadale to look at wider issues he considers to be pertinent to the Inquiry.

As you will appreciate, work to establish the Public Inquiry has been impacted by the necessary steps taken to allow resources to be focused on essential Covid-19 priorities. Progress in certain areas, such as work to identify premises, has been delayed, but I will continue to discuss these matters with Lord Bracadale and will be providing further updates in due course. This will include developments on the appointment of Assessors and confirmation of the setting up date.



HUMZA YOUSAF

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PUBLIC INQUIRY INTO THE DEATH OF SHEKU BAYOH - FINAL TERMS OF REFERENCE

The aim of this Inquiry is twofold: Firstly, the Inquiry will establish the circumstances surrounding the death of Sheku Bayoh in police custody on 3 May 2015 and make recommendations to prevent deaths in similar circumstances, as would have been required under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016. Secondly, the Inquiry will assess and establish aspects of the case that could not be captured, or fully captured through the FAI process, namely (a) the post incident management process and subsequent investigation and make any recommendations for the future in relation to these; and (b) the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard. The remit of the Inquiry is accordingly:-

- to establish the circumstances of the death of Sheku Bayoh, including the cause or causes of the death, any precautions which could reasonably have been taken and, had they been taken might realistically have resulted in the death being avoided, any defects in any operating models, procedures and training or other system of working which contributed to the death and any other factors which are relevant to the circumstances of the death;
- to make recommendations, if any, covering the taking of reasonable precautions, improvements to or introduction of any operating models, procedures and training, or other system of working, and the taking of any other steps which might realistically prevent other deaths in similar circumstances;
- to examine the post-incident management process and the investigation up to, but not including, the making by the Lord Advocate of the prosecutorial decision communicated to the family of Sheku Bayoh on 3 October 2018 (and the Victims' Right to Review process that was undertaken by the Crown Counsel in 2019), including: (i) the effectiveness of procedures for gathering and analysing information, (ii) the securing and preserving of evidence, (iii) the roles and responsibilities of those involved, (iv) liaison with the family of the deceased and (v) compliance with any relevant Convention rights; and make recommendations, if any, for the future in respect of these matters;
- to establish the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard; and

to report to the Scottish Ministers on the above matters and to make recommendations, as soon as reasonably practicable.