



ATTORNEY GENERAL'S OFFICE  
20 VICTORIA STREET  
LONDON SW1H 0NF

Judi Kemish  
Inquiry Solicitor and Secretary  
Robert Hamill Inquiry  
PO Box 50156  
London  
SW1E 6WX

17<sup>th</sup> November 2009

*Dear Sheila,*

#### **INQUIRY'S CLOSING SUBMISSIONS**

Thank you for your letter of 9<sup>th</sup> October which informed me that I would not be the subject of criticism in Counsel to the Inquiry's closing submissions. A combination of my being on leave and it being lost in the system for a while explains my failure to acknowledge sooner.

The Director of Public Prosecutions has shown me a draft of its intended response to Counsel's closing submissions. In paragraph 28 of Counsel's submission he states:

"... in practical terms, there was no oversight of a decision which had the effect of the prosecution being discontinued. Although the Attorney General had the power to intervene, that power was essentially never used."

It may be that I have misunderstood the point Counsel is making – and I confess I have not read all of the submission – but it is capable of being read as a suggestion that the Attorney General failed in his Ministerial duty of superintendence. Superintendence is a core function of the relationship between the Attorney General and the Director Attorney General for which the Attorney General is directly responsible to Parliament. Given that the Attorney General had kept a close interest in the case and was specifically engaged in the decision to discontinue the prosecution of the Atkinsons, both the current Attorney General and Lord Goldsmith would be likely to strongly dispute the accuracy of such a view – if my understanding of it is correct.

It might assist if I clarified the difference between intervention and direction. Whilst it is true that a power of direction has not been used in respect of a prosecution decision,

intervention is not at all uncommon and is a component part of the relationship between the Attorney General and the Director. When a case is either drawn or comes to the attention of the Attorney General, she may seek further information from the Director, may seek clarification of the consideration that had been given to a proposed decision, suggest further work that needs to be done, ask for counsel's advice to be sought or may put to the Director other factors that she believes he should take into account. This is the nature of superintendence and if the power of direction is not used, its presence nevertheless underpins the authority of the Attorney General in exercising her responsibility. The Director is responsible to the Attorney General for the due performance of his functions and intervention is part of the architecture whereby the Attorney General meets her responsibilities. It would be a misunderstanding of the nature of superintendence if it was thought that effective superintendence required the use of the power of direction.

Yours sincerely  
Kevin McGinty

Kevin McGinty

