

From: Les Brown
Head of Criminal Allegations
Against the Police Division
21 November 2017

Lord Advocate
Solicitor General

Copy to: PS Crown Agent
Lindsey Miller, DCA Serious Casework
Stephen McGowan, PF High Court
Liam Murphy, PF Specialist Casework
Ashley Edwards QC
Alasdair MacLeod, SPFD

INVESTIGATION INTO DEATH OF SHEKU BAYOH

Purpose

1. To update ministers on the outcome of a case progress meeting with the dedicated AD and to highlight a developing issue in relation to the investigation of restraint procedures that is relevant to the ongoing consideration of the Angiolini report

Priority

2. Routine.

Discussion

3. The dedicated AD, Ashley Edwards QC, discussed the ongoing investigation with members of the team on 15 November and reflected on the analysis of the statements provided by officers involved in the restraint process that has been carried out by the investigative team and the perception that these may not reflect the true picture. Consideration will therefore be given to identifying officers whose involvement in the incident is remote and who might be precognosed by the Crown.

4. Separately the discussion considered the evidence obtained to date on the training provided to officers on restraint. The minute to ministers dated 6 November 2017 highlighted sections of the Angiolini report that appeared to affect the investigation of the Bayoh case. In particular the minute highlighted issues surrounding the content of the Standard Operating Procedure (SOP) dealing with restraint. The dedicated AD instructed that the Crown should work with PIRC investigators to explore how the SOP was created and whether it reflected the known best practice in restraint procedures at that time. Separately enquiries were to be pursued in relation to the extent to which the content of the SOP was embedded in training delivered to officers, including the officers

involved in the restraint of Sheku Bayoh. These issues were considered to be highly relevant to the issue of whether Police Scotland could be liable under Health and Safety legislation.

5. It has been brought to my attention that this line of enquiry appears to have caused concern to PSoS. I have had sight of e-mail communications between PIRC investigators where the relevant witness has declined to provide PIRC with a statement meantime until he obtains approval from an Assistant Chief Constable.

6. I regard this situation as highly unsatisfactory and is a sharp example of how PIRC are being frustrated in their enquiry by the attitude of PSoS and that senior officers can control the provision of evidence.

Conclusion

7. Ministers are invited to note the terms of this minute that can further inform the ongoing discussions of the Angiolini report.

Les Brown
Head of CAAPD
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21 November 2017