

**Assistant Solicitor to the Inquiry**

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Mr Richard Casey

By email only: [REDACTED]

22 September 2023

Dear Mr Casey

**Rule 8 Request**

I am writing on behalf of the Chair to the Sheku Bayoh Public Inquiry ('the Inquiry').

As you may be aware we have liaised with the Police Investigations and Review Commissioner ('PIRC') to arrange the provision of your Inquiry statement. PIRC has confirmed to the Inquiry your preference for your statement to be prepared under Rule 8 procedure.

If, upon further consideration, you would prefer to provide your statement in the form of an interview with a member of the Inquiry legal team, please let us know.

Under [Section 21\(2\)\(a\) of the Inquiries Act 2005](#) the Chair may, by notice, require a person to provide evidence in the form of a written statement. [Rule 8 of The Inquiries \(Scotland\) Rules 2007](#), provides that the Inquiry may send a written request to any person for a written statement of evidence. I hereby request you provide a written statement to the Inquiry by **5pm on 20 October 2023**. Please provide your written statement by email to [legal@shekubayohinquiry.scot](mailto:legal@shekubayohinquiry.scot). If you feel further time to complete your written statement would be beneficial, please contact the Inquiry to agree a revised deadline.

It is a criminal offence to fail to comply with this request without reasonable excuse. I refer you to [Section 35\(1\) of the Inquiries Act 2005](#).

Annex A to this letter sets out the areas to be covered in your written statement. Annex B contains a copy of the Inquiry's Terms of Reference. The Inquiry will shortly be in a position to share a Connect workspace containing a copy of the documents referred to in Annex A. The documents provided via the Connect workspace remain subject to the Inquiry's general [restriction order](#) and may not be shared by you with any other person. You may wish to take independent legal advice in relation to the contents of this letter and the questions contained

within Annex A prior to providing your written statement. Should you decide to take independent legal advice prior to providing your written statement, and you wish to share the documents provided to you via the Connect workspace with your solicitor in order to do so, please contact the Inquiry's legal team in advance by email at [legal@shekubayohinquiry.scot](mailto:legal@shekubayohinquiry.scot).

[Section 22\(1\)\(a\) of the Inquiries Act 2005](#) states that a person may not be required, under section 21, to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court. If you are of the view that section 22 applies to your evidence, please advise the Inquiry of this and the reasons why you believe section 22 applies.

Your statement may be disclosed to the Core Participants in the Inquiry and may be published on the Inquiry's website. Any personal information that is not relevant to your evidence will be redacted prior to disclosure.

Every effort has been made to ensure this request is as comprehensive as possible, however the Inquiry may issue an additional request under Rule 8 to you if it is considered that there is further evidence from you that would assist the Inquiry. Providing more detailed answers at this stage should reduce the possibility that the Inquiry will require a further Rule 8 statement from you.

It is appreciated that this is a wide-ranging Rule 8 request. If there are questions that you cannot answer, please indicate this in your statement.

The written statement will form part of the evidence of the Inquiry. For that reason, it is important that it is in your own words. You may be asked to attend a hearing to give oral evidence to the Inquiry. I will contact you in the coming months to confirm this.

If you have any questions regarding this letter or the content of your written statement, please contact the legal team by email at [legal@shekubayohinquiry.scot](mailto:legal@shekubayohinquiry.scot).

Yours sincerely



## **ANNEX A**

### **AREAS FOR WITNESS STATEMENT**

#### **MR RICHARD CASEY**

Please provide your **full name, date of birth, personal or business address**.

Please provide as much detail as you can in relation to each of the following questions.

These questions will focus on your role at the Police Investigations and Review Commissioner (PIRC) and your involvement in PIRC's investigation following the death of Mr Bayoh.

#### **Your professional background and experience**

1. Please provide a summary of your professional career including the job titles, dates held and a short summary of your duties. Please include details as to any further or higher education you have undertaken.
2. Please expand on any professional experience you consider relevant to your role within PIRC. This could include previous employment or training.
3. Prior to 3 May 2015, did you have any contact with or knowledge of the following Police Scotland officers: Craig Walker, Alan Paton, Nicole Short, Ashley Tomlinson, Alan Smith, Kayleigh Good, Daniel Gibson, James McDonough and Scott Maxwell?
4. Prior to 3 May 2015, did you have any contact with or knowledge of the Police Scotland officers you encountered in the course of the PIRC investigation? Please include detail as to how and when you met them, and your relationship at as May 2015.
5. As at 3 May 2015, was there any process within PIRC for formally recording that a PIRC staff member was acquainted with a Police Scotland officer, in particular an officer who was the subject of a PIRC investigation?
6. As at 3 May 2015, was there any PIRC policy or guidance for PIRC staff who were acquainted with a Police Scotland officer that they encountered in their PIRC role?

#### **The Police Investigations and Review Commissioner**

7. What was your position at PIRC on 3 May 2015? What were your duties and responsibilities in this position?
8. What training did you have for this position? Please include details as to any training undertaken at the beginning of your employment with PIRC, at the beginning of your then-role (if different) and any training undertaken during this role? How do you record the training that you receive as a PIRC investigator?
9. Did you feel adequately trained and experienced to carry out your role at PIRC? Please explain why, or why not.
10. Is there any process within PIRC to assess "lessons learned" from investigations? If so, what does this process entail? Did any "lessons learned" exercise take place following the investigation in relation to the incident involving Mr Bayoh? If so, what did this involve? If not, why did this not take place? Do you think the PIRC would have benefitted from such a "lessons learned" exercise?

11. Did you line manage or supervise any employees? If so, please provide their names and roles. Please provide details as to how you supervised these employees – i.e., did you have periodic one-to-one conversations, if so, were notes taken? Did you conduct yearly reviews?
12. Who was your line manager or supervisor? Please provide details as to how you were supervised by them. Did you have an annual appraisal? If so, were notes taken?
13. With specific reference to 3-5 May 2015, did you feel PIRC had sufficient resources to carry out the investigation as instructed by the Crown Office and Procurator Fiscal Service (COPFS)? If not, please provide detail as to what resources were lacking and any impact of this.
14. Between May 2015 - August 2016, do you feel that there was adequate resourcing for PIRC to comply with its statutory obligations in terms of:
  - (a) Funding;
  - (b) Staffing numbers;
  - (c) Training opportunities; and
  - (d) Expertise of staff.

If not, why not?

15. In what ways do you regard the role of a police officer and the role of a PIRC investigator to be similar or different? Do you feel that your background as a police officer has any advantages or disadvantages for your work at PIRC? If so, please provide full details.
16. In 2015-2016 PIRC had various staff members who had previously held roles within the police. Do you feel that PIRC as an organisation was impacted positively or negatively by staff having held roles within the police? Please provide details as to how.
17. Prior to 3 May 2015, what experience, if any, did you have of PIRC investigations of deaths in police custody, or deaths following police contact?
18. As a police officer, you achieved the rank of detective chief inspector (PIRC-04220). When leading a PIRC investigation, you may be required to liaise with and direct police officers of a rank senior to that which you achieved. What impact, if any, does this have on your ability to lead a PIRC investigation and provide direction to officers from Police Scotland?
19. Your PIRC application form (PIRC-04220), at page 5, notes that you policed an area that included asylum seekers from multi-ethnic backgrounds. As a police officer, what training did you have in relation to working with asylum seekers? What skills and learning, if any, did you take from your experience working with asylum seekers as a police officer into your role at PIRC?
20. Your PIRC statement (PIRC-00381) identifies that you held the position of senior investigator at PIRC from 17 December 2012, prior to PIRC being formally established on 1 April 2013. What were your duties and responsibilities during this period? How many staff did PIRC have during this period? How prepared was PIRC to fulfil its statutory functions as at 1 April 2013? Please provide full details of any areas in which you consider PIRC was unprepared to fulfil its statutory functions at that time.

## **Your involvement with the PIRC investigation**

## Sunday 3 May 2015

### *Call from DS Harrower*

21. Your PIRC statement (PIRC-00381), at page 1, notes that around 1010 hours on 3 May 2015 you were contacted by Deputy Senior Investigator Keith Harrower and made aware of the incident involving Mr Bayoh. Was this the point at which you learned of the incident involving Mr Bayoh? If not, when did you become aware of the incident? Why did DSI Harrower contact you to make you aware of the incident on 3 May 2015? What did you discuss with DSI Harrower on this call?
22. Your PIRC statement (PIRC-00381), at page 1, notes that on this call an incident had occurred “involving officers from Police Scotland and a black male”. What did you discuss with DSI Harrower in relation to Mr Bayoh’s race on this call?
23. Your notebook (PIRC-04528), at page 1, states:

*Sunday 3<sup>rd</sup> May 2015 = 10.00 hrs  
Sunday 10am – DSI Harrower  
Dave Green – Instruction?  
Political Side. Key? Commissioner?*

To what does “Political side. Key?” refer in the context of your conversation with DSI Harrower on the morning of 3 May 2015? To what does “Commissioner?” refer in the context of your conversation with DSI Harrower? Was consideration given to contacting the Commissioner to make her aware of the incident? Was the Commissioner contacted on 3 May 2015 to make her aware of the incident? If so, what was discussed with the Commissioner? If not, why not?

24. Your notebook (PIRC-04528), at page 1, thereafter appears to provide an account of the incident. Was this account provided to you by DSI Harrower when you spoke to him at 1010 hours? If not, who provided you with this account at what point on 3 May 2015?
25. Please confirm what your account of the incident is within your notebook (PIRC-04528), page 1, covering the text commencing with “7am this morning” to “one van maybe” where it appears at the bottom of the same page.
26. Do you consider this to be an accurate account of the incident involving Mr Bayoh? If not, why not?
27. When speaking with DSI Harrower at 1010 hours, what were your initial considerations and priorities at the outset of the PIRC investigation? What impact, if any, did Mr Bayoh’s race have on those initial considerations and priorities?
28. At this stage, what was your understanding of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS? Was your understanding that the investigation was instructed under section 33A(b)(i) or section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006? Were you aware of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS changing during the investigation? What difference, if any, does the legislative basis upon which PIRC are instructed to investigate by COPFS make to a PIRC investigation?
29. Did PIRC receive written instructions from COPFS on 3 May 2015? If so, in what way were written instructions received from COPFS? If not, what impact, if any, did the lack of a written instruction from COPFS at this point impair PIRC’s investigation? Was it normal for

PIRC to commence an investigation directed by COPFS without a formal written instruction? Did you expect a written instruction to be provided by COPFS?

*On call system*

30. Within your PIRC statement (PIRC-00381), at page 1, you state that DSI Harrower was “on call” on 3 May 2015. Were you also on call on 3 May 2015? How many investigators did PIRC have on call on 3 May 2015? Was this the normal number of investigators that would be on call on a Sunday morning in May 2015? What was PIRC’s system for allocating investigators to the on-call rota? What consideration, if any, was given to the investigators’ skills, expertise and experience when setting the on-call rota?
31. Which other PIRC investigators were on call on 3 May 2015?
32. In May 2015, how common was it for staff that were not on call to be asked to attend work and immediately participate in an investigation? In circumstances where staff who are not on call are asked to attend work, how are those staff chosen?
33. On the basis of the information you had available to you, did you consider PIRC had sufficient resources to respond to the incident on 3 May 2015? What discussions, if any, did you have with DSI Harrower in relation to PIRC’s level of resources on 3 May 2015?
34. Within his evidence to the Inquiry, Detective Superintendent Patrick Campbell stated, with reference to the level of PIRC’s resources on 3 May 2015 (day 47, page 128, line 23 and day 49, page 174, line 5 respectively):

*A. ... I had slight concerns round about their awareness of capability and also the capacity round about the number of resources that turn up at that time to take on an investigation such as this, which was gathering pace, there was significant media attention around it. So it wasn’t just investigative side, there were other areas that were playing out at that time.*

*Q. When you say you had concerns about their capacity, what do you mean by that?*

*A. Resources-wise. I think we had about – I recall at one time we had probably about 20, 22 resources on it at one time from Police Scotland, detective officers involved in the investigation. I think at that day, I think they turned up with four or five PIRC.*

...

*A. ... it’s clear it was insufficient for the job on 3 May, and that’s why from a Police Scotland perspective we’d significant resources pulled from all over the country, as well as from the Major Investigation Teams, to support the PIRC in respect of the investigation.*

What are your views in relation to DS Campbell’s comments regarding the level of resources available to PIRC on 3 May 2015? Do you agree that the level of resources available to PIRC on that day was “insufficient for the job”? Please explain why you hold this view.

35. Were you PIRC’s most senior investigator working on 3 May 2015? As a senior investigator, what was your relationship to DSI Harrower as deputy senior investigator on 3 May 2015?

36. What did being on-call as a PIRC senior investigator involve? How many times had you performed this role prior to 3 May 2015? On how many occasions had you been required to deploy to an incident whilst you were on call prior to 3 May 2015? On how many occasions did those deployments relate to deaths in police custody, or deaths following police contact?
37. What function would a senior investigator generally perform in an investigatory team? Was this the function you performed in this investigation?
38. How many times had you carried out this role prior to 3 May 2015? Had you performed this role within a similar investigation prior to the incident involving Mr Bayoh?
39. Did your role in this investigation involve supervising the work of any PIRC staff members? If so, who and how did you carry out that supervision?

#### *Briefing at PIRC offices*

40. Within your PIRC statement (PIRC-00381), at page 1, you state that you attended a briefing at PIRC's offices in Hamilton at 1155 hours on 3 May 2015. What was the purpose of that briefing? Was it PIRC's standard practice to convene investigators at PIRC's offices prior to deployment? If so, was this practice based on a PIRC standard operating procedure (SOP)? If not, why were PIRC investigators convened at PIRC's offices on 3 May 2015? When you spoke with DSI Harrower earlier on 3 May 2015, what, if any, consideration was given to PIRC's investigators convening in Kirkcaldy instead of in Hamilton?
41. What was discussed during this briefing? What decisions were made at this briefing? What discussion, if any, was there in relation to PIRC's investigative strategies at this briefing? What discussion, if any, was there in relation to the status of the officers as witnesses or suspects? What discussion, if any, was there in relation to the separation of the officers involved in the incident to mitigate the risk of conferral?
42. What was your understanding of the scope of PIRC's investigation at the point the briefing was held? Did your understanding of the scope of PIRC's investigation change over the course of the day on 3 May 2015? Based on your understanding of events at this time, were you content with the nature and scope of the investigation instructed by COPFS? Did your views about the scope of PIRC's investigation, and the appropriateness of the division of responsibilities between PIRC and Police Scotland, change over the course of the day on 3 May? If so, in what way?
43. What role within the investigation did you take on at, or following, the briefing? Were you assigned this role by DSI Harrower, or did you choose to take on this role yourself? Why did you take on this role?
44. Your notebook (PIRC-04528), on the left-hand side of page 2, contains a further account of the incident. Within this account, it appears to state:

*ran at the PW with the knife  
attack with a knife person  
CS discharge*

Who provided you with this account of the incident and at what point on 3 May 2015 was it provided to you? Do you consider this an accurate account of the incident? If not, why not? Was it your understanding at this stage that a police officer had been attacked with a knife? Did this remain your understanding of the incident throughout the course of 3 May

2015? If not, how did your understanding of the incident develop or change and at what point did it so develop or change?

45. If you consider there to be discrepancies within the accounts of the incident set out within your notebook (PIRC-04528) what impact, if any, did the discrepancies within the initial accounts of events that you received have on your approach to the investigation?

46. Your notebook (PIRC-04528), on the left-hand side of page 2, states:

*... no blood at locus.*

What was the significance of this to the investigation?

47. Your notebook (PIRC-04528), on the left-hand side of page 2, states:

*"Gold Group meeting 11:30"*

What was discussed in relation to the Gold Group meeting at 1130 hours? Was consideration given to any member of PIRC's team travelling to Kirkcaldy to attend the Gold Group meeting? If not, why not? What consideration, if any, was given to joining the Gold Group meeting by telephone?

48. Please confirm what is noted within your notebook (PIRC-04528) at the bottom of page 2 on the left-hand side, starting from the line underneath the reference to "Gold Group meeting 11.30" and running to the end of the page.

49. Your notebook (PIRC-04528), on the right-hand side of page 2, states:

*Footwear?*

What does this refer to? Why was this a priority at this stage of the investigation?

*Steps taken following briefing*

50. Within Stuart Taylor's PIRC statement (PIRC-00358), at page 2, he states:

*I was paired with Inv Ferguson and told to attend at Kirkcaldy police office along with all other PIRC staff aforementioned, minus SI Casey who was coordinating the PIRC response from Hamilton House.*

Following the briefing, do you agree that you were "coordinating the PIRC response from Hamilton House"? In what way were you coordinating PIRC's response?

51. As the senior investigator working on 3 May 2015, were you in charge of PIRC's investigation on that day? If you were not, who was in charge of PIRC's investigation?

52. On 3 May 2015, was PIRC or Police Scotland in charge of the investigation? If PIRC was in charge of the investigation, at what point did PIRC take charge of the investigation on 3 May? PIRC's investigators did not arrive in Kirkcaldy until 1330 hours on 3 May. What impact, if any, did this delay in the investigators' arrival in Kirkcaldy have on the PIRC's ability to take charge of an investigation?

53. PIRC were first informed about the incident at 0935 hours. Would you have expected PIRC's investigators to have arrived at Kirkcaldy Police Office prior to 1330 hours that



day? If so, what impact, if any, did the delay in the investigators' arrival have on PIRC's investigation?

54. The other investigators who attended the briefing at PIRC's offices travelled to Kirkcaldy following the briefing. Why did you not travel to Kirkcaldy with PIRC's other investigators on 3 May 2015?
55. During the course of 3 May 2015, what contact, if any, did you have with DSI Harrower and the other PIRC investigators in attendance at Kirkcaldy? What did you discuss with DSI Harrower and/or the other PIRC investigators in Kirkcaldy in relation to the investigation? If you did not have any contact with DSI Harrower and the other PIRC investigators in attendance at Kirkcaldy, why did you not have such contact with them?
56. What awareness did you have of the steps taken to progress PIRC's investigation on 3 May 2015? What instructions, if any, did you provide to DSI Harrower or other PIRC colleagues in relation to PIRC's investigation on 3 May 2015?
57. What contact, if any, did you have with other colleagues at PIRC, beyond DSI Harrower and the other PIRC investigators in attendance at Kirkcaldy? What did you discuss with those colleagues?
58. On 3 May 2015, what contact, if any, did you have with officers or staff at Police Scotland? With whom did you have such contact and what was discussed?
59. Your notebook (PIRC-04528), on the right-hand side of page 2, makes reference to "tonight at 7pm". What does this refer to? What does the text to the right of this within your notebook say?

#### *Press liaison*

60. Your notebook (PIRC-04528), on the right-hand side of page 2, makes reference to a "press release". There follows what appears to be a draft press release:

*Crown has directed that PIRC investigate the circumstances into the death of a 31 year old man in the Kirkcaldy area after he had been taken into Police Custody.*

Did you prepare this proposed form of words for the press release? If you received any assistance in relation to drafting this form of words, from whom did you receive that assistance?

61. DSI Harrower's operational notes (PIRC-01468), at page 5, state, with reference to a call he had with David Green at 1230 hours on 3 May 2015:

*He wants to see press release.*

Why did David Green wish to see the press release in this instance? Was this in order to approve PIRC's press release? Was it standard practice for COPFS to see PIRC's press releases prior to publication? If not, why did COPFS wish to see PIRC's press release in this instance?

62. At 1401 hours on 3 May you sent an email to David Green, COPFS (COPFS-03869). This provided Mr Green with two options for a proposed press release "as discussed". What discussions did you have with David Green on 3 May 2015 in relation to the investigation? Did you have any discussions with David Green in relation to the post-mortem? If so, what

did you discuss with Mr Green? What contact, if any, did you have with other staff at COPFS on 3 May 2015?

63. What involvement, if any, did the Commissioner, Kate Frame, have in drafting PIRC's press release on 3 May 2015?
64. Within your email (COPFS-03869), the two options for the press release are almost identical, except for references to Mr Bayoh having been "in Police Custody" or "detained by the Police shortly before his death". What was the distinction between Mr Bayoh being in police custody and being detained by the police? Why was this distinction considered to be significant for the purposes of this press release?
65. The wording of the options provided to David Green within your email (COPFS-03869) is different to that contained within your notebook (PIRC-04528). What led to the proposed wording of the press release being changed prior to your email to David Green?
66. Did PIRC issue a press release on 3 May 2015? If not, why not? If a press release was issued on 3 May, was this the "reactive media line" contained within PIRC-04047? If not, please can you identify which document contains PIRC's initial press release.
67. The reactive media line contained within PIRC-04047 refers to you as PIRC's "SIO". At the point the press release was drafted, were you PIRC's senior investigating officer and in charge of PIRC's investigation?
68. PIRC appear to have issued a press release on 4 May 2015 (PIRC-03925, page 33) in similar terms to the reactive line noted above (PIRC-04047). Was this press release on 4 May 2015 issued in place of, or in addition to, the reactive line? Were you involved in issuing this press release? How were the terms of this press release finalised? Whose decision was it to issue the press release on 4 May 2015?
69. COPFS, Police Scotland and PIRC entered into a joint protocol entitled "Working with the Media" in October 2014 (PS18478). This states, at page 8, that following a death in custody:

*The name of the deceased will only be released by the PIRC after the Family Liaison Officer has confirmed that the point of contact in the family has been informed that the information is to be made public.*

The press release issued on 4 May 2015 (PIRC-03925, page 33) includes reference to Mr Bayoh's name. At the point the press release was issued, had Mr Bayoh's family been informed that his name was to be made public? If so, who informed Mr Bayoh's family of this and how did you become aware that Mr Bayoh's family had been so informed?

70. The typed minutes of the Gold Group meeting held in Kirkcaldy at 1405 hours (PS07268), at page 4, state:

*Kate raised issue re about corporate comms and concerned re mentioned use of PAVA due it currently being topical and the public perception of it and as such a media statement to be determined ASAP and agreed between Police Scotland and PIRC*

What liaison, if any, did you have with Police Scotland in relation to the preparation of a media statement on 3 May 2015?

71. Your notebook (PIRC-04528), on page 3, refers to “Kate Finlay”. What involvement did Ms Finlay have in the investigation on 3 May 2015? What contact, if any, did you have with Ms Finlay on 3 May 2015? What did you discuss with Ms Finlay?

72. The typed minutes of the Gold Group meeting at 1950 hours (PS03139), at page 3, state:

*A media statement prepared was rejected by the crown. A brief release re condolences to family put out.*

*Refer any Media interest to PIRC.*

To which media statement does this refer? Why was it rejected by COPFS? Who issued the press release expressing condolences to the family? What shift, if any, was there in responsibility for media liaison between Police Scotland and PIRC (either jointly or individually) during the course of 3 May 2015? If there was such a shift in responsibility, why did this take place?

73. Did you liaise with or speak to the media on 3 May 2015, or otherwise during the investigation? If so, in what way did you liaise with the media and to whom did you speak? What training, if any, did you have in relation to media liaison prior to 3 May 2015?

74. As at 3 May 2015, was there any PIRC SOP or guidance that covered media activity in ongoing investigations? On 3 May 2015, whose responsibility at PIRC was it to consider any action PIRC may have needed to take in relation to liaison with the media? What issues in relation to media liaison did PIRC require to consider and/or address on 3 May 2015? How were such issues considered and/or addressed?

75. On 3 May 2015, what awareness, if any, did you have of media coverage surrounding the incident? What awareness, if any, did you have of reports of a female police officer being stabbed and the source of those reports? What, if anything, did you do in response to those reports? Were you aware of any details of the incident on social media?

76. Your notebook (PIRC-04528), on the right-hand side of page 2, refers to “Kay McKay”. What involvement, if any, did Ms McKay have in the investigation on 3 May 2015 and on subsequent days? What contact, if any, did you have with Ms McKay on 3 May 2015? What did you discuss with Ms McKay?

77. Were you aware at any point on 3 May 2015, or subsequently, of concerns or issues raised by Mr Bayoh’s family in relation to a press release? If so, what were these concerns or issues? How were these concerns or issues addressed?

78. Your notebook (PIRC-04528), at page 3, with reference to 4 May 2015, states:

*Press issues – no person at office.*

What does this refer to? What impact, if any, did these issues have on the investigation?

*PIRC investigation on 3 May 2015*

79. Were you content with the direction, instruction and support that PIRC received from COPFS in relation to PIRC’s investigation on 3 May 2015 and throughout the investigation? If not, why not?

80. Were you content with the support that PIRC received from Police Scotland in relation to PIRC’s investigation on 3 May 2015 and throughout the investigation? If not, why not?

81. Were you content with the support that you received from your colleagues at PIRC, including colleagues in positions senior to you, in relation to the investigation on 3 May 2015? If not, why not? Were you content with the decisions taken by PIRC's investigators who attended Kirkcaldy on 3 May 2015? If not, why not?
82. Did you consider that you and your colleagues, as PIRC investigators, had sufficient powers to progress the investigation on 3 May 2015? If not, why not? What additional powers would you and your colleagues have benefited from to progress the investigation?
83. On 3 May 2015, did PIRC have a working or preliminary view as to Sheku Bayoh's cause of death? If so, what was this view? If not, why not?
84. What, if any, hypotheses did PIRC have in relation to the incident on 3 May 2015? On 3 May 2015, did you give consideration to whether race could be a factor in the incident? If so, in what way? If not, why not?
85. Did you consider that any police officers with whom you had contact on 3 May 2015 had an awareness and understanding of PIRC as an organisation and PIRC's role within the investigation? If not, what, if any, steps did you take to address this on 3 May? What impact, if any, did the officers' awareness, or lack thereof, of PIRC's role have on the investigation? Following the establishment of PIRC on 1 April 2013, and prior to the incident on 3 May 2015, what steps had been taken to raise awareness and understanding amongst police officers of PIRC as an organisation and PIRC's role within an investigation?
86. At what point in the investigation did you become aware of the identities of the officers that attended the scene at Hayfield Road?
87. A briefing note was prepared for PIRC's Director of Investigations in relation to the events of 3 May 2015 (PIRC-03694). What role, if any, did you have in preparing this document?
88. Did you have any communication with representatives from the Scottish Police Federation (SPF) on 3 May 2015? If so, with whom did you communicate and what did you discuss?

#### **Monday 4 May 2015**

89. Did you attend a PIRC briefing on the morning of 4 May 2015 at the PIRC office in Hamilton? Who delivered this briefing? Do you remember what was said? If so, please provide details.
90. Do you recall if it was at this briefing that Deputy Senior Investigator William Little was placed in charge of the investigation with Senior Investigator John McSporran having oversight? If not at this briefing, do you know when was this formally confirmed? Why were SI McSporran and DSI Little placed in these roles at this point?
91. Do you recall what handover you and other members of PIRC staff who were involved in the investigation on 3 May 2015 provided to DSI Little? If so, please provide details. What involvement did you have in this handover?
92. An extract from DS Campbell's evidence to the Inquiry (day 49, page 73, line 5) is as follows:

A. I think -- sorry, I think the problem with the PIRC deployment at that stage, other than the resources, is that over the course of 24, 36 hours they changed the lead investigator. So Keith had --

Q. What issues did that cause?

A. Just obvious challenges, the fact is you're bringing someone on fresh into the investigation when you've been there for 12, 13 hours at that stage, you know what I mean, before that ... before Billy Little's appointed around that. So again, there was challenges with the fact that the change of a senior investigator from PIRC at such an early stage of a critical investigation would undoubtedly cause challenges.

Do you agree with DS Campbell that the handover of responsibility for the investigation to DSI Little and SI McSparran caused "challenges"? If so, what were these challenges and what did PIRC do to mitigate them? If not, why not?

93. From the minutes (PIRC-04156), it is apparent that morning briefings continued to be held in relation to the investigation until 3 July 2015. Did you attend these morning briefings? If not, why not?
94. Within your PIRC statement (PIRC-00381), at page 2, you refer to DSI Little being contacted by Assistant Chief Constable Nicolson by telephone at 1235 hours on 4 May 2015. What, if anything, did DSI Little discuss with you in relation to this call? What, if any, concerns did ACC Nicolson express to DSI Little on this call? Had you been aware of these concerns prior to this call?

#### *Appointment of FLOs*

95. Within Investigator John Clerkin's notebook (PIRC-04199), at page 2, he states, within an entry dated 4 May 2015:

*Present at SI Briefing. Appointed as Co FLO in Op Quoich by SI Casey along with A Lewis.*

Did you appoint John Clerkin and Alistair Lewis as FLOs on 4 May 2015? If so, why were you tasked with appointing the FLOs for this investigation?

96. What discussion, if any, was there at the briefing at 1155 hours on 3 May 2015 in relation to the availability or deployment of PIRC's FLOs? What discussions, if any, did you have with colleagues at PIRC in relation to the availability or deployment of PIRC's FLOs on 3 May 2015? With whom did you have these discussions? What was agreed within those discussions?
97. On 4 May 2015, what was your understanding of (a) how Police Scotland and PIRC FLOs had been intended to be deployed on 3 May 2015 and (b) why deployment of Police Scotland and PIRC FLOs on 3 May 2015 did not take place?
98. How many staff at PIRC were trained as FLOs as at 3 May 2015? Was it usually the case that a PIRC FLO would be on call on a Sunday morning? If so, why was this not the case on 3 May 2015? Were you aware on 3 May 2015 that PIRC FLOs were not available for deployment? If so, at what stage did you become so aware?
99. How are FLOs assigned by PIRC – is it based on who is available on the day? What consideration, if any, is given to sensitivities such as religion and gender?

100. What, if any, risk assessment requires to be carried out prior to the deployment of a PIRC FLO? What, if any, risk assessment was carried out prior to the deployment of PIRC FLOs in this case?

101. PIRC's Family Liaison Policy (PIRC-04460), at page 7, states:

*It is essential that prior to any FLO deployment the SI has formulated a family liaison strategy. The strategy should set out the objectives for the liaison between the family and the investigation and are the basis for tasking the FLO.*

...

*The Family Liaison Strategy is one of the most important considerations that the SI and investigations team will have to address throughout the course of an investigation.*

What steps, if any, did you or colleagues at PIRC take to create a family liaison strategy on 3 or 4 May 2015? What objectives were contained within that family liaison strategy?

#### *Post-mortem*

102. Your PIRC statement (PIRC-00381), at page 2, identifies that you were present at Mr Bayoh's post-mortem on 4 May 2015. Why did you attend the post-mortem? What was your role at the post-mortem?

103. What was PIRC's involvement in the post-mortem examination on 4 May 2015? Was this normal practice for PIRC? In 2015, was PIRC's involvement in relation to a post-mortem governed by any SOP? If so, please identify the SOP in question.

104. Were you present when the pathologist was briefed in relation to the circumstances surround Mr Bayoh's death? If so, what information was passed to the pathologist during this briefing? Who provided this briefing? Are you content that the information passed to the pathologist was comprehensive and accurate?

105. An "Officers Note" was subsequently prepared in relation to the post-mortem (PIRC-04148). What, if any, involvement did you have in preparing this note? If you did not prepare this note, are you aware who prepared it?

106. The note (PIRC-04148), at page 1, identifies that:

*The family of the deceased had intimated to both Police Scotland and the PIRC that they did not want to be involved in the identification of the deceased.*

What was your understanding of the relationship between Mr Bayoh's family and PIRC at the point the post-mortem took place? Does this entry within the note match your understanding of the family's position in relation to the identification of Mr Bayoh's body on 4 May 2015? If not, why not? If so, how did you come to be aware that the family had intimated this to Police Scotland and PIRC? To whom at Police Scotland and PIRC did the family intimate this? Were COPFS informed of this? If so, how were COPFS so informed?

107. Were you aware at the time that the post-mortem took place of any suggestion that the family had requested that the identification of Mr Bayoh's body be delayed pending the arrival of other family members? If so, do you recall any discussion with David Green regarding the family's wishes in this regard? If you were aware of the family's wishes, do you know why the post-mortem went ahead when it did?

108. The note (PIRC-04148), at page 2, identifies that:

*The area of cultural issues was highlighted with DCI Hardie confirming that the deceased was Muslim, again the pathologist were happy to proceed after being advised by Mr Ablett that the investigation would take precedent.*

What discussions took place in relation to Mr Bayoh's religion and any impact that that may have had on the post-mortem? In what way was the pathologist advised by Bernie Ablett that the investigation would take precedence in this regard? During a post-mortem, is it normal practice for an investigation to take precedence over any cultural or religious sensitivities associated with a deceased person? If not, why did it take precedence on this occasion?

109. The note (PIRC-04148) identifies that DC Gilzean, DC Grady and DCI Hardie were present at Mr Bayoh's post-mortem. Following a death in police custody, is it common for the post-mortem of the deceased to be attended by police officers? If not, why were police officers in attendance at Mr Bayoh's post-mortem? What purpose is served by police officers attending a post-mortem following a death in custody?

110. In your experience, what is the normal period of time between a death in custody or death following police contact occurring and a post-mortem taking place? Who did you understand was ultimately responsible for the decision that the post-mortem would go ahead on 4 May?

111. What discussions, if any, took place in relation to informing the family of the results of the post-mortem? What was agreed in this regard? How were the family to be informed? Who was responsible for informing the family?

112. Are you aware of when the family was informed that the post-mortem had taken place? When were the family so informed? Was the family informed directly, or via their legal representative? Who informed the family or their legal representative that the post-mortem had taken place? How did you become aware that the family had been informed that the post-mortem had taken place?

#### *Meeting with Police Scotland*

113. Within your PIRC statement (PIRC-00381), page 2, you refer to being present at a meeting with DSI Little, DS Campbell, DCI Hardie and DI Wilson at 2005 hours on 4 May 2015 at Kirkcaldy Police Office. Why did you attend this meeting? What was discussed? You refer to there being a "handover of the investigation" from Police Scotland at this meeting. What elements of the investigation were handed over by Police Scotland at this meeting? Did this relate to the expanded terms of reference provided by COPFS to PIRC on 5 May 2015 (COPFS-02539)?

114. Within your PIRC statement (PIRC-00381), page 2, you refer to DSI Little confirming the status of the nine officers who attended the incident as witnesses during the course of this meeting with Police Scotland. What was your understanding of the officers' position in relation to the provision of operational statements at this time?

115. Within your PIRC statement (PIRC-00381), page 2, you state:

*During the course of this meeting I was present when Deputy Senior Investigator Little confirmed the status of the nine officers who had attended this incident as witnesses. Deputy Senior Investigator Little also intimated to Detective Superintendent Campbell*

*that he was content for the nine officers to be updated of the interim result from the post mortem.*

*Detective Superintendent Campbell stated that each of the nine officers would be personally contacted that night and advised accordingly. He believed that following this the officers would submit operational statements which up till then they had refused to provide.*

What was your understanding of how the officers would be “personally contacted”? Were they to be contacted by DS Campbell, or by a third party, such as their solicitor, another police officer or an SPF representative? What information was to be passed to the officers? What reasoning, if any, did DS Campbell provide as to why he believed the officers would submit operational statements thereafter? When did PIRC expect to receive the operational statements?

116. What are the circumstances in which a person is treated as a suspect by PIRC? Do you consider that it is PIRC’s responsibility to decide whether to categorise a person as a witness or a suspect during an investigation? What is the significance of treating a person as a suspect?
117. During the meeting with Police Scotland at 2005 hours, what consideration, if any, was given to PIRC confirming the status of the officers as witnesses directly to the officers, or via their solicitor, rather than via Police Scotland? As far as you are aware, why was confirmation of the officers’ status as witnesses to be passed to the officers via Police Scotland, rather than directly, or via their solicitor?
118. Whose responsibility was it to communicate the officers’ status as witnesses or suspects to the officers themselves?
119. What is the role of PIRC in obtaining operational statements from officers involved in an incident whereby a person has died in police custody?
120. Had you dealt with a situation prior to May 2015 in which officers did not provide statements for several weeks after an incident? What was the outcome? Have you dealt with such a situation since May 2015? What was the outcome?
121. What is the importance of PIRC being in receipt of operational statements of police officers involved in the death of a person in police custody? Specifically, what was the importance to this investigation?
122. What was your understanding of the law or guidance on the issue of officers failing to provide operational statements when requested, from PIRC, Police Scotland or the SPF? Did PIRC have any powers to obtain statements, where the officers were categorised as witnesses and were not willing to provide a statement voluntarily? At that time, could police officers be compelled to provide an operational statement? If so, under what circumstances and authority?
123. On 2 June 2015, prior to the officers providing operational statements, the legal adviser for the SPF, Peter Watson, stated within a press release issued on behalf of the SPF (SPF-00019):

*The officers involved have never refused to provide statements. It was agreed at the outset with PIRC that they would revert to us when they wanted statements and when they were clear on the basis that statements were to be given. PIRC emailed me this*



*morning at 10:46am asking for our assistance to organise interviews and we answered at 11:29am confirming we would be pleased to assist. Those are the facts.*

What is your view in relation to the comments made by Peter Watson within this press release? Do you consider this to be accurate? Between 3 May 2015 and 2 June 2015, was your understanding that the officers were refusing to provide statements to the PIRC?

124. Within your PIRC statement (PIRC-00381), page 2, you state, with reference to the meeting at 2005 hours:

*Deputy Senior Investigator Little also intimated to Detective Superintendent Campbell that he was content for the nine officers to be updated of the interim result from the post mortem.*

At this meeting, were you aware if Mr Bayoh's family had been informed of the interim results of the post-mortem? If so, how had you been made so aware? How had the family been informed of the post-mortem results? In May 2015, was it standard practice for officers involved in some way in a death in custody or death following police contact to be informed of the results of the post-mortem after it had taken place? If not, what was the standard practice in these circumstances?

#### **14 May 2015**

125. Investigator John McAuley's PIRC statement (PIRC-00338), at page 3, states that you attended Police Scotland premises with him on this day to deliver six mobile phones for examination. What was the purpose of the examination of these mobile phones? To whom did they belong? What was the legal basis upon which these mobile phones had been seized? What limits, if any, were placed on the examination of the data contained within these mobile phones? Were Police Scotland made aware of these limits?

#### **4 June 2015**

126. On 4 June 2015, a statement was taken from PC Alan Paton by Investigator Alex McGuire in your presence (PIRC-00262). When a statement is taken "in the presence of" a PIRC investigator, what is that investigator's role within the interview? May that investigator ask questions of the witness? If so, did you ask any questions of PC Paton within this interview and what lines of questioning did you seek to explore with PC Paton? Please describe any impressions you had of PC Paton whilst you were present during this interview.
127. In the process of this statement being taken from PC Paton, what, if any, contact did you have with your colleagues from PIRC who were taking statements from other officers on 4 June 2015 to allow the accounts received from the officers who attended Hayfield Road to be compared and contrasted for any gaps or inconsistencies? If you did have such contact with your colleagues, in what way did that influence the lines of questioning that were put to PC Paton when taking his statement?
128. Was PC Paton's statement obtained in line with PIRC's Witness Interview Strategy document (PIRC-04182)? If so, what involvement, if any, did you have in the preparation of the Witness Interview Strategy document? Was it standard practice for PIRC to obtain statements from witnesses using a document of this nature? Prior to PC Paton's statement being taken, did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with PC Paton and/or the other officers that attended Hayfield Road? If so, what was discussed?

129. Following a death in custody or a death following police contact, was it common for officers to be re-interviewed by PIRC after they had already been interviewed by PIRC? After PC Paton's PIRC statement had been obtained (PIRC-00262), did you consider that there were any matters that required to be clarified with PC Paton? If so, what were these matters? Did PIRC consider taking a further statement from PC Paton to clarify these matters? If so, why was a further statement not taken from PC Paton clarify these matters?

130. Within PC Paton's PIRC statement (PIRC-00262), on page 2, PC Paton makes reference to a statement previously submitted to "John Sallens from Peter Watson". PC Paton agrees to provide an electronic copy of this statement to Alex McGuire by email. Was this statement obtained by PIRC? If not, why not? Did you know who John Sallens was? Did you explore this further with the witness given the previous position taken by the officers regarding the provision of operational statements? Did you think it was appropriate the officers had given statements to John Sallens? If not, why not?

131. Within PC Paton's PIRC statement (PIRC-00262), on page 4, he states:

*Straight away I remembered that there had been the rumour going about Kirkcaldy Police Station that somebody intended to cause harm to a female cop. Numerous officers had asked managers to confirm if there was any known truth in the rumour. But this had never been confirmed to my knowledge. The rumour still remains strong and it is believed by the officers that this had contributed to all officers in Kirkcaldy being double crewed whilst on patrol.*

After this statement was obtained from PC Paton, what steps, if any, were taken by PIRC to investigate the rumours he refers to in relation to a potential threat to a female police officer? What was the result of this investigation?

132. Within PC Paton's PIRC statement (PIRC-00262), on page 4, he states:

*For a number of months checks have also been getting carried out by officers at a number of identified locations in Kirkcaldy due to increased terrorist risk. It also ran through my mind that this male could be part of a terrorist plot.*

Later within PC Paton's PIRC statement (PIRC-00262), on page 5, he states:

*I kept thinking about the Lee Rigby boy, the soldier who was killed.*

After this statement was obtained from PC Paton, what steps, if any, were taken by PIRC to confirm the risk of a terrorist attack as at 3 May 2015? What, if any, consideration did you give to PC Paton's belief that Mr Bayoh "could have been part of a terrorist plot" or his reference to Lee Rigby being influenced by Mr Bayoh's race? If you gave these points consideration, what steps, if any, did you take in response to PC Paton's comments as part of the investigation?

133. Within PC Paton's PIRC statement (PIRC-00262), on page 8, when describing PC Walker providing CPR to Mr Bayoh, PC Paton states:

*I remember Craig saying to Scott Maxwell "That's a couple of ribs away".*

What analysis, if any, was carried out by PIRC in relation to the references to Mr Bayoh's rib breaking during CPR contained within PC Paton's and other officers' statements? What was the result of that analysis?

134. Within PC Paton's PIRC statement (PIRC-00262), on page 9, he states:

*In the canteen we were all talking between ourselves. It was about the incident. I cannot really be specific about what we were talking about. [REDACTED]. I remember talking about Nicole and asking how she was.*

When the statement was being taken from PC Paton, what consideration, if any, was given to asking PC Paton whether there the officers conferred in relation to the incident?

135. When preparing to take the officers' statements, was consideration given by PIRC to asking the officers why they took certain actions or chose particular tactical options in responding to the incident involving Mr Bayoh? If not, why not?
136. Did PIRC compare and contrast the statements received from the officers that attended Hayfield Road to identify areas of consistency and inconsistency? What consideration, if any, was given to taking further statements from the officers to question inconsistencies between their respective accounts? Why were further statements not taken from the officers to clarify inconsistencies between different witnesses' accounts? Who at PIRC was in charge of deciding whether or not to take further statements from witnesses?
137. After PC Paton provided his statement, PIRC's terms of reference were expanded by COPFS to look at whether there was inappropriate conferring between police officers and to investigate issues of race and conduct. What consideration, if any, was given to obtaining further statements from the officers that attended Hayfield Road to explore these areas with the officers? Why was it decided that further statements did not require to be obtained?

#### **5 June 2015**

138. On 5 June 2015, there is a record of you receiving a call from Fiona MacNeill at the Health and Safety Executive (HSE) (PIRC-03738). What was discussed on this call? What involvement, if any, did you have in liaising with HSE during PIRC's investigation? Who was PIRC's primary point of contact for matters relating to HSE's involvement in this investigation?
139. The note of your call with Ms MacNeill (PIRC-03738) appears to indicate that HSE were considering whether they required to investigate the circumstances of Mr Bayoh's death. How common was it in 2015 for HSE to investigate deaths in custody that PIRC was also investigating, either independently or jointly with PIRC? What indication, if any, did Ms MacNeill give during this call as to the likelihood of HSE taking on this investigation? What consideration, if any, was given during the investigation to PIRC and HSE carrying out a joint investigation?
140. How well equipped, in terms of resources and expertise, was PIRC in 2015 to investigate matters arising under the Health and Safety at Work etc. Act 1974 where HSE chose not to investigate?
141. The note of your call with Ms MacNeill (PIRC-03738) refers to a RIDDOR report being submitted by Police Scotland to HSE. What is the process that is followed when submitting a RIDDOR report following a death in custody? Who is responsible for submitting this report? What involvement, if any, does PIRC have in submitting this report to HSE?
142. During the course of the investigation, what view, if any, did PIRC have in relation to whether or not HSE should have initiated their own investigation into the incident involving Mr Bayoh?

**2018**

143. On 12 January 2018, you were present when Investigator Garry Sinclair took a further statement from DS Campbell, at the direction of COPFS (PIRC-00217). How common is it for PIRC to take further statements from witnesses at COPFS's direction? Does the need to obtain further statements from witnesses at COPFS's direction indicate any oversight on PIRC's part when taking the original statements?

**Further involvement in the investigation**

144. On 10 August 2016, PIRC submitted its report to COPFS. Did you have any involvement in writing the report? If so, what was your involvement?
145. Beyond the points covered above, what further involvement, if any, did you have in the investigation?

**Race**

146. Was anything you have stated above done or not done because of Mr Bayoh's race?
147. Prior to 3 May 2015, what experience, if any, did you have of investigations of deaths in custody or deaths following police contact in which the deceased was someone from an ethnic minority? Since 3 May 2015, with the exception of the investigation following the death of Mr Bayoh, what experience do you have such investigations?
148. Prior to 3 May 2015, what experience, if any, did you have in deaths in custody or deaths following police contact in which race was a factor to investigate? As at 3 May 2015, had you ever acted in a PIRC investigation in which the issue of race was within your terms of instruction?
149. Prior to 3 May 2015, had PIRC ever considered the issue of race within an investigation? If so, in what way was race a consideration? With the exception of the investigation following the death of Mr Bayoh, has PIRC considered the issue of race within an investigation since 3 May 2015? If so, in what way?
150. When PIRC's terms of reference were expanded by COPFS to include issues of race, what steps did you or others at PIRC take to address this instruction? What was the thought process behind the approach ultimately adopted? At the point PIRC's terms of reference were expanded, did PIRC consider it necessary to take further statements from any witnesses to address the issues covered within the updated instructions from COPFS? If not, why not?
151. Prior to the instruction from COPFS, had you or anyone at PIRC given consideration to race being a factor in the incident? If so, in what way? If not, why not?
152. Do you have any experiences of racism (or the race of the victim) being a factor, in any way, in a death in custody or death following police contact? If so, please provide details of how racism was a factor, your involvement in dealing with it and the outcome.
153. Is the race or ethnicity of a deceased person automatically considered by PIRC as part of an investigation following a death in custody or a death following police contact? If so, in what way? If not, is the deceased's race or ethnicity only considered when directed by COPFS?

154. As at 3 May 2015, did PIRC record the race or ethnicity of the deceased person who was the subject of an investigation following a death in police custody or death following police contact? If so, how was such information recorded? If this information was not recorded, why was this? Have PIRC's procedures for recording a deceased person's race or ethnicity changed since 3 May 2015? If so, in what way?
155. What training had you completed by 3 May 2015 in relation to equality and diversity issues, or in relation to unconscious bias? What did this training involve? Which aspects of this training, if any, were applicable to your role?
156. Did you have any training during your time at PIRC in relation to investigating an allegation of race being a factor in the conduct of Police Scotland?
157. What guidance or reference materials in relation to race were you aware of being available to you on 3 May 2015, had you wished to consult these?
158. Do you think you and PIRC were sufficiently equipped to investigate issues of race relating to deaths in police custody or deaths following police contact on 3 May 2015? Please confirm why this is your view.
159. With particular reference to the issue of race, is there anything you have stated above that, knowing what you know now, you would have done differently?

### **Record keeping**

160. In addition to your notebook (PIRC-04528), what, if any, other notes did you take during the investigation? Were the notes within your notebook completed contemporaneously? For what purpose do you use your notebook within your role? What were PIRC's requirements for you to take contemporaneous notes of your actions and decision making during an investigation?

### **Miscellaneous**

161. Is there anything about your role in the matters relevant to the Inquiry that, knowing what you know now, you would have done differently? If so, what?
162. Since PIRC's investigation was completed what, if anything, have you discussed with your colleagues at PIRC in relation to Mr Bayoh's death and the subsequent investigation? What, if anything, have you seen or read about Mr Bayoh's death, the subsequent investigation and the Inquiry within the media?
163. You completed a PIRC statement covering your involvement in the investigation (PIRC-00381). Please confirm that the content of this statement is true and accurate. Was your recollection of events better when you completed that statement than it is now? Should there be any discrepancy between the content of your PIRC statement and this statement to the Inquiry, which account should be preferred?
164. The Inquiry's Terms of Reference are contained within Annex B. If there is anything further that is relevant to the Terms of Reference which you are aware of, but you have not included in your answers to the above questions, please provide detail as to this.

165. Please include the following wording in the final paragraph of your statement:

“I believe the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry’s website.”

## **ANNEX B**

### **Public Inquiry into the Death of Sheku Bayoh**

#### **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.