

## **ANNEX A**

### **AREAS FOR WITNESS STATEMENT**

#### **MR GARRY SINCLAIR**

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 as at May 2015.
5. 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, or who was the subject of a PIRC investigation?
6. Has PIRC ever investigated police officers with whom you were acquainted? What process would be followed if you had a personal or professional relationship with an officer investigated by PIRC?

#### **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. 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? 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?
9. 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?
10. 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?

11. 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.
12. 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 explain why you hold this view.
13. 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? In what ways were these investigations similar or different to the investigation following the incident involving Mr Bayoh on 3 May 2015?
14. As a police officer, you achieved the rank of detective inspector (PIRC-04206). When involved in 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 participate in a PIRC investigation and provide direction to officers from Police Scotland?

## **Training**

15. What training did you have for your position at PIRC? Please include details in relation 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 received as a PIRC investigator?
16. When you commenced your role at PIRC, to what extent was reliance placed on the training that you had previously received as a police officer?
17. How was it identified that investigators and staff required, or would benefit from, training? Was it necessary for investigators and staff to request training, or were training needs identified by line managers and other senior members of staff at PIRC? Who was responsible for ensuring that PIRC's investigators were sufficiently well trained?
18. Did you feel adequately trained and experienced to carry out your role at PIRC? Please explain why, or why not. What additional training do you consider would have assisted you in your involvement in the investigation?
19. 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 following the death of Mr Bayoh? If so, what did this involve? If not, why did this not take place? Do you think the PIRC would have benefited from such a "lessons learned" exercise?

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

**Sunday 3 May 2015**

### *Call from DS Harrower*

20. Your PIRC statement (PIRC-00309), at page 1, notes that around 1100 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?
21. Your PIRC statement (PIRC-00309), at page 1, states that DSI Harrower asked you to perform the role of “scene manager”. Why did DSI Harrower assign this role to you? How many times had you carried out this role prior to 3 May 2015? Had you performed this role in a death in custody investigation prior to the incident involving Mr Bayoh?
22. Were you made aware of Mr Bayoh’s race when you spoke to DSI Harrower at 1100 hours? What, if anything, did you discuss with DSI Harrower in relation to Mr Bayoh’s race on this call?
23. When speaking with DSI Harrower at 1100 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?
24. At this stage, what was your understanding of the legislative basis upon which PIRC were instructed to investigate the incident by the Crown Office and Procurator Fiscal Service (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?

### *On call system*

25. Were you 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?
26. Which PIRC investigators were on call on 3 May 2015?
27. In May 2015, how common was it for PIRC staff that were not on call to be asked to report for duty and participate in an investigation? In circumstances where staff who are not on call are asked to attend work, how are those staff chosen?
28. What did being “on call” as a PIRC 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?

### *Resources*

29. 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?
30. 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):

*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.*

DS Campbell also stated in this regard (day 49, page 174, line 5):

*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.

#### *Briefing at PIRC offices*

31. Within your PIRC statement (PIRC-00309), at page 2, 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?
32. 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?
33. 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?

34. Your PIRC statement (PIRC-00309), at page 2, contains a summary of the briefing provided by DSI Harrower at 1155 hours. Part of this summary states:

*He informed us that around 0715hrs that morning (3.5.15) officers from Police Scotland had attended Hayfield Road, Kirkcaldy after members of the public had reported seeing a black male armed with a knife in this vicinity. He stated that one of the officers a female officer had been assaulted by the male and that whilst the other officers attempted to arrest him he became unconscious.*

Based on the briefing you received at this time, what was your understanding of the events leading up to the female officer being assaulted by Mr Bayoh? Was it your understanding that Mr Bayoh was in possession of a knife at the point that the female officer was assaulted by Mr Bayoh?

35. Your PIRC statement (PIRC-00309), at page 2, states that you were instructed to deal with scene management duties at Hayfield Road, together with Investigator Maurice Rhodes. What did this role involve? How were responsibilities for this role split between yourself and Investigator Rhodes? What were your initial priorities and considerations in relation to the Hayfield Road scene?
36. Following DSI Harrower's briefing, were you clear in relation to your role and responsibilities within the investigation? If not, why not?
37. In the course of 3 May 2015, what involvement, if any, did DSI Harrower have in the management of the scene at Hayfield Road and the decisions made in that regard? Who at PIRC was ultimately responsible for the management of the scene at Hayfield Road?

#### *Arrival at Kirkcaldy Police Office*

38. Your PIRC statement (PIRC-00309), at page 2, identifies that you met with police officers at 1330 hours at Kirkcaldy Police Office. Having been informed about the incident at 0935 hours, do you consider there was any delay in PIRC's investigators arriving in Kirkcaldy? If so, what impact, if any, did the delay in PIRC's arrival at Kirkcaldy have on the investigation?
39. Prior to your arrival at Kirkcaldy Police Office, what, if any, communication did you have with Police Scotland's officers in relation to the management of the Hayfield Road scene?
40. When you arrived at Kirkcaldy, what investigation, if any, did you consider Police Scotland to be carrying out? Was that investigation appropriate? Do you consider the delay in arriving at Kirkcaldy to have, in any way, affected PIRC's ability to lead the investigation? If so, in what way was PIRC's ability to lead the investigation affected?
41. Your PIRC statement (PIRC-00309), at page 2, refers to you meeting at Kirkcaldy Police Office with DCI Stuart Houston at 1330 hours. What was the purpose of this meeting? What was discussed with DCI Houston? What, if any, instructions or direction did you provide to DCI Houston at this meeting?
42. At this meeting, DCI Houston identified that he was the "scene co-ordinator" for the incident and DC Brian O'Neill was the scene manager for Hayfield Road. How did DCI Houston and DC O'Neill's involvement in the investigation interact with your own role as PIRC's scene manager for Hayfield Road? Who was in charge of the scene Hayfield Road? What were PIRC and Police Scotland's respective responsibilities in relation to the scene at Hayfield Road on 3 and 4 May 2015?

43. Is it standard practice for PIRC to manage a scene in conjunction with Police Scotland during a PIRC investigation following a death in police custody or death following police contact? If so, what are the benefits of this approach? If not, why was this approach adopted in this investigation?
44. During a PIRC investigation following a death in custody or death following police contact, is it possible for PIRC to manage a scene without the assistance of Police Scotland? If not, why not?
45. What impact, if any, does the continued involvement of Police Scotland in the management of scenes following a death in custody or death following police contact have on PIRC's actual or perceived independence?
46. Was PIRC sufficiently independent from PS? How was this independence ensured?
47. Had the Hayfield Road scene been identified as a potential crime scene what, if any, steps would have been taken differently by PIRC in relation to the management of the scene on 3 May 2015?
48. Your PIRC statement (PIRC-00309), at pages 2 – 3, identifies that DCI Houston informed you that a number of items had been removed from the locus at Hayfield Road due to heavy rainfall prior to being photographed by staff from the Scottish Police Authority (SPA), including batons, a mobile phone and the knife found close to the locus. You were also informed that DC Derek Connell had photographed the knife on his mobile phone prior to its removal. Were you content with the decision to remove these items from the locus and the decision by DC Connell to photograph the knife on his mobile phone? If not, why not? What impact, if any, did the removal of items from the locus at Hayfield Road have on PIRC's investigation?

*Recovery of officers' clothing, footwear and officer safety equipment*

49. Your PIRC statement (PIRC-00309), at page 3, states, with reference to DCI Houston:

*He also informed me that all officers involved in the incident were to have their clothing, footwear and officer safety equipment retained and that this was being carried out within Kirkcaldy Police Office in a controlled and forensic manner.*

When did you understand that the officers clothing, footwear and officer safety equipment was to be seized? Did you consider that the officers' clothing, footwear and officer safety equipment should already have been seized at this point? If so, what impact did the delay in seizing the officers' clothing, footwear and officer safety equipment have on the investigation?

50. What was the purpose of seizing the officers' clothing, footwear and equipment in this way? Is this standard practice following an incident such as that involving Mr Bayoh? If not, why was the officers' clothing, footwear and equipment to be seized in this instance?
51. Within John Ferguson's PIRC statement (PIRC-00363), at page 3, he states:

*I was aware that DSI Harrower had instructed PIRC investigators, witnesses Gary Sinclair and Maurice Rhodes to manage the scene at Hayfield Road, Kirkcaldy, which had been secured and cordoned off by Police Scotland. This was to be done in conjunction with the Police Scotland Scene Manager, to ensure the preservation and recovery of all available evidence. They were also tasked to oversee other matters*

*related to this scene, including the recovery of the clothing, footwear and officer safety equipment worn and used by the police officers involved in the incident.*

What role did you play in the seizure of the officers' clothing, footwear and equipment on 3 May 2015? Was it your responsibility to oversee the seizure of the officers' clothing, footwear and officer safety equipment? If so, how did you oversee the seizure of the officers' clothing, footwear and officer safety equipment on 3 May 2015? What, if any, instructions did you provide to Police Scotland or its officers in this regard?

52. Who compiled the Scene Managers Log (PIRC-04173)? What involvement did you have in this process? What was the purpose of the Scene Managers Log? Was this log compiled contemporaneously?

53. Within the Scene Managers Log (PIRC-04173), at page 82, it states:

*On investigation by PIRC, it would appear that when the officers returned to Kirkcaldy Police Office immediately after the incident no thought was given at that time to their clothing or equipment being taken as productions. The officers had removed their outer clothing and equipment and stored it at various locations in the office, some in locker rooms, the canteen or other areas.*

At what point in the investigation did you become aware that officers had removed their outer clothing and equipment and stored it at various locations at Kirkcaldy Police Office? Was this in line with best practice? If not, what is best practice in these circumstances? What steps, if any, did you take to address this issue? What impact, if any, did this have on PIRC's investigation?

54. Inspector Jane Combe's operational statement (PIRC-00190), at pages 2 – 4, identifies that she was involved in the seizure of officers' clothing, footwear and officer safety equipment between 1647 and 2002 hours on 3 May 2015. DC David Bellingham's operational statement (PS00935), at pages 3 – 6, identifies that he was involved in the seizure of other officers' clothing, footwear and officer safety equipment between 1530 and 2105 hours on 3 May 2015. Were you aware of the officers' clothing, footwear and officer safety equipment being seized at these times? Were you content that the seizure of officers' clothing, footwear and officer safety equipment was completed in a timely manner on 3 May 2015? If not, why was there a delay in seizing the officers' clothing, footwear and equipment? What impact, if any, did this have on PIRC's investigation?

55. Whose responsibility was it to ensure that the seizure of the officers' clothing, footwear and equipment took place in a timely manner on 3 May 2015?

56. On 3 May 2015, what, if any, awareness did you have of a suggestion that PC Nicole Short was stamped on or kicked during the incident involving Mr Bayoh? If you aware of a suggestion that she had been stamped or kicked on, what, if any, steps did you take in response to this as part of the investigation?

*Gold Group meeting 1405 hours*

57. Your PIRC statement (PIRC-00309), at page 3, notes that you attended a meeting with Police Scotland staff, chaired by ACC Nicolson, at 1405 hours. What was discussed at this meeting? What decisions were taken in relation to scene management?

58. What were PIRC's priorities in relation to the investigation at the time of the Gold Group meeting at 1405 hours? How were these priorities communicated to Police Scotland during the meeting?

59. Were PIRC in charge of the investigation at the point the Gold Group meeting was held at 1405 hours? How was this demonstrated to be the case? If not, why not? At what stage on 3 May 2015 did you consider PIRC to be in charge of the investigation? If you did not consider PIRC to be in charge of the investigation at the point the Gold Group meeting was held at 1405 hours, who did you think was in charge?
60. Following a death in police custody or a death following police contact, are meetings in relation to the investigation usually chaired by an officer from Police Scotland? If not, why was the Gold Group meeting at 1405 hours chaired by ACC Nicolson?
61. The typed minutes of the Gold Group meeting (PS07268), at page 2, make reference to a “Loci Strategy” as part of the “Investigative process”. What did this loci strategy comprise? Who was responsible for creating this strategy? What input, if any, did PIRC provide in relation to the creation of the loci strategy? Were you content with the content of the strategy in relation to the scene at Hayfield Road? If not, why not?
62. The typed minutes of the Gold Group meeting (PS07268), at page 3, refer to consideration of “community issues” and, at page 4, refer to “cultural issues”. What community and cultural issues were discussed at the Gold Group meeting in this regard and what consideration did PIRC give to such issues on 3 May 2015? Did you consider that any such issues were relevant to the management of the scene at Hayfield Road? If so, in what way?
63. The typed minutes of the Gold Group meeting (PS07268), at page 4, state:

*PIRC looking for definitive point of contact with knowledge of all circumstances.*

What were PIRC looking to achieve in this regard? What steps, if any, were taken by Police Scotland to accommodate this request? Did you feel at this stage that you had sufficient knowledge of the circumstances of the incident to allow you to manage the scene, as you had been tasked to do? If not, why not?

64. Within Detective Chief Superintendent Lesley Boal’s operational statement (PS00669), pages 2 – 3, she states:

*About 1330hrs Mr HARROWER and other PIRC investigators attended. A briefing, which provided the same information as provided at the Gold Meeting was provided. It was confirmed at this time that Sheku Ahmed Tejan BEYOH's sister was his next of kin and that she lived [redacted]. I highlighted to Detective Superintendent CAMPBELL that, given the information and chronology established along with identification by photograph, there was an urgent need to notify her of the death.*

*In the absence of any strategy being discussed, I suggested that, in the interim, each police lead would draw up a strategy, for example forensic strategy, house to house strategy etc and obtain Mr HARROWER's agreement and sign off prior to implementation. This didn't receive clear endorsement. The only real information provided was that there would be PIRC investigators deployed to the hospital to undertake body transfer to the mortuary; a couple of PIRC investigators would be deployed at the main scene at Hayfield Road, Kirkcaldy and Family Liaison would be handed over to the PIRC at an early juncture.*

What strategies had PIRC considered or developed prior to the Gold Group meeting at 1405 hours? Would you agree with DCS Boal’s assessment that there was “an absence of any strategy” discussed at this meeting? If so, why? If not, why not? What strategies



were agreed with Police Scotland at this Gold Group meeting? With whom did responsibility for the development of investigatory strategies lie at this stage?

65. Were you aware on 3 May, or at any point subsequently, of any concerns expressed by staff or officers from Police Scotland about PIRC's management of the investigation? If so, how were you made aware, and what did you understand those concerns to be? Did you share knowledge of these concerns with others at PIRC? What did you do, if anything, to address those concerns?
66. At this stage on 3 May 2015, what was your understanding of the status of the officers involved in Mr Bayoh's arrest? Were they witnesses or suspects? How did you come to be aware the officers' status on 3 May? What discussion, if any, was there in relation to the officers' status at the Gold Group meeting at 1405 hours?
67. 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?

#### *Meeting at 1515 hours*

68. Your PIRC statement (PIRC-00309), at page 3, notes that you attended a meeting with DCI Houston at 1515 hours "*to discuss scene management and forensic issues, during which agreement was reached on how the now deceased's body would be dealt with at the hospital and mortuary*". What scene management and forensic issues were discussed at this meeting? What required to be agreed in relation to Mr Bayoh's body?
69. What was the purpose of DSI Harrower's requests at this meeting that PC Short's injuries be photographed and PAVA and CS spray canisters be weighed? Were these actions carried out by Police Scotland? If not, why not, and what impact, if any, did this have on PIRC's investigation?
70. What discussions, if any, took place at this meeting in relation to the status of the police officers as witnesses?

#### *Meeting at 1640 hours*

71. Your PIRC statement (PIRC-00309), at page 3, refers to an approach being agreed with DCI Houston in relation to the scenes at Victoria Hospital and Hayfield Road. What sort of matters require to be considered when agreeing an approach in relation to the loci of an incident? What was discussed at this meeting? Did PIRC adopt Police Scotland's forensic strategy (PS01298) in its entirety at this meeting? Were you content with the strategy set out in relation to Hayfield Road on pages 3 and 4 of the forensic strategy (PS01298)? If not, why not?
72. In comparison with Police Scotland's forensic strategy (PS01298), the Scene Managers Log (PIRC-04173), at page 83, includes an additional element within the forensic strategy for Hayfield Road: "*Obtain photographs and video of the scene*". How did this come to be added to the forensic strategy for Hayfield Road? Why was this added?
73. Beyond the forensic strategy, what further strategies, if any, were put in place in relation to scene management during the course of PIRC's investigation?

74. Is it standard practice for PIRC's investigative strategies to be based on those created by Police Scotland? If so, what are the benefits of this approach? If not, why was this approach adopted in this investigation?
75. Could an approach have been agreed with Police Scotland in relation to the scenes at Victoria Hospital and Hayfield Road prior to this meeting at 1640 hours? If not, why not? If so, what impact, if any, did the delay in agreeing an approach have on PIRC's investigation?
76. Your PIRC statement (PIRC-00309), at page 3, states that at this meeting you requested sight of the items that had been removed from the locus prior to being photographed by SPA. Why did you request sight of the items? Was this request granted?
77. Alex McGuire's notebook (PIRC-04184), at page 5, under the heading "1645 Forensic Strategy mtg", states:

*Religious considerations.*

What consideration was given to Mr Bayoh's religion at this meeting with DCI Houston? What consideration, if any, did you give to Mr Bayoh's and/or Mr Bayoh's family members' religion(s) on 3 May 2015?

78. Within DCS Boal's operational statement (PS00669), on page 3, she states:

*About 1700hrs I attended the Forensic Strategy Meeting which, albeit all PIRC investigators were present, was chaired by Detective Chief Inspector HOUSTON.*

Within the forensic strategy meeting agenda (PS17896), at page 1, DCI Houston is also noted as being the chairperson of this meeting.

Would you agree that DCI Houston chaired this forensic strategy meeting? Why was it considered more appropriate for the meeting to be led by DCI Houston, rather than PIRC?

79. Within DCI Houston's operational statement (PIRC-00165), page 3, DCI Houston refers to it being agreed at this meeting that you would "*oversee the work of Detective Constable O'Neill to locus 2*". How did you maintain oversight of DC O'Neill's work at the locus at Hayfield Road on 3 May 2015?

*Meeting at 1715 hours*

80. Your PIRC statement (PIRC-00309), at page 3, refers to a meeting with DC O'Neill at 1715 hours, at which DC O'Neill informed you that he had established a cordon at Hayfield Road and made arrangements to have the locus videoed, photographed, searched and mapped. What instruction, if any, had you provided to DC O'Neill to proceed with these actions? Were you content for Police Scotland to be managing the scene in this way? If not, why not?
81. Within DC O'Neill's operational statement (PIRC-00129), at page 3, DC O'Neill states, with reference to this meeting with you:

*There had been no house to house enquiries carried out at the locus therefore there was limited information to base the perimeters of the locus.*

Upon what information were the perimeters of the locus at Hayfield Road established at this stage in the investigation? Did the perimeters of the locus include the location from which the knife was recovered by police officers earlier on 3 May 2015? If not, why not?

82. If the perimeters of the locus did not include the location from which the knife was recovered, what impact did this have on PIRC's investigation? Did you consider requesting that the perimeters of the locus be broadened to include this location? If not, why not? If the location from which the knife was recovered should have been included within the extent of the locus at Hayfield Road, whose responsibility was it that it be so included?
83. The PIRC Scene Management Standard Operating Procedure that was in force in May 2015 (PIRC-03873) identifies, at paragraph 1.3.3, the process to be followed to identify if any additional resources are necessary to manage a scene. Were you content on 3 May 2015 that sufficient resources were available to manage the scene at Hayfield Road? If not, why not?

#### *Attendance at Hayfield Road*

84. Your PIRC statement (PIRC-00309), at page 4, refers to you and Investigator Rhodes attending the scene at Hayfield Road at 1920 hours on 3 May 2015. Was this the first time that you attended Hayfield Road on 3 May 2015? If so, why did you first attend the scene at Hayfield Road on the evening of 3 May 2015 when you had been tasked by DSI Harrower with management of that scene in the morning and arrived at Kirkcaldy around 1330 hours? What impact, if any, would your arrival at this scene earlier on 3 May 2015 have had on the investigation? What are the benefits of managing a scene at the locus itself, instead of remotely?

#### *Return to Kirkcaldy Police Office*

85. Your PIRC statement (PIRC-00309), at page 4, refers to a meeting with DCI Houston, at which he informed you that most of the locus at Hayfield Road had been searched, but due to darkness the search would require to be completed the following day. What impact, if any, did the requirement to maintain a cordon at Hayfield Road overnight on 3 May 2015 and return to complete the search of the locus on 4 May 2015 have on PIRC's investigation? Would you have expected the search of the locus at Hayfield Road to have been completed on 3 May 2015? If so, for what reason was the search not completed that day?
86. Your PIRC statement (PIRC-00309), at page 4, refers to this meeting with DCI Houston taking place about 2125 hours on 3 May 2015. Within the scene entry log for Hayfield Road (PS17853), at pages 8 and 9, it appears that the search team signed out of the scene at 2340 hours that day. At what time was the search completed on 3 May 2015?
87. Your PIRC statement (PIRC-00309), at page 5, refers to the items recovered from Hayfield Road, including batons and the knife, having not been photographed by SPA. As the items were sealed and labelled in production bags and containers, you decided to arrange for the items to be photographed at a later date. What impact, if any, did the requirement to photograph the productions at a later date have on PIRC's investigation? What, if any, observations did you have in relation to the way the items from Hayfield Road had been recovered? Were you content with the way this had been done? If not, why not?
88. Were you content with the steps taken by Police Scotland to recover and preserve evidence from the locus at Hayfield Road on 3 May 2015? If not, why not? What, if anything, should Police Scotland have done differently in this regard?

### *Primary control of scene*

89. PIRC's Scene Management SOP (PIRC-03873), at page 10, as part of an appendix titled "*Handling of Shared Scenes by Police Service of Scotland (PSS) and the Police Investigations and Review Commissioner (PIRC)*" states:

*Where, following an incident, PIRC have primary interest in a scene, the PS SIO will ensure that primary control of the scene, in whole or in part as required (and in accordance with the principles set out in this document), is passed to the PIRC SI/DSI as soon as practicable.*

At what point on 3 May 2015 did you consider that PIRC had "primary control" of the scene at Hayfield Road? Please explain why you hold this view.

### *Scene entry log*

90. What is the purpose of a scene entry log?

91. Within the Scene Managers Log (PIRC-04173), on pages 79 – 84, there is a summary of actions taken in relation to the scene at Hayfield Road. On pages 80 – 81, there is commentary in relation to the completion of the scene entry log (PS17853):

*There is no scene closure section in this log. The log was initiated at 10.45 hrs on 3/5/15. There are no entries indicating persons accessing the scene prior to its initiation. There is inconsistency in relation to forensic dress noted by loggist PC 625 re CSM DC Oneill who is not wearing mask or suit but wears shoe covers and gloves. This is at odds with entries at 1835 hours 3/5/15 when DS Oneill and socos Foy and Paterson are fully forensically dressed.*

*PIRC SM JF reviewed this and note DC Oneill is clearly inconsistent in his approach to forensic dress as recorded, however this is not to be over critical given that he is wearing gloves and overshoes and the area had been subject to heavy rain that day. Also he was not engaged at this point in the recovery of articles. From his statement the officer is clearly initially reviewing the scene for cordons and the articles of relevance had been seized already.*

*It is however good practice to have a consistant [sic] forensic approach to scene management given that there is an "unknown quantity" in the approach to the potential evidence that may be uncovered at a scene and the potential problems caused by cross contamination and high sensitivity of DNA 24 processes.*

*The Scene management log was not present initially with PIRC (requested by prods Garry Sinclair per DS O'Neil). Arrived with PIRC 29/5/15.*

*The scene management log had been completed by DC Oneill. There is no record of PNC checks being made in regards to the vehicles within the cordon*

*The management log was not reviewed by an SIO in relation to the completion of the log.*

*Police Scotland do have a responsibility in the accurate recording and review of their actions prior to submission to any external agency such as PIRC / PF.*

Who carried out this review of Police Scotland's actions at the locus at Hayfield Road? What role, if any, did you play in this review? What was the purpose of the review? Which,

if any, of the issues identified were you aware of on 3 May 2015? What, if any, steps did you take to address these issues on 3 May 2015? What impact, if any, would there have been on your ability to address these issues had you been in attendance at Hayfield Road earlier on 3 May 2015?

92. Police Scotland's scene entry log is noted to have been commenced at 0915 hours on 3 May 2015 (PS17853, at page 3). The summary contained within the Scene Manager's Log (PIRC-04173), at page 80, identifies that the log was initiated at 1045 hours on 3 May 2015. At what time was the scene entry log initiated on 3 May 2015? At what time were full scene protection measures put in place at Hayfield Road on 3 May 2015? Do you consider that there was a delay in putting in initiating the scene entry log and/or put in place scene protection measures at Hayfield Road? If so, what impact, if any, did this have on PIRC's investigation?
93. Your name does not appear to be included within the scene entry log (PS17853). Please identify if your name does appear within the scene entry log. Is it standard practice for PIRC investigators' names to be noted within the scene entry log when attending a locus? If it is, and your name is not recorded within the scene entry log, why is your name not recorded in the scene entry log?
94. PIRC's Scene Management SOP (PIRC-03873), at page 12, as part of an appendix titled "*Considerations when attending an incident in the capacity as a PIRC scene manager*" states that "*PIRC will begin and maintain a scene entry log*". What consideration, if any, was given to PIRC commencing its own scene entry log for Hayfield Road on 3 May 2015? Why was no PIRC scene entry log created for Hayfield Road?

#### *PIRC investigation on 3 May 2015*

95. In hindsight, what, if any, decisions would you have made differently in relation to the management of the scene at Hayfield Road on 3 May 2015? What impact would this have had on PIRC's investigation?
96. Were you content with the decisions taken by PIRC's investigators who attended Kirkcaldy on 3 May 2015? If not, why not?
97. Were you content with the support that you received from Police Scotland in relation to PIRC's investigation on 3 May 2015? If not, why not? What impact did this have on PIRC's investigation?
98. Did you have any contact with the COPFS on 3 May 2015, or subsequently during the investigation? If so, what was the nature of this contact? 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?
99. 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?
100. 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?
101. Did you consider that the 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?

102. 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?
103. 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?
104. 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?
105. 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?

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

106. 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.
107. Was DSI William Little put in charge of the investigation at this briefing? If not at this briefing, do you know when was this formally confirmed? Why was DSI Little put in charge of the investigation at this stage? At what point was SI McSporrán put in charge of the investigation alongside DSI Little?
108. 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?
109. 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 caused "challenges"? If so, what were these challenges and what did PIRC do to mitigate them? If not, why not?

110. Your PIRC statement (PIRC-00309), at page 5, refers to DSI Little informing you that you would carry out the role of production officer during the investigation. What does this role involve? Prior to 3 May 2015, how many times had you performed this role in an investigation team? Why were you tasked with carrying out this role by DSI Little?
111. Your PIRC statement (PIRC-00309), at page 5, refers to you attending the locus at Hayfield Road at 1415 hours on 4 May 2015. Following discussion with DC O'Neill, the locus was stood down by Police Scotland at your direction. Were you content with the manner in which the search had been carried out and the evidence recovered at Hayfield Road by Police Scotland? If not, why not?
112. Within DC O'Neill's operational statement (PIRC-00129), page 5, he refers to attending a strategy meeting at 1000 hours on 4 May 2015 where it was confirmed that he would continue in the role as Crime Scene Manager for Hayfield Road. Were you aware in advance that this meeting was due to take place? Did any representative from PIRC attend this meeting? If not, why not? What discussions, if any, did you have with Police Scotland on 3 May 2015 in relation to PIRC's attendance at this briefing?
113. Within DC O'Neill's operational statement (PIRC-00129), page 5, he refers to attending the locus at Hayfield Road with a POLSA (Police Search Adviser) and a search team and carrying out a search of the two remaining loci from 1240 hours, prior to your arrival at the locus at 1415 hours. How did you maintain oversight of the management and search of the scene at Hayfield Road prior to your arrival at 1415 hours?
114. Your PIRC statement (PIRC-00309), at page 5, refers to your involvement in house-to-house enquiries at Hayfield Road. Was PIRC's house-to-house strategy based on the strategy created by Police Scotland (PS01296)? What input, if any, did PIRC provide in relation to the creation of the house-to-house strategy? Were PIRC solely responsible for carrying out the house-to-house enquiries at Hayfield Road, or was assistance also provided by Police Scotland? If so, what assistance was provided by Police Scotland?

### **7 May 2015**

115. The minutes from PIRC's morning briefings (PIRC-04156), at page 5, identify that you planned to uplift productions from around this time from Police Scotland. Were you content with the support that Police Scotland provided to you in relation to the management of productions in this investigation? If not, why not? What impact did this have on PIRC's investigation?
116. Was PIRC's Production/Articles Standard Operating Procedure (PIRC-04450) in force on 3 May 2015? In performing your role as production officer during the course of the investigation what reliance, if any, did you place on this or any other of PIRC's standard operating procedures?

### **12 May 2015**

117. Your PIRC statement (PIRC-00309), at page 5, refers to you attending a forensic strategy meeting with representatives from COPFS, Police Scotland, SPA Forensic Services and Crown pathologists on this day. What was the purpose of this meeting? Were any concerns raised about the recovery of evidence up to this point in the investigation? If so, what concerns were raised?
118. Who led this forensic strategy meeting? Were you content with the decisions made in relation to forensic strategy at this meeting? Was any forensic strategy agreed beyond that

which is contained in PIRC-04161, PIRC-03860 and PIRC-04173 (pages 41 – 55)? If so, where is this forensic strategy documented? Who collated the separate minutes from the meeting set out in these three documents?

119. What involvement, if any, did you have in the steps taken by PIRC to forensically examine the productions seized during the investigation and discussed during the forensic strategy meeting (PIRC-04161 and PIRC-03860), including the knife and PC Short's body armour? Within the Scene Managers Log (PIRC-04173), at page 59, it states that you submitted a "forensic services examination request" on 13 May 2015. What did this involve? What were the results of this examination request?
120. Why did Police Inspector Darren Faulds attend this meeting? (PIRC-04161) If Inspector Faulds was required for part of the meeting was any consideration given to him attending only the relevant section? How common is it for Police Scotland's officers and staff to continue to be involved in PIRC investigations into deaths in police custody as those investigations progress? What steps do PIRC take to ensure that such investigations are independent from Police Scotland?

## **28 May 2015**

121. The minutes from PIRC's morning briefings (PIRC-04156), at page 30, with reference to an update that you provided, state:

*Confirmed that there is no mention of CS/PAVA being weighed in the statements.*

What did you identify in this regard? In 2015, what was the normal practice in relation to weighing CS/PAVA spray, and recording the relevant weights? What was the significance of this to PIRC's investigation? What further steps were taken to explore this within PIRC's investigation and what role did you play?

## **2 June 2015**

122. On 2 June 2015, a statement was taken from DC Wayne Parker by DSI Brian Dodd in your presence (PIRC-00024). 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 DC Parker within this interview and what lines of questioning did you seek to explore with DC Parker?
123. Within his statement (PIRC-00024), at page 3, DC Parker refers to the seizure of Collette Bell's home at Arran Crescent. Was DC Parker asked within his interview to clarify the legal basis upon which this property was seized? What was your understanding of the legal basis upon which the property was seized?
124. Within his statement (PIRC-00024), at page 4, DC Parker refers to a statement being taken from Collette Bell shortly after she had been informed of Mr Bayoh's death. Was DC Parker asked within his interview why he chose to take a statement from Collette Bell at this time? Do you consider it appropriate for a statement to be taken from a family member of a deceased in these circumstances? If not, why not?
125. On 12 June 2015, the terms of reference for PIRC's investigation were expanded by COPFS (COPFS-04010(a)) to include:

*Allegations by the family that they were provided with misleading and erroneous information concerning the death of Mr Bayoh to family members and a concern as to why they were provided with that information.*



After PIRC's terms of reference were so expanded, what consideration, if any, was given to taking a further statement from DC Parker to further explore the information he and DC Mitchell passed to Mr Bayoh's family on 3 May 2015?

### 3 June 2015

126. Your PIRC statement (PIRC-00309), at page 5, refers to the creation of an interview strategy to be used when interviewing the officers involved in the arrest of Mr Bayoh. Was the strategy you created that set out in PIRC-04182? Why did DSI Little task you with responsibility for creating this witness interview strategy? Prior to 3 June 2015, had you been responsible for creating witness interview strategies for other PIRC investigations? Was it standard practice for PIRC to obtain statements from witnesses using a document of this nature?
127. How did you go about the task of creating the witness interview strategy (PIRC-04182)? Upon what information did you base the questions set out within the witness interview strategy? What, if any, assistance did you receive from other PIRC staff in relation to the witness interview strategy?
128. Upon what information was the summary of the incident set out on page 2 of the witness interview strategy (PIRC-04182) based? Based on the information that you held on 3 June 2015, how confident were you that this was an accurate account of events? How was this summary to be used by PIRC's investigators when taking statements from the officers?
129. The witness interview strategy (PIRC-04182), at page 3, refers to the process to be followed in the event an officer incriminated themselves in the course of the interview. How unusual is it for considerations of self-incrimination to be included in a witness interview strategy of this nature? What impact, if any, did these considerations have on the drafting of the witness interview strategy and the questions that were to be asked of the officers?
130. The questions contained within the witness interview strategy (PIRC-04182) largely focus on the "what", "when", "who" and "where" of the circumstances of the incident. Only two questions ask the officers "why" certain actions were taken – why use of force and CS/PAVA forms were not completed and why there are no entries in the officers' notebooks in relation to the incident. When preparing to take the officers' statements, was consideration given by PIRC to asking the officers why they took certain decisions or chose particular tactical options in responding to the incident involving Mr Bayoh? If not, why not?
131. The Police Service of Scotland (Conduct) Regulations 2014, within Schedule 1, identify that as part of the Standards of Professional Behaviour with which officers require to comply:
- Constables use force only to the extent that it is necessary, proportionate and reasonable in all the circumstances.*
- How important is understanding why officers took certain decisions or chose particular tactical options to a determination as to whether or not a use of force was necessary, proportionate and reasonable in all the circumstances?
132. There are no questions relating to the impact that Mr Bayoh's race may or may not have had on the officers' response to the incident. What consideration, if any, was given to including questions within the witness interview strategy in this regard?

133. The minutes from PIRC's morning briefings (PIRC-04156), at page 40, with reference to an update that DSI Little provided, state:

*A generic interview plan has been completed by IO Sinclair. Everyone has to do their own individual reading for their specific officers to add to the generic plan.*

What material did investigators require to read in addition to the witness interview strategy when preparing to interview the officers?

134. The minutes from PIRC's morning briefings (PIRC-04156), at page 40, identify that there would be a "*further meeting this afternoon to discuss tomorrow's interviews*". Did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with the officers? If so, what was discussed? With whom did you have those discussions?
135. 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?
136. 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?

#### **4 June 2015**

137. On 4 June 2015, you took a statement from PC James McDonough (PIRC-00273). In the process of this statement being taken from PC McDonough, 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 McDonough when taking his statement?
138. 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 McDonough's PIRC statement had been obtained (PIRC-00273), did you consider that there were any matters that required to be clarified with PC McDonough? If so, what were these matters?
139. Did PIRC compare and contrast the statements received from the officers that attended Hayfield Road to identify areas of consistency and inconsistency? What involvement, if any, did you have in this process?
140. 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?
141. After PC McDonough provided his statement, PIRC's terms of reference were expanded by COPFS to look at whether there was inappropriate conferral 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? Whose responsibility was it to decide if further statements required to be obtained from any of PIRC's witnesses?

## 19 June 2015

142. The minutes from PIRC's morning briefings (PIRC-04156), at page 60, with reference to an update that you provided, state "*IO Sinclair to attend Gartcosh re drugs update*". What did this refer to? What involvement did you have in relation to this aspect of the investigation? What was the significance of this to PIRC's investigation?

## 26 June 2015

143. The minutes from PIRC's morning briefings (PIRC-04156), at page 67, with reference to a discussion between SI McSporrán and DSI Little in relation to the "*CCTV in the yard in Kirkcaldy Police Office*", state:

*The CCTV does not work*

*Need to establish why it's not working / for how long / and why it's not been fixed*

*SI Sinclair to deal with this*

What issue was identified in relation to the CCTV at Kirkcaldy Police Office? What steps did you take to investigate this? What were the results of your investigation in this regard? What was the significance of this to PIRC's investigation?

## 30 June 2015

144. The minutes from PIRC's morning briefings (PIRC-04156), at page 72, with reference to an update that you provided, state:

*Issue highlighted with PC Walker's notebook. The one within his stab vest finished 26/04/15, so we need to confirm where the other notebook is.*

What issue was identified in relation to PC Walker's notebook? What steps did you take to investigate this? What were the results of your investigation in this regard? What was the significance of this to PIRC's investigation?

145. An action to re-interview PC Walker in relation to his two notebooks was raised on 29 June 2015 (PIRC-03180). On 5 January 2016, the action was "referred", and it was stated that there was no need to interview PC Walker in this regard. What steps, if any, were taken to re-interview PC Walker in this regard between 29 June 2015 and 5 January 2016? What involvement did you have in this aspect of the investigation? Why was no further statement taken from PC Walker?

## 2018

146. On 11 January 2018 you took an additional statement from Chief Inspector Nicola Shepherd (PIRC-00209). On 12 January 2018 you took an additional statement from DS Campbell (PIRC-00217). On 18 January 2018 you took an additional statement from Chief Inspector Conrad Trickett (PIRC-00123). On 22 January 2018 you were present when an additional statement was taken from Dr Gillian Norrie (PIRC-00283). On 23 January 2018 you took an additional statement from Chief Superintendent Garry McEwan (PIRC-00182). All five statements were taken at the direction of COPFS. What was the purpose of taking these additional statements from CI Shepherd, DS Campbell, CI Trickett, Dr Norrie and Ch Supt McEwan? Why were these areas not covered within the witnesses' previous PIRC statements?

147. How did you determine which lines of questioning to explore with the witnesses within these statements? Did you explore any lines of questioning with the witnesses beyond those set out within the prior email exchange between Alasdair MacLeod, COPFS, and DSI William Little (PIRC-02719)? If so, what additional lines of questioning did you explore with the witnesses? Were you made aware of COPFS's instructions in relation to the matters raised within William Little's email to Alasdair MacLeod on 4 January 2018 at 14.49 (PIRC-02719), prior to taking statements from the relevant officers?

148. 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? If not, why not?

### **Investigation overall**

149. 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?

150. Your PIRC statement (PIRC-00309), at page 6, makes reference to your management of productions throughout the investigation being recorded within various production register books. Please can you confirm [REDACTED] the complete production register [REDACTED]

151. Were you content with the support and direction that you received from your colleagues at PIRC, including colleagues in positions senior to you, throughout the investigation? If not, why not?

152. What roles did Irene Scullion (Head of Investigations), John Mitchell (Director of Investigations) and Kate Frame (Commissioner) play in the management of the investigation? What level of oversight did they have over the investigation? How was that oversight maintained?

153. Who at PIRC do you consider was ultimately in charge of the investigation following the incident involving Mr Bayoh? Please explain why you hold this view.

154. Beyond the points covered above, what further involvement, if any, did you have in the investigation?

### **Equality and diversity**

155. How diverse was PIRC as an organisation in 2015? How has the level of diversity at PIRC changed between May 2015 and now, if at all?

156. Who was responsible for diversity and inclusion matters at PIRC in 2015? Who is responsible for such matters now?

157. Has any PIRC policy or practice relating to equality and diversity changed following the Bayoh investigation? If so, which policy or practice has changed and in what way?

### **Race**

158. Was anything you have stated above done or not done because of Mr Bayoh's race?

159. 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?

160. 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?
161. 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?
162. When PIRC's terms of reference were expanded by COPFS to include issues of race, what involvement, if any, did you have in this aspect of PIRC's investigation?
163. Prior to the instruction from COPFS to investigate issues of race, 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?
164. 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?
165. 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?
166. 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? Would you have benefited from additional training in this regard? If so, in what way?
167. Did you have any training during your time at PIRC in relation to investigating an allegation of race being a factor in an incident that was subject to a PIRC investigation? Would you have benefited from additional training in this regard? If so, in what way?
168. 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? Would you have benefited from additional materials being available to you? If so, in what way?
169. What guidance, if any, do you recall receiving from senior members of staff at PIRC in relation to PIRC's investigation of issues of race?
170. 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.
171. 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**

172. In addition to your notebook (PIRC-04186), 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**

173. Knowing what you know now, is there anything you would have done differently within this investigation?

174. Knowing what you know now, is there anything you feel PIRC as an organisation should have done differently within this investigation?

175. 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? Do you think your recollection has been affected at all by these discussions?

176. What, if anything, have you seen or read about Mr Bayoh's death, the subsequent investigation and the Inquiry within the media? Do you think your recollection has been affected at all by what you have read in the media or have seen in the Inquiry evidence?

177. You completed a PIRC statement covering your involvement in the investigation (PIRC-00309). 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?

178. 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.

179. 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.