

ANNEX

COPFS PIM

AREAS FOR WITNESS STATEMENT

MR DAVID GREEN

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. Please mark on your statement the number of which paragraph of questions you are answering.

If you refer to any document in preparing your statement, please provide a brief description of the document and which page you have referred to.

Role and experience

1. Prior to your involvement, what experience did you have in relation to family liaison in deaths cases? Was race a factor to consider in family liaison in any of these cases? If so, please provide examples and set out how you accommodated any race issues, such as cultural and religious requirements or concerns.

PIRC

2. Please read the PIRC briefing document dated 3 May 2015.¹ To what extent do you agree with your involvement as stated on page 4?
3. Please read your colleague Mr Stephen McGowan's draft letter to PIRC dated 5 May 2015 comprising instructions.² Why did Mr McGowan state that you would be Senior Fiscal with oversight of the case? Was a handover to CAAPD inevitable or did you and your colleagues consider at the time that SFIU might take a lead for the duration of the Investigation? Please note the final instruction letter to PIRC dated 5 May 2015³ stating Mr Les Brown and CAAPD would be overseeing the matter.
4. Please read your colleague Mr John Logue's email to the Lord Advocate dated 5 May 2015⁴ and the PIRC Briefing Document attached to the email.⁵ To what extent is the factual information accurate to your understanding at that point in the investigation? In particular, was it the case that COPFS had

¹ PIRC-03694

² COPFS-04661(a)

³ COPFS-02539

⁴ COPFS-02685

⁵ PIRC-03694

instructed PIRC in writing under Section 33A(b)(i) of the 2006 Act and did you understand that PIRC FLOs had engaged with Mr Bayoh's family the night before and PIRC were confident that a relationship could be established?

5. In your Rule 8 statement to the Inquiry dated 22 December 2022 at page 5 you stated: "*I fully expected that [PIRC] would oversee the PIM process and in effect deal with all aspects of the case, reporting for instruction/advice as and when appropriate.*" Please set out what advice you expected PIRC to seek and when it would be appropriate for them to do so.
6. To what extent is COPFS' role to provide advice on legal matters to PIRC? How does this differ, if at all, from the advice provided to the police in a deaths investigation in an incident not involving the police? If COPFS does not provide advice on legal matters, where would you expect PIRC to seek this advice?
7. What do you understand to be an "operational decision" for PIRC and how do these matters interact with your expectation for what advice PIRC should seek from COPFS?
8. To what extent do you agree with the summary of PIRC's instructions on pages 1 and 2 of the Briefing Note to Mr Justin Farrell dated 28 February 2020?⁶
9. Mr Bernard Ablett has stated the following position to the Inquiry in respect of COPFS' liaison with PIRC:

I have been asked whether COPFS supervised or directed the PIRC. Again, because I have no experience of COPFS liaison with the PIRC, I cannot say. In terms of S.33A of the Police, Public Order and Criminal Justice (Scotland) Act 2006 it is a duty of the Commissioner to carry out an investigation where directed to do so by the appropriate prosecutor. The provision is silent as to whether the prosecutor has the authority to supervise the PIRC in its day-to-day investigations. By contrast, the terms of s.17 of the Police (Scotland) Act 1967 make the police subordinate to the prosecutor: "...in relation to the investigation of offences the chief constable shall comply with such lawful instructions as he may receive from the appropriate prosecutor." I cannot comment as to whether this makes a practical difference.⁷

Please provide your comment on this matter. Do COPFS have authority to supervise PIRC in their day-to-day investigations? Is there a difference, practical or otherwise, between COPFS' role in an investigation carried out by the police and by PIRC? Do you have any concerns in there being a position whereby a police investigation into potential criminality has the guidance and supervision of COPFS whereas a PIRC investigation into potential criminality of police officers and Police Scotland does not? Why would this be the case?

⁶ COPFS-02126 (a)

⁷ SBPI-00370. Please note this statement has not been shared with you.

10. In your view, were PIRC's instructions sufficient for them to investigate and report on all relevant matters to COPFS? If not, what could have been done differently and why?
11. Please read PIRC's Report of Findings dated 10 August 2015.⁸ You are mentioned at pages 58, 69, 130 and 317; to what extent do you agree with the account of your involvement as of 10 August 2015?
12. The instruction provided to PIRC is stated at pages 8 to 10 of the PIRC Report of Findings;⁹ to what extent do you agree that these were the instructions provided to PIRC?
13. Please read the email from Mr McGowan to Mr Brown dated 12 May 2015¹⁰ relating to PIRC's investigative update and his comments on PIRC's document.¹¹ Do you agree with Mr McGowan's views? Were you aware of any agreement of standard practice between PIRC and Police Scotland whereby PIRC would approach senior police officers, at Inspector level or above, to obtain statements from the subject officers? If it is established in evidence in the Inquiry that this practice existed and continues to this day, would that concern you?
14. Please read the Memorandum of Understanding between COPFS and PIRC dated 10 and 11 December 2013 (the "MOU").¹² Were you aware of the MOU during your involvement in the Investigation? Were any further duties incumbent on PIRC or COPFS in light of the MOU? If so, how did you satisfy these requirements on COPFS? In particular, at para 7.5 on page 5, were PIRC instructed to report by way of a Full Investigation Report on the agreed template or an SPR together with full statements and productions? What, if any, timescales were determined in the instruction?
15. The MOU¹³ at para 12.4 on page 9 provides that representatives of CAAPD, SFIU and PIRC will meet annually on a date agreed in order to discuss the operation of this MOU, issues of mutual interest and any requirement to amend the terms of the MOU; did these meetings take place and what was discussed?
16. At any stage in your involvement did you consider instructing PIRC to investigate potential offences in relation to the drugs Mr Bayoh had consumed, for example identifying and investigating the supplier for culpable homicide or offences under the Misuse of Drugs Act 1971? Would this be a matter for PIRC or Police Scotland to investigate? Who is responsible for instigating this investigation? Please set out the reasoning for your decisions and explain any departures from normal practice.

⁸ PIRC-00001

⁹ PIRC-00001

¹⁰ COPFS-03635

¹¹ COPFS-03635(a)

¹² PIRC-04453

¹³ PIRC-04453

17. Regarding a possible investigation in respect of the source of the drugs Mr Bayoh had consumed, were you aware of any evidence obtained by PIRC in the course of your involvement? Please read the statement provided with reference PIRC-00055. Were you aware of the information in this statement? Was this matter raised with PIRC or Police Scotland?

Family liaison

18. What is your understanding of COPFS' role in liaison with the deceased's family in deaths cases? How does COPFS' role interact with the role of Police Scotland and PIRC in family liaison?
19. What duties or responsibilities do COPFS have to the deceased's family during the course of a PIRC investigation? What duties or responsibilities do COPFS have to the deceased's family during the Precognition process? How were these duties or responsibilities fulfilled? Was there a handover of family liaison from PIRC to COPFS?
20. Please read your presentation for the COPFS National Federation Equality Network Conference dated 28 October 2013.¹⁴ On slide 3 you explain: "*At the heart of all of this the PF must also ensure there is appropriate communication with bereaved relatives*". Is the PF therefore responsible for appropriate communication with the deceased's relatives?
21. Please read your email to Mr Brown dated 22 June 2015.¹⁵ Why did you mention that the cause of death could be amended after an FAI? Why did you advise that Mr Brown should not get into that? At this stage did you and your colleagues, insofar as you were aware, understand that this matter would be proceeding to an FAI?
22. Please read your letter to Ms Collette Bell dated 24 June 2015.¹⁶ What was the basis for sending this letter? Were you aware if Mr Aamer Anwar was representing Ms Bell? If you were aware, would the letter have been sent directly to her or to Mr Anwar's office?
23. Please read your email to Mr Brown dated 24 June 2015¹⁷ following Mr Brown sending Mr Anwar a standard SFIU letter for Mr Bayoh's family. Why did Mr Brown send this rather than you, as with Ms Bell?
24. What is your understanding of the role of COPFS' Victim Information and Advice service ("VIA") in family liaison in a death investigation? Were VIA involved in this case? Insofar as you are aware, what was the basis for VIA involvement or non-involvement with Mr Bayoh's family?

Involvement in the investigation

¹⁴ COPFS-05934

¹⁵ COPFS-05039

¹⁶ COPFS-02905

¹⁷ COPFS-03363

25. What is COPFS' role, if any, in determining if a person is a witness or a suspect in an investigation into a death in custody or a death during or following contact with the police? What is the significance for the investigation of a person being a witness or a suspect?
26. What is COPFS' role, if any, in obtaining accounts from officers involved in contact with a deceased person in a death in custody or death during or following contact with the police?
27. What was your involvement, if any, in obtaining accounts from the officers? To what extent were your decisions and actions in this regard normal practice? Was race a factor in any departures from normal practice? With hindsight, are there any aspects of your decision-making or actions in this regard that you would do differently?
28. What was your decision-making in relation to whether or not to attend Kirkcaldy in person on 3 or 4 May 2015? Did you consider sending a colleague to assist PIRC in the initial stages of their investigation and to attend meetings in person? What benefit could have been gained by PIRC and Police Scotland if you or a colleague had attended? Why was Mr Bernard Ablett requested to attend the post mortem examination but no member of COPFS attended any other aspects of post incident management? To what extent were your decisions consistent with normal practice? Please explain the basis for any departures from normal practice.
29. In your previous Rule 8 statement to the Inquiry dated 22 December 2022¹⁸ on page 6 you state that in the late afternoon or evening of 3 May 2015 you were made aware of a light aircraft crash in Perthshire and it became clear that you would need to attend the scene. You state that you left for Perthshire again at 6am on 4 May 2015 and returned in the evening at 7pm. Why was it necessary for you to attend the scene in Perthshire but not Kirkcaldy? What benefit was gained by your attendance at this incident?
30. Please read the email chain between you and Mr Logue on 4 May 2015.¹⁹ At 5:37pm Mr Logue explains that, following a PIRC written briefing, PIRC's investigation was too focused on police contact and would need to be expanded, and that the matter would be dealt with the next morning "*once we get a clearer briefing*". You replied the same day at 7:30pm to say: "*I have not sent a formal instruction to PIRC or Police Scotland as yet due to the weekend and other issues.*" What were the other issues causing the delay in formal instruction? Further, Mr Bernard Ablett emailed an update following the mortem examination on 4 May 2015 at 7:23pm²⁰ confirming "*PIRC are looking for Terms of Reference from COPFS*" and that Police Scotland's ACC Ruaraidh Nicolson was looking for a meeting with COPFS to underline police commitment to an independent investigation. You replied that you are not sure if Mr Ablett is the right person to meet with ACC Nicolson. In light of all these considerations, would it have assisted to have you or a COPFS

¹⁸ SBPI-00227

¹⁹ COPFS-03876

²⁰ COPFS-04705

colleague attend in person on 3 May 2015 and beyond in order to provide updates and steer the Police Scotland and PIRC investigation as matters developed? Did your attendance at the scene in Perthshire affect your, and COPFS', ability to provide instructions to Police Scotland and PIRC in the early days of their investigation?

31. At the point that Mr Brown succeeded you as lead of the investigation as at 5 May 2015,²¹ did you provide him with a handover? Do you recall what specific information you gave to him about the incident and how it should be progressed?²² What was discussed?

Post mortem examination

32. What is your understanding of COPFS' role in instruction and attendance at the post mortem examination in the case of a death in custody or death during or following contact with the police? To what extent, if any, does this differ from any other type of death investigation?
33. Please explain your involvement in the post mortem examination and reporting process. To what extent was your involvement consistent with normal practice?
34. Why was Mr Bernard Ablett requested to attend the post mortem examination? Was this your decision? With reference to your email to your senior COPFS colleagues on 3 May 2015 at 3:46pm,²³ what did you mean by "*Bernie Ablett will cover for our interest*"?
35. Further in your email chain with COPFS' colleagues on 3 May 2015,²⁴ who told you that the deceased was "Sheku Baukou"? What efforts were made to ascertain the veracity of this information? When did you become aware that the deceased's name was Sheku Bayoh and what was done to correct this error? What importance is placed on ascertaining accurate details of a person's name and nationality? In this regard, what difference considerations, if any, exist when a deceased person is black?
36. Is it correct that it is normal practice for two doctors to be instructed for the post mortem examination in the case of a death where criminal proceedings are a possibility, in order to satisfy corroboration requirements, and one doctor is instructed where there is no suspicion of any criminal offence? Why did you instruct two doctors for the post mortem examination? In your previous Rule 8 statement to the Inquiry dated 22 December 2022²⁵ at page 5 you stated that there was no evidence to give you an indication that a person serving with the police had committed an offence; therefore why not instruct one doctor for the post mortem examination? Would you consider this a departure from normal practice?

²¹ See SBPI-00227 at page 7.

²² There are a number of emails shared with Mr Brown, for example see COPFS-02610.

²³ COPFS-02903

²⁴ COPFS-02903

²⁵ SBPI-00227

37. What was your involvement in Mr Bayoh's body being released? Please refer to your emails on the matter.²⁶
38. Please read your email to your COPFS colleagues dated 26 May 2015.²⁷ Is it correct that Mr Bayoh's family requested further radiological examination? How does that square with the point raised from Mr David Torrance MSP that the family are desperate for Mr Bayoh's body to be released within a 40 day period to not breach a faith requirement? What is your understanding of this faith requirement and how did you account for this when dealing with Mr Bayoh's body?
39. With regards to your comments in the email dated 26 May 2015²⁸ that "*We are long finished our post mortem investigations...*" and "*We have been in a position to release for some considerable time now*", what was the date that the post mortem investigations by COPFS were concluded? How were the family notified that Mr Bayoh's body was ready to be released?
40. In the same email dated 26 May 2015²⁹ you also state: "*Les advised me this morning that Nat Carey, Home Office Pathologist, had indicated that he did not require to do a PM. As such I understand there is to be no defence post mortem.*" Dr Nat Carey was instructed by Mr Bayoh's family. Who did you mean was the "defence" in this case? If you meant Mr Bayoh's family, who had instructed Dr Carey, why would they be the "defence"? Is it normal to consider the family of a deceased person in Scotland to be the "defence"? Was it your understanding at the time that the police officers were victims of the incident?
41. In any event, were the police officers who engaged with Mr Bayoh provided with the opportunity to instruct their own post mortem examination? In this regard, to what extent was the action by you, and COPFS generally, consistent with normal practice?
42. What was your involvement in the identification of Mr Bayoh's body? Was it your instruction to prefer identification by PIRC rather than Mr Bayoh's family? Were you aware that Mr Bayoh's mother was due to be travelling from London and the family wished to wait for her attendance before seeing his body? What did you do to accommodate their wishes in this regard? Could you have waited for Mr Bayoh's mother to attend before carrying out an identification?
43. In your presentation to the COPFS National Federation Equality Network Conference dated 28 October 2013,³⁰ on slide 6 you explain: "*Although consent of nearest relatives is not required, the PF will always consider any*

²⁶ See COPFS-02008; COPFS-02009; COPFS-04958; COPFS-04813.

²⁷ COPFS-03357

²⁸ COPFS-03357

²⁹ COPFS-03357

³⁰ COPFS-05934

concerns you may have". Is this accurate? What was done to consider the concerns of Mr Bayoh's family?

44. Please read your email to Mr Brown dated 23 June 2015.³¹ What was your reasoning for advising against disclosure of the post mortem report to NHS staff?

Police officers' status

45. What is COPFS' role, if any, in determining if a person's status is that of witness or suspect in an investigation into a death in custody or a death during or following contact with the police? What is the significance for the Investigation of a person's status? In the event that there is no reasonable suspicion in respect of any person(s) in an investigation, what is COPFS' role in identifying a suspect?
46. What was your involvement, if any, in determining if the status of the officers who engaged with Mr Bayoh, or any other persons, was that of witness or suspect in the Investigation? To what extent were your decisions and actions in this regard consistent with normal practice? Was race a factor in any departures from normal practice? In hindsight, are there any aspects of your decision-making or actions in this regard that you would do differently?
47. When was the police officers' status decided? Why was it decided at that time? Was it subject to change? When would it be reconsidered, if at all? What was your involvement in any reconsideration of the police officers' status?
48. Can COPFS provide any undertakings to officers involved in a death in custody or death during or following police contact in order to obtain their account of the incident? If so, when are these undertakings made and what is their purpose? Were these undertakings considered in the Investigation?
49. What advantages, if any, would be gained from charging the officers and interviewing them under caution? What disadvantages, if any, would result from the officers being charged and interviewed under caution? To what extent were your decisions and actions in this regard influenced by reporting, or potential reporting, in the media? Is there a reluctance on you or your colleagues' part to instruct the police or PIRC to charge police officers with criminal offences occurring in the course of their duty that is not apparent when dealing with civilians? If so, what is the reason for this?

Lord Advocate

50. Please outline your involvement in dealing with the Lord Advocate in relation to this case.

³¹ COPFS-04966

51. Please read the email chain between you and Mr McGowan, among others, relating to delay in the investigation.³² This email chain includes an email from you to Mr Logue on 6 May 2015 at 3:36pm with you setting out the reasons for a delay in releasing the body of Mr Bayoh and includes a note on the independence and impartiality of the NHS laboratory staff and *“If slides are prepared then these slides should be available for examination by anyone else the family would like to have a look at them.”* You then state: *“I appreciate that this does not meet the Lord Advocate’s desires but that is simply not possible.”* What were the Lord Advocate’s desires and what part of your explanation did not meet with them? Please provide the background and context to your email.

Expert witnesses

52. In your Rule 8 statement to the Inquiry dated 22 December 2022³³ at page 7 you explain that your last substantive involvement was on 5 May 2015 but did act as a post box for reports etc coming from pathology and toxicology. Please provide further detail on your instruction and liaison with experts in relation to pathology and toxicology.³⁴
53. Please read your email to Dr Colin Smith dated 15 May 2015.³⁵ You write: *“As I am sure you are aware this has become something of a media event with the family calling press conferences etc through their lawyer Amar Anwar. For all sorts of reasons I would be grateful to receive the report as soon as you can provide it.”* What did you mean by the case being something of a media event? What were the reasons for you requesting that the report be expedited? Was this normal practice?
54. Please read the emails between Mr Brown and Dr Kerryanne Shearer dated 29 May 2015.³⁶ Why was Mr Brown liaising directly with Dr Shearer at this point without your involvement?
55. Please read your email to Dr Hazel Torrance dated 8 October 2015.³⁷ In response to a suggestion from Dr Torrance that further testing of a blood sample for caffeine is desirable, you write: *“Given the profile of this investigation I am in complete agreement that this analysis should be done.”* What did you understand to be the profile of the investigation and what does this mean? To what extent is agreement with the testing in line with normal practice? Is it correct to understand, based on the terms of your email, that you are recommending testing that would ordinarily not be taken forward in a lower profile investigation? Had anything changed between May and October 2015 that meant COPFS instruction of expert evidence in this investigation would be more thorough? Did the profile of the investigation mean it would be dealt with differently compared to other investigations?

³² COPFS-04924

³³ SBPI-00227

³⁴ See your emails COPFS-06064; COPFS-02406; COPFS-04801.

³⁵ COPFS-02272

³⁶ COPFS-06137

³⁷ COPFS-02274

56. Please read PIRC's letter to the Lord Advocate dated 12 October 2015.³⁸ On page 1 PIRC explain that the Lord Advocate selected Dr Jason Payne-James and Dr Steven Karch to provide expert opinion; is this accurate? Did you have any involvement in the Lord Advocate's decision to instruct these experts and/or providing advice to PIRC in any form in this regard?
57. At page 5 of the same letter³⁹ you are credited with identifying additional experts in the field of cardio-pathology for consideration, including Prof Mary Sheppard and Dr Elizabeth Soilleaux. Is this accurate? What advice did you give PIRC in this regard?
58. Why were you involved in the instruction of experts up to around 12 October 2015 with Mr Brown and CAAPD having taken a lead on the matter on 5 May 2015? Would it have been more efficient or effective for you to hand over all instruction and liaison with the experts to Mr Brown? To what extent would this be normal practice?

The Health and Safety Executive ("HSE")

59. Prior to your involvement in the investigation into Mr Bayoh's death in 2015, what experience did you have in investigations involving HSE?
60. In what circumstances would COPFS normally invite the involvement of HSE or engage with HSE where a work-related death has been reported and Section 3 of the Health and Safety at Work etc 1974 is being considered?
61. At any point during your involvement did you consider or take steps to invite the involvement of HSE? Was consideration given to any disparity in resources between HSE and PIRC insofar as it may impact on the investigation into the death of Mr Bayoh? In your view, were PIRC sufficiently skilled and experienced to investigate all matters without the involvement of HSE?
62. In your view should COPFS have received notification of a work-related death via the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, also known as RIDDOR? If so, what steps would be taken and how, if at all, would COPFS' response be different to what took place?

Learning and improvement

63. [REDACTED]

European Convention on Human Rights ("ECHR")

³⁸ PIRC-04246

³⁹ PIRC-04246

⁴⁰ [REDACTED]

64. During your involvement, were you involved in discussions in any form relating to COPFS' obligations under Articles 2 and 14 of the ECHR in respect of Mr Bayoh and his family? If so, what was your understanding of these obligations and how, if at all, did this affect your approach to your work?
65. To what extent was Article 2 of the ECHR considered in respect of the duties of Police Scotland and PIRC?

Media engagement

66. What is your understanding of COPFS' role in engagement with the media following a death in custody or death during or following contact with the police? How does COPFS' role interact with the role of Police Scotland and PIRC in media engagement?
67. Were you following the media reporting of the matter? To what extent, if any, was your involvement influenced by what was reported in the media? Were you aware if any of your colleagues were influenced by what was reported in the media?
68. What involvement did you have, if any, in COPFS' media engagement? This may include discussing media lines with colleagues, liaison with the COPFS media department, direct contact with the media or providing information to colleagues dealing with the media.
69. Please set out your discussions with PIRC relating to the "*brief press release in the usual terms*"⁴¹ that you state in your email was agreed with PIRC on 3 May 2015.
70. On 3 May 2015, Police Scotland prepared the following statement and shared it with PIRC and COPFS for approval:-

Death in police custody, Kirkcaldy

At around 7am this morning (Sunday, May 3) police in Kirkcaldy responded to a number of calls from members of the public reporting a man brandishing a knife in the Hayfield Road area.

On arrival the officers encountered the man and whilst attempting the apprehend him, he lost consciousness and a female officer also sustained a head injury.

Police officers commenced first aid procedures and the man was taken to Victoria Hospital by the Scottish Ambulance Service, where he sadly died. The female officer was also taken to hospital, and she has now been released.

⁴¹ COPFS-02903

Divisional Commander Chief Superintendent Garry McEwan said: "This is a tragic set of circumstances and my condolences go to the man's family. We currently have officers with them to provide information and support where appropriate.

"We recognise that this is an extremely difficult and distressing time for both the family and the officers involved and I have instigated the necessary post-incident procedures.

"The investigation of deaths in Scotland is the responsibility of Crown Office and Procurator Fiscal Service, who have instructed the Police Investigations and Review Commissioner to lead on this enquiry. The circumstances into the death will be fully explored and reported to the Crown Office in early course"

Anyone with information regarding this incident is asked to contact Police Scotland on 101 or anonymously through Crimestoppers on 0800 555 111.⁴²

Were you aware of this? What was the basis for this statement not being released? Was the narrative of events consistent with what was understood by COPFS at the time? Could this statement have been amended and released? To what extent were your decisions and actions, and those of COPFS generally, consistent with normal practice?

71. Were you aware that a statement was released attributed to Ch Supt Garry McEwan, the P Division (Fife) Divisional Commander, in the Dundee Courier offering condolences to Mr Bayoh's family on 3 May 2015? Was this statement approved by COPFS? Are you aware of why this statement was made but the above statement was refused?
72. What is your understanding of the SPF's role in Police Scotland's media engagement? What is your awareness of the SPF's approach to media engagement? Do you have any comment on the suitability of the SPF's approach? Do SPF seek COPFS' approval before releasing a statement in the same manner as Police Scotland did? In preventing a statement, such as the above draft, being released by Police Scotland, did you have any concerns that the police officers involved would be unhappy that no comment was being made in response to the speculation in the media about what happened in the incident? Were you made aware of any concerns on the part of the officers involved? What difference, if any, did this or would this have made to your approach to media engagement? Did you expect the SPF to issue a statement on behalf of the officers following the lack of comment from Police Scotland? If a statement had been made by Police Scotland, do you think this would have prevented, or minimised to some extent, speculation in the media of what happened in the incident? In hindsight, would you have made different decisions or acted differently in relation to media engagement?

Parallel investigation

73. Were you aware of an investigation into Mr Bayoh's death being carried out on behalf of the SPF by Mr John Sallens? Did you have any concerns about this? If so, what decisions and actions did you take to resolve the issue?
74. Were you aware of witness accounts that investigators provided them with information from other sources and made them feel uncomfortable?⁴³ If so, was anything done to address this?
75. Were you aware of a report of findings of the SPF's investigation being sent to PIRC? Did you have sight of this report? To what extent, if any, did this report affect the approach of COPFS in the Investigation?

Race

76. Prior to your involvement in the Investigation, in your experience, did COPFS routinely consider the role of race when dealing with a death in custody or death during or following police contact? Has that position changed between the time you were involved in the Investigation and now?
77. In your Rule 8 statement to the Inquiry dated 22 December 2022⁴⁴ at page 6 you refer to an understanding of different attitudes to death, post-mortem examination and funerary practices as being essential to SFIU. What practices, if any, were relevant in the case of Mr Bayoh and what did you do to accommodate these attitudes and practices?
78. Further on page 7 of your Rule 8 statement⁴⁵ you refer to Mr Bayoh's death being dealt with in exactly the same manner as any other death in custody. In light of your answers to the above questions, does this remain your position? In any event, is it your position that regardless of there being different attitudes and funerary practices for a deceased person's family, you would deal with all cases in the same manner?

Training

79. What guidance or reference materials in relation to race were you aware of being available to you in the time you were involved in post incident management and the investigation following Mr Bayoh's death? Over the course of your involvement, did you make use of any of these materials?
80. What, if any, training do you consider would have assisted you in your involvement in post incident management and the investigation following Mr Bayoh's death? This may be training you have carried out since, training you

⁴³ For example, in Mr Mark Daly's statement to the Inquiry (SBPI-00119 at para 65) he recalls Mr Nelson telling him that investigators saying they were from the Police Federation entered his home and "*they start dripping poison in his ear about Bayoh*".

⁴⁴ SBPI-00227

⁴⁵ SBPI-00227

are aware of but have not completed or training that is not, as far as you're aware, provided by COPFS.

Miscellaneous

81. Please read your email to your senior colleagues dated 6 December 2016⁴⁶ in relation to a request from Police Scotland regarding disclosure of the death certificate. Please explain your position further. Why were Police Scotland asking about COPFS disclosure of the death certificate? Why would COPFS not wish to directly answer the question posed by Police Scotland?
82. Please state the following 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."
83. Please sign and date your statement.