

Assistant Solicitor to the Inquiry

[REDACTED]

[REDACTED]



Mr Ian MacIntyre

By email only: [REDACTED]

6 February 2024

Dear Mr MacIntyre

### **Rule 8 Request**

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

As you may be aware we have liaised with the Police Investigations and Review Commissioner ('PIRC') to arrange the provision of your Inquiry statement. If you would prefer to provide your statement in the form of an interview with a member of the Inquiry legal team, please let us know.

Under [Section 21\(2\)\(a\) of the Inquiries Act 2005](#) the Chair may, by notice, require a person to provide evidence in the form of a written statement. [Rule 8 of The Inquiries \(Scotland\) Rules 2007](#), provides that the Inquiry may send a written request to any person for a written statement of evidence. I hereby request you provide a written statement to the Inquiry by **10am on Monday 12 February 2024**. Please provide your written statement by email to [REDACTED]. If you require further time to complete your written statement, please contact the Inquiry as soon as possible to agree a revised deadline.

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

Please ensure that you complete your statement without cooperating with any other individuals who may be witnesses to the Inquiry, this would include discussing questions you have been asked to address in your statement and the content of the statement itself.

Annex A to this letter sets out the areas to be covered in your written statement. Annex B contains a copy of the Inquiry's Terms of Reference. The Inquiry will shortly share a Connect workspace containing a copy of any documents referred to in Annex A.

The documents provided via the Connect workspace remain subject to the Inquiry's general [restriction order](#) and may not be shared by you with any other person. You may wish to take independent legal advice in relation to the contents of this letter and the questions contained within Annex A prior to providing your written statement. Should you decide to take independent legal advice prior to providing your written statement, and you wish to share the documents provided to you via the Connect workspace with your solicitor in order to do so, please contact the Inquiry's legal team in advance by email at [REDACTED].

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

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

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

If you have any questions regarding this letter or the content of your written statement, please contact the legal team by email at [REDACTED].

Yours sincerely

[REDACTED]

## **ANNEX A**

### **AREAS FOR WITNESS STATEMENT**

#### **MR IAN MACINTYRE**

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. Prior to 3 May 2015, what, if any, contact had you had with the following Police Scotland officers: Craig Walker, Alan Paton, Nicole Short, Ashley Tomlinson, Alan Smith, Kayleigh Good, Daniel Gibson, James McDonough and Scott Maxwell?
3. Prior to 3 May 2015, had you had any contact with 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.

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

4. Between May 2015 - August 2016, do you feel that there was adequate resourcing for PIRC to comply with its statutory obligations in terms of:
  - 1.4.1. Funding;
  - 1.4.2. Staffing numbers;
  - 1.4.3. Training opportunities; and
  - 1.4.4. Expertise of staff.

If not, why not?

5. In what ways do you regard the role of a police officer and the role of a PIRC investigator to be similar or different?
6. Do you feel that your background in policing has any advantages or disadvantages for your work at PIRC? If so, please provide full details.
7. 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.

#### **Training**

8. In 2015, 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?

9. Did you feel adequately trained to carry out your role at PIRC? Please explain why, or why not. What, if any, additional training would have assisted you in your involvement in the investigation?
10. Is there any process within PIRC to assess "lessons learned" from investigations? If so, what does this process entail? Did any "lessons learned" exercise take place following the investigation following the death of Mr Bayoh? If so, what did this involve? If not, why did this not take place? Do you think PIRC would have benefited from such a "lessons learned" exercise following that investigation?

### **Involvement with the PIRC investigation as Office Manager**

11. Your PIRC self-statement details:

"I was appointed as the Office Manager within an incident room created for the PIRC investigation, regarding the circumstances surrounding the death of Mr Bayou.

This role involved utilising the Clue 2 computer management system to provide the Lead Investigator, DSI Little, with an accurate record of all relevant information relating to the PIRC investigation, together with the enquiries made and results obtained.

Working alongside my colleague Laura White, I was involved in reading all statements and documents, and indicating content to be indexed and identifying Actions to be raised. I was responsible for filing documents and Actions when satisfied that had been processed correctly." (PIRC-00353)

On how many occasions had you fulfilled the role of Office Manager with an incident room prior to 3 May 2015?

12. Was this role required in all PIRC investigations? If not, why was this role required for this investigation?
13. Who, in addition to you and Laura White, worked in the incident room across the PIRC investigation following the death of Mr Bayoh?
14. Do you feel that there was sufficient staffing and resources within the incident room team to complete the work with which you were tasked? If not, why not, and what impact, if any, did this have on the investigation?
15. As Office Manager you provided William Little with "an accurate record of all relevant information relating to the PIRC investigation, together with the enquiries made and results obtained". How did you pass this information to William Little? How did you determine what information was "relevant" to the PIRC investigation?
16. How were you kept informed of the priorities and progress of the investigation? Who kept you informed of the investigation's progress and priorities?
17. Who was responsible for reviewing the record compiled by you and issuing instructions as to further investigatory steps required?
18. Who within PIRC was ultimately responsible for reviewing an item, such as a completed witness statement, and deciding what further investigatory actions were required?

19. If this was your role, how did you satisfy yourself that all necessary investigatory steps had been undertaken following a statement's completion? How did you satisfy yourself that all necessary lines of questioning had been explored with witnesses within their statements?
20. What were the safeguards to ensure that every necessary investigatory step was raised as a result of a statement or other piece of evidence?
21. Did any member of the investigatory team (such as William Little or John McSparran or yourself) consider every document and statement arising from the investigation? If no individual member of the investigatory team considered every document and statement, how was this responsibility split between different members of the team?
22. After the terms of reference of PIRC's investigation were expanded by COPFS, for example, to include allegations from Mr Bayoh's family that they were provided with misleading and erroneous information concerning the death of Mr Bayoh and to include issues of race, were any documents, such as completed statements, reviewed for a second time with the expanded investigation in mind? If so, which documents were so reviewed for a second time? How was that review carried out? Following that review, what additional points, if any, were identified for consideration as part of PIRC's investigation?
23. Did PIRC compare and contrast the statements received from the nine officers involved in Mr Bayoh's arrest to identify areas of consistency and inconsistency? What involvement, if any, did you have in this process?
24. What consideration, if any, was given to taking further statements from the officers involved in Mr Bayoh's arrest to question inconsistencies between their respective accounts, or to explore lines of questioning resulting from the expanded terms of reference received by PIRC from COPFS? Why were further statements not taken from the officers?
25. 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?

## **2015**

26. On 15 July you emailed Police Scotland stating: "We are still monitoring social media, for your information and that of Fife intel, can you view the 'justice for Sheku Bayou' [sic] website regarding derogatory remarks made by an [redacted], which prompted a response from Zahid Saeed". (PS09864) What was the purpose of this email?
27. Can you expand on what you meant by "monitoring social media, for your information and that of Fife intel"? Was PIRC monitoring social media for Police Scotland?
28. Is it common for PIRC to monitor social media in investigations following deaths in custody? If not, why was PIRC monitoring social media in this investigation?
29. When did this monitoring end?
30. Who within PIRC issued the instruction to undertake monitoring of social media?

## **Equality and diversity**

31. How diverse was PIRC as an organisation in 2015? How did the level of diversity at PIRC change between May 2015 and the date at which you left PIRC, if at all?

32. Who was responsible for diversity and inclusion matters at PIRC in 2015? Who was responsible for such matters on the date at which you left PIRC?
33. 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**

34. Was anything you have stated above done or not done because of Mr Bayoh's race?
35. 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?
36. 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?
37. 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.
38. 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?

### **Miscellaneous**

39. Knowing what you know now, is there anything you would have done differently within this investigation?
40. Knowing what you know now, is there anything you feel PIRC as an organisation should have done differently within this investigation?
41. You completed two PIRC statements covering your involvement in the investigation (PIRC-00354, PIRC-00353). Please confirm that the content of these statements is true and accurate. Was your recollection of events better when you completed your statements 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?
42. 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.
43. 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.