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Introduction

I am the Crown Agent and Chief Executive of the Crown Office and Procurator Fiscal Service (COPFS). I was appointed to this role on an interim basis in September 2022 and on a permanent basis since December 2023. I have been employed by COPFS since September 1994. The paragraph numbers of my statement correspond to the questions which I have been asked in the Rule 8 Request of 22 April 2024.

Training

1. Collette Paterson, Director of the Scottish Prosecution College, has strategic responsibility for training within COPFS. Collette reports to Jonathan Shebioba, Director of Support Services. The Scottish Prosecution College is one part of our Operational Support function which is led by Lindsey Miller, Deputy Crown Agent. We are currently restructuring our corporate services and in the new structure Collette will report to Sarah Carter, Director of HR, who is a member of the COPFS Executive Board. To the extent that our training takes account of issues of equality, this is overseen by the Equalities Board which is chaired by Stephen McGowan, Deputy Crown Agent.

Institutional Racism

2. My understanding of institutional racism is informed by the definition set out in the MacPherson Report (1999) which I regard as the definition adopted by COPFS since it was first published. The report defined institutional racism as follows (6.34):

"The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people."

It can be seen from this definition that an organisation can be regarded as institutionally racist if it suffers from such a collective failure to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. My personal understanding of this concept was informed by the Jandoo Report (2001) which considered the liaison arrangements between COPFS and the family of Surjit Singh Chhokar who had been murdered in 1998. My recollection is that Dr Jandoo's conclusion that there was institutional racism in

COPFS was a very difficult moment for staff who had, as it now appears to me, until that point, focused on racism as a characteristic of individual behaviour and took pride in their own individual commitment to a fair prosecution and death investigation service. It was very challenging for all of us to understand and accept that we were part of an organisation which was institutionally racist and reconcile this with our own personal standards and behaviours. To this day, the concept of institutional racism at an organisational level is not well understood by the public or in other organisations but I am proud that COPFS, led by the then Lord Advocate, Colin Boyd, reacted to Dr Jandoo's assessment with openness and a public leadership commitment to transform its approach to tackling institutional racism. This work continues to this day and has evolved to take account of important developments such as the Equality Act 2010.

3. I have described in answer to question 2 the circumstances in which Dr Jandoo judged COPFS to be institutionally racist. This was accepted by the organisation and very significant efforts were made to overcome this through training, engagement with community groups, increased diversity in our workforce and structural embedding of practices which are designed to combat unwitting prejudice and bias. COPFS has a very strong, and popular, set of staff equality networks which raise awareness, promote improvements in our processes and provide direct support to staff. We operate a successful Two-Way Mentoring scheme to allow members of the equality networks mentor senior leaders on issues associated with their network and, in turn, senior leaders mentor the members of the network on leadership and career development. I have been involved in this mentoring for six years and am this year engaged in two-way mentoring with a member of our race equality network which is personally rewarding and instructive. Our annual Equalities Conference is a very popular event at which we celebrate the success of staff in promoting equalities, review our progress and set challenges for the year ahead. Our Public Speaking Competition for school pupils is always focused on the promotion of equalities and is strongly supported by staff and stakeholders as a visible public demonstration of our commitment in this area. I have always believed these efforts have been successful and that COPFS is a very different organisation. It is now one in which we speak to recruits as part of their induction about the importance of equality, diversity and inclusion, a process in which I personally will remind recruits of Dr Jandoo's conclusion in 2001, and in which we are vigilant to ensure that we are never again judged to be institutionally racist. We also benchmark ourselves externally, currently through the Employers Network for Equality and Inclusion (ENEI). In 2023, we achieved, for the first time, the Gold Standard in the ENEI Talent Inclusion and Diversity Evaluation (TIDE). This is a benchmarking tool which is used to measure our performance in diversity and inclusion across several areas including workforce, strategy and plan, recruitment, training and development, and procurement. We were then compared to other organisations taking part. Our overall score was 87%, which placed us 10th out of 171

organisations. COPFS scored particularly high in our workforce, strategy and planning, and leadership and accountability.

4. I do not believe that COPFS in 2024 is institutionally racist in the way that it was in 2001. But it is important to stress that the most important assessment of institutional racism for an organisation is an external one and the shared priority of our leaders is to do all that we can to ensure that the public, including victims and bereaved families, minority ethnic communities and stakeholders, judge us by our actions and the way in which we engage with them. It is their assessment as to whether we are institutionally racist, together with external benchmarking as described above, which guides and motivates us. Our priority is to ensure that we do all we can to guard against the possibility that the quality of service we provide to a member of the public is impacted by that person's race, culture or language. The ENEI TIDE guidance describes what I believe the approach of COPFS to be in the following way:

"Full inclusion is a temporary state few organisations will ever achieve. However, the best recognise this and understand that a drive for continuous improvement is in the best interest of the organisation, their employees and stakeholders."

5. As a public body operating in Scotland, COPFS must comply with the Scottish specific duties of the Equality Act 2010. We have compiled and published mainstreaming reports every two years since 2012, when the Act came into force, most recently in April 2023. These detail our efforts to be diverse and inclusive in relation to the provision of services and staff recruitment. All of these reports are available on our public website. The COPFS Learning and Development Strategy does not explicitly address the concept of institutional racism. The primary way in which learning and developing contribute to ensuring that COPFS is not institutionally racist is through the mandatory training course "Valuing Equality, Diversity and Inclusion" and the annual refresher course "Why Diversity & Inclusion Matters".

Diversity within COPFS

6. Our data from 31 March 2023 discloses that 90.7% of our workforce identifies as White with 3.8% identifying from an ethnic minority and 2.3% as "Other". This leaves 3.1% who have not disclosed their ethnic origin. Figures for white backgrounds have decreased by 2.6%. Census data from 2011 reported that 4% of the population declared an ethnic background. Our priority is to ensure that there is also retention and diverse promotion to management and leadership posts as individuals progress their career.

7. I believe that COPFS has continued to recruit candidates since 2015, with regard to race, in a way which promotes diversity and inclusion in the workforce. This includes recruitment at the entry grades as well as direct entry to more senior

posts in the Service. The diversity of our workforce has been increasing for a number of years and continues to increase.

Legal Duties

8. COPFS does not allocate operational responsibility for compliance with the Equality Act 2010 to an individual or group of individuals. Responsibility has been mainstreamed to all in the organisation, particularly leaders and managers; supported by individuals such as our Equality Champion and members of the Equality Board.

Race and Statistics

9. Progress towards objectives in relation to race is monitored and published in our Equality Mainstreaming Report which is published every two years on our website. The report sets out six equality outcomes and reports on progress against them:

- (1) People who live or work in Scotland are aware of the role of the prosecution service in the Scottish criminal justice system.
- (2) Our employees will act fairly and without bias towards all victims, witnesses, accused persons and bereaved relatives and be sensitive to individual needs, to ensure that the deaths investigation and prosecution service we provide, delivers an equal opportunity to everyone to access justice.
- (3) The services provided by COPFS are suitable and accessible to all who need to use them.
- (4) COPFS staff are knowledgeable about equality legislation and protected characteristics and treat all victims, witnesses, accused persons and colleagues with dignity and respect.
- (5) Scotland will be a safer place for everyone as a result of our collaborative working with other organisations.
- (6) COPFS is an inclusive employer with a workforce which proportionately reflects the diversity of Scottish society and where employees have an equal opportunity to achieve their full potential.

10. COPFS faces the challenge of renewing an understanding of the importance of our objectives in relation to equality, including race. I have also referred to the challenge of ensuring that our workforce, at all levels, is diverse and that there are appropriate role models in senior positions. Beyond our workforce, I am exploring the opportunity to develop more evidence about prosecutorial decision making and an analysis of ethnic background in respect of accused and victims. This would help to identify whether further targeted work is required to support our second objective.

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.

