

THE SHEKU BAYOH PUBLIC INQUIRY

**POSITION STATEMENT FROM JOHN LOGUE, CROWN AGENT AND CHIEF
EXECUTIVE, CROWN OFFICE AND PROCURATOR FISCAL SERVICE**

7 MAY 2024

INTRODUCTION

1. On 4 April 2024 a letter was received from the Solicitor to the Sheku Bayoh Inquiry requesting that the Solicitor General for Scotland provide a position statement to the Inquiry under Rule 8 of the Inquiries (Scotland) Rules 2007 in respect of the HM Inspectorate of Prosecution in Scotland's Thematic Report ("Thematic Report") on Crown Office and Procurator Fiscal Service's ("COPFS") Response on Race Issues dated 21 March 2005. This position statement is provided on her behalf and seeks to answer the questions contained in Annex A of the letter of 4 April 2024 in line with the headings.
2. The Thematic Report was the first report of the Inspectorate of Prosecution in Scotland. It examined how COPFS had responded to Dr Raj Jandoo's findings from his inquiry into liaison arrangements between the police, COPFS and the family of the deceased Surjit Singh Chhokar.
3. The Thematic Report looked at the adequacy of service delivery to minority ethnic users, including an evaluation of the effectiveness and degree of compliance with current prosecution policy in respect of crimes with a racial dimension. It assessed recruitment and employment issues within the COPFS and efforts to reach out to minority ethnic communities in Scotland and to reflect their concerns in forming prosecution policy. The Thematic Report also evaluated the steps COPFS had taken to comply with the duties imposed upon it by the Race Relations (Amendment) Act 2000 and in particular the duty to promote good race relations.
4. The Thematic Report concluded that overall COPFS had made positive progress and made twelve recommendations, all of which COPFS accepted and subsequently implemented.

DIVERSITY TEAM

5. The Thematic Report referred to the internal COPFS Race Team which later became known as the Diversity Team. This Team was set up to develop and

support the implementation of the Race Equality Action Plan ("REAP") as required by the Race Relations (Amendment) Act 2000.

6. The Victims and Diversity Policy and Development Division ("VDPDD") was established in June 2006. It combined the functions of the Diversity Team, the Victim Information and Advice ("VIA") National Office and the Victims Policy Team. By March 2009, VDPDD had joined the teams in the Business Policy and Development Division to become Policy Division.
7. As stated above, one of the functions of the Diversity Team was the development and monitoring of the REAP. The last REAP was published in December 2008 and covered the years 2008 to 2011. The REAP was replaced when the Single Equality Duty of the Equality Act (2010) came into force in April 2011. This Duty replaced the three previous public sector equality duties relating to race, disability and gender.
8. The Diversity Team worked with the Equality Act Implementation Team to implement all of the statutory requirements of the Equality Act (2010) and the Scottish public sector equality duties. This included the creation of a set of Equality Outcomes and a Mainstreaming Equality report, both of which were published in April 2013. The COPFS Equality and Inclusion Mainstreaming Report for 2021 – 23 is the sixth and latest published report and provides an update on progress made against COPFS' 2021 – 2025 Equality Outcomes. Copies of those documents have been provided to the Inquiry in accordance with the section 21 notice, dated 4 April 2024.
9. Due to staff changes and internal restructuring, the standalone Diversity Team ceased to exist in early 2013. The Policy Advisor with responsibility for all aspects of equality and inclusion work became part of the Victims and Equalities team within Policy Division. In early 2016, following a change to the COPFS structure Policy Division became Policy and Engagement and the same Policy Advisor is currently part of the Children and Equalities Team within Policy and Engagement.

10. The responsibilities of the Policy Advisor for Equality and Inclusion are:

- To provide advice and support to the Law Officers and Senior Executive Team in relation to policy and best practice concerning our compliance with the Equality Act (2010).
- Working with the COPFS Equality Board, ensure that COPFS is in compliance with the Scottish public sector duties of the Equality Act (2010).
- To consult and issue guidance to COPFS staff in relation to policy and best practice to ensure all services provided by COPFS are accessible to those who use them. This includes support to complete equality impact assessments and monitoring usage of contracts for the provision of interpreting, translation and transcription services.
- To work with other Government departments, criminal justice agencies and third sector groups at a national level to ensure that COPFS' services compliment other justice agencies and are fit for purpose.
- To liaise with and support the work of the COPFS Equality Champion, COPFS' six Sheriffdom Equality Teams, twelve Staff Network groups and over a hundred Equality Ambassadors.
- Since the enactment of the Offences (Aggravated by Prejudice) (Scotland) Act 2009, monitor usage of all hate crime legislation, raise awareness and deliver training on the importance of this legislation, both within COPFS and at community events.
- Organise events and conferences to raise awareness of the role of COPFS and the services COPFS provides.
- Deliver presentations and represent COPFS at public events associated with equality and inclusion.

DIVERSITY STRATEGY GROUP

11. The Thematic Report referred to the COPFS Diversity Strategy Group which was set up in July 2000 with the remit to develop the Departmental Strategy for race issues and to ensure, oversee and monitor its implementation, including the commitments in the Strategic Plan for 2000-2003.

12. The Equality Board replaced the Diversity Strategy Group in 2016. It was initially chaired by the Deputy Crown Agent ("DCA") for East of Scotland,

John Dunn, who was one of three DCA posts at that time. The Equality Board is currently chaired by the DCA for Litigation, Stephen McGowan. The Equality Board sets the strategic direction in respect of equality and inclusion for COPFS.

13. The Diversity Strategy Group had responsibility for "anti-racist training" and a commitment was made for the training to be an ongoing exercise. Responsibility for the creation, delivery and monitoring of training material moved to Learning and Development prior to 2008.

14. The Equality Board includes representatives from all aspects of the organisation and the undernoted is a list of the current members:

Chair: Stephen McGowan, DCA Serious Casework

Note Taker: [REDACTED] PA to DCA for High Court

Equality Champion – Ruth McQuaid, DCA for High Court

Leads of the 6 Sherifffdom Equality Networks (ShENs)

Chairs of the 12 Staff Equality Groups

Head of Policy & Engagement

Policy Advisor for Equality and Inclusion

Director of Human Resources ("HR")

Lead for HR Equality Team

Representatives from both Trade Unions

Head of Business Management, Local Court

Representative from Learning & Development

Representative from Corporate Communications

Lead for Public Speaking Competition

Lead for Mentoring Programme

Representatives from over 100 Equality Ambassadors, depending on Agenda items.

AREA RESOURCE TEAMS

15. The Thematic Report referred to Area Resource Teams which were set up in 2002 and whose remit was to implement the Departmental strategy on

race issues wherever relevant with the Area context and in particular have regard to:-

- The monitoring of prosecution policy on racist crime (including the quality of police reports submitted in line with the Lord Advocate's Guidelines);
- Racial Equality Training at Area level (including Area induction training);
- Recruitment issues (including a programme of positive action in liaison with the Departmental Human Resources Division);
- Issues of translation and interpreting (including the implementation and monitoring of Departmental guidance);
- The need to establish and maintain positive relationships with minority ethnic communities and organisations (such as Racial Equality Councils) and
- The need to participate in local MARIM (Multi-Agency Racist Incident Monitoring) and community safety groups.

16. Local Area Resource Teams no longer exist. The structure of COPFS has changed several times since Area Resource Teams were created and the structure of area representation has changed to mirror these organisational changes. The present-day equivalent of Area Resource Teams are our six Sheriffdom Equality Networks (ShENs):

- Glasgow and Strathkelvin
- Grampian, Highland and Islands
- Lothian and Borders
- North Strathclyde
- South Strathclyde, Dumfries and Galloway
- Tayside, Central and Fife

17. The leads of the six ShENs report directly to the Equality Board. Staff based in these geographical areas with an interest or expertise in a particular area of equality and inclusion are encouraged to join their local ShEN. The ShENs play a vital role in developing links with locally based communities and encouraging employees to help address local issues and promote social responsibility and inclusiveness.

18. Whilst Area Resource Teams have been replaced by ShENs, their structure is broadly the same. However, some of the original roles and responsibilities of the Area Resource Teams are no longer covered by ShENs and are instead covered by staff in Policy & Engagement, HR and Learning and Development. It might be helpful if I clarify the following:

- (i) Monitoring police reports of race cases received and their compliance with current guidelines

Since the introduction of the Offences (Aggravated by Prejudice) (Scotland) Act 2009, monitoring of racist crime has been conducted by the Victims and Witnesses Team and the Policy Advisor for Equality and Inclusion.

- (ii) Training at an area level including equality and diversity
Learning and Development are responsible for equality, diversity and inclusion training.

- (iii) Conducting "outreach" work such as attending careers fairs and visiting schools to regain trust and encourage recruitment from ethnic groups

ShENs are responsible for a significant amount of community outreach work and often work in partnership with our 100+ Equality Ambassadors to raise awareness of the role and responsibilities of COPFS.

- (iv) Implementing and monitoring compliance with guidance on the use of translation and interpreting services

The Policy Advisor for Equality and Inclusion is responsible for monitoring guidance compliance on the usage of interpreting and translation services.

- (v) Maintaining positive relationships with ethnic communities and organisations

As stated above, ShENs are responsible for a significant amount of community outreach work and often work in partnership with our 100+ Equality Ambassadors to raise awareness of the role and responsibilities of COPFS. The Policy Advisor for Equality and Inclusion has a role at a national

level to engage with national minority ethnic group organisations such as BEMIS, SCoJeC, CEMVO and CRER.

(vi) Recruitment

Human Resources staff are solely responsible for the advertising and recruitment of COPFS staff.

EQUALITY ADVISORY GROUP

19. The Thematic Report referred to the COPFS Equality Advisory Group ("EAG") which met for the first time in June 2003 and whose remit was to provide independent expert advice to the Crown Office and Procurator Fiscal Service on:
- the impact or likely impact of its existing and future policies on equality issues;
 - any racial, religious and cultural issues which arise in criminal cases and in particular the likely liaison needs of bereaved relatives from a minority ethnic or religious community.
20. The EAG membership was drawn from a selection of people with an interest and experience of race equality matters including academics with an interest in this area and people working in race equality organisations. The EAG was disbanded in early 2017.
21. Since the introduction of the Scottish specific duties of the Equality Act (2010), all new COPFS policies and projects are subjected to an equality impact assessment process. The EAG helped COPFS to form direct relationships with a large number of both national and local organisations, covering all of the protected characteristics. However, as more legislation was passed by the Scottish Parliament, many advocacy groups and organisations wished to engage directly with COPFS rather than through association with the EAG, especially in relation to hate crime, domestic abuse and sexual offending.

22. Over a short period of years, COPFS has become more at ease with stakeholder engagement and, especially since the introduction of the Scottish specific duties of the Equality Act, it now works on the premise that all new policy work will be informed by stakeholder engagement. In more recent years, this is usually at an early stage in policy development rather than as a critical eye afterthought, a role that was usually fulfilled by the EAG.

RESPONSIBILITY FOR DELIVERY OF EQUALITY AND DIVERSITY OUTCOMES

23. Equality and inclusion underpin all that COPFS does. COPFS's strategic direction in respect of equality and inclusion is set by the Equality Board which, as stated above, is chaired by Stephen McGowan. Delivery is led by the Equality Champion, Ruth McQuaid, supported by twelve staff network leads, over a hundred National Equality Ambassadors representing specific protected characteristics and six Sheriffdom Equality Network leads, each of whom is responsible for organising and co-ordinating local equality engagement.

24. The Chair of the Equality Board and the Equality Champion are both Deputy Crown Agents and are members of the Senior Executive Team, which is led by the Crown Agent. COPFS is divided into four 'functions': High Court, Specialist Casework, Local Court and Operational Support. Each functional lead is responsible for the delivery of equality outcomes and the Equality Board maintains a corporate view.

LORD ADVOCATE'S GUIDELINES TO CHIEF CONSTABLES

25. The Thematic Report referred to the Lord Advocate's Guidelines to Chief Constables in relation to the investigation and reporting of racist crime, the assessment of language needs and cultural sensitivities and preparation of death reports and associated crime reports dated January 2002.

26. The Hate Crime and Public Order Act 2021 came into force on 1 April 2024. In preparation for the commencement of the Act, revised Lord Advocate's Guidelines were issued to the police. The 2024 document replaces the 2002 document. A copy of the 2024 guidance is included in Annex B – 5.

BOOK OF REGULATIONS ON VICTIMS, NEXT OF KIN AND WITNESSES

27. The Thematic Report referred to the COPFS Book of Regulations and to the revised Chapter 22 on 'Victims, Next of Kin and Witnesses' of May 2004. The Book of Regulations is a collection of regulations governing COPFS practice and procedure. Originally existing as a loose-leaf, hard copy publication, with copies available within local Procurator Fiscal offices, it has been electronically available on the COPFS internal website for a number of years. It contains several different chapters, including this chapter.

28. The Book of Regulations is updated on a periodic basis. However, in recent years there has been an increase in the availability of guidance from other sources. Therefore, although the Book of Regulations is still available to staff as a point of reference, staff are aware that they may find additional guidance material elsewhere.

29. The Victims and Witnesses Manual was originally published in 2012 and provides further direction and best practice. It consolidated existing guidance and Chapter 2 of the manual is information previously contained in Chapter 22 of the Book of Regulations.



John Logue

Crown Agent and Chief Executive

Crown Office and Procurator Fiscal Service

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