

## THE SHEKU BAYOH INQUIRY

### RESPONSE TO RULE 8 REQUEST BY SIR IAIN LIVINGSTONE, QPM

My full name is Sir Iain [REDACTED] Livingstone, QPM and my date of birth is [REDACTED] 1966.

I received a Rule 8 request from the Assistant Solicitor to the Inquiry dated 11 April 2024. This statement is my response to this request.

#### Roles and Responsibilities

1. I served as a police officer in all ranks in Lothian and Borders Police, latterly as Assistant Chief Constable Crime and Operations. In December 2012, I was appointed to Police Scotland as Deputy Chief Constable Crime and Operational Support. I had responsibility for national capabilities to support local policing such as counter-terrorism, serious and organised crime, public protection and major crime, intelligence, road policing, air support, firearms, public order and emergency and events planning.

In May 2016, I was appointed Deputy Chief Constable Designate under a new Chief Constable and was responsible for all operational policing within Scotland with both the Deputy Chief Constable Local Policing and the Deputy Chief Constable Crime and Operational Support reporting directly to me.

In September 2017, I assumed the duties and responsibilities of Chief Constable on an interim basis with responsibility for leading the Police Service of Scotland. I was confirmed as Chief Constable in August 2018 and remained in that position until my retirement in August 2023, having served over 31 years as a police officer.

In the role of Chief Constable, I was a core participant at the outset of the Sheku Bayoh Inquiry and in that position I have previously made submissions to the Inquiry. I re-affirm my complete support for the Inquiry and its aims and objectives and my commitment to support and co-operate fully to assist the Inquiry to address its terms of reference.

When I was in the office of Chief Constable, and was a core participant, I instructed that submissions dated 11 May 2022 and 23 June 2023 were to be made to the Inquiry on my behalf. I confirm that I remain committed to the terms of those submissions and the information contained therein.

## Police Scotland Culture

2. There are many elements that contribute to the culture of an organisation or sector in society, including values and attitudes both seen and unseen. Although policing in Scotland has existed for centuries, Police Scotland is a relatively new organisation formed from a number of legacy organisations, each of which had distinct qualities and characteristics of their own.

I do not consider that racism was part of the Police Scotland culture - and it would not be condoned or tolerated. Of course, prejudice and discrimination can, and do, exist in all organisations just as they do in society and therefore they will inevitably manifest themselves within policing. Discrimination and racism are and were wholly contrary to the values of Police Scotland. As Chief Constable, I would expect robust steps to be taken against any discriminatory conduct, such as racism or misogyny.

3. The culture of Police Scotland was monitored in a number of ways. One key means was through an Equality Diversity and Inclusion Oversight Board that had broad representation, including from our statutory and diversity staff associations. In addition, specific activity with staff associations representing under-represented groups was undertaken through focus groups and listening exercises where the actual experience of our officers and staff could be shared with senior officers.

Within my senior team, there were dedicated Chief Officers to lead for various areas of diversity with the relevant Chief Officer having key responsibility to liaise with individual staff associations and community groups. These included SEMPER which represents black and minority ethnic officers and staff; the Scottish Women's Development Forum; the Muslim Police Association; and the Scottish LGBTI Police Association, amongst others.

Staff surveys were conducted through Durham University to provide independent and comparative data with other police organisations and there was an anonymous reporting line called 'Integrity Matters'. This allowed officers and staff to raise any concern in an anonymous manner, which would thereafter be subject to assessment by the Professional Standards Department (PSD).

4. It was my experience that Police Scotland, as the organisation developed, became increasingly sensitive and responsive to complaints from staff, officers, or members of the public regarding race discrimination. The issues within the culture of Police Scotland, and the operational practice of Police

Scotland, that I felt could be improved went beyond how we dealt with formal complaints that were made.

In my experience, when a complaint was made, our Professional Standards Department (PSD) acted with exceptional professionalism and integrity in a transparent and highly professional manner. Improvements in Police Scotland's approach to complaints grew from a number of areas, including the complaints review carried out by Dame Elish Angiolini and the practice and resources of PSD were significantly improved.

One example of improvement was the additional resources I allocated to PSD to ensure that complaints were coordinated nationally and to a consistently high standard by officers independent of the local or specialist team complained against. All matters relating to complaints are of course subject to oversight and review by both the Police Investigations and Review Commissioner (PIRC) and the Scottish Police Authority (SPA).

5. It is difficult to provide a generalised response to assessing the attitude of experienced officers towards training in diversity and inclusion. The training provided to probationary officers is regularly updated and improved to meet the demands of modern policing and the probationary training provided to our officers was of fundamental importance.

I would expect all experienced and professional police officers, who comprise the vast majority of Police Scotland's officers, to share my commitment to diversity and inclusion - and to benefit from the insight, training and outlook of younger probationary officers joining the service. The ability to recruit new officers and staff into Police Scotland ensures that the culture is constantly evolving in line with changes across society.

6. I have never heard any comments of a racist nature made by officers in Police Scotland in my presence. However, I am aware of some instances of such comments being reported to, and investigated by, PSD. Such matters would be addressed and investigated with the utmost priority and seriousness.

7. Being an anti-racist organisation demands a requirement to address and challenge the existence and manifestations of racism at a personal, cultural and institutional level. It is a deliberate and overt approach to challenge all forms of racism including historic causes and systemic failures. It

requires a collective effort to be permanently and consistently pro-active and accountable for the prevention of discrimination, the advancement of equality opportunities and for fostering good relationships within the organisation and between the organisation and the public we serve.

8. The equality and diversity policy, strategy and impact assessments that were in place in 2015 were founded upon the race equality duty and other equality duties established by the Equality Act 2010, which itself had been based on the report by Sir William McPherson in the Stephen Lawrence Inquiry of 1999. That duty and the policies and equality impact assessments that grew from it, were intended to eliminate unlawful discrimination, harassment and victimisation and advance equality of opportunity for all people by removing disadvantages suffered by people due to any protected characteristic. Issues around equality and diversity and equality impact assessments were built in to the development of operational practice.

In my view, as Police Scotland developed as an organisation, this became much more effective and thorough in its application. An additional value of the equality impact assessments carried out by Police Scotland was the overt introduction of a human rights assessment to ensure that broader matters around human rights considerations were built in to the impact assessments. These assessments therefore developed into Equality and Human Rights Impact Assessments.

#### Institutional Racism

9. The meaning of institutional racism, that I understand, was provided by Sir William Macpherson in his report following the Stephen Lawrence Inquiry in 1999.

Sir William Macpherson outlined institutional racism as being: “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 is against the meaning and explanation of institutional racism provided by Sir William Macpherson that any judgement of whether an organisation is institutionally racist should be made.

10. As Chief Constable and leader of the organisation it was my decision to state that the Police Service of Scotland was institutionally discriminatory and institutionally racist.

Deputy Chief Constable Fiona Taylor led the Professionalism portfolio and she was my Designated Deputy under the Police and Fire Reform (Scotland) Act 2012. DCC Taylor had the strategic lead on my behalf for matters relating to equality, diversity and inclusion and the development of our Policing Together strategy and work. DCC Taylor brought exceptional integrity, commitment and rigour to her leadership role. I had regular discussions with DCC Taylor and listened to her advice and suggestions and benefitted from discussing at length both the Macpherson meaning of institutional racism and its significance for Police Scotland.

I appointed Assistant Chief Constable David Duncan as a dedicated lead for Policing Together to ensure that the importance of the changes we wish to make regarding equality, diversity and inclusion would be driven with visible and dedicated senior officer commitment. In that role, ACC Duncan was also involved in a number of the discussions that were held regarding the matter.

11. DCC Fiona Taylor had established a professional reference group (PRG) comprising individuals distinguished in their fields who brought academic and practical experience of racism and how to combat it. I engaged regularly with the PRG as well as other senior members of my team such as the other Deputy Chief Constables and Deputy Chief Officer. Ultimately, the decision to make this statement was mine as Chief Constable and I was solely accountable for it.

12. The statement I made on 25 May 2023 was a statement of reality. Recognition that institutional racism and other forms of institutional discrimination exist within Police Scotland was a fundamental step forward towards being an inclusive service where equality and fairness are clearly evident, for our officers, staff and for all our fellow citizens who we serve.

My professional experience has shown that people from different backgrounds or with different requirements do not always get the service from their police service that is their right. For similar reasons, our own officers and staff do not always have the experiences and support that they deserve as public servants. It is an institutional matter when an organisation does not have all the necessary policies, processes, practices and systems in place to ensure these things do not happen. Publicly acknowledging that these institutional issues exist was essential to ensuring public confidence and fairness.

Institutional racism is often misunderstood to be an assertion that police officers and staff are racist. This is not the case.

Institutional racism and discrimination relate to an organisation's historical structures, habitual processes and systems, which particularly in large organisations of many years standing – such as policing in Scotland – have grown through tradition, ignorance, inattention or omission to have an adverse impact on specific groups or individuals. It can be through thoughtlessness rather than intent.

Those in leadership roles, such as myself, do not always recognise or understand the barriers and discriminatory practices that are hurtful and dangerous to individuals or groups- for example people of colour, women or people with seen and unseen disabilities. That is why I believe it is challenging and vitally important to speak candidly about these barriers and unjust practices and policies so that they are acknowledged and addressed.

Injustice and discrimination are insidious wrongs with deep roots in history and acknowledging institutional racism and discrimination exist will, I believe, act as a catalyst to drive change and embed progress. It was, and is, the right thing to do and in my view should be embraced and seen as a source of confidence and optimism for Police Scotland that necessary change can be achieved for policing and society.

After I made the statement and spoke publicly, I was approached by and received communications from many affected individuals and groups- who welcomed the statement and the recognition of institutional racism and discrimination to be a positive step forward to develop a wider discussion across society.

I was the Chief Constable of the Police Service of Scotland and policing was my primary concern. However, in my view other key institutions and organisations – whether in business, academia, political parties, media outlets and bodies across the public, private and third sectors - are also subject to these institutional issues.

I sincerely hope my statement regarding institutional racism and discrimination will contribute to providing a foundation for policing in Scotland to demonstrate it is truly committed to eliminating racism and discrimination in all its forms. I also consider these institutional matters go beyond policing

and if addressed by other key sectors and bodies will allow Scotland as a whole to be truly inclusive and just.

13. There were many factors behind the decision to confirm that the Police Service of Scotland was institutionally racist and institutionally discriminatory. My own experience and judgement over many years, together with the advice and direction from my colleagues and members of the professional reference group (PRG) focused my thinking. I considered it was my duty to make the statement.

We assessed and reflected upon many previous studies and views, including the Race Action Plan of the National Police Chiefs Council; Baroness Louise Casey's report on the culture of the Metropolitan Police; Dame Elish Angiolini's report on police complaints in Scotland; and the meaning of institutional racism set out in the report by Sir William Macpherson following the Stephen Lawrence Inquiry in 1999.

14. As part of my commitment to the work of the Inquiry I undertook to listen to the evidence provided, and in particular the experience of the families of Mr Bayoh and members of the community. These matters were a factor in my thinking and my decision to make the statement on 25 May 2023. In my view, a reasonable assessment of the organisational response on 3 May 2015 showed that there were systemic organisational issues that meant some matters were not adequately addressed. The response of Police Scotland, in my view, did not properly address cultural needs, sensitivities and concerns - and that was an institutional matter. As such, I considered these factors and the evidence I had heard when addressing myself to the meaning of institutional racism as provided by Sir William Macpherson.

15. The key concerns were the experiences that we had listened to from fellow citizens of different backgrounds or with different requirements and the experience of our own officers and staff. As stated above, it is an institutional matter when there are organisational matters around policies, processes, practices and systems that give rise to a lack of fairness and justice. To address this institutional matter, the starting point is to acknowledge that racism and discrimination are indeed institutional.

16. I had regular meetings with senior colleagues, the PRG and members of our statutory and non-statutory staff associations.

17. Institutional discrimination and institutional racism are long standing and well established matters that pre-date, by many years, the creation of Police Scotland. They relate to policing, which like many other sectors or organisations, was founded decades and centuries ago and therefore inevitably carry the legacy of some of the attitudes and approaches when such organisations were formed. I am firmly of the view that such challenges are not restricted to policing or to Police Scotland and that they are live issues for many other organisations and institutions and across society as a whole.

#### Policing Together Strategy

18. The Policing Together (Equality, Diversity and Inclusion) Strategy was introduced in September 2022 with the aim of ensuring Police Scotland could contribute to a society where everyone can thrive and flourish - and collectively build a country where everyone knows they are safe and secure. The strategy outlines the action Police Scotland would take to champion equality and inclusion to tackle racism, to ensure the police service becomes anti-racist and to tackle other forms of discrimination such as sexism and misogyny. Its purpose is to ensure everyone is provided with a fair, just and effective policing service and response as there is a moral and legal duty on policing to do so.

Policing Together was designed as an integrated long-term programme of action and change intended to be delivered in and by every part of Police Scotland to underline our commitment to become anti-racist and to combat discrimination in all its forms. There are four key elements to Policing Together which we refer to as the 'four pillars'. They are Leadership; Training; Communication; and Prevention.

Further details on the Policing Together Strategy and its content and implementation are provided at paragraphs 100 to 133 of the submission of 23 June 2023 made on my behalf when I held the office of Chief Constable.

19. The essence of Policing Together was to ensure policing in Scotland continued to have the trust and confidence of communities. As Chief Constable I was responsible for leading Policing Together as a core component of Police Scotland developing as a service to keep our fellow citizens safe.



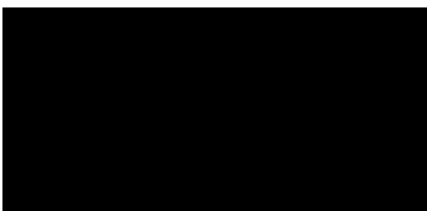
20. Policing Together, like combatting discrimination and driving an organisation to become anti-racist, is not a short-term approach and must be assessed over a period of time. Nevertheless, following its creation, Policing Together further raised the importance of equality, diversity and inclusion to a higher level of prominence within the service and beyond and developed a coherent approach to many of the challenges in combatting racism and discrimination. It also produced specific operational improvements as matters of implementation.

I established a dedicated Chief Officer role to be assigned to the Policing Together portfolio to drive the change and it was inclusive to many officers and staff from diverse backgrounds in a way that had never previously existed. All of these developments served to reinforce the importance of police legitimacy and public trust. In many ways, driving towards fairness, inclusion and anti-racism may never have a final fixed point but utter commitment is required to make the Police Service of Scotland as trusted and effective as it can be.

21. As outlined above, training is one of the four key elements of the Policing Together strategy.

In closing this statement, I wish to reiterate my personal deep condolences to the family and loved ones of Sheku Bayoh and my admiration and respect for the dignity they have demonstrated over the last nine years.

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.



.....Signature

15 May 2024

.....Date