

Transcript of the Sheku Bayoh Inquiry

Friday, 28 June 2024.

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(10.00 am)

LORD BRACADALE: Good morning, Mr Livingstone, will you take the oath.

Evidence of RETIRED CHIEF CONSTABLE SIR IAIN LIVINGSTONE

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you.

Examination-in-chief by MS GRAHAME

MS GRAHAME: Good morning. You are Sir Iain Livingstone?

A. That's correct.

Q. And I think you have given a statement to the Inquiry and you have detailed what I would call your CV, your career and your appointments and the roles you've had.

But just very briefly to recap, you were a police officer in Lothian and Borders Police at one time?

A. That's right.

Q. And laterally, you became Assistant Chief Constable of Crime and Operations. In December 2012 you were appointed as Deputy Chief Constable of Crime and Operational Support.

A. That's correct.

Q. Thank you. And in May 2016 you became the Deputy Chief Constable designate under a new Chief Constable at that time and we've heard in this Inquiry from Fiona Taylor at one time she was a Deputy Chief Constable designate.

A. That's right.

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1 Q. That was the role you had before Fiona Taylor would
2 have?

3 A. That's correct.

4 Q. And in September 2017 you assumed the duties and
5 responsibilities of the Chief Constable of
6 Police Scotland on an interim basis at that time?

7 A. That's correct.

8 Q. And then you became Chief Constable in August 2018?

9 A. Correct.

10 Q. And you remained in that position until you retired in
11 August of last year?

12 A. That's right.

13 Q. And you had served 31 years within the police?

14 A. Just slight over, that's right.

15 Q. So originally in a legacy force, but laterally within
16 Police Scotland after it became Police Scotland --

17 A. Yes.

18 Q. -- in April 2015?

19 And am I correct in saying that you now have a new
20 job, you didn't take retirement for very long, could you
21 tell us a little about that?

22 A. I retired in the August and a matter of weeks thereafter
23 in October I was asked to take on the role of officer in
24 overall command of a series of investigations and
25 reviews that relate to The Troubles in Northern Ireland.
26 It had been extant for about six years, but it still had

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1 a period to run. The person that had been in charge of
2 that had moved to a new role, in fact as a chief
3 constable in the PSNI, and I was asked to take on that
4 role, which I did and I have been more or less fully
5 immersed in that since October of last year and in fact
6 this week I have been in Ireland all of this week prior
7 to today.

8 Q. Thank you. Thank you for coming.

9 A. No, thank you.

10 Q. And just for those listening, PSNI is the Police Service
11 of Northern Ireland?

12 A. That's correct.

13 Q. And before you left your role of Chief Constable of
14 Police Scotland, you had actually been the core
15 participant to this Inquiry on behalf of
16 Police Scotland?

17 A. Yes.

18 Q. And that was really from the outset and it was on your
19 behalf that your senior counsel made submissions on
20 11 May 2020, those were opening submissions, and that
21 was the opening submissions were you declared
22 Police Scotland would become an antiracist organisation.

23 A. That was our ambition, yes.

24 Q. That was your ambition. And then on 23 June last year,
25 again your senior counsel made interim closing
26 submission again on you are behalf as Chief Constable

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- 1 and as core participant?
- 2 A. That's correct.
- 3 Q. Now, I think in your Inquiry statement, which I will
4 come to, in paragraph 1 you say you remain committed to
5 the terms of those submissions?
- 6 A. Yes, that's correct.
- 7 Q. And then this year the Inquiry were in touch with you,
8 the Inquiry team, and they sent you what we've come to
9 know as a Rule 8 request, which is a written request to
10 answer some questions and that was -- well, let's have
11 that on the screen, it's SBPI 00595, and I won't be
12 going through this in detail, and that's 11 -- that is
13 from 11 April 2024 and that's when the Inquiry asked you
14 for a written statement. And you'll know and you have
15 in front of you a blue folder and there should be a hard
16 copy of that Rule 8 request in there for you and in my
17 addition your response to that, which is SBPI 00596?
- 18 A. That's right.
- 19 Q. And you'll see that on the screen. That's a response to
20 the Rule 8 request by Sir Iain Livingstone, QPM, and you
21 should have that hard copy in your folder?
- 22 A. I do, thank you.
- 23 Q. As we go through your evidence today, I will -- I will
24 ask you to refer to certain things and we'll have
25 paragraphs of your statement or maybe other documents on
26 the screen and you're very welcome to just follow me on

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1 the screen. However, if you prefer to look at your
2 statement in hard copy, you have one available. If
3 there's anything else that you think we should have that
4 would help you give your evidence today, then please
5 simply tell me. If I don't have it on the playlist and
6 it can't be shown on the screen immediately, we'll get
7 it at the next break?

8 A. Thank you.

9 Q. Right. Can I ask you to look at your statement. Let's
10 go to the final page. The copy we have on the screen
11 has your signature redacted, although your hard copy
12 will probably show you your signature.

13 A. Yes.

14 Q. And it's correct to say you signed this on 15 May this
15 year?

16 A. Yes.

17 Q. And if we look at the paragraph at the very -- it's at
18 the very top of the screen as we look, it says:

19 "I believe the facts stated in this witness
20 statement are true. I understand this statement may
21 form part of the evidence before the Inquiry and be
22 published on the Inquiry's website."

23 And when you signed the statement, you understood
24 that was the position?

25 A. Yes.

26 Q. Thank you. And can we look at the final paragraph of

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1 your statement, final paragraph 21, and you say:

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

4 And we will come on to that. We have heard
5 something about the Policing Together strategy from
6 Fiona Taylor.

7 A. Yes.

8 Q. But you say:

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

14 Now, I understand that with the permission of the
15 Chair you would like to say a few words to the family as
16 I understand it; is that correct?

17 A. Yes, it is.

18 Q. Please feel free to do so.

19 A. Thank you, counsel.

20 Again, I would just wish to confirm what I said in
21 my statement that my respect for Sheku's mother and
22 sisters, Adi, and the family for the dignity you have
23 shown, the courage you have shown and the commitment you
24 have made to seeking truth and it's one that I share
25 with you.

26 I have had the privilege to have met the family way

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1 back in 2015, shortly after Sheku's tragic death, and
2 you have been constant and consistent in that dignity
3 and that resilience since that time and I think it's
4 right and proper that you as a family and Sheku as an
5 individual are at the heart of this public inquiry and
6 it's something I support and, again, it's been a
7 privilege to meet you at different times over the years
8 and I will do everything I can to support the work of
9 this public inquiry.

10 Q. Thank you very much, Sir Iain. I would like to
11 obviously ask you questions about a statement you made
12 last year before you retired and that was in relation to
13 institutional racism and this was a statement you made
14 at a meeting of the Scottish Police Authority --

15 A. That's correct.

16 Q. -- on 25 May last year. And I wonder if we could have
17 that on the screen in front of us, SBPI 00460. And what
18 I would like to do is take you through some of the
19 elements of this statement and then ask you some further
20 questions. So if we look at the screen, it's quite
21 small print, but I'll be reading it out and we'll count
22 the paragraph numbers as we go through. So the first
23 paragraph says:

24 "Scotland's Chief Constable Sir Iain Livingstone QPM
25 addressed the matter of institutional discrimination in
26 policing at a meeting of the Scottish Police Authority

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1 board today (Thursday, 25 May)."

2 And then second paragraph is:

3 "His statement is in full below."

4 And the first paragraph is:

5 "I have been the Chief Constable of Police Scotland
6 for six of our ten years and have been a police officer
7 holding the office of constable for over 30 years. As
8 such, I have a deep and personal sense of duty and
9 responsibility for leading, shaping and representing an
10 institution of which all the people of Scotland should
11 be hugely proud."

12 Do you see that?

13 A. Yes.

14 Q. And the first paragraph that I would like to focus on is
15 actually the fifth paragraph and it starts:

16 "Institutional racism."

17 "Institutional racism, sexism and institutional
18 discrimination..."

19 Do you see that paragraph there?

20 A. I do, yes.

21 Q. "... have become iconic terms in the vital battle to
22 tackle injustice. Police officers and staff, including
23 police leaders, can be conflicted both in acknowledging
24 their existence and in using such terms, fearing it
25 would unfairly condemn dedicated and honourable
26 colleagues or that it means no progress has been made

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1 since the nineties. Truly, I recognise and understand
2 that conflict. I have experienced that conflict myself
3 over a number of years."

4 And if I can pause there first of all.

5 A. Yes.

6 Q. I wonder if you can help the Chair understand what
7 you're saying here regarding conflict and your
8 experience of it over a number of years?

9 A. I think the essence that I'm getting at is how the
10 phrase "institutional racism" or "institutional
11 discrimination", as I say in my statement to the police
12 authority, had become iconic, but it had also become
13 controversial and there was a feeling within policing,
14 but often beyond, where in my judgment what
15 institutional racism meant was misrepresented. And it
16 was misrepresented as being a condemnation of officers
17 and staff as being racist, where actually if you said an
18 organisation was institutionally racist, that means that
19 that organisation is full of racists. That's not what
20 it means at all. But that sense of if you declare it
21 you will be subject to those accusations is something I
22 think that made policing as a whole defensive around
23 recognition of something that I think to be palpable and
24 to be clear.

25 Then the other matter that was part of the conflict,
26 and we used to discuss this, I have been a member -- a

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1 senior police officer for many years and as a chief
2 constable in Association of Chief Police Officers, as it
3 was, and then now the National Police Chiefs' Council
4 across the United Kingdom, this matter was often subject
5 to robust debate and some of the resistance to the
6 acknowledgment of institutional racism, it was often
7 articulated with a feeling that to do so would suggest
8 that there had been no progress since the early
9 nineties, there had been no progress since
10 Stephen Lawrence's death in 1993 or the
11 Macpherson Report in 1999.

12 And what we all know, what I know, is that that's
13 not the case, thankfully, and, you know, something we
14 need to embrace and we need to recognise policing has
15 moved on enormously in those 30 years. The makeup of
16 policing, the values of policing, the cultures of
17 policing is far different from what it was when I joined
18 in the 1990s and I'm an individual who I always respect
19 the past, but I won't romanticise it and, believe me,
20 policing in terms of how it relates to its fellow
21 citizens, how it treats its own officers and staff, even
22 that phrase, there's no sense of a divide or second
23 class citizens between being a police officer or member
24 of police staff, there has been a massive improvement in
25 police culture and how the service relates to its
26 communities, how it provides policing service and also

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1 how it operates internally.

2 So that progress has been hard earned and it
3 definitely has been achieved. However, however, more
4 needs to be done and I think that was the conflict that
5 there was a sense if you do declare policing or you
6 declare your own particular service to be
7 institutionally racist, institutionally discriminatory,
8 you would be unfairly condemning your colleagues,
9 because that's how it would be represented in the media
10 and that was how it was at times after I made my
11 statement, but I knew that would be the case.
12 Nevertheless, it had to be said.

13 And secondly, there would be the suggestion or this
14 inference that little progress had been made since 1993,
15 where we all know that enormous progress has been made
16 and that's a good thing, a good foundation, but our
17 understanding of these issues is far greater now and it
18 was absolutely crucial, I think, that although progress
19 had been made, more had to be done and a starting point
20 to that progress was an acknowledgment and recognition
21 of institutional racism and institutional
22 discrimination.

23 Q. Thank you and although you acknowledge, first of all,
24 progress has been achieved, I think in paragraph 4 that
25 we see at the top of the page you said:

26 "Police Scotland has grown into an organisation

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1 known to be compassionate values-based and highly
2 competent. It is well-regarded nationally, extremely
3 well-regarded internationally, but I know it can improve
4 and it must improve."

5 And was that a recognition that although progress
6 has been achieved, there must be continued endeavours to
7 make further improvements and progress?

8 A. Absolutely, and that covers many areas. You know,
9 Police Scotland has to improve in many elements of the
10 service it provides, but it has achieved enormous
11 amounts in ten years. I think the nature of a national
12 police service is that there is an awful lot of focus on
13 challenges and issues within it, but on a comparative
14 basis, whether it's to do with levels of public trust,
15 whether it's to do with detection rates, whether it's to
16 do with homicide investigation, whether it is to do with
17 how we respond to major incidents and major
18 international events, on an international comparative
19 basis, I think policing in Scotland stands in high
20 regard, but much more needs to be done.

21 Similarly with our culture, similarly with our
22 approach to equality diversity and inclusion, progress
23 has been made. It's important to recognise that, but
24 that should be a driver for further improvement and to
25 make sure that the organisation becomes as good as it
26 can be.

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1 Q. Thank you. And you have spoken of this conflict and you
2 have explained your views on that. How long were you
3 aware of this conflict between the definition of
4 institutional racism and the way that was being
5 perceived and the possible impact that would have on
6 Police Scotland?

7 A. The issues round the murder of Stephen Lawrence, it's
8 almost -- I joined the police service in 1992 and
9 Stephen was murdered in South London in 1993. And, yes,
10 it was within London, it was within the
11 Metropolitan Police, but the impact of that that murder,
12 of the failed investigation and the, you know, the
13 absolutely shocking revelations that came from the
14 Macpherson Inquiry were ones that reverberated across
15 British police and UK policing for many, many years.

16 That commitment to equality, diversity and inclusion
17 was something that after the Macpherson Report was
18 certainly adopted with rigour within the legacy -- the
19 police services in Scotland. There was acceptance of
20 institutional racism within the legacy forces at that
21 time and much progress had been made. So the
22 Macpherson Report and the challenges for policing
23 I think have been a constant.

24 Where the challenge was as time passed, as years and
25 decades passed, the question came back, well, does your
26 organisation remain institutionally racist? Is policing

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1 institutionally discriminatory? And this is where, as I
2 said, I referred earlier to some discussions I was
3 involved at a national level in Chiefs' Council where
4 there were very varied views on that and actually, as an
5 organisation, when the birth of Police Scotland came
6 into being, we were looking to bring together these
7 legacy organisations, massively intense programme of
8 change. I think we were unprecedented in particular
9 Scottish public life and yet, at the same time, maintain
10 our ability to provide that level of service.

11 And I have said a number of times in the early years
12 of Police Scotland we probably didn't spend enough time
13 looking at our culture, you know, valuing our people,
14 considering how we would structure ourselves as an
15 organisation. So the debate and the discussion around
16 institutional racism had not, if you like, remained high
17 in the public eye or high within the agenda at that time
18 when Police Scotland came into being. Now, that with
19 hindsight that's wrong, should never have lost that
20 level of focus.

21 But then as, you know, nationally, internationally,
22 we go back to the growth of the Black Lives Matter
23 movement, you had other issues in terms of violence
24 against women and girls, other issues in terms of
25 equality and diversity, you had the Me Too movement,
26 these issues rightly started to become prominent again

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1 and were discussed within policing, discussed within the
2 public sphere and required us again to look hard at
3 ourselves and to look hard at the organisation and
4 assess whether, you know, those institutional matters
5 remained.

6 And that's really, you know, where I was as we went
7 into the 2020s and Sheku's death in 2015 was very
8 relevant to our experience within Scotland and
9 undoubtedly the initiation of the public inquiry brought
10 focus to my thinking as well.

11 Q. And so when you became chief constable in August 2018
12 you were then at the top of the service and were in a
13 position to start directing change --

14 A. Yes.

15 Q. -- as an individual?

16 Can we look at your Inquiry statement again, please,
17 paragraphs 10 and 11. You say at 10:

18 "As chief constable and leader of the organisation
19 it was my decision to state that the Police Service of
20 Scotland was institutionally discriminatory and
21 institutionally racist."

22 And you then go on 11, if we can move down, and you
23 say at the very end of that paragraph:

24 "Ultimately, the decision to make the statement was
25 mine as chief constable and I was solely accountable for
26 it."

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1 And does that remain your position?

2 A. Yes, that's correct.

3 Q. Thank you. Could we look at paragraph 12, please. And
4 there you're talking about the statement you made on
5 25 May 2023 was a statement of reality:

6 "Recognition that institutional racism and other
7 forms of institutional discrimination exist within
8 Police Scotland was a fundamental step forward towards
9 being an inclusive service where equality and fairness
10 are clearly evident for your officers, staff and for all
11 our fellow citizens who we serve. My professional
12 experience has shown that people from different
13 backgrounds or with different requirements do not always
14 get the service from their police service that is their
15 right. For similar reasons, our own officers and staff
16 do not always have the experiences and support that they
17 deserve as public servants. It is an institutional
18 matter when an organisation does not have all the
19 necessary policies, processes, practices and systems in
20 place to ensure these things do not happen. Publicly
21 acknowledging that these institutional issues exist was
22 essential to ensuring public confidence and fairness."

23 You've said earlier today that it doesn't
24 necessarily mean that everyone in the organisation is a
25 racist, to admit institutional racism does not mean
26 everyone is racist or all the officers are racist?

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1 A. It doesn't mean that at all. It's separate from
2 individuals. This is an institutional structural
3 matter.

4 Q. But you would presumably agree that if an organisation
5 is institutionally racist that that will perhaps create
6 opportunities for individuals to act in a manner that
7 amounts to discrimination, and we're obviously
8 interested in racist discrimination; would you agree
9 with that?

10 A. I don't think it's -- I don't think it would be a
11 causation matter like that.

12 Q. No, no.

13 A. I think that policing is reflective of life. Police are
14 the public and the public are the police. I think
15 that's particularly true in Scotland and that's a great
16 virtue, but like any organisation people will have
17 discriminatory views, people will have values that are
18 not consistent with the very clear stated values of the
19 organisation that they're in.

20 Racism or any form of discrimination, as manifested
21 by an individual, would always be, you know, robustly
22 and strongly condemned and actually that level of
23 condemnation, you know, when that was done, that for
24 some people, people thought, well, that was enough. If
25 we see racist conduct on an individual, we take really
26 robust steps to counter that, that shows that the

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1 organisation takes this matter seriously. I think that
2 is important, but I don't think it's enough.

3 What's also important is to look at the structural
4 institutional matters, some of it inadvertent, just as
5 the Macpherson definition tells us. It could be
6 thoughtlessness and that could be in terms of internally
7 how we treat people of colour, how we treat women
8 officers, women members of staff, and also how we deal
9 and provide a policing service to the communities that
10 hold us to account.

11 So the individual conduct where of discriminatory or
12 racist conduct would never be -- never be condoned,
13 would always be condemned and actually very robustly so,
14 but that's not enough in itself. I think it's also
15 important to recognise some of these institutional
16 matters and important to distinguish them.

17 Q. If an organisation is institutionally racist, would you
18 accept that if an individual expresses a racist view,
19 for example, that that organisation may not be as robust
20 as it could be when it comes to condemning or preventing
21 or minimising the expression of those racist views by an
22 officer?

23 A. I'm not sure that is a logical conclusion. Genuinely,
24 as I say actually, I think if anything people could say
25 we're not institutionally racist and I'll tell you why
26 we're not, because look how robust we take -- look how

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1 severely and firmly we respond to racism when it
2 manifests itself. I think you need to be robust in
3 dealing with that, but actually this is something that's
4 less overt. This is something that you need to look at
5 actually the impact and some of those impacts are not
6 always clear or not always obvious.

7 Q. So do you consider that an institution being
8 institutionally racist or an organisation being
9 institutionally racist can be completely separate from
10 individual acts of racism by an officer?

11 A. I think they're two different issues. I think they are
12 two different issues. Both of them require robust
13 measures, both of them require acknowledgment, both of
14 them need an institutional and a force wide -- a
15 leadership response to that, but in my judgment we are
16 talking about different issues.

17 Q. All right. And do you consider there's any opportunity
18 for an organisation that is institutionally racist to,
19 by its very nature, its processes, its procedures, to
20 empower someone who has and holds racist views to act?

21 A. Potentially, yes, potentially. I think that is the
22 potential, but, again, what I would say, and I say that
23 in my statement, I don't think that's unique to
24 policing.

25 Q. No.

26 A. I think, you know, I have been in different

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1 organisations, different -- I think that's something
2 that it's by definition a lot of those institutional
3 challenges are not clear to you. You have to really
4 look hard, you know, look hard at that mirror and it can
5 be uncomfortable and I think what we've done within the
6 Police Service of Scotland has been difficult and,
7 internal and external, it's been a difficult message in
8 terms of institutional racism and institutional
9 discrimination for people to recognise or for people to
10 accept, but it's absolutely the right thing to do. It
11 gives us a foundation to go and address some of those
12 issues that are difficult to do, but I do think --
13 policing doesn't exist in a bubble. We are reflective
14 of other institutions, reflective of Scottish society as
15 a whole.

16 Q. And in relation to having made the statement about
17 institutional racism and wanting to make improvements
18 and no doubt carefully analyse the policies and
19 procedures and structures that are in place within
20 Police Scotland, is the hope that that will then either
21 ultimately completely eliminate opportunities for
22 individual acts of racism or to diminish and to reduce
23 and discourage any individual acts of racism within that
24 organisation?

25 A. I think it would increase how clear the absolute
26 intolerance around any level of discriminatory conduct,

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1 behaviour, language, attitude would be, but actually
2 I think it would be even more important than that.
3 Actually, it would also make sure that some of the
4 unforeseen consequences whether it's on recruitment,
5 whether it's on training, whether it's on career
6 opportunities that exist internally and then also about
7 how we are able to go and deal with increasingly adverse
8 communities that we serve.

9 So I think it would further -- it would further
10 enhance the rigour of how utterly unacceptable racist or
11 discriminatory conduct is. I think it would further
12 strengthen that, but actually it would also make
13 enormous improvements in some of these other areas that
14 are perhaps more insidious and less overt.

15 LORD BRACADALE: Sorry to interrupt. I wondered,
16 Sir Iain -- and I do apologise for not giving you your
17 rank when I bid you good morning -- in relation to this
18 issue of the concept of institutional organisation and
19 its organisational sense and individual behaviour of
20 racism, perhaps you could have paragraph 9 up on the
21 screen which contains the definition of institutional
22 racism by Sir William Macpherson. Now, it's quite a
23 dense definition, but if you read it short,
24 institutional racism, and then you go -- if you hold the
25 concept of institutional racism and go to line 3, where
26 it says:

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1 "It can be seen or detected in processes, attitudes
2 and behaviour."

3 So if we concentrate on behaviour:

4 "Behaviour which amounts to discrimination
5 through... "

6 And then there's a number of individual concepts,
7 which include racist stereotyping which disadvantaged
8 minority ethnic people. So if one concentrates on
9 institutionally racism being seen or detected in
10 behaviour which includes racist stereotyping, would you
11 agree that that's driving the concept down to the
12 individual?

13 A. I think that that, yes, is the brief answer. I think
14 that that shows that these institutional matters can
15 manifest themselves in how individual officers or how
16 individual members of staff respond to an issue, but it
17 may in part to do with the institution itself, the lack
18 of training or poor training, lack of accountability,
19 lack of follow through, you know.

20 So the behaviour of the individual thoughtlessness
21 or racist stereotyping that leads to disadvantage, yes,
22 that's the behaviour of an individual, but actually the
23 organisation, the institution, the chief constable, has
24 to bear some of the responsibility for that
25 stereotyping, if we haven't trained our officers
26 properly, if we haven't recruited them, if we haven't

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1 ensured that our policies and practice do everything to
2 obviate such conduct.

3 So it is related to the individual, but there's an
4 obligation responsibility I think is what I'm trying to
5 say to you.

6 LORD BRACADALE: Thank you. That's helpful.

7 MS GRAHAME: Thank you. So in relation to the statement
8 that Police Scotland are racist that was then envisaged,
9 if I understand what you have just said, to allow
10 changes to be made both externally with where officers
11 deal with members of the public or subjects or witnesses
12 or any of that, but also internally in relation to
13 things like recruitment, training, career opportunities.
14 So it wasn't simply public facing, it was also looking
15 internally at the structures in place within
16 Police Scotland.

17 A. Absolutely. I always saw the organisation as being
18 inherently aligned to the community and being a
19 community itself. And I often said, if we can't treat
20 each other with integrity, fairness and respect and
21 dignity and display compassion at times of need and look
22 after their wellbeing, what chance have we got to do
23 that to our fellow citizens if that's our primary role?
24 So the internal responsibility and to me would be an
25 enabler of a better quality service and, equally, it
26 would ensure that the organisation was improving and, as

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1 I reiterate, the service we were there to provide to the
2 members of the public improved.

3 Q. Thank you. And will let's keep paragraph 9 of your
4 statement on the screen. Here you say:

5 "The meaning of institutional racism that I
6 understand was provided by Sir William Macpherson in his
7 report following the Stephen Lawrence Inquiry in 1999.
8 Sir William Macpherson outlined institutional racism as
9 being the collective failure of an organisation to
10 provide an appropriate and professional service to
11 people because of their colour, culture or ethnic
12 origin. It can be seen or detected in processes,
13 attitudes and behaviour which amount to discrimination
14 through unwitting prejudice, ignorance, thoughtlessness
15 and racist stereotyping which disadvantage minority
16 ethnic people. It is against the meaning and
17 explanation of institutional racism provided by
18 Sir William Macpherson that any judgment of whether an
19 organisation is institutionally racist should be made."

20 And if I'm correct in saying from your earlier
21 evidence, was this the foundation of your understanding
22 of the institutional racism and the background to which
23 you made your statement last year?

24 A. Yes, it was. As I said at the outset, the death of
25 Stephen Lawrence in 1993 and the report by Sir William
26 Macpherson certainly within policing has been the

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1 foundation upon which, you know, a lot of the work that
2 we've sought to progress on equality, diversity and
3 inclusion has been built.

4 Q. Thank you. Could we look at paragraph 12, please, of
5 your Inquiry statement, and this is on page 5 at
6 paragraph 2 because this spans a number of pages:

7 "My professional experience has shown that people
8 from different backgrounds or with different
9 requirements do not always get the service from their
10 police service that is their right."

11 Now, I think that essentially is a direct quote from
12 the statement you made last year about institutional
13 racism?

14 A. Yes.

15 Q. Is it correct to understand from what you've said that
16 some people are entitled to a better service from police
17 officers, but because of their race, you acknowledge
18 that they're not getting that service?

19 A. Yes.

20 Q. Yes. And what examples of that inadequate service were
21 identified by you or what caused concern that made you
22 make that statement?

23 A. I think what captured -- what captures that issue is
24 this issue of treating everyone fairly and, you know, we
25 treat everyone equally and that's without fear or favour
26 and that's how, again, you know, in the 80s and 90s that

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1 was the mantra of policing. And unfortunately, that has
2 remained in some people's minds that they think that is
3 the right thing to do when in actual fact and it's clear
4 and it's so, so important, you need to treat every e
5 everybody according to their own individual needs. And
6 that's challenging, because when you meet an individual,
7 a fellow citizen, you don't always understand all their
8 characteristics, some are seen, some are unseen, you
9 don't always understand the challenges that they have,
10 but that's the requirement of policing is actually to
11 treat an individual according to their own needs and
12 depending on their own circumstances.

13 So that can relate to work that we may be taking
14 over religious festivals, it might relate to activity or
15 engagement events that are done in a way that's
16 convenient potentially for the police, but actually are
17 not in line with that particular community's values and
18 calendar of events and other cultural issues that if the
19 service is not aware of them, we're not tailoring our
20 policing service to the needs of individuals, well, to
21 me that's an institutional matter and must be addressed.

22 Q. Is that a recognition that for officers who may be
23 meeting someone for the first time there may be
24 difficulties for officers in recognising, for example, a
25 hidden disability?

26 A. Yes.

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1 Q. But there's an expectation that officers will quickly be
2 able to adapt to that and should be in a position to
3 provide a service to people, even though they have a
4 hidden disability that officers will engage with that,
5 they will recognise that, and they will adapt the way
6 they deal with that person to accommodate that hidden
7 disability, for example?

8 A. That's the expectation we have. And again, I have to
9 say that's a high expectation. We as -- when I was a
10 chief constable, we as a society I think we rightly
11 demand an enormous amount of our police officers who are
12 on the streets in the communities day in, day out in a
13 way that's far greater than it was when I joined over
14 30 years ago. As I said, it was just without fear or
15 favour, treat everyone the same and, you know, we'll
16 treat you the way we decide to treat you and you'll
17 accept what you're given.

18 Now, we accept our officers are everything from if
19 they're dealing with an offender, somebody who
20 potentially is involved in shoplifting in Princes Street
21 today, well, are they the victim of human trafficking,
22 are they subject to labour exploitation, have they got
23 neurodiversity issues that we're not aware of, have they
24 got dependency issues? Our officers and staff now, they
25 think that way, they have these challenges. The truth
26 is when I was a young officer, they were a shoplifter,

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1 we take them, charge them and we deal with them.

2 Now, the justice issues still have to be dealt with,
3 but there's much greater awareness amongst our officers
4 and greater expectation, but it does -- and it's a
5 challenging and high bar that we set and rightly so,
6 rightly so for the role that the police play in society
7 and the unique powers that they have.

8 Q. So we've heard evidence in this hearing in relation to
9 mental health issues, a mental health crisis. So now
10 would there be an expectation that an officer who comes
11 into contact, who's with someone who's having a mental
12 health crisis, that the officer would adapt the way that
13 they respond and deal with that person, taking account
14 of the mental health crisis that they're having?

15 A. Absolutely, I mean the reality of it is that policing is
16 at the forefront of dealing with mental health in the
17 community. That's because of the absence of other
18 provision, of other services, so police officers and
19 police staff are every day taken up with dealing with
20 people within mental crisis. They're not often the best
21 trained to deal with that, but in the absence of other
22 agencies, in the absence of other state capability,
23 that's what the police do, that's what -- they go to
24 assist and they try to, as best they can, deal with
25 people who are in mental crisis and awareness is given
26 and greater support is done for that, but it's daily

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1 business, it's an enormous challenge for policing that.

2 Q. And you say they may not be the best trained, the
3 officers, is that something you -- before you left
4 Police Scotland that you planned to improve the training
5 in relation to officers recognising someone who's having
6 a mental health crisis?

7 A. It's all part of recognising vulnerability, of look at
8 individual needs, of being a compassionate and caring
9 service, as well as there to uphold the law and enforce
10 the law, but at the same time, you know, again, it was
11 an area where the needs of the Scottish public in terms
12 of mental health were not being met by any other agency.
13 And, you know, for me I was trying to raise that as a
14 national issue.

15 My position before I retired was that until there
16 was something in place, I wasn't going to step back from
17 our attendance at that. You know, a mental health
18 incident by definition is unstable, things could look
19 stable at ten past 2 in the afternoon, by quarter past 2
20 there could be crisis, people could be in danger, there
21 could be vulnerability. So certainly initially we were
22 trying to work with other agencies, with ambulance
23 service, with health professionals, it's an enormous
24 issue of public -- beyond policing, it's an enormous
25 issue of concern.

26 But the police service and police officers, again,

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1 highly demanding role and high expectations on them to
2 go and deal with them and the vast majority of the time
3 they go and do a remarkable, remarkable job dealing with
4 people in crisis and bringing safety and compassion to
5 them.

6 Q. And you describe police officers dealing people in
7 mental health crisis as their daily business.

8 A. Because in the absence of any other agency or
9 capability.

10 Q. We've spoken to Fiona Taylor about the very public
11 announcement that was made down in the Met about police
12 will no longer engage with that, but as far as you were
13 concerned in Police Scotland, police will still be
14 expected to engage with people in mental health crisis?

15 A. That was my position and it was one that, again, I had
16 conflict with. I will be really candid. These are not
17 absolute certainty we're not going to do that, we're
18 going to do this, because I did know that there's
19 enormous demands on officers and staff. There's
20 everything from new legislation that comes in that puts
21 extra demands on policing and there's numerous examples
22 of that, growth in terms of public protection
23 vulnerabilities, a growth in public police in cyber
24 crime. You know, the demands on policing grow and grow
25 and grow and there was a sense that actually we can't
26 meet those, because we're too engaged in dealing with

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1 mental health calls.

2 That was, again, a debate that was held across the
3 United Kingdom. I was more cautious. I didn't feel
4 that we were in a position to make that step away and it
5 was based on the fact I didn't have confidence in a
6 mechanism that would ensure safety, but I also still
7 felt that there was a moral and ethical duty for us as
8 police officers to go to people in distress.

9 Q. Thank you. Looking again at the paragraph on the
10 screen:

11 "You say for similar reasons our own officers and
12 staff do not always have the experiences and support
13 that they deserve as public servants."

14 And again, this appears to be a direct quote from
15 your --

16 A. Yes.

17 Q. -- statement about institutional racism. And would it
18 be correct to say that the experience that officers have
19 that they deserve a better experience as public
20 servants, they're not receiving that, not all of them
21 are receiving that, would that be correct to say that
22 those factors can include race, some of the reasons why
23 their experience is not what they deserve is due to
24 issues of discrimination including race?

25 A. Absolutely.

26 Q. And can you tell us if you were considering or thinking

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1 of any specific examples that you were aware of that fed
2 into your ultimate decision to make a statement?

3 A. There was considerable feedback that we as an
4 organisation had had, some of it captured by our own
5 work, again through the work that you talked about that
6 DCC Fiona Taylor led. We had a number of sessions with
7 staff from particular characteristics, officers and
8 staff, and it was very much an open session for them to
9 share their experiences.

10 Now, we had initiated this work, Fiona had initiated
11 this work and, again, you know, Fiona's leadership in
12 this area was exceptional and highly, highly committed.
13 Fiona had initiated this work prior to then Dame Elish
14 Angiolini being commissioned to the government to go and
15 look at the handling of complaints in Scotland and that,
16 again, was far reaching. But Dame Elish's work, when
17 she conducted it, she also heard the number of focus
18 groups or meetings, whatever they were described, and
19 the feedback that she got, again, was consistent with
20 individuals saying that whether it was career
21 opportunities, whether it was people not remaining in
22 contact because they were returning from maternity
23 leave, whether it was access to specialist roles and
24 access to promotions, support and networks, whether
25 there was a lack of empathy because of some domestic or
26 family responsibility that an individual had, that again

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1 might be related to a particular background or
2 characteristics that they held.

3 So there was quite a body of feedback and awareness
4 that actually it was very clear to us, very clear to us
5 that officers and staff from minority groups were not
6 getting the experiences and support that they deserved.
7 So there was a number of what I would call information
8 sources that made it very clear to me.

9 Q. Thank you. Now, within your institutional racism
10 statement you express the view that:

11 "Police Scotland were committed to regularly and
12 actively challenging and changing our own policies and
13 procedures to eradicate unwitting bias."

14 And would that also include the other elements that
15 are mentioned in the Sir William Macpherson definition,
16 thoughtlessness, ignorance and racial stereotyping?

17 A. Yes.

18 Q. And what -- at the time you were still chief constable,
19 what were Police Scotland doing to regularly and
20 actively challenge their own policies and procedures to
21 eradicate this?

22 A. Well, that was an element of our overall overarching
23 approach to equality, diversity and inclusion, which is
24 captured, for shorthand, we were calling Policing
25 Together. There was almost -- as I said at the outset
26 of the evidence, there has always been a lot activity in

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1 this area. In terms of equality, diversity and
2 inclusion there has been working groups, there has been
3 focus groups, there has been a response to a particular
4 review or incident, but at this time, you know, with a
5 lot of discussions and reflections that I was having,
6 particularly with Fiona Taylor, but with other senior
7 colleagues as well with other diversity staff
8 associations, reflections on what was happening, as I
9 said, across the UK and internationally for that matter,
10 we strongly felt we needed to have a coordinated and
11 disciplined approach to making progress in this area.

12 And that would include a review of, you know,
13 standing operating procedures, it would include a review
14 of our policies and practices and that is an element of
15 the work that we would seek to do to ensure constantly
16 that our equality and human rights impact assessments
17 were accurate, were valid, that may be we've carried --
18 we've assessed that three years ago, but our knowledge
19 and understanding is greater now. We need to go around
20 that process again and make sure with the experience
21 that we've got or with the knowledge that we've got or
22 with insight from some individual, either within the
23 organisation or without, to make sure that that bias is
24 eliminated.

25 Q. And was that seen as a continuous process evolving?

26 A. Sorry, yes, yes. And it will, you know -- I would hope

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1 that that is something that continues. To me it's a
2 constant need to update and to challenge and review.

3 Q. Thank you. Can I go back to your statement on
4 institutional racism, SBPI 00460, and I'll start with
5 paragraph 8 of that. It's down, you'll have to come up
6 a bit, and it starts with the phrase "the terminology";
7 do you see that there?

8 A. Yes.

9 Q. "The phrase, the terminology, however, can be and often
10 is misinterpret or is misrepresent as unfair and
11 personal critical assessments of police officers and
12 police staff as individuals.

13 "That is not the case.

14 "Does institutional discrimination mean our police
15 officers and police staff are racist and sexist? No.
16 It absolutely does not. I have great confidence in the
17 character and values of our people. I am proud of
18 Police Scotland and I am proud of my colleagues and
19 proud of my officers and staff.

20 "So I know and I have shared the reservations and
21 concerns about acknowledging that institutional racism
22 exists in policing. However, it is right for me, the
23 right thing for me to do as chief constable, to clearly
24 state that institutional racism, sexism, misogyny and
25 discrimination exist. Police Scotland is
26 institutionally racist and discriminatory. Publicly

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1 acknowledging these institutional issues exist is
2 essential to our absolute commitment to championing
3 equality and becoming an antiracist service. It is also
4 critical to your determination to lead wider change in
5 society.

6 "Prejudice and bad behavior within policing, as
7 highlighted by court and conduct cases, various
8 independent reviews and by listening to our own officers
9 and staff over recent years, is rightly of great concern
10 and is utterly condemned."

11 And I'm interested in this final part of that
12 chapter that I have heard:

13 "Prejudice and bad behaviour within policing, as
14 highlighted by court and conduct cases, various
15 independent reviews and by listening to our own officers
16 and staff over recent years, is rightly of great concern
17 and is utterly condemned."

18 And I wonder if you can help the Chair understand
19 what was behind that paragraph that you've put in there.
20 You mention a lot of different aspects. Were these
21 things that you took into account when you were
22 considering making this statement?

23 A. Yes, I mean I'm being categorical and I have mentioned
24 I think already this morning about that individual
25 behaviour of racism or misogyny or anybody acting with
26 any level of prejudice, you know, it's without

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1 qualification has to be condemned. And we have seen
2 that, you know, we have seen that in conduct cases, we
3 have seen that in the experience that officers and staff
4 have had that at times can come through employment
5 tribunals, can come through civil processes, can come
6 through a whole host of mechanisms and means.

7 And we I think as a service were very robust on
8 that. We have at times been challenged through that
9 court process in terms of judicial review and other
10 processes and we always felt, I always felt that, you
11 know, we need to be true to your values and we need to
12 support that so there was a very robust determination,
13 ultimately, by the Lord Justice Clerk, Dorrian, where a
14 group of what had been probationary officers were
15 sharing wholly inappropriate material with each other
16 and that was challenged in terms of how Police Scotland
17 were dealing with that on the basis of personal privacy
18 and other matters, but our position was that that is
19 wholly unacceptable and must be condemned and,
20 ultimately, was supported by the court.

21 So that was one example of that that. Again, it's
22 in the public domain. But there was a whole serious of
23 things, some sort of less profile than that, but a
24 number of issues that had come to your concern that made
25 it clear that the idea that prejudice and bad behaviour
26 didn't exist is nonsense, it does exist, and we need to

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1 take robust steps to deal with it.

2 Q. This was a recognition by you that prejudice and bad
3 behavior, such as racist behaviour, did exist in
4 Police Scotland and there were individuals that had been
5 subject to conduct cases and we're obviously interested
6 in racism, but criminal cases and there were civil
7 cases, including a judicial review which we've heard
8 some evidence about, where wholly inappropriate material
9 was being shared. We've heard that was -- included
10 racist material or racist comments being made. And that
11 was a recognition by you that you were not suggesting
12 that no examples of racism existed in Police Scotland?

13 A. Not at all. And again, it comes back to the discussion
14 we had earlier that, you know, an individual who acts in
15 a racist, sexist discriminatory manner has no place in
16 policing and there's a constant history of that being
17 challenged and, again, that must continue, just as it
18 would be unacceptable in any organisation that had
19 strong values and that had public service at its heart.

20 So absolutely, it existed. I think was I was being
21 categorical in the condemnation of prejudice and bad
22 behaviour, because I think that level of condemnation
23 goes hand in hand with recognition of some of these
24 institutional matters, which, as I said earlier, I think
25 is a different issue, there's obviously alignment, but I
26 do think it's a different issue.

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1 Q. And your expectations in terms of, leaving aside for the
2 moment aspects of criminal behaviour, behaviour that may
3 amount to criminality --

4 A. Yes.

5 Q. -- what were your expectations in relation to conduct
6 proceedings for these officers where they have
7 demonstrated prejudice or bad behaviour?

8 A. Well, as the chief constable, you know, as you will be
9 aware, the disciplinary process I delegate that through
10 regulations -- through 2014 Regulations to a Deputy
11 Chief Constable, in this instance DCC Fiona Taylor and,
12 thereafter, there's a -- independent chairs are
13 appointed from within policing and there's a process
14 that has to be determined, but it's very clear I
15 wanted -- and I was very clear in terms of my standards
16 and expectations of conduct within the police service
17 that any level of discriminatory conduct, racism,
18 misogyny was wholly unacceptable.

19 Now, on any particular case, it would be a matter
20 for that particular tribunal, it would be a matter for
21 that particular chair, if there were mitigations
22 explanation, I don't know. But in general terms, I
23 needed to be very clear that this was utterly condemned
24 and, you know, that example of people, you know, on
25 WhatsApp groups or wherever sharing wholly inappropriate
26 memes, just disgusting language and jokes, as far as I

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- 1 was concerned, they shouldn't have any place in
2 policing.
- 3 Q. We have heard evidence from Fiona Taylor about the 2014
4 Regulations to do with conduct and we understand that
5 the responsibility for that is delegated effectively and
6 appointed in terms of at the Regulations at the time it
7 was to -- not at the time of Mr Bayoh's death, but from
8 the point at which Fiona Taylor took on the role was
9 2018 and she was responsible for that side of things.
10 So if I'm correct in understanding her evidence, you
11 were not involved in individual decisions on that
12 matter, that responsibility lay with Fiona Taylor?
- 13 A. It lay with Fiona Taylor and the system as regulated by
14 the 2014 Regulations.
- 15 Q. Yes. And am I right in saying you obviously have said
16 "racism would be wholly unacceptable, utterly
17 condemned," would your expectations have been -- I think
18 you used the word "robust" earlier. What would your
19 expectations have been in terms of the way the 2014
20 Regulations were used and relied on by Police Scotland
21 to deal with issues of racism by individual officers?
- 22 A. Well, as I said again in one of my earlier answers, as a
23 generality, I mean quite frankly zero tolerance for any
24 level of racist conduct, racist language, but, as
25 always, out of fairness, it's a fair process, that's
26 what the Regulations are there for, to look after the

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1 public, the interest of victims. the interest of
2 complainers, but also the interest of officers who are
3 subject these processes, there may well be facts and
4 circumstances that are presented and how that matter is
5 then disposed of has to be, has to be subject to
6 particular facts and circumstances of that case and the
7 independence that the Chair of the tribunal has. But as
8 a generality, I was categorical in my condemnation of
9 that type of behaviour.

10 Q. Thank you.

11 LORD BRACADALE: Sorry to interrupt again. Just going back
12 to the discussion we had earlier referring to
13 Macpherson's definition and the concept of unwitting
14 prejudice and racist stereotyping, now, if you find
15 examples of these among your officers, is that a matter
16 to be dealt with as misconduct.

17 A. Not necessarily, Chair. That's why there's a continuum
18 from, you know, an overt racist violent attack assault
19 down to, you know, issues of micro-aggression,
20 thoughtlessness, omission, something that as again
21 I think I said in my statement it might not necessarily
22 be intent that lay behind that. So that, again, I would
23 approach to police conduct or approach to police
24 behaviour and discipline goes right across that
25 continuum. Some of it might be there's a training need,
26 there's a management intervention, there's some

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1 mechanism taken and in the Conduct Regulations would
2 apply at the more serious end of that scale.

3 THE ARBITRATOR: Thank you.

4 MS GRAHAME: Would you accept that micro-aggression could be
5 examples of racist discrimination?

6 A. Yes.

7 Q. And if what you said a moment ago about zero tolerance
8 to racism, how does that sit with the idea that
9 micro-aggressions are perhaps treated at a lesser or
10 less serious level than the assault, the racist assault
11 that you described at the upper level?

12 A. It's because it's thoughtlessness. I suppose in legal
13 terms it would be the mens rea. The individual might
14 have manifested themselves because they came into a room
15 and shook hands of three individuals and ignored the
16 female police officer or didn't speak to the black
17 officer and then sat down and actually they may have --
18 they may not have any intent to offend, they may not
19 have any intent, I'm just speculating on that as an
20 example, so that is an issue that you wouldn't
21 necessarily deploy conduct regulations for, but you
22 would equally want to take steps to do that, because it
23 might have been thoughtlessness, it might have been
24 inadvertence, but that lack of awareness is something
25 nevertheless that we would seek to address.

26 Q. If there is a microaggression, we have heard they can

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1 cause harm and upset, would you accept that also?

2 A. Absolutely.

3 Q. And it may be there was no intent or no conscious intent
4 to harm or upset someone as a result of that, but in
5 terms of taking a zero tolerance approach and trying to
6 correct issues where they exist, why -- can you explain
7 why dealing with matters as conduct matters in terms of
8 the regulations would not be possible, whilst at the
9 same time taking account of thoughtlessness?

10 A. It's the continuum I described I think to the Chair
11 earlier and the proportionately of deploying the conduct
12 regulations. Again, from Elish's work and others, there
13 has been consistently encouragement to deal with issues
14 almost immediately at the point of realisation. So if
15 there's poor behaviour, address it, have the confidence
16 to address it, correct the officer or member of staff if
17 it's a microaggression or some other manifestation. And
18 then, again, depending on the particular facts and
19 circumstances, it may well fall into a matter that needs
20 a more formal process, but, again, that would depend on
21 the circumstances existing at the time.

22 But right across that whole continuum, there needs
23 to be action, there needs to positive action. That's
24 why I was encouraging the antiracist. There is actually
25 a proactive responsibility on the sergeant, on
26 somebody's colleague. If somebody has done something,

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1 you know, you have just said something that's offended
2 an individual; I didn't mean to do that; well, this is
3 what you said; oh, thanks for pointing it out; I'm sorry
4 about that, and address it there at the time. That
5 wouldn't necessarily be a matter of conduct. The
6 proportionately of that, the necessity of that would
7 fail, but the faculty that you still have not let it
8 pass, if we can get the culture right, and that's what
9 we're seeking to do by encouraging people to be
10 proactive, by encouraging people to take ownership and
11 leadership in this area, whatever position they have in
12 the organisation.

13 Q. So you say get that is if we get the culture right. Was
14 there an acceptance at the time that you were chief
15 constable that the culture was not right, that there
16 were issues to do with people's confidence in raising
17 perhaps micro-aggressions, in raising issues with
18 perhaps more senior officers that there was not that
19 underlying base level of confidence that if it was
20 raised, it would not impact on the individual who was
21 subject to that behaviour?

22 A. I think it's the confidence to do the right thing as
23 well is -- I think the use of your word "confidence"
24 I think is right. I do think that. I think there
25 wasn't enough investment in our first-line supervisors,
26 our sergeants, the people -- the core individuals who

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1 would pull an individual up if they were had misjudged
2 something or they had acted in a poor manner.

3 And I have reflected on that so I have said I was --
4 as you outlined at the beginning, I was a deputy chief
5 constable from 2012, so a matter of months even before
6 the new organisation came into being, I was part of the
7 senior team and in the early years we undoubtedly spent
8 a lot of time looking at consistency and conformity, it
9 was policy, it was process, it was quite operationally
10 focused and we didn't -- and it's a statement of fact
11 and I'm not pointing the finger at anyone else, I was a
12 member of the senior team but, you know, it was an
13 enormously challenging transition and transformation
14 that was ongoing, many demands and a lot of public
15 focus.

16 But because of this focus on conformity,
17 consistency, policy and practice, actually our people
18 and our investment in training and our investment in
19 developing and nurturing culture and developing an
20 organisation that was reflective and was open had -- had
21 been overlooked and that's something I recognised. And
22 when I became chief, right at the outset, it was
23 something I wanted to readdress, everything from the
24 wellbeing of our officers and staff to issues around
25 about equality, diversity and inclusion and part of the
26 reason I sought to build the senior team I did by

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1 bringing in people like Fiona Taylor and others.

2 Q. And is the hope that if that work continues that that
3 will improve the culture of Police Scotland and improve
4 the confidence of individuals to raise the issues such
5 as micro-aggressions, examples of exclusion?

6 A. Absolutely, and that again there's the Policing Together
7 work, but another major piece of work that we took
8 forward, which was really challenging, because we kicked
9 this off during the pandemic when it was difficult to
10 bring people together, was a series of work looking at
11 leadership training and leadership behaviours where
12 equality, diversity and inclusion, the confidence to do
13 the right thing, the fact that you would seek to
14 collaborate with colleagues, you would seek answers,
15 that programme on Your Leadership Matters is something
16 again we started to develop in 2021, which again had
17 come from our intention as a collective, my intention as
18 a chief constable, to address those -- that lack of
19 investment in resource and priority that happened in the
20 early years of Police Scotland so we could give people
21 who are charged these responsibilities part of leading
22 police officers or staff who -- under the demands that I
23 talked about earlier, under the expectations, the
24 scrutiny, the oversight that very few public servants
25 are subject to, giving them -- empowering them with the
26 skills and ability to go and do that and saying to them,

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1 it's okay to stop.

2 When I would appoint new sergeants, I would say to
3 them, now, remember, I don't know, I'm not sure, what do
4 you think, these are good leadership behaviours, so that
5 there's a sense of collaboration and, although you are
6 in leadership role, you have got responsibility to
7 listen and act with humility in that leadership role.

8 So that's work in progress and needed initiated, but it
9 was there because there it was there to address some of
10 the issues that you were suggesting, counsel.

11 Q. We've talked about zero tolerance, we have talked about
12 thoughtlessness. And in terms of the 2014 Regulations
13 to do with conduct, who makes the initial decision that,
14 for example, a microaggression was simply
15 thoughtlessness?

16 A. It would be assessed by within the Professional
17 Standards Department.

18 Q. Right.

19 A. And the matter went in there and, you know, if they have
20 an awareness about it, they would speak to either the
21 supervisor or find some level of further information to
22 make that assessment and that's what it is, it's an
23 assessment.

24 Q. All right. So even at the level of micro-aggressions,
25 your expectation would be that there would be a
26 consideration and an assessment by the Professional

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1 Standards Department and we've heard from Fiona Taylor
2 that in terms of the Regulations, those initial
3 assessments I think were under Regulation 10 and they
4 were carried out by the PSD; is that correct?

5 A. Again, forgive me, I don't -- I'm not as familiar in
6 terms of the Regulations, but I would defer that. It
7 would be an assessment is carried out under the
8 regulation, I'm not sure which one.

9 Q. Right. But that would be your expectation?

10 A. Yes.

11 Q. Thank you. Can I move on and ask you -- obviously you
12 were chief constable in August 2018, you retired in
13 August last year, and you've talked about an awareness
14 of the conflict and the tensions that existed and of
15 specific examples of bad behaviour and discrimination.
16 Why did you only make the announcement about
17 institutional racism last year on 25 May, why not
18 sooner?

19 A. I have been asked that question a number of times and as
20 an individual and, again, I welcome the opportunity to
21 reflect upon that in the formality of the public
22 inquiry. I did it because it was the right thing to do
23 and my understanding of what's meant by institutional
24 racism and institutional discrimination I think had been
25 greatly enhanced.

26 Undoubtedly, undoubtedly, the work of the Inquiry

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1 had focused my mind and my thinking. We had established
2 a professional reference group of experts, we had
3 enormously experienced and talented counsel to advise us
4 and we were able to then, I suppose, to have a
5 discussion within the service of which I was part around
6 some of the matters we're discussing today. And a
7 challenge to some of those issues of conflict I said
8 about, well, the organisation has moved enormously far
9 forward, yes it has, but actually there are still
10 matters that need addressed at an institutional level.

11 I had also heard evidence of the experience of the
12 Bayoh family, I had heard evidence and had reports of
13 evidence from police officers who had given evidence to
14 this Inquiry I think -- I think very openly and
15 reflectively about issues that might -- perhaps could
16 have been done better and that issue about, you know,
17 treating people equally rather than according to their
18 needs, when you hear or are aware of that approach still
19 being taken, you realise actually, you know, there is
20 still an enormous amount of work to do.

21 I was also influenced by other issues on
22 discrimination, our approach to violence against women
23 and girls, the treatment of women officers and staff
24 within the service and our inability to properly address
25 discriminatory practice in terms of policies, in terms
26 of support mechanisms. And for me, you know, with that

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1 focus, I think that the Inquiry brought, I felt it was
2 the right time to do.

3 I also referred earlier to this was an issue that
4 was a very live issue across the United Kingdom and,
5 again, as most people will be aware, you know,
6 Police Scotland is the second largest police service in
7 the United Kingdom by quite a long way, second -- it
8 certainly has the largest geographic area and the
9 diversity of communities, towns, villages, islands, et
10 cetera, so that debate at a UK level I was getting quite
11 frustrated with, because, you know, there was resistance
12 from some leaders in that -- in that side to make the
13 statement that I made in May.

14 So I felt it was the right time to do it, You know,
15 I did -- the reason I spoke about the conflicts that was
16 involved, because I held -- I was -- I held some of
17 those almost resistant views that saying, well, I'm not
18 a racist, so why are you saying Police Scotland is
19 institutionally racist? But that's is a
20 misunderstanding of what the terms means,
21 misunderstanding of what the challenges are.

22 And I also felt that it was important for me as the
23 chief constable who in some ways had been -- I had been
24 a chief constable -- I think even now, there have been
25 four chief constables in Police Scotland, I think I have
26 held office for more time than the other three combined,

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1 so I had been in that leadership role and had to take
2 that personal responsibility for it, rather than whoever
3 the successor was likely to be.

4 So I felt it was my responsibility, it was my duty,
5 it was the right thing to do and I had to say it in a
6 clear unequivocal manner, because I was in that position
7 in terms of my knowledge and in terms of my
8 responsibilities to do that.

9 Q. Thank you. I would like to move on and ask you about
10 another part of your statement and if we could have that
11 back on the screen, please, so this is SBPI 00460.

12 Now, it's -- I think it's paragraph 28, so it's a
13 little further down and it starts "Earlier this year"
14 and this is obviously your statement you made in May of
15 last year and you'll see it says:

16 "Earlier this year..."

17 There we are:

18 "Earlier this year I appointed a chief officer
19 dedicated to providing the sustained and visible
20 leadership required to coordinate and drive this
21 essential work.

22 "Of course, our operational response to reports from
23 women; from people with black or Asian heritage; people
24 who have disabilities; LGBTI citizens; anyone from a
25 minority group; is vital, crucial in maintaining the
26 confidence of all our communities. The confidence to

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1 come forward, the confidence to know you will be treated
2 fairly, treated with respect and with assurance that
3 Police Scotland will respond professionally and with
4 compassion to your own particular circumstances,
5 characteristic and needs."

6 And you've talked about that. And then if we can
7 move further down the page to the paragraph beginning
8 "Injustice and discrimination," do you see that? We had
9 it on the screen:

10 "Injustice and discrimination are insidious wrongs
11 with deep roots in history and our work to address
12 institutional discrimination will and must continue
13 beyond me as chief constable, beyond any individual.
14 Acknowledging institutional discrimination,
15 acknowledging institutional racism will, I believe, act
16 as a catalyst to drive and embed progress. The whole
17 service must and will retain our resolve, our commitment
18 and our focus."

19 And I would like now, if you can keep that in mind,
20 to look at your statement again, please, and paragraph
21 20 of your Inquiry statement, which is 596. And I'm
22 interested in paragraph 20. And you talk about "I
23 established ..." It's the second paragraph there:

24 "I established a dedicated chief officer role to be
25 assigned to the Policing Together portfolio to drive the
26 change and it was inclusive to many officers and staff

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1 from diverse backgrounds in a way that had never
2 previously existed."

3 And then if we can look at paragraph 10, and it's
4 page 5, paragraph 2, there we are, we have it on the
5 screen:

6 "I appointed Assistant Chief Constable David Duncan
7 dedicated lead for Policing Together to ensure
8 importance of the changes we wish to make would be
9 driven within visible and dedicated senior officer
10 commitment."

11 And so you said you essentially created a new role
12 to lead in relation to this matter and am I right in
13 saying it was Assistant Chief Constable David Duncan who
14 you appointed to take that dedicated lead role for
15 Policing Together; is that correct?

16 A. That's correct, and I think it's important if I just --
17 sorry, just add to that. It's important to confirm
18 that, you know, there was support from the
19 Scottish Police Authority for that role, because,
20 obviously, there would be a financial implication of an
21 additional assistant chief constable, but the authority
22 was very supportive of the priority that I wished to
23 give this.

24 Q. We've heard evidence from a Professor Meer, and I'll
25 summarise his evidence, but essentially there is an
26 issue when people in an organisation who have enthusiasm

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1 and passion to drive something forward, they leave, they
2 retire, they move on to different roles and the impetus
3 can be lost.

4 And I noticed in your institutional racism statement
5 that you acknowledged that institutional discrimination
6 would -- the work you do would be beyond you as a chief
7 constable and beyond any individual, but we've heard in
8 the hearings that you've retired obviously in August
9 last year, Fiona Taylor, who's the DCC designate retired
10 earlier this year, and I understand ACC Duncan has left
11 Police Scotland.

12 And so it would appear that to some extent the three
13 individuals who were at the forefront of this initiative
14 and the statement that was made and the work that was
15 being done have now left and I wonder if you have a
16 concern about the absence of those key people and the
17 loss of institutional memory, as it's been described to
18 us?

19 A. The nature of policing, and I suppose organisations such
20 as policing, it that there is a turnover of leadership.
21 I served for over 31 years, I had spent six years as a
22 chief constable, it was time for me as an individual and
23 my family to move on, but I didn't retire thinking
24 everything that I had wished to achieve or the progress
25 I wished to make had been made, but what I did think and
26 I do think is that we had laid the foundations. I think

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1 that was part of the reason I made the statement that I
2 did, the reason the creation of the Policing Together
3 portfolio.

4 And I was very reassured when the anniversary of my
5 statement in May, I noticed that the current chief
6 constable, Jo Farrell, you know, spoke about this at a
7 Police Authority meeting, there was public sharing
8 through social meeting and other networks alluding to my
9 statement and confirming that that work would continue
10 and it is something that -- it is beyond any one
11 individual. The teams that work within Policing
12 Together, the officers, the staff are enormously
13 talented and committed.

14 And again, I think I recently saw in the public
15 domain that promotions of a number of new assistant
16 chief constables, including Assistant Chief Constable
17 Cat Paton, to take forward Policing Together, again
18 another officer I have known for many, many years, has a
19 fantastic record in terms of driving diversity and being
20 a role model for senior women police officers. I think
21 Catriona, as I understand it, now has the lead for
22 Policing Together, so there is a -- when a generation
23 retires, there's -- there can be a slight gap in that
24 transition but, you know, more people will step forward
25 and they'll bring fresh impetus and they'll bring fresh
26 commitment to that and, you know, I have certainly in

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1 Wellbeing, creating Policing Together partnerships and
2 preventions. This brings together the internal and
3 external aspects of Policing Together, streamlining the
4 equality, diversity and inclusion business. On 10
5 June 2024, ACC Catriona Paton [who I think you mentioned
6 before the break] will take on the role of Assistant
7 Chief Constable leading in this space."

8 The section that reads:

9 "In November 2023 Policing Together merged with the
10 existing partnerships, Preventions and Community
11 Wellbeing, creating a new title."

12 And so within a number of months after you retired,
13 it would appear that the role, the lead role that you
14 had sought funding for and appointed in terms of
15 ACC Duncan, had been merged with another role and then
16 only -- Duncan's role was only filled in June. So
17 I think before the break you did talk about the gap.

18 But it was this emerging, the combining of roles, do
19 you see that as effectively a downgrading where a job
20 that was held by two senior officers is now combined
21 into one?

22 A. I would hope not. I mean it is difficult for me to
23 comment on the current structures within the Police
24 Service of Scotland. I was the chief constable and I'm
25 no longer the chief constable. There are extreme
26 financial pressures on the police service, I think

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1 unfairly, candidly, given the fact that policing has
2 already reformed and has put an awful lot of money back
3 into the public purse, but, again, further savings need
4 to be made.

5 So one might imagine there is pressure. As I said,
6 there was -- the Police Authority supported a bespoke
7 chief officer position for that, which I certainly felt
8 was important, but the reasons behind the merging I am
9 totally unsighted upon. I would just -- genuinely,
10 I would just reiterate, you know, the quality and energy
11 that Catriona Paton will bring to the role, but I'm
12 not -- I wasn't aware of the background to the merger of
13 those two areas, but I would certainly hope that the
14 focus on equality, diversity and inclusion and Policing
15 Together, because I think it's a really coherent
16 direction and one that needs a lot of energy and drive.

17 Q. And at the time that you have appointed ACC Duncan to
18 take the lead on this matter before you retired, how
19 many hours a week or hours a month did you anticipate
20 him dedicating to leading on this issue?

21 A. I could say every hour of every day would be my
22 expectation, but -- and I did have that expectation of
23 senior colleagues, you know. Those that are privileged
24 to hold a chief officer rank within the Police Service
25 of Scotland, I do expect for them to bring their whole
26 personal self to that, as well as their professional

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1 commitment and actually, because of the significance and
2 importance, you know, I would know that David when he
3 was in that role would have given that level of
4 commitment.

5 Q. But that role has now been merged, so would you
6 anticipate that that merger will result in fewer hours
7 being spent?

8 A. Inevitably, if there's other responsibilities, but I
9 suppose my reflection on it would be that a lot of the
10 hard early work has been done, so the strategy is in
11 place, the structures are in place, a lot of it now is
12 to drive that into implementation. And you know,
13 there's over 20,000 people within the Police Service of
14 Scotland, officers and staff, so there's enormous
15 resource will still be getting dedicated to it.

16 And it may well be -- I would probably be not well
17 place in terms of detail to comment, but it may well be
18 that there are opportunities of synergy or duplication
19 or alignment within those other portfolios and I don't
20 think it will have been done lightly. There will be a
21 series of reasons to do it, but I personally see it, as
22 I said earlier and, you know, as -- I am personally
23 reassured when I heard that Cat Paton was picking up the
24 responsibility.

25 Q. Thank you. I would like to -- we have touched on
26 conduct issues and the 2014 Regulations, I would like to

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1 go back to that for a moment. If we could look at
2 paragraph 3 of your Inquiry statement. Sorry, that's
3 596. Sorry, it's the very last paragraph of paragraph
4 3. There we are. Thank you. See the final paragraph,
5 "staff surveys were conducted"?

6 A. Yes.

7 Q. That one. I'm interested in the last sentence:

8 "This allowed officers and staff to raise any
9 concern in an anonymous manner, which would thereafter
10 be subject to assessment by the Professional Standards
11 Department."

12 And you were talking here about an anonymous
13 reporting line called Integrity Matters?

14 A. That's right.

15 Q. And was this one of the initiatives that Police Scotland
16 introduced to allow people to -- if perhaps they did not
17 have the confidence to raise matters in person, they
18 could raise them anonymously through this
19 Integrity Matters --

20 A. That's correct.

21 Q. -- facility? And am I right in saying that, as you said
22 before the break, that a matter could be raised
23 anonymously and that would then be subject to an
24 assessment by the Professional Standards Department?

25 A. That's correct.

26 Q. And that was your expectation of what would happen if a

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1 complaint was raised at that time?

2 A. Yes. Could I may be just add to that? It may be
3 helpful for, counsel.

4 Q. Please do.

5 A. On that point and it was also on the issue around
6 micro-aggressions as well, the assessment that was
7 made -- what the Professional Standards would also do
8 clearly would look to see a pattern, so it might not
9 just be one. If there was more than one instance
10 perhaps of reporting, even if there were in relative
11 terms, and I use it simply as shorthand, a low level
12 issue, but actually if there was a series of apparently
13 low level or other issue, well, that would also cause a
14 level of further inquiry. So just to put that in
15 context about different instances. I was just
16 reflecting upon that at the break.

17 Q. So that was your expectation that Professional Standards
18 would not simply carry out an assessment of the
19 individual circumstances, but they would also look more
20 broadly to identify any potential patterns --

21 A. Yes.

22 Q. -- that emerged?

23 A. Yes.

24 Q. And can I ask you about some evidence that we've heard
25 from Fiona Taylor. Perhaps we could have a look at
26 Craig Blackhall's statement SBPI 00061. Now, I asked

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1 Fiona Taylor about a comment in this statement, and
2 I would like to ask you about it as well.

3 So Craig Blackhall, as I understand it, was
4 superintendent of the Professional Standards Department
5 between February 2014 and 2019. So he was
6 superintendent of PSD during the period where Mr Bayoh
7 died and there was an investigation.

8 A. He was one of the superintendents, yes.

9 Q. Yes.

10 A. There was a number.

11 Q. And if we could look at paragraph 44 of his Inquiry
12 statement, thank you. And he says:

13 "In this case I wasn't involved, but the PIRC
14 investigation would take primacy."

15 This was at the point where Mr Bayoh had died and
16 the PIRC investigators had been appointed to carry out
17 the investigation into the events at Hayfield Road?

18 A. That's right.

19 Q. "The PIRC investigation would take primacy. The
20 assessment of any possible misconduct wouldn't have been
21 considered until the outcome of the investigation
22 [that's the PIRC investigation] because Police Scotland
23 wasn't conducting the investigation."

24 Do you see that?

25 A. Yes.

26 Q. And I asked Fiona Taylor about this Inquiry statement

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1 that Superintendent Blackhall had given. And certainly
2 on the face of it it does look like
3 Superintendent Blackhall was saying that an assessment
4 of any possible misconduct would not have been
5 considered until the outcome of the PIRC investigation
6 and she agreed.

7 And I asked her if that remained the position in
8 2018 when she took over the role of DCC designate in
9 terms of the 2014 Regulations and she said she thought
10 that was still the case, she believed that was the case.

11 A. Okay.

12 Q. I'm interested if this met your expectations in terms of
13 the Regulations and the -- as you've described before,
14 the "robust" approach to conduct matters that as soon as
15 there was a PIRC investigation and PIRC were appointed,
16 that there would be no consideration of possible
17 misconduct on the part of the officers under the 2014
18 Regs by PSD?

19 A. Well, in terms of first principles, when there's a
20 criminal investigation, that always takes primacy and we
21 as a service, not only the conduct of individual
22 officers, but, you know, as I saw it, we as a service
23 were also subject to that investigation I had experience
24 of that as chief constable where there is corporate
25 responsibility, whether the potential around it could be
26 anything, a statutory offence or certainly anything even

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1 under the Health and Safety at Work etc Act.

2 So the individual officers' conduct was clearly
3 being subject to independent criminal investigation by
4 the PIRC under the direction of the crown. But I always
5 had a view that that potentially would and might include
6 Police Scotland and, therefore, would include, you know,
7 the office of chief constable in that. So I don't think
8 it would have been possible in my view for us to have
9 been carrying out an investigation if we ourselves were
10 being subject to that investigation.

11 Q. Well, I think the Conduct Regulations specifically
12 relate to individual conduct, rather than
13 Police Scotland as a corporate entity.

14 A. Yes.

15 Q. But in terms of this, are you saying that in fact that's
16 consistent with your expectation that if there is a PIRC
17 investigation going on that's a criminal matter and
18 there would be no consideration of possible misconduct
19 of the individuals in terms of the Regulations?

20 A. That is my understanding of the practice, but, again,
21 you know, as I said I -- in law I don't have
22 responsibility for that process.

23 Q. Yes.

24 A. So you must forgive me, but that would be my
25 understanding that a criminal investigation of this
26 magnitude where its independence takes primacy and we

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1 are not generating statements, we were not carrying out
2 inquiry, because that wouldn't have been appropriate, so
3 it would have been very difficult to make any
4 assessment.

5 Q. Okay. And can you explain what it says here, you know
6 the comment at the end "because Police Scotland wasn't
7 conducting the investigation?" That would suggest that
8 perhaps the position would be different if
9 Police Scotland was conducting the investigation. So if
10 Police Scotland are carrying out a criminal
11 investigation, is -- was the position different? Would
12 you still expect there to be Regulations -- assessments
13 under the Regulations or not?

14 A. Well, if Police Scotland were carrying out a criminal
15 investigation that would always be at the instance and
16 under the direction of the crown. And again, as I said
17 earlier, in terms of first principles, that would always
18 take primacy over any assessment and until those matters
19 were resolved, either there was proceedings or there was
20 an intimation that there was going to be no proceedings,
21 the conduct process, in my understanding, would be held
22 in abeyance pending the criminality being involved.

23 Q. So your expectation would be that regardless of whether
24 it was PIRC doing the criminal investigation or the
25 police doing the criminal investigation, that pending
26 the outcome of that there would be no assessment of

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1 possible misconduct?

2 A. Well, the assessment might be possible, because the
3 Police Scotland would have that knowledge, would have
4 that awareness, they would be taking statements, they
5 would have a picture of what happened, but the conduct
6 process would be held until criminality was resolved.

7 Q. Right. So you think there would be consideration -- if
8 Police Scotland were doing the investigation, although
9 it's criminal, that there would still be a consideration
10 and assessment maybe carried out, but proceedings proper
11 would be deferred pending the outcome of the criminal?

12 A. Yes, that would be my expectation, I think.

13 Q. Thank you. And is the reason for the distinction from
14 your previous answer because if Police Scotland are
15 conducting an investigation they have sight of the
16 evidence, whereas if PIRC are conducting the
17 investigation, Police Scotland don't necessarily have
18 sight of that?

19 A. We wouldn't. And again, as I said, in instances such as
20 this, the organisation itself could be party to --
21 potentially party to those criminal proceedings and
22 which is -- which has happened in the past, as we know.

23 Q. Right. I would like to ask you some more questions
24 about access to documentation and evidence but before I
25 do that, you had mentioned before the break that you've
26 obviously been aware of the evidence before the Inquiry,

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1 you were a core participant and you were taking certain
2 steps, partly as a result of evidence that you became
3 aware of that was led before the Inquiry.

4 We've heard in evidence in the Inquiry in relation
5 to -- from a PC Geddes, who gave evidence on 22 and 24
6 June 2020, so a couple of years ago now, and he spoke
7 about hearing a comment which was "ISIS are staying in
8 the station". And he was custody officer at the time.
9 He was in Kirkcaldy police office. He explained that
10 another officer who had come from Edinburgh was sitting
11 and made this comment "ISIS staying in the statement",
12 but at that time there was no one with links to a
13 terrorist organisation called ISIS within Kirkcaldy
14 police office and, in fact, if they had links to that
15 organisation, they would have gone to Glasgow, they
16 would not have been in Kirkcaldy.

17 Now, you have about taking steps and the journey
18 towards your statement last year. Were steps taken in
19 relation to this issue about potentially a racist
20 comment being made, about ISIS staying in the station,
21 in connection with a custody in Kirkcaldy? Were steps
22 taken in relation to conduct proceedings at that time?

23 A. I don't know the answer to that. It wouldn't have been
24 within my -- as I said, this it would be a matter for
25 the Deputy Chief Constable under the Regulations.

26 Q. All right. Thank you. I'll come back to the issue of

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1 documentation.

2 We have heard from Fiona Taylor that part of the
3 difficulty for Police Scotland in relation to assessing
4 matters in regard to conduct were that they had never
5 had sight of the PIRC report, because it was a crown-led
6 investigation by PIRC. And we have heard from others
7 that where it's a crown-led investigation by PIRC that
8 the report is in the ownership, if I can say, of the
9 crown.

10 A. Yes.

11 Q. Do you have thoughts now looking back on whether it
12 would -- we have heard that the position is different if
13 it is a chief constable-led investigation. Would it be
14 of any benefit to Police Scotland to have sight of the
15 PIRC report at a stage, as you would if it was a chief
16 constable-led investigation by PIRC? Do you think you
17 would benefit from having sight of the PIRC report at an
18 earlier stage?

19 A. I think, and again, I don't know the circumstances of
20 what was shared with PSD or not, but I think it would,
21 because even in terms of efficiency, if the PIRC have
22 carried out a thorough investigation and there's
23 forensic evidence, there is specialist evidence, CCTV
24 has been captured and other evidential sources and the
25 crown have determined independently that there is no
26 criminality, well, that matter, rather than

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1 Police Scotland, if you like, having to start again and
2 go and reinterview all the other witnesses and seek to
3 pick up the productions and other materials, I think
4 there's a logic to suggesting that that would be in
5 the -- it would help the process and probably be in the
6 interests of justice.

7 Q. And so once the matter of criminality had been resolved,
8 it would certainly be more efficient and in the
9 interests of justice in your view that the PIRC report
10 be shared with Police Scotland?

11 A. I would think that. Again, I don't know actually what
12 happened on that conduct process, whether the PIRC
13 report was shared or not.

14 Q. We've heard evidence that the PIRC report itself was not
15 shared with Police Scotland by the crown until a later
16 stage after the Inquiry had started its work and made
17 disclosure.

18 A. Hm-hmm.

19 Q. You presumably from what you have been saying -- were
20 you aware at any point of whether attempts had been made
21 to approach the crown to seek a copy of the PIRC report?

22 A. No.

23 Q. No. Were you --

24 A. I -- I very deliberately was, you know, if you like,
25 remaining independent of the process. I didn't have
26 responsibility for conduct matters. You know, I was

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1 involved in the consultation about whether a public
2 inquiry was to be established or not and, again, at all
3 times, was, if you like, allowing the process to take
4 its course.

5 Q. Right. Can I move on to paragraph 6 of your Inquiry
6 statement, please. And the part that says "I have never
7 heard any comments."

8 Here we are:

9 "I have never heard any comments of a racist nature
10 made by officers in Police Scotland in my presence.
11 However, I am aware of some instances of such comments
12 being reported to and investigated by PSD."

13 And I think you have mentioned that earlier today.

14 A. Yes.

15 Q. "Such matters would be addressed and investigated with
16 the utmost priority and seriousness."

17 And I think you have explained how that would be
18 your expectation of PSD and the way that racist comments
19 or racist matters would be dealt with by
20 Police Scotland.

21 A. Yes.

22 Q. Now, we've heard evidence from Fiona Taylor that since
23 the death of Sheku Bayoh, which is now over nine years
24 ago --

25 A. Yes.

26 Q. -- that no conduct proceedings have been initiated or

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1 instigated against any of the officers who attended
2 Hayfield Road and were involved with the incident with
3 Mr Bayoh. Fiona Taylor's expectation, as I understand
4 her evidence, and obviously it will be a matter for
5 the Chair, is it would be potentially considered after
6 the conclusion of the inquiry, or, and I don't think she
7 had considered this possibility until she was here,
8 until after the crown reviewed their position and
9 consider matters again.

10 Now, given that you have talked about matters being
11 addressed and investigated with the utmost priority, and
12 you've talked earlier about zero tolerance, and you've
13 talked about the importance of the evidence you have
14 heard from the Inquiry. Does this situation where
15 officers who were involved in Hayfield Road in 2015
16 still have the issue of possible misconduct hanging over
17 their heads over nine years later and there have been
18 views expressed by a judge in the Court of Session, a
19 Lord Ordinary, that perhaps that is a considerable
20 period of time to -- for the officers, but also we've
21 heard the impact on the family --

22 A. Yes.

23 Q. -- where matters have not been resolved, they have not
24 been considered, they haven't been assessed, and the
25 family still have that uncertainty. Does this match
26 your expectation of the Police Standards Department and

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1 what is being done under the 2014 Regulations?

2 A. Well, I don't think it's to do with my expectation of
3 the police standards and the Regulations. It's probably
4 that my frustration at this is the overarching process
5 and system and the delays that have been there.

6 I absolutely agree in terms of resolution of matters
7 for the family and for the officers involved that nine
8 years is far too long, but I don't necessarily think
9 that that nine-year delay sits with the Professional
10 Standards Department of Police Scotland. I think
11 there's a multitude of factors.

12 Now, where whether the delay and I think it is one
13 that the Professional Standards Department, as I said,
14 coming back to live earlier comments, have always
15 probably assessed that there are other matters, there
16 are other processes and there are other forums that take
17 priority over an assessment they would make. So
18 firstly, it would be the criminal investigation and then
19 the work that the PIRC gave to the crown. There was
20 then the review that the crown were required to carry
21 out and then there was the initiation of the public
22 inquiry.

23 Now, prior to coming into the public inquiry,
24 I wasn't aware of a lot of the information, a lot of the
25 facts and circumstances that happened in May 2015 and
26 nor should I, be because it was an independent inquiry

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1 and, as I said earlier, potentially as the chief
2 constable I was subject to that inquiry as matters may
3 have progressed.

4 So I do think the delay is excessive and prejudicial
5 potentially and unsatisfactory for the family, for the
6 officers involved and for the wider public interest, but
7 how to -- what the resolutions for those delays is I'm
8 not clear in my own mind how that could be unpicked.

9 I think it would be possible to do it, but certainly at
10 the moment I think the Professional Standards Department
11 were -- I don't think there was anything other than good
12 faith how they were acting, because they felt that there
13 were other processes and other forums that had primacy
14 over any assessment that they might carry out.

15 Q. So and -- I don't want you to get the impression I was
16 criticising the Professional Standards Department in
17 that sense, but can you see merit in changing the system
18 to accommodate the concerns of the family and no doubt
19 of the officers who may be subject to conduct
20 proceedings?

21 A. I can and the time issue round about conduct matters I
22 think can be problematic. I know, and I'm talking in a
23 generality here, forgive me, again, I don't have this
24 specific information, but, for example, I know in
25 Regulations in England and Wales there's a so-called
26 fast-track process. This is sort of -- almost I'm

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1 saying this in passing, my point being that there are
2 mechanisms to try and speed up some of those process.
3 I think our mechanisms, our process are -- is clear from
4 the experience that we've had since 2015 that we don't
5 have those mechanisms to maybe add a bit of speed into
6 it. So I'm sure it would be able to be done.

7 Whether it's done in a concurrent manner, whether
8 it's done there's some -- the work of the PIRC is
9 aligned ultimately when it's concluded in a quicker
10 manner, if there are to no criminal proceedings, all of
11 those would be possibilities, but I'm sure it's both
12 necessary and possible for the conduct process to be
13 quicker than it's been, I think I would conclude.

14 Q. Right. Do you have any thoughts about how appropriate
15 it is for Police Scotland through the DCC designate and
16 the PSD department to be considering conduct issues
17 where the situation is potentially an Article 2 death
18 involving issues of race relating to a black man? So
19 we're talking about that type of situation. Would there
20 be some merit in a different body or a different
21 organisation considering conduct issues in that
22 situation, could you see any merit in that?

23 A. I do. And I think it would require certainly a level of
24 review assessment. As we mentioned at the introduction,
25 counsel, I'm operating at the moment in another
26 jurisdiction both in Northern Ireland and in the

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1 Republic of Ireland and certainly in the north of
2 Ireland there's the Ombudsman Office of Northern Ireland
3 that would take on such matters, criminal and conduct,
4 in regard to police officers for some of the Article 2
5 responsibilities and that level of, I suppose, public
6 independence.

7 But all of those issues come with consequences, so
8 resourcing capability and capacity. You know, there is
9 no doubt that the investigators in Professional
10 Standards, their background, their knowledge, most of
11 them have come from dealing as detectives and have come
12 through highly trained, are very, very good
13 investigators, there's a challenge at times if there's
14 another agency who are going to maintain that standard
15 and then it becomes an issue of you can only recruit
16 from retired police officers, which can then be
17 potential challenge as well.

18 But there are other models in jurisdictions not that
19 dissimilar to our own in terms of the IOPC and the
20 Ombudsman Office, so I genuinely think it will be worth
21 considering, but it will come with a cost consequence
22 and there's a multitude of factors to assess to get
23 there, to get the optimum model.

24 Q. Thank you. Can I ask you to look at paragraph 4 of your
25 Inquiry statement and it's page 3 at paragraph 3. So
26 that's the start of 4, let's look onto this page, and

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1 I would like to look at the paragraph that says:

2 "One example of improvement."

3 Do you see that there on the screen?

4 A. Yes, thank you.

5 Q. "One example of improvement was the additional resources
6 I allocated to PSD to ensure that complaints were
7 coordinated nationally and to a consistently high
8 standard by officers independent of the local or
9 specialist team complained against. All matters
10 relating to complaints are of course subject to
11 oversight and review by both the PIRC and the Scottish
12 Police Authority."

13 I'm interested in the final sentence that "matters
14 relating to complaints are subject to oversight and
15 review by PIRC and SPA". I wonder if you can explain
16 what you mean by "oversight and review" and how that
17 applies with these bodies?

18 A. The PIRC have a duty. So the PIRC -- prior to the 2012
19 Act and the creation of Police Scotland, the PIRC's role
20 was actually to review complaint handling and they would
21 take a view and at times if they sense that the
22 complaint had not been handled adequately or thoroughly,
23 could refer that matter back to the legacy police
24 service and say, do it again, and that continues.

25 So they have the investigation responsibility under
26 the Act, but the responsibilities that they had prior to

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1 2012 in terms of the review of complaints and the access
2 a member of the public would have continued as well, so
3 that's a unit again.

4 Q. The complaints handling part?

5 A. Yes. Ms MacLeod would be able to explain fully. And
6 then the Scottish Police Authority, again, under the --
7 I think, I don't have it on my fingertips and, again,
8 forgive me for that, but under the 2012 Act also have a
9 responsibility to monitor my responsibility, if you
10 like, of ensuring that there are processes and systems
11 in place.

12 And the Scottish Police Authority discharged that by
13 establishing a distinct and bespoke complaint
14 subcommittee that it sits under and with the authority
15 of the full authority and that, again, is an intrusive
16 meeting where the SPA can dip sample files, can obtain
17 reports from the Professional Standards Department and
18 the ACC Professionalism and the deputy chief constable
19 and they take that responsibility and will look for
20 patterns, will look for is there disproportionality, you
21 know, is the department being properly resourced, are
22 their concerns being raised about how complaints are
23 handled either from members of the public or internally
24 or the Federation or other staff associations raising
25 concerns? So that's the role that they both have and
26 it's quite -- it's an active role.

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1 Q. Thank you. We've heard evidence that at one point there
2 was a judicial review of former officers PC Paton and
3 PC Nicole Short and it went to a judicial review in
4 front of Lord Woolman and we have heard evidence about
5 this and we have looked at his opinion with
6 Fiona Taylor. And it would appear from that opinion,
7 and Fiona Taylor accepted this that -- I should say the
8 decision was from 2019 -- that on 22 November 2018 the
9 SPA wrote to ask the PIRC whether it had found potential
10 grounds of misconduct on the part of the officers.

11 And so this was an approach by -- against the
12 background of the judicial review where Paton and Short
13 were seeking to retire --

14 A. Yes.

15 Q. -- on medical grounds, the SPA wrote to PIRC to ask
16 whether they had found potential grounds of misconduct
17 on the part of the officers so that they could take that
18 into account in their decision regarding medical
19 retirement of the officers?

20 A. Yes.

21 Q. And Lord Woolman noted in his opinion that the PIRC gave
22 this Inquiry, as he put it, "short shrift". And I think
23 Fiona Taylor agreed PIRC did not consider questions of
24 misconduct to be part of their role and so they simply
25 declined. They said that's not part of our role to
26 consider misconduct.

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1 And I just wonder how clear the roles are where
2 Police Scotland have issues that relate to officers and
3 issues regarding retirement they wish to address, the
4 SPA are involved with that, they're writing to PIRC
5 saying "Have you found misconduct?" PIRC are saying "we
6 don't have anything to do with misconduct, that's for
7 Police Scotland", and there seems, it would appear at
8 this stage at least, to be some confusion between what
9 the roles of the individual organisations are. Were you
10 aware of confusion that existed in relation to that?

11 A. I wasn't aware of any of what you have outlined.

12 Q. Right.

13 A. I would just reflect again about the different
14 responsibilities, if you like, and then here's
15 another -- here's a JR comes in and the authority,
16 I think rightly, were saying, well, actually there's a
17 potential public interest to maintain the officers until
18 these matters are resolved.

19 An alternate view, the one that was upheld, was
20 actually the rights of the officers are such that can't
21 be prevented, but the different relationships and the
22 assessment of it, I don't know how that would play into
23 Lord Woolman's determination.

24 Q. All right. Thank you. Can I ask you about another
25 matter. This is after the assessment of Lord Woolman.
26 This is in 2019. Can we look at page 3 of your

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1 statement, paragraph 4, and you say that -- sorry:

2 "In my experience when a complaint was made our
3 Professional Standards Department acted with exceptional
4 professionalism and integrity in a transparent and
5 highly professional manner."

6 Can I ask you about events after the judicial
7 review, which you have explained you didn't know
8 anything about, and I ask you to look at a letter
9 PS09552. And this was a letter addressed to you as
10 chief constable dated 3 May 2019 and it related to a
11 complaint in relation to PC Nicole Short and former
12 PC Alan Paton. So it related -- this is against the
13 background of the judicial review. This is from
14 Aamer Anwar:

15 "We can confirm that we represent the family of the
16 late Sheku Bayoh [and they mention the individuals] who
17 have instructed us to prepare the following complaint
18 for your attention. You will no doubt be aware of the
19 circumstances in which Mr Bayoh died. Today is the
20 fourth anniversary of his death in police custody and
21 the matter is presently being considered by the
22 Lord Advocate's Office on the basis of the victim's
23 right to review after a four-year investigation."

24 And then it specifically mentions the opinion of
25 Lord Woolman, the petition for judicial review and
26 givings a link to that opinion.

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1 I don't need to go into the content or the detail of
2 this, but can you remember now what happened to this
3 complaint?

4 A. I don't recall, but I know that the process that we
5 have, because as I explained earlier of the
6 responsibility of the deputy chief constable under the
7 Regulations, whenever correspondence came in, which was
8 regular, whether it was addressed to the chief constable
9 or not, my office had a set process for immediate
10 referral into Professional Standards, either through the
11 office of the deputy chief constable or directly into
12 them. So matters such as this coming in, it's headed up
13 "complaint", it would be fed in, if you like, to
14 Professional Standards as soon as possible.

15 I don't recall when it went out. When I see the
16 letter in front of me, I don't recall reading it. It
17 may well be, because of the profile of the case, I would
18 have been aware of the anniversary that, you know,
19 Mr Anwar had written a letter of complaint in and the
20 matter will be dealt and that would have been my
21 awareness. But I, candidly, and, again, forgive me,
22 five years on I don't recall -- I don't recall that, but
23 my expectation would have been that this letter would
24 have been, you know, referred into Professional
25 Standards and would have been dealt with, I hope with a
26 degree of priority, given the significance of Sheku's

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1 death.

2 Q. Thank you. And you'll see at the top of that page
3 there:

4 "The matter is presently being considered by the
5 Lord Advocate's Office on the basis of the victim's
6 right of review after a four-year investigation."

7 Now, the victim's right of review is not part of the
8 terms of reference of this Inquiry, so I'm not asking
9 you anything about that.

10 A. Okay.

11 Q. Or any of your knowledge about that, but just saying
12 that to give you that context that that was ongoing, it
13 was presently being considered. Do you have any
14 recollection of being -- of speaking to the
15 Lord Advocate about this complaint against that
16 background or being asked to defer consideration of the
17 complaint until a later time?

18 A. I have no recollection of speaking. Who is it?

19 Q. All right.

20 A. Was it Mr Wolffe at the time?

21 Q. Yes, we have heard that it was James Wolffe.

22 A. No, I don't.

23 Q. All right.

24 A. I don't recall any conversation with James Wolffe.

25 Q. Thank you very much. I would like to move on to another
26 document, please, if I may. It's SBPI 00643. And this

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1 is an interim report of the Equality, Diversity,
2 Inclusion and Human Rights Independent Review Group, the
3 IRG, and it's a report that was given to the SPA in May
4 of 2023. It was given to them 23 May.

5 So this was a matter that was being dealt with by
6 the SPA at the same time as you made your statement
7 regarding institutional racism.

8 A. Yes.

9 Q. And we've heard from Fiona Taylor about the Independent
10 Review Group, the IRG, so we have some awareness of that
11 group. And I would like to ask you that -- first of
12 all, paragraph 5.11 of this document. And I'll read
13 this out and then I'll ask you some questions:

14 "Either way PSD was seen as critical in setting the
15 tone and concern was raised about how consistent it was
16 in addressing EDIHR issues."

17 And I understand would that mean equality, diversity
18 and inclusion HR issues?

19 A. And human rights.

20 Q. Human right.

21 A. Equality -- it could be either, but I would think it
22 would be human rights.

23 Q. "It was suggested that the department needed a deeper
24 knowledge of equality, diversity, inclusion and human
25 rights issues and how they manifest or are breached in
26 workplace settings. There was also a view that PSD were

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1 more prepared to act where there were breaches involving
2 an element of criminality, but less prepared to address
3 issues of misconduct involving aspects of discrimination
4 related to protected characteristics."

5 And I wonder if you have any comment on this. This
6 is obviously in May of last year when you were chief
7 constable, you're giving your statement about
8 institutional racism, and it would appear that the IRG
9 are saying that PSD are less prepared to act regarding
10 issues of misconduct involving aspects of
11 discrimination, which would include issues of race,
12 which is obviously our focus.

13 A. Yes.

14 Q. Is that something that you were aware of that there was
15 a less prepared, less willing, to deal witness issues?

16 A. Well, I think it's the view within this report from the
17 IRG. So again, I wasn't sighted on what lay behind that
18 view, I wasn't sighted on what evidence they took or
19 steps they took to determine that, but, nevertheless,
20 you know, if that was their view and their perception,
21 it's something that would have concerned me definitely.

22 Q. Yes. And is that something that you would have wanted
23 to see addressed?

24 A. Absolutely.

25 Q. If that was accepted?

26 A. If -- yes, absolutely.

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1 Q. We've heard from Fiona Taylor that in fact further
2 training has now been given to PSD in relation to
3 matters regarding complaints about conduct, obviously,
4 we're talking about race, racial discrimination.

5 A. Yes.

6 Q. Was that something that you were aware of that further
7 training has been given?

8 A. I was aware that there were a number of steps being
9 taken within PSD to improve their capability and to
10 improve their skills. I touched upon one being a
11 centralisation of the investigation, so there was
12 greater independence and that there was, I suppose, the
13 CPD days, you would call it in a way, continuously
14 professional development, that actually just to maintain
15 the fact that professional standards were so important
16 to public confidence, were so important to protecting
17 the integrity of the organisation that it was important
18 that they themselves were trained.

19 So I knew that Fiona was looking at training, CPD,
20 for PSD, excuse the acronyms, but she was looking to
21 make sure that Professional Standards Department
22 continued to keep itself -- keep its skills sharp.

23 Q. Right. And we've certainly heard from Fiona Taylor that
24 the IRG or the Independent Review Group was created to
25 be independent and to look critically --

26 A. Yes.

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1 Q. -- at matters, including matters within Police Scotland,
2 such as the Professional Standards Department. Is that
3 your understanding of the --

4 A. Yes, this is something that, you know, Fiona -- to her
5 great credit, Fiona had spent some time within the
6 Metropolitan Police within the professionalism portfolio
7 as well and was a great advocate for independent
8 scrutiny and oversight and having that at times can be
9 quite difficult messages to hear.

10 Now, sometimes, you know, there might be a
11 perception that's an inaccurate one, but it doesn't
12 matter, that's what the view is, that's what this
13 independent group have determined and, therefore,
14 inviting that level of independence in, as we did with
15 the IRG, again, was a change in our, you know, almost
16 traditional culture of looking to establish review
17 groups or establish working groups and maybe have some
18 independent advisors, but it would always -- it would
19 still be always police run.

20 This was something that was given to the IRG and,
21 again, I credit Fiona for doing that and it brought that
22 level of independence and challenge that you're
23 outlining just now.

24 Q. And this we've heard was the first interim report --

25 A. Yes, I think it was.

26 Q. -- to the SPA?

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1 A. Yes, I think it was an interim report. I genuinely
2 think it was coincidental it was on the same day. It
3 was just in the business, if you like. This work was
4 coming through the SPA at an appropriate time and, you
5 know, when I speak at a Police Authority, I give my
6 report and I decided that that was the day I was going
7 to say it.

8 Q. And you mentioned the word there might be some views it
9 was inaccurate, but you've obviously explained this is
10 an Independent Review Group who have been set up to give
11 their independent views, but is that -- sorry you were
12 about to say?

13 A. No, I'm not actually specifically commenting on 511.
14 I'm just saying, you know, a group that was brought in
15 you have to take -- that's their view.

16 Q. Right.

17 A. And as a general principle, if you like, the
18 potential -- sometimes when you do that there's an awful
19 lot of learning, there's an awful lot of hard truths
20 told, but sometimes for different reasons, there are
21 conclusions reached that are not valid, but then that's
22 fine, we can deal with them. That doesn't alter the
23 value of the independent scrutiny.

24 Q. I perhaps misunderstood the reference to inaccuracy, but
25 is there a challenge in any event for individuals, and
26 perhaps in this case individuals working within PSD,

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1 Professional Standards, to accept the views of the
2 Independent Review Group where they are critical --

3 A. Yes.

4 Q. -- of the approach?

5 A. I think that's what I alluded to earlier. That's the
6 value of it. It can be -- I think anybody -- anybody in
7 their professional life, somebody come and ask an
8 independent group to come and give you feedback, you
9 know, you have to be prepared to take it, but that's the
10 strength I think, the fact that we did that.

11 Q. And so you viewed that as a strength. Is this part of
12 the process of making improvements in regard
13 particularly in relation to racial discrimination?

14 A. Yes, definitely.

15 Q. And could we go back, please, to look at paragraph 3.6.
16 I should have come to that first:

17 "The IRG say the principal forms of data and
18 evidence being gathered by the IRG include..."

19 And then they state there's five bulletpoints there:
20 "Internal policies, reviews, reports and
21 administrative data produced by Police Scotland.
22 "External reports and reviews, including relevant
23 HMICS thematic inspections and ongoing reviews conducted
24 outwith Scotland.
25 "Interviews and discussions with a range of key
26 personnel in senior managerial roles.

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1 "Specialist units and representatives of the
2 diversity staff associations and the Scottish Police
3 Federation.

4 "Interviews and group discussions with officers and
5 staff across a sample of four divisions, three
6 geographic and one operational and observations of the
7 delivery of training courses."

8 So it's quite a wide range of sources of information
9 that the IRG appear to have had available to them.

10 A. Yes.

11 Q. Was this part of how it was set up that they would be in
12 a position to seek out information from a number and a
13 range of areas within and external to Police Scotland?

14 A. Yes, my understanding is they were given open access, if
15 you like, subject to individual data confidentiality
16 matters et cetera, but in terms of how Police Scotland
17 was going about its work, that was value of it. If it
18 was limited in scope, we wouldn't have got the value of
19 their independence.

20 Q. Thank you. And can we move on to paragraph 4.6, please,
21 and this under the section of "Context and Environment",
22 if we can just come down the page a little:

23 "There was a widespread view that while
24 discriminatory attitudes were far from a thing of the
25 past in Police Scotland, there had been a marked shift
26 over the past decade. However, our interviews with both

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1 key interviewees and divisional staff revealed instances
2 of ongoing discrimination against minoritised
3 communities, including firsthand accounts of racism."

4 And was this something of concern to you when you
5 read it?

6 A. Absolutely.

7 Q. And so does that -- the first line, first sentence, is
8 that consistent with what you are saying earlier that
9 whilst discriminatory attitudes were far from a thing of
10 the past that perhaps there has been a marked shift,
11 they have said over the past decade, you have talked
12 about from your perspective a shift over the 30 years
13 that you had in the police service?

14 A. It is consistent with that. I mean I was giving that
15 timeframe, because I suppose that takes us back to the
16 murder of Stephen Lawrence and, you know, the
17 significance of the Macpherson meaning within policing.
18 And again, it's similar to the fact that there has been
19 progress and that should be recognised, but there's
20 still more to do. So I felt that was consistent with
21 what I was saying and what I was speaking publicly
22 about.

23 Q. And at the time this report was sent to SPA, it would
24 appear that the IRG had conducted interviews with key
25 interviewees and divisional staff and those had revealed
26 instances of ongoing discrimination and accounts of

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1 racism at that time.

2 Were you aware of the underlying evidence that the
3 IRG had available or was that something that was truly
4 independent from even you?

5 A. It was independent from me, but, again, it was
6 consistent with the findings that Dame Elish had had
7 from some of her focus groups. It was consistent,
8 importantly, with a lot of the findings that we had from
9 the focus groups and the feedback sessions that we had
10 asked for where, you know, our senior team had sat with
11 officers from, you know, minoritised communities using
12 the IRG language and asked them what's you're
13 experience, officers and staff, how has it been, what
14 you are your concerns? And that was why we were putting
15 such energy into the Policing Together work.

16 That work had been initiated before Elish had come
17 in and did her work, because that was a bespoke piece of
18 work that government had commissioned on complaints.
19 But all of these elements, you know, this was part of
20 the awareness of the challenges and issues we need to
21 take forward and actually that's why I saw the
22 determination of institutional racism and institutional
23 discrimination as being almost a foundation for that.
24 You need to acknowledge it. Once you have acknowledged
25 it, it allows you then to go forward and through the
26 Policing Together work and other steps start to address

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1 these concerns that the IRG reflected as well.

2 Q. Thank you. And can we now look at paragraph 4.7:

3 "Our interviews also suggest that those who do not
4 experience everyday forms of discrimination equate this
5 to an absence of occurrences of discrimination within
6 the workplace. During the next phase of the review, we
7 will seek to build as accurate a picture as possible of
8 the current extent and prevalence of such experiences
9 within the service."

10 And I wonder if reflecting on what's said there and
11 the comment in your own statement to the Inquiry that we
12 looked at earlier where you don't see or you didn't see
13 when you were chief constable examples of racism, do you
14 think that could be an explanation that not -- you're
15 not experiencing it yourself as chief constable. One
16 may say officers would be on their best behaviour if you
17 were in the vicinity.

18 A. Yes.

19 Q. But there does appear to be examples of discrimination
20 in the workplace, ie in Police Scotland, despite the
21 fact that someone in your position as chief constable
22 would not necessarily see them?

23 A. Yes, and I think I recognise it in my statement that,
24 you know, that -- talked about earlier about these
25 WhatsApp groups and whatnot. These were brought to my
26 attention. Now, never -- exactly as you suggested,

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1 counsel, they would never manifest themselves openly in
2 front of me, but the fact that there was this, you know,
3 the fact that you don't see it -- I also think this
4 relates I think as well to the -- to the experience that
5 an individual has.

6 So you know -- so a woman officer may well know and
7 have experience all sorts of overt and indirect misogyny
8 over their service and have had to have overcome them
9 and deal with them in different ways, but they might not
10 necessarily have observed racism, because it's what you
11 see and what you experience and that's why it was
12 challenging for me -- I think again I said in my
13 statement, you know, when you're in a senior position,
14 you don't necessarily see your organisation with that
15 level of clarity and you need to be challenging around
16 that and you need to be as honest with yourself as you
17 can and not -- not be defensive.

18 So I think when I made this statement about
19 institutional racism and institutional discrimination,
20 overwhelmingly there was support from officers and staff
21 colour, officers and staff who are women, gay officers
22 and staff, because they had that experience that is
23 referred to there and some of the at times quite
24 aggressive pushback and criticism that I received came
25 from people who, again, as it says, didn't see it,
26 didn't experience it and, therefore, said it didn't

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1 exist.

2 So I actually thought, candidly, that what happened
3 after I said my statement actually corroborated to an
4 extent some of my concerns and why we needed to say it,
5 why we needed to make sure that we drive it forward and
6 don't allow people to be in denial and ask people to
7 genuinely consider what we mean by institutional racism.

8 Q. And given what you have said would you place a high
9 value on comments made by black officers to
10 Lady Angiolini in relation to her when she was
11 conducting her review in 2020, she did a complaints
12 against the police report, and the IRG who clearly say
13 they have clearly identified and spoken to people they
14 have interviewed, key individuals? Would you place a
15 value on the comments, the candid comments that have
16 been made by those black officers about their daily
17 experience or their experience of racism?

18 A. I would and I did, I mean, again, that was a significant
19 factor, as I said in my statement, for me to listen to
20 the experience of officers and staff and make sure that
21 we did something about it.

22 Q. Thank you. Can we move on to paragraph 5.2, please.
23 This is early insight -- governance and insight I should
24 say. There was -- there was an awareness gap -- sorry,
25 I can't even it. I must be on the wrong paragraph, but
26 luckily it is almost time for a short break -- oh, yes,

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1 it is there. I'm just not seeing it. Yes, 5.2:

2 "Our overall impression is that there is a clear
3 understanding of and belief in the Executive's
4 commitment to the EDIHR agenda. However, we have also
5 been left with a strong impression of an awareness gap
6 between those responsible for oversight and leadership
7 and the reality on the ground, in particular, the
8 ownership of the agenda at middle management level."

9 Which they define as sergeant, inspector and chief
10 inspector. I wonder if you have any thoughts about that
11 comment about the existence of that middle management
12 level and the existence of an awareness gap?

13 A. Yes, it's -- we're talking in essence it's around about
14 equality, diversity and inclusion, but it's a phenomena
15 that does exist when -- you know, if you're seeking to
16 change, you're seeking to introduce a particular working
17 practice, even at a more tactical level, or you're
18 seeking to make a level of transition, we saw this with
19 the creation of single police service, there can be
20 resistance from people who are familiar with the system,
21 people who are products of the system and people who
22 have now got, you know, have been in the organisation
23 for a long time.

24 And therefore, the responsibility as a chief
25 constable, it's a leadership responsibility, is to close
26 that gap and part of the way we did this was through, I

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1 mentioned earlier, our Your Leadership Matters work
2 where we put the need for that leadership firmly at the
3 heart of the curriculum that we introduced. There was,
4 you know, encouragement messages from myself and other
5 members of the senior team. There was explanatory
6 material provided into this middle management level to
7 try to ensure that they would address it, they would see
8 the purpose and they would see the significance of what
9 I was saying and what the organisation was seeking to
10 do.

11 And it's often the case, because of generational
12 change and demographics, that as a more adverse
13 workforce comes into the organisation, both in age and
14 other characteristics, that it can be less difficult to
15 bring those people with you and actually sometimes what
16 you really want to do is that the chief constable and
17 often the youngest officer actually share the same
18 priorities and collectively you then give some
19 assistance, because, you know, these people have been in
20 organisation a long time and, as I have said earlier,
21 potentially wrongly, but potentially perceive that I was
22 criticising them.

23 So that gap is one that exists. The leadership
24 responsibility is to take the organisation, take the
25 organisation where it needs to get. Even if at times
26 some of those people within it don't want to get there,

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1 related concern is the service's approach to the
2 evaluation of initiatives, which appears piecemeal and
3 to lack consistency and rigour. The aforementioned
4 creation of the executive post to lead the Policing
5 Together Programme will be addressing these matters and
6 we will be closely monitoring the effectiveness and
7 impact of this work. We shall be reporting on this in
8 the coming reports."

9 Can I ask you about a number of things here,
10 "operationalisation of strategy" what does that actually
11 mean?

12 A. Well, I never wrote the report.

13 Q. As a concept.

14 A. My interpretation of it would be that there is always --
15 I suppose we talked about the gap earlier between the
16 strategic direction and some of the middle management
17 being set and I think this can be the same where
18 strategic direction can be set, but how does that then
19 manifest itself in practice day in, day out on the
20 streets and the communities of Scotland?

21 Now, in my view, there's always a challenge for any
22 change, whatever the strategy relates to, but in actual
23 fact, although there are challenges, this is one of the
24 virtues of the single service. I worked as a senior
25 police officer under the legacy arrangements and trying
26 to get consensus for the right direction between eight

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1 forces was almost possible and then if there was -- if
2 it was then going to be implemented, there would be
3 different around interpretations around implementation.

4 So one of the values of the single services, as I
5 see it, has been the fact that from decision-making at
6 strategic level to implementation, that gap, that
7 barrier, whatever it may be, has been reduced, but
8 inevitably it does exist. It just takes that time of
9 adjustment for people to change old practices or old
10 habits and realise that the direction and expectation
11 that's upon them and of course Police Scotland is still
12 a relatively young organisation, so when you're trying
13 to get that operationalisation of a single strategy you
14 will get different interpretations, often based on some
15 of the legacy issues that arise. So there's always a
16 challenge in different elements of policing.

17 Q. Right. So creating the strategy is one aspect, but
18 implementing that strategy is then a second --

19 A. Absolutely.

20 Q. -- element. And they've talked about there being --
21 that process can be a significant barrier to progress
22 and is this something that you were aware of when you
23 made your announcement that day regarding institutional
24 racism, that there would need to also be underlying
25 steps taken in relation to implementation of that
26 strategy?

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1 A. Absolutely, and when I made the statement, again, there
2 was some commentary -- even people who welcomed is said,
3 how is that going to be delivered? But in actual fact
4 we had already progressed and put together the Policing
5 Together Programme and that alignment, that consistency,
6 of a very complex area across a third of the UK landmass
7 with the divergence of communities and the diversity of
8 the communities that we have. So it is challenging, but
9 it needs to be taken on and we would ask our divisional
10 commanders and our local teams and divisions to take
11 that strategic direction implement it with urgency and
12 implement it subject to the particular circumstances of
13 their own communities, because they know them best.

14 Q. And so in terms of implementing the strategy, would
15 Policing Together be part of implementing that? We've
16 heard from Fiona Taylor about something called an action
17 plan.

18 A. Yes.

19 Q. Was that part of this implementation of steps necessary
20 to achieve your aims?

21 A. The whole series of objectives and under the objectives,
22 the whole series of actions, it would be monitor, it
23 would be reviewed, maybe they're not appropriate, maybe
24 there's a reason one has been implemented relatively
25 speedily or easily in one part of the country, but there
26 has been potential barriers in another, what's the

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1 reason for that, is it internal, is it external? That's
2 exactly what that was about. It's putting in rigour and
3 discipline to follow through on those action and, again,
4 that's something that DCC Taylor led on and led on with
5 real energy.

6 Q. And as well as implementation, how then was the service
7 intending to evaluate initiatives? They've said here:

8 "The evaluation appeared to be piecemeal and lacking
9 consistency and rigour at that stage."

10 But what was the intention at this point regarding
11 evaluation and improving evaluation of this strategy?

12 A. Well, I mean part of the whole raison d'etre of
13 Policing Together was to bring to get these various
14 what's described as initiatives and workstreams and give
15 a coherence to them, put it into a single area and,
16 thereafter, the evaluation, as I said, would be done
17 through the monitoring of Policing Together, which was
18 part of the programme that was developed, but it would
19 also involve groups such as is the IRG. They would
20 carry out, and I think as it says here, they will
21 monitor it and they will report it in the coming report
22 and then, undoubtedly, the Police Authority would look
23 for updates and reports.

24 His Majesty's Inspectorate of Constabulary may
25 choose to carry out an independent evaluation, but the
26 valuation and the closing the loop, for want of a better

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1 phrase, would have been built into the Policing Together
2 Programme and an alignment around about that. But there
3 is a lot asked of policing and there's a lot asked of
4 divisions and I mean by that from myself as a chief
5 constable and concern about the need of the number of
6 initiatives and the amount of work that has been asked
7 of them. That, again, wasn't unheard of to me and I
8 would always seek to try and align and I would always
9 try and make sure there was coordination, but actually
10 it is difficult, it is challenging and within the
11 divisions I was asking them to step up and take on this
12 challenge.

13 Q. Did you feel at that time that in terms of evaluation
14 there was a clear vision as to how that would be
15 evaluated?

16 A. It was developing inevitably that the implementation and
17 the strategic direction being set and then a value
18 mechanism with performance indicators both formal in
19 terms of data, but also in terms of other issues around
20 about lived experience and, you know, trying to create
21 as much information and data to inform us that the
22 progress was being made. So a complex area in terms of
23 culture and behaviour, a complex area to seek change
24 around and to monitor, but one that, again, I firmly
25 believe was rightly being taken forward through the
26 coherence of the Policing Together work.

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1 Q. And so was it your expectation that at that time, at
2 least when in post, ACC Duncan would be considering
3 evaluation as part of the work that was being done with
4 Policing Together?

5 A. Absolutely, and if there was the divisions felt that
6 there wasn't that central control, that's exactly -- or
7 assistance, that's what the portfolio was designed to
8 do. If there was a need for some de-confliction about
9 pieces of work that were challenging or weren't aligned,
10 again, that was something the ACC would lead on and
11 would have the dedicated time, space with a team to take
12 that forward. So this description at 5.6 from the IRG
13 in May of '23 is one that I would recognise, but it's
14 one I think that, you know, people within Policing
15 Together would recognise as well.

16 Q. And to quote from your statement about institutional
17 racism, you said:

18 "Our success, the success of policing in Scotland
19 will be measured by the improved experiences of our
20 officers and staff and of all the communities of our
21 fellow citizens who we serve."

22 And was it part of your view that there would be
23 some sort of mechanism where you could measure whether
24 the steps you were taking and the new procedures you
25 implemented were having a positive impact both on
26 communities, but also internally for staff?

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- 1 A. Yes.
- 2 Q. And you have mentioned data and information and key
3 performance indicators, were these the types of tools
4 that would be used to measure whether experiences were
5 improving?
- 6 A. They would be. They would give us indication, not --
7 I don't think any single one source would be definitive,
8 but it would be -- it would be cumulative to get us to
9 that outcome that you described, which is the trust and
10 confidence of the communities that we serve.
- 11 Q. And then finally, the final part of that paragraph there
12 talks about:
- 13 "The creation of the executive post to lead the
14 Policing Together Programme will be addressing these
15 matters and we [ie IRG] will be closely monitoring the
16 effectiveness and impact of this work and will be
17 reporting on it in the coming reports."
- 18 Was it part of your vision that IRG would have a
19 role in this monitoring of the steps that were being
20 taken, the strategy being implemented and how it was
21 evaluated?
- 22 A. Yes, it would provide that independence and that
23 feedback that we would need.
- 24 Q. And was it your expectation that that would be a
25 continuous process --
- 26 A. Yes.

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1 Q. -- that you would be continuously monitoring?

2 LORD BRACADALE: Did you put any timescale on reaching
3 certain milestones of achievement?

4 A. In terms of the ultimate outcome, no, because I actually
5 think that's something that will take a number of years
6 to address, Chair. In terms of the specific actions, I
7 think counsel referred to the action plan thereafter,
8 there would be a number of those that would have time
9 parameters on them, because they would be achievable --
10 within this year, we will do A, B, C or D and, again, we
11 would look to do that.

12 But the ultimate outcome, which would be to address
13 the issues that we've talked about today of
14 institutional racism and institutional discrimination,
15 to build confidence and trust, that I felt was a sort of
16 ongoing piece of work that would continue, but there was
17 timescales. I certainly would expect timescales to be
18 built into some of the specific actions that would help
19 us on that direction.

20 LORD BRACADALE: Thank you.

21 MS GRAHAME: Thank you. Can we move on to paragraph 5.7,
22 please. You will see this is dealing with complaints
23 and grievance and the IRG write at 5.7:

24 "In her report Dame Angiolini (as she was then)
25 commented on the need to improve frontline resolution
26 and increase the use of less formal avenues to reduce

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1 conflicts. At this stage in our review, our impression
2 is that the tendency to jump straight to formal
3 grievance processes, without the opportunity to pursue
4 mediation, persists with the consequential significant
5 administrative burden. For senior managers this can be
6 a drain on time and resource, which prevents a clearer
7 focus on driving improvement."

8 So was this a change to the practice that was
9 envisaged at the time you were chief constable?

10 A. I think I alluded to this earlier when you were asking
11 about issues on microaggression and why were they not
12 taken as formal conduct issues. I think this actually
13 reflects that the -- the matters I think I was
14 reflecting upon myself in as much that we were trying to
15 give confidence to our leaders, our managers within the
16 organisation to deal with something that's right in
17 front them and not to go into this formality, whether
18 it's grievance, whether it's conduct. Because we know
19 that that then creates structure and process when
20 actually at times that's needed, because it's
21 proportionate to the issue of the mischief that we're
22 seeking to address, but at other times it could be a
23 misunderstanding, it could be a lack of awareness. And
24 actually, that potential for looking to mediate or to
25 bring earlier resolution was something we were keen to
26 do and that, again, is linked into the training and the

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1 Your Leadership Matters work that we were looking to do
2 to give our senior line managers and sergeants and
3 others the confidence to take those early resolution
4 points that are mentioned at 5.7.

5 Q. And so this came from the report in 2020 by
6 Lady Angiolini and was the service considering whether
7 introducing the option of mediation might produce a
8 resolution quicker, faster to improve communication
9 between the individuals involved?

10 A. Well, this -- there's a combination of things here. The
11 issue on grievance is obviously separate from conduct,
12 but, again, one can lead to the other. And in terms of
13 the grievance process, certainly that is often against
14 one member of Police Scotland against another and that's
15 certainly something that, again, you know, we would
16 strongly seek to get that early resolution.

17 And similarly with complaints from a member of the
18 public, again, an explanation, if done properly, if done
19 at the right time, and an expectation that an
20 understanding from the officer involved in terms of
21 their learning and improvement, often that was the best
22 solution for all. And again, it would mean that there
23 wasn't this excessive process-driven approach that at
24 times was unsatisfactory.

25 So I think both on grievance and on conduct trying
26 to get early resolution and using matters such as

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1 mediation and other tools I think was something as a
2 direction we were keen to go.

3 Q. A recognition that perhaps the Conduct Regulations may
4 not be the only option to resolve issues that arose
5 within the service?

6 A. Absolutely, which, again, I think is consistent with
7 what we discussed this morning.

8 Q. Thank you. Can we move on, please, to 5.8:

9 "Alternatively, we encountered a degree of
10 scepticism and even outright fear about raising concerns
11 at all, either informally or formally, because it can
12 just lead to the person being moved and the issue being
13 avoided. We've heard of people being punished for
14 raising issues or concerns, for example, being sidelined
15 within teams or moved to a less convenient location."

16 And I think we touched on this earlier today. Would
17 you have any comment to make in regard to that?

18 A. That's the feedback the IRG have received. They've
19 obviously been speaking to officers and staff and then,
20 you know, presenting it in the report. And I would
21 recognise that and at times I said the scepticism and
22 fear about raising a concern, because often it was
23 quickly formalised. I sometimes think it's because it's
24 almost the keep yourself right type of approach, if you
25 like well. If I put this on paper and I deploy a formal
26 process, whether it's grievance or conduct, I would be

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1 difficult -- it would difficult for me to be criticised
2 thereafter so I don't -- I understand why that could be
3 done, but it's not necessarily the best approach, not
4 necessarily best approach for the person who has raised
5 the concern or the grievance or even raised it, as it's
6 said here, informally.

7 But people in leadership positions who are subjected
8 to high levels of scrutiny, a number of whom, as I said,
9 had not had the training that we should have provided
10 and we were seeking to address that and we did address
11 that, at times if you're not confident in your own
12 judgment to do the right thing and to assess it, well,
13 actually it can lead to a more -- not the most
14 appropriate solution for the issue at hand.

15 I think that was consistent with, again, other
16 discussions that we have had today as well about how we
17 want to move to allowing people to do the right things,
18 to address things early and improve things, rather than
19 unnecessarily creating a burden.

20 Q. And do you think those changes being implimented would
21 also help individuals who may have a concern or an issue
22 who may be facing racism of some description, but fear
23 raising the matter for potentially being punished or
24 sidelined or moved to a less convenient location or
25 matters of that sort, so it would have some sort of
26 detrimental impact on their career, and would the

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1 changes you are suggesting would it be your hope that
2 they would minimise this concern that individuals may
3 have?

4 A. In an ideal world the optimum it would eliminate it.
5 Because somebody raises a concern legitimately, if it's
6 of magnitude, well, again, processes would put in place,
7 there would be support structures in place, but even
8 something, as we're talking earlier, a microaggression
9 or, again, a relatively -- relatively low level concern,
10 the sooner that's addressed and dealt with, the better
11 for everyone involved.

12 And, you know, we were encouraging people to step
13 forward. You know, not only encouraging people, we were
14 saying that's your duty. That was what lay behind right
15 at the outset of the public inquiry my desire for us to
16 be antiracist. It's a proactive responsibility that one
17 has, every member of the organisation, to raise a
18 concern. And actually it's not good enough to say,
19 well, that wasn't the right thing to do, but I didn't
20 want to say anything and we as an organisation needed to
21 create a culture that people would be recognised for
22 that and supported it, because that is for everyone's
23 interest. It will make the organisation better and,
24 ultimately, allow us to provide a better service to the
25 public.

26 Q. And for those who -- would you hope, ultimately, that

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1 Police Scotland would reach a stage where those raising
2 concerns, legitimate concerns, regarding racism that
3 raising that would not have any detrimental impact on
4 their career?

5 A. Absolutely.

6 Q. Yet, would you also want to make sure that anyone who is
7 engaging in racist behaviour is dealt with
8 appropriately?

9 A. Again, absolutely.

10 Q. Could we look at paragraph 4.9:

11 "We also heard of poor behaviour being known and
12 seen in plain sight with no action being taken; a
13 vicious circle of the personnel affected not having the
14 confidence to report concerns; peers not speaking up and
15 managers not taking action, exacerbated where the
16 concern relates to a manager."

17 Does this cause you concern that this is something
18 the IRG are saying they're hearing of that type of
19 behaviour?

20 A. Yes. And again, that's, as I said earlier, exactly what
21 we were seeking to address by stating our aim to become
22 an antiracist service that it's not good enough to be a
23 bystander or to sit back.

24 Now, the IRG are reporting on this. These are their
25 instances of this. I think it would be incorrect to
26 represent this as being the norm. I think, you know,

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1 there are some instances where action was taken, where,
2 you know, the people did step forward, but if there was
3 a lack of confidence and it wasn't happening all the
4 time or every time or it was happening -- it wasn't
5 happening on a number of occasions that is really
6 concerning. But again, as I said, that was what lay
7 behind the changes we were wishing to make was to
8 address that and ensure that it didn't continue.

9 Q. Thank you. Can we look at paragraph 5.14, "The role of
10 middle people management". Thank you:

11 "We encountered significant concerns about the
12 absence of effective performance-management systems
13 during the first decade of Police Scotland's existence.
14 Middle managers (sergeants, inspectors, chief
15 inspectors) were considered to be the most neglected in
16 this regard and at the same time the most important in
17 helping to understand and shape culture on the
18 frontline."

19 Do you recognise this criticism by the IRG?

20 A. Again I, think I described that earlier this morning,
21 counsel, when the ten years or the early years of
22 Police Scotland we didn't invest in our people in terms
23 of their wellbeing, their training, their capability.
24 You know, we didn't invest in that against other
25 competing priorities at the time. And when I, you know,
26 came into the role of chief constable, you know, I said

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1 that on a number of public occasions. That paragraph at
2 5.14, you know, candidly reflects thing I'd said myself
3 and I may have discussed that with members of the IRG.

4 Q. And at 5.15 it says:

5 "We heard repeatedly that people are not assessed,
6 trained to be managers, and that promotion is secured by
7 demonstrating technical skills and experience. Middle
8 managers were described as the sponges who had to absorb
9 issues from the top and bottom, resulting in pressing
10 and competing workloads, with insufficient training and
11 guidance."

12 And we have heard evidence in the Inquiry about
13 officers who were acting up or in temporary roles, but
14 who perhaps had not gone through training in relation to
15 carrying out those duties and those roles. Again, what
16 concerns did you have about this? Do you recognise this
17 as an issue?

18 A. Similar to what I said above, that describes the gap
19 that we were seeking to address through the Your
20 Leadership Matters work that we initialed. This report
21 was in 2023 and we had kicked off the leadership
22 training programme to ensure that our superintendents or
23 sergeants or chief inspectors or people who are
24 mentioned here were given that support that they hadn't
25 been given in the early years when the new organisation
26 was coming together where we were delayering management

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1 levels. But I was conscious that there was a gap that
2 we were promoting people into roles, asking a lot of
3 them, often giving them technical training on their
4 specific discipline or their specific area of work, but
5 actually the leadership training and the management
6 training on how to deal with individuals had -- had been
7 neglected.

8 So what I read there I shared, but we -- under my
9 ten year as chief constable, I was seeking to address it
10 with energy and resources through the Your Leadership
11 work that we were doing.

12 Q. Can we look at 5.18, please. This is under the heading
13 "Training and development":

14 "The use of self-directed learning via Moodle was
15 almost universally criticised among those we have spoken
16 to. It was repeatedly referred to as a tick box
17 approach and easy to work around. While it was seen as
18 having some value in relation to technical or factual
19 matters, such as changes to legislation, it was
20 considered to have little or no value in relation to
21 raising awareness of EDIHR issues and driving changes in
22 attitudes and values."

23 We have heard some evidence about Moodle, which we
24 understand is a computer system that is training via
25 e-learning, digital learning?

26 A. Exactly.

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1 Q. This seems to be very critical of Moodle. Were you
2 aware of these criticisms when you were chief constable?

3 A. Yes, I mean I was chief constable through, you know,
4 many significant challenges, not least of all the global
5 pandemic, and that had an impact on our ability to reach
6 out to staff physically. And one thing it did do, it
7 did, you know, force us, if you like, to look at how we
8 provided e-learning and how we do things remotely.

9 Now, policing is not the only sector in society that
10 delivers -- increasingly delivers training through
11 e-learning. It's something that everybody has to adjust
12 to. There is a scepticism about it and there is a
13 resistance to it, I think at times unfairly. I think
14 properly put together there is a role for e-learning and
15 our ability, as I have said, to deliver across a third
16 of the UK landmass, to each and every member of our
17 staff needs a level of flexibility. So we needed to
18 continue it, we needed to make sure it was more
19 engaging, improved as a quality product, and that it was
20 supported at the right time face-to-face, where you have
21 got more of that personal intimacy that can develop
22 training.

23 But e-learning and remote training I don't think
24 is -- the challenges around that to make sure the
25 product is fit for purpose it's not confined to
26 policing, but it's something, again, that I think is

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1 legitimate for us to continue to have used it, but to
2 make sure that it was appropriate and that at times it
3 was also implemented by face to face.

4 Q. And as part of the evaluation of that type of training,
5 who would be doing that?

6 A. Well, the people delivering the training would probably
7 start with that, because, as everybody knows, you on a
8 training course one of the things you get at the end of
9 it is, give us feedback, what was good, what was bad?
10 And then again, it was an area through the Policing
11 Together work I would expect a more strategic assessment
12 to be done with that detail and if it involved the IRG,
13 again, that would provide that level of independence.

14 Q. Was there any plans to go back to people after they have
15 completed Moodle to see if that training has had an
16 impact on their behaviours?

17 A. I'm not sure on the specific plans, whether that was one
18 of the actions, but it sounds entirely sensible to do
19 that.

20 Q. Right. 519:

21 "It was considered to be particularly ineffective
22 for officers in frontline roles which were not primarily
23 desk-based."

24 Would a frontline role include a response team or
25 that type of work within Police Scotland?

26 A. It would. I mean the phrase "frontline" is one that --

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1 I think many people work in frontline policing. It's
2 not necessarily working in a response role, but the
3 response officers would definitely be working in
4 frontline policing.

5 Q. Thank you.

6 "We've heard consistently that valuing EDIHR should
7 mean making proper time for it and delivering training
8 face to face, which should be targeted at those who need
9 it and made a proper requirement."

10 Would there be merit in considering different
11 methods of training for officers in frontline roles,
12 such as in respondent teams, compared to those perhaps
13 who are primarily desk-based?

14 A. Not necessarily, because you don't have a response role
15 for 30 years in your police service and you don't
16 necessarily have a desk-based role for 30 years in your
17 police service and the distinction can mix. You can
18 be -- even as a frontline officer, you may go into a
19 particular function at a particular time and, actually,
20 the impact of you as an individual and your colleagues
21 and the members of the public can manifest itself in
22 different ways.

23 So I would be looking for a consistency of the
24 curriculum in terms of values, in terms of
25 understanding, but always the potential flexibility
26 about how that's delivered. And it's the challenge of

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1 from busy, busy urban centres, where it's maybe quite
2 easy to bring a large group of officers or staff
3 together for training, and then other parts of our
4 country where our resources are massively spread
5 geographically. So it would always have to be tailored
6 to the particular demands, but I would always look, if
7 we were doing a consistent work around about EDI, that
8 there would be a core training that everybody should
9 take and that's something, again, that we sought to
10 implement, but the means of doing that I think we'll
11 would be constantly reviewing to try and make sure it
12 was done in the best way.

13 Q. I'm thinking about the significance of training and good
14 quality training in equality diversity and inclusion,
15 particularly in relation to issues of racism and
16 underlying racism and the recognition of that, the
17 awareness of that amongst officers. Thinking of a
18 response team who are going out to deal with members of
19 the public and have the option at least of considering
20 restraint which we have heard can risk the death of a
21 person, would you not see merit perhaps in enhancing
22 training for people who are part of a response team,
23 officers who are dealing with members of the public?

24 A. Detective officers, road policing officers, firearms
25 officers, you know, there are a multitude of disciplines
26 within the Police Service of Scotland where people come

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1 into contact with members of public where there is
2 that -- there is always that potential for an
3 escalation, there's always a potential where you're
4 going to have to use powers of coercion.

5 So however it was tailored, we need to make sure
6 that as much and as high quality, because it's not just
7 volume of training, it's quality of training, as much
8 quality training was given to the officers who deal with
9 members of the public. But you know, I genuinely see
10 the training required has been something that there has
11 to be a universal element of that potentially -- you
12 know, as I have said, training is a key part of Policing
13 Together. It's -- I think we talk about it as a pillar,
14 as a building block, whatever the language is. Training
15 would be fundamental to that and there would be an awful
16 lot of work getting done and it potentially could be
17 nuanced in the way you suggest, but based on a core that
18 every member of the service should be receiving.

19 Q. Certainly we've heard evidence that firearms officers
20 receive very enhanced training. As I understand it,
21 part of the reason for that is they are carrying weapons
22 that can kill. But my understanding is that that's not
23 the same type of training that's given to response
24 teams, although response teams could resort to
25 restraint, which can also have the risk of death?

26 A. Is this EDI training or is this training for the role?

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- 1 Q. I'm talking about -- I don't have specifics about
2 firearm training. We have heard that it's enhanced
3 training, more regular, more stringent training, more
4 detailed training.
- 5 A. So the principle of bespoke training for particular
6 roles is one that applies all the time. That enhanced
7 training would probably be around de-escalation around
8 about conflict, enhanced training on first aid.
- 9 The EDI training I think every officer would
10 require, every officer and member of staff would require
11 that understanding, whether you could be working in a
12 police control room taking telephone calls, you could be
13 working as a frontline officer. The principle of
14 providing additional or bespoke training depending on
15 role is one that's well-established, so again you would
16 always consider it. But the difference in response and
17 firearms is less on equality, diversity and inclusion
18 and more on those other matters I talked about in terms
19 of de-escalation and first aid.
- 20 Q. So firearms officers are given enhanced training on
21 de-escalation, conflict and first aid?
- 22 A. Amongst --
- 23 Q. Amongst other things?
- 24 A. As well as clearly all the technical --
- 25 Q. Sorry, I interrupted you. Is part of the reason for
26 that is because they carry weapons and they can kill a

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1 subject, so they are trained to a higher standard to
2 learn about de-escalation and options which would not
3 involve the use of deadly force?

4 A. Yes, but not in terms of EDI. Paragraph 519 talks about
5 EDI training, so in that instance it's because firearms
6 officers are there and are deployed and are trained to
7 deal with high stress and, therefore, they require that
8 additional technical training. But in terms of the
9 wider training on equality, diversity and inclusion, you
10 know, that's something that I, as I say, I feel that
11 every officer and member of staff should have.

12 Q. We've heard evidence about unconscious bias and we've
13 heard evidence about the speed at which stereotypes can
14 be relied on by the brain --

15 A. Yes.

16 Q. -- to make decisions and judgments about, for example,
17 the use of force.

18 And having heard that evidence and having heard
19 about unconscious bias and elements of racist
20 discrimination that those stereotypes can be relied on
21 and they may be racist stereotypes, do you not see any
22 improvements that could be made in training, not just in
23 relation to de-escalation and other techniques that
24 don't involve force, but in also enhancing the
25 understanding of officers, who have the option to use
26 deadly force, to truly understand and be conscious of

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1 and aware of this potentially unconscious bias which
2 could be resulting in very quick judgments being made in
3 a state of unconsciousness which are based on
4 discrimination?

5 A. Yes, but I would want to extend that beyond firearms
6 officers in the particular example you give me. In
7 Sheku's death, as we know, it was response officers that
8 attended, firearm officers did not attend, so that
9 ability when you're -- as you've heard and as you've
10 outlined evidence of how people respond when they're
11 under pressure, where it's instinctive and intuitive,
12 rather than based on judgments or training and
13 unconscious bias arise, again, it is something that
14 needs to be applied to all our officers and staff.

15 Now, as a firearms officer, I believe that, again,
16 in terms of their training, how they respond and the
17 expectation that they will not have an intuitive
18 response, but have a response based on their training,
19 that's part of the selection criteria, it is part of the
20 training programme, but it's something I think that
21 again can't be just confined to specialist. We'd like
22 to give it to all officers and staff, because at any
23 time you could be in that position.

24 Q. Where an officer has the potential to use deadly force
25 as part of their operational duties, you can see a place
26 for giving enhanced training in relation to issues of

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1 discrimination, equality, diversity and inclusion?

2 A. Yes. Ideally, I would like to give it to anybody who
3 would come into contact with a member of public, because
4 that potential -- that potential for high-end conflict
5 is always there.

6 Q. Thank you. Can we move on to 520, please:

7 "We have heard considerable scepticism that training
8 and development is not mandatory or assessed in any
9 meaningful way. In particular, we were told that Moodle
10 was ineffective in driving the culture, values and
11 behaviours needed to make Policing Together real on the
12 ground, including good people and performance
13 management."

14 So again, the IRG seem to be criticising assessment
15 of Moodle training and saying that it's ineffective in
16 driving culture change. Was that something that that
17 you were addressing in Police Scotland?

18 A. Yes, it's similar to a discussion I had earlier. I mean
19 the scepticism is something that, again, I alluded to.
20 I don't think at times it's entirely legitimate.
21 I think there are limits on e-learning. As I said
22 before, this is something that's beyond policing.
23 Everyone will have had experience I'm sure of some level
24 offer learning and the limitations that it provides, but
25 it does have its use at the right time, but it has to be
26 supplemented by additional training, as I said earlier.

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1 So again, that scepticism didn't surprise me.

2 There's still -- there was still a challenge of us
3 trying to ensure that we could get training delivered in
4 a way and in a speedy manner and it was certainly the
5 starting point, rather than the endpoint, in the
6 training that we were looking to introduces.

7 Q. Thank you. If we move on to 612, we'll see a chapter
8 entitled "Getting to grips with culture", but I would
9 like to look at paragraph 6.19, and this is "Guarding
10 against backlash":

11 "In our experience there is always a risk of
12 backlash when driving EDIHR. We have observed some of
13 evidence of this in our work to date. For example, we
14 encountered the sense that minoritised staff are
15 receiving preferential treatment, being needy or getting
16 more than they deserve, a concern that diversity staff
17 associations are out to get their colleagues or not
18 acting in the interests of the overall workforce and
19 concerns about how EDIHR issues are taken forward in
20 divisions which are less diverse."

21 And again, was this something that was recognised
22 within Police Scotland and if so, what steps were being
23 taken to address it?

24 A. This is back to the need for us to be antiracist and for
25 every individual to recognise the legitimacy of the
26 position that I was outlining regarding institutional

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1 racism and institutional discrimination, but I knew that
2 there would be a backlash. I know that these cynical
3 quotes and views are expressed exists there, but, again,
4 to make the change, which won't be oversight, which
5 won't be immediate, to make the change, the starting
6 point was the recognition and confirmation of those
7 institutional issues combined with real action and real
8 activity under the Policing Together work.

9 So that describes -- again, that describes the
10 mischief that I was looking to address and that my
11 statement regarding institutional racism and
12 institutional discrimination was intended to be a
13 foundation to go forward and counter those type of
14 views.

15 Q. Thank you. Can we look back again, please, at 614.
16 This was the "Getting to grips with culture" chapter and
17 this is where IRG say:

18 "Well, acknowledging that transforming culture
19 requires long-term and sustained focus, we think there
20 are steps which Police Scotland can take in the near
21 term which will help to build the foundation for
22 change."

23 And there's four bulletpoints:

24 "Developing a clearer narrative about why a more
25 inclusive culture would benefit the service, both
26 internally and externally."

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1 And what steps were being taken, prior to your
2 retirement, that would have allowed that bulletpoint to
3 be addressed?

4 A. Well, I think I initiated a narrative by saying that
5 unless we recognised the institutional challenges that
6 we have, we can't make that progress. And as I said
7 earlier, the people who were strongly opposed to that
8 tended to be individuals who hadn't had that level of
9 awareness. Those who had supported it, ones who had
10 encountered those discriminations, people from minority
11 groups or people who had seen either overt
12 discrimination or had been subject to some of the
13 thoughtlessness and some of the behaviours that were
14 outlined in Lord Macpherson's meaning around that, so a
15 clearer narrative was at the centre of the
16 Policing Together work and the starting point was a
17 confirmation and a statement that these institutional
18 issues existed.

19 Q. And as well as your own steps in making that statement
20 about institutional racism, are there any other examples
21 you can give us of how that clearer narrative being
22 developed was -- we've heard a phrase -- cascaded down
23 amongst officers that are less senior rank than
24 yourself?

25 A. Yes, there was a whole sort of communications plan, if
26 you like, that we produced with questions and answers;

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1 there was an expectation that divisional commanders
2 would go to their senior team; the team leaders,
3 inspectors of teams, sergeants would take those and
4 actually an expectation of what the challenge might be.
5 You know, well, does this mean we're all racist? Is the
6 chief saying we're all racist, boss? No, that's not
7 what the chief is saying. To assist people to go and
8 have those discussions and again, after I said that,
9 that took place and, you know, there was feedback.

10 I think some of those conversations were
11 challenging, because not everyone agreed with the
12 position that I had articulated, but that narrative
13 about how crucial it was for the inclusive culture to
14 allow us to do our job, as I said earlier, internally
15 and externally. And if we're not treating people with
16 dignity, fairness, respect, recognising their needs as
17 police officers and police staff, you know, we're not
18 going to be able to go and do it for members of the
19 public. So the internal and external ties were there
20 and the narrative was exactly as you described. It was
21 cascaded and there was an expectation that everybody
22 would have the conversation with their teams.

23 Q. The next bulletpoint:

24 "Avoiding a one size fits all to understanding the
25 way canteen- and locker-room culture manifests across
26 the service and therefore what needs to be done to

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1 change behaviours."

2 How was that to be implemented in the short-term?

3 A. Well, again, you know, the IRG's contribution was one of
4 many to the work that we were seeking to do and
5 actually, you know, I think the Policing Together work
6 and the programme of work understood these challenges
7 and probably informed the IRG's report. But this talks
8 I think about something again that we know that there's
9 no single culture, if you like, in an organisation.
10 Individual units can have their own culture. Firearms,
11 for example, we knew that that had been problematic in
12 terms of misogyny in terms of female officers coming in
13 to firearms, so that you wouldn't have a one size fits
14 all understanding, but we were aware of that.

15 Geographic areas as well. There might be different
16 manifestations in that area as well. So again, it's
17 making sure the changes and the sensitivities around
18 about culture are recognising, again, as I think I said
19 in my Rule 8 statement, you know, that there is a
20 multitude of cultures and subcultures and I think that's
21 what bulletpoint 2 is alluding to.

22 Q. So is this about identifying what those cultures and
23 subcultures are and where they exist and then
24 identifying how that behaviour can be changed?

25 A. Yes.

26 Q. And then:

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1 "Ensuring EDIHR is embedded in the promotion process
2 in terms of what is sought and expected by panels. This
3 is not about a single question."

4 Was that taken forward? I said a moment ago in the
5 "short-term", but the IRG described it as in the "near
6 term". So was this embedded in the promotion process?

7 A. Specifically, again, I couldn't recall the detail of
8 that. What we had done over actually as a development
9 on our commitment to equality, diversity, inclusion, you
10 know, maybe ten years ago, 15 years ago, there used to
11 be a specific, you know, diversity section, if you like,
12 on an interview. So you will be asked that and then you
13 will come to "diversity" and there was a realisation,
14 and it's obviously, clearly, but the realisation that
15 really this is something that should go through all
16 competencies that you're asking an individual around.
17 So the assessment around about it, if you like, was
18 integral to the whole process.

19 So exactly as I said, it's not a single question.
20 You know, how the promotion process, did they continue
21 to evolve? Again, we developed tell them, we put more
22 mechanisms into them to try and make them values-based.
23 We had -- again, we invested in that, because that takes
24 time, it takes assessor time which comes from the senior
25 officer cadre, but it was so important to do and a lot
26 of that was to make sure that not only were we promoting

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1 people who had competence and the technical experience
2 and knowledge, but they had the values and they had that
3 commitment to EDI that I would expect.

4 Q. Were there specific actions appointed for recruitment
5 promotion, interview panels and the like?

6 A. Well, the promotion process was being developed. It
7 wasn't being developed, candidly, on the back of that
8 bulletpoint on IRG's work. What the IRG are reflecting
9 is something that was in train and was being progressed.

10 Q. Right. And then the final bulletpoint:

11 "Ensuring a concerted focus on face-to-face learning
12 and development for middle managers. This is not about
13 a single course or module and requires the use of a
14 range of interactive tools such as peer intervention."

15 And I think you have talked about that already as
16 being a part of the work that was intended as part of
17 Policing Together?

18 A. Yes. And again, I agree with that, counsel. I would
19 say that the criticism of Moodle and e-learning, you
20 know, I was probably as cynical about them as anyone in
21 terms of the use of IT and we're all products of our own
22 generation, but this was something, again, when we
23 kicked this off, this was through the pandemic. This
24 was into 2020 into 2021 when we started to look at these
25 training programs and we had to make use of those. It
26 was either that or nothing.

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1 So similarly, with Your Leadership matter works, a
2 lot of that started online and, again, it was done
3 through Teams and other mechanisms, but we always knew
4 that that was what was required at the time. It got the
5 programme up and running, but the need for face-to-face
6 and peer interventions and that work was always
7 something that, again, we knew we were going to develop
8 and further, but I think the need for that e-learning it
9 was of necessity, given the circumstances during that
10 period.

11 Q. Now, this report was the first IRG report, it came out
12 in the May to the SPA, the same date you were giving
13 your statement on institutional racism. And the
14 introduction to the report says that:

15 "This will be the first of two interim reports and
16 there will be a final report from the IRG."

17 And we, the Inquiry team, have checked over a number
18 of months and it would appear that as things stand to
19 date there is no second interim report or final report
20 and the next meeting of the SPA is scheduled for
21 Thursday, 27 June and the agenda has been published and,
22 again, there's no specific reference on that agenda to
23 any report or otherwise from the IRG.

24 So since May of last year and the publication of
25 this report, there hasn't been a second interim report
26 or a final report. The final report, as I understood

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1 that the IRG final report is in the process of going to
2 an SPA meeting in September of this year.

3 A. That's good to hear.

4 Q. It was worthwhile raising the matter with you. The
5 other matter that's been raised with the Inquiry team
6 relates to the previous paragraph that we looked at,
7 6.14 of the IRG report, and that was in relation to the
8 comments about promotion and EDIHR should be embedded in
9 the promotion process and we can have it back on the
10 screen if you prefer. So this is the IRG report which
11 we were looking at just before the break, SBPI 00643,
12 and it was paragraph 6.14 and one of the bulletpoints
13 was about -- 6.14, there we are:

14 "Ensuring EDIHR is embedded in the promotion process
15 in terms of what is sought and expected by panels. This
16 is not about a single question."

17 And you have already given me an explanation of that
18 in your answer. We have been provided with a review
19 carried out by Baroness McGregor-Smith CBE about
20 mechanisms of change in business, not in relation to
21 Police Scotland, and there was a roadmap to success as
22 part of that, we. Have it and for those behind me it's
23 SBPI 00642, but I won't ask that that be be put on the
24 screen.

25 But in relation to recruitment and issues of those
26 matters, some of the guidance and recommendations that

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1 they have made generally for businesses is to have
2 name-blind recruitment, diverse interview panels,
3 equality and diversity management systems and role
4 modelling and mentoring as priorities in the business.

5 Are these aspects that you would expect
6 Police Scotland to be considering as part of overall
7 recruitment, promotion, interviews, things of that sort?

8 A. Potentially. The issue on recruitment in terms of
9 name-blind recruitment that's a challenge when vetting
10 is so important and we talked about Dame Elish earlier.
11 I -- one of my other roles since I retired I sit on a
12 reference group that Dame Elish has established for her
13 work in terms of the disgusting conduct of Wayne Couzens
14 and the murder of Sarah Everard and the review work
15 that's been carried out there and some of the early work
16 was on vetting. And one of the suggestions for new
17 recruits was to reintroduce home visits where the
18 individual and their circumstances were part of that
19 process, so that wouldn't -- the vetting challenges
20 against the suggesting of name-blind recruitment I don't
21 think would be practical. Again, there are numerous
22 elements of it.

23 But in terms of seeking to identify best practice,
24 wherever it exists, you know, I have said this a number
25 of times, if somebody can point me to an organisation as
26 an exemplar or a sector of Scottish life, British life,

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1 anywhere that's an exemplar of equality, diversity and
2 inclusion, we'll go there, but I think these are
3 massively challenging issues for everyone, for all of
4 us, but wherever best practice exists, I think it would
5 be foolish not to look at it.

6 Q. Thank you. I would like to move on now and look at
7 SBPI 00484 and this is the HMICS Thematic Inspection of
8 Organisation Culture in Police Scotland. And this is
9 dated December 2023, so I appreciate that you retired in
10 the August, but it covers part of the period when you
11 were chief constable.

12 And what I would like to do is go through some of
13 the elements that are mentioned within this document and
14 ask you for your comments. If we could look, please,
15 first of all at -- as I understand it, there are 155
16 pages on this as a PDF and so the first page I would
17 like to look at is page 13 of the PDF, but as we look at
18 the page, we will realise this is actually page 11 of
19 the actual report, but if we can turn to page 13 of the
20 PDF.

21 Here we are, "key findings", and during this report
22 there are a number of areas where they highlight key
23 findings and they express these as bulletpoints,
24 paragraphs and I would like to go through some of these
25 with you. If we can go to the middle of the page,
26 I would like to ask you about "we found that", here we

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1 are:

2 "We found that financial and resource constraint was
3 one of the primary factors adversely affecting culture
4 change, particularly at the frontline, both in terms of
5 driving behaviours, as well as impacting on capacity,
6 motivation, and wellbeing."

7 And you have mentioned financial constraints in this
8 day and age and I wonder if you would like to expand on
9 that slightly in terms for the Chair. In terms of
10 actually implementing change, to what extent would
11 financial and resource constraint be a factor for the
12 service?

13 A. It would always be a factor I think I mentioned earlier
14 of the increasing expectations, the increasing community
15 needs that policing is asked to meet, increased new
16 legislation that's introduced, often with very little or
17 minimal consultation or assessment around about
18 financial implications and that, all of that, you know,
19 contributes to those financial and resource constraints
20 that are mentioned in the HMI report.

21 And I do feel very strongly on the financial
22 pressures that police is under in Scotland, because
23 I don't think that there has been sufficient recognition
24 from government in terms of funding on the fact that
25 Police Scotland, policing in Scotland has actually gone
26 through significant reform and restructure and it's a

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1 matter of record through Audit Scotland that policing is
2 £200 million a year at least cheaper now per year than
3 it was under legacy arrangements in real. Terms, that's
4 an enormous amounts of money out of a 1.2 billion
5 budget.

6 Yet, at the same time, in my judgment, we have been
7 able to improve service consistency and achieve some of
8 the objectives of reform, but it gets to a position
9 where because reform and a single service has now
10 established, you know, that budget, that need for
11 financial protection, it can't continue to be
12 diminished, particularly, particularly as there has
13 already been a return to the public purse, because of
14 the reform agenda for different reasons, you know, one
15 of them being a reduction in senior ranks. There was
16 over 30 members, I think, of ACPO Scotland when I was an
17 ACC in Edinburgh, back in the 2000s or late 2000s, and
18 yet now, you know, we're into, you know, 17, less than
19 that, 13, 14, chief officers. That's just one example,
20 but that puts pressure and demand into senior leadership
21 teams.

22 So the financial and resource constraints in any
23 element we want to develop training, we want to do more
24 face-to-face, people are concerned about the amount of
25 e-learning that's required, all of these come with a
26 cost and all of these come with a demand and that has to

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1 be prioritised. This was a prioritised -- the
2 Policing Together work was prioritised. We did recruit
3 additional resources into that. We put in a bespoke and
4 specific additional chief officer to lead that, but we
5 know resource pressures are there. And I absolutely
6 recognise the pressure on operational police officers
7 and police staff in terms of their wellbeing and that
8 motivation, that ability to give discretionary effort
9 when you yourself don't feel fully valued.

10 So the financial pressures I think are significant
11 and, actually, as I have said before and I'll repeat,
12 I think policing as a sector has more than taken its
13 fair share of financial restrictions since 2012 and if
14 it's going to continue to provide a service that this
15 country needs and deserves it has to be if you need
16 accordingly.

17 Q. And so in terms of implementing change in regard to
18 equality, diversity, inclusion and human rights issues,
19 as we have been talking today, would you consider it
20 reasonable to -- well necessary to prioritise but also
21 reasonable to perhaps prioritise training and other
22 matters in relation to situations where there is
23 potentially engagement with police with members of the
24 public and there is a risk of death or a risk of a
25 serious incident occurring?

26 A. Absolutely, that's why, as I described, it was done, why

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1 Policing Together was created, why there's specific
2 resources gone into that, but it comes where other parts
3 of the service are being stretched and, therefore, it's
4 that challenge that you need to support the officers in
5 community teams and specialist teams and child
6 protection teams who are doing incredible work for
7 public safety and public wellbeing. But if their
8 resource base is being challenged, because as a chief
9 constable I have decided I need to invest in EDI,
10 rightly, there's almost an unintended consequence. It
11 might put additional pressure onto those teams who we
12 are seeking to help and support in terms of developing
13 and maintaining the culture. So operating in that
14 context is really challenging but, you know, that's the
15 responsibility of leadership team and the chief
16 constable.

17 Q. Can we move on to page 14 of the PDF, please, which is
18 page 12 of the report and you'll see the second
19 bulletpoint there:

20 "Police Scotland has previously acknowledged that
21 there remain cultural and behavioural issues that can
22 result in unfair or inequitable treatment in the
23 service. We were notified of a number of individual
24 cases of such treatment and have taken related policy,
25 process and procedural matters into account in these
26 findings. The perception of a lack of organisational

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1 justice was reflected in much of the evidence we
2 collected."

3 So it would appear the HMICS is also collecting
4 evidence as well as the IRG and through other sources.
5 Would you like to comment on this phrase "the perception
6 of a lack of organisational justice"?

7 A. I'm not entirely sure what it means in terms of whether
8 it's procedural justice within the service. I mean
9 I would read that as being supportive of my
10 determination regarding institutional discrimination
11 that, you know, there has been unfairness and a lack of
12 equity in how individuals have been dealt with in terms
13 of behavioural issues.

14 "Organisational justice", I suppose that would
15 relate to proportionately and equity, but, again,
16 I didn't write the report and again, candidly, it's the
17 first time I have seen it.

18 Q. All right. Thank you. This was published in December
19 2023, which he was after you retired, as I said.

20 A. That's right.

21 Q. Can we look at this next section "Leadership and vision.
22 Leadership behaviours" and it's the first bulletpoint
23 and the final sentence there:

24 "As yet it is unclear how aligned and sustainable
25 these will be and how Police Scotland will fully assess
26 the ongoing impact of this wide-ranging work."

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1 Sorry. I should have read the first sentence:

2 "Police Scotland is planning and undertaking a
3 number of initiatives to embed appropriate leadership
4 behaviours, attitudes and values at all levels in the
5 service [and you have talked about that today] but as
6 yet it is unclear how aligned and sustainable these will
7 be."

8 Do you think that is a fair reflection of where
9 Police Scotland were when you retired, maybe the clarity
10 regarding how aligned and sustainable they were was not
11 quite clear?

12 A. It was developing. Definitely it has to be sustainable.
13 This is a long-term commitment and a long-term journey,
14 for want of a better phrase, that the organisation needs
15 to be on, but the -- I think we've talked about, you
16 know, Your Leadership Matters, we've talked about the
17 work that has been done, we've talked about at the
18 alignment with the Policing Together work, how training
19 is at the core of that and, you know, fair enough,
20 obviously, we need to ensure that it sustains. And you
21 know, as I think HMICS are saying, they'll come back and
22 make comment on that.

23 Q. Thank you. Could we look at page 18 PDF, please, page
24 16 of the report. I'm interested in the second last
25 bulletpoint, please, under "organisational learning":

26 "We identified good practice work in a number of

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1 policing areas where a culture of consistent evaluation,
2 debriefing and governance of organisational learning is
3 in place, but overall there remains a fragmented and
4 inconsistent approach. Although learning is promoted,
5 there remains a perceived blame culture within the
6 organisation, which is considered as a barrier to this."

7 Was it part of Policing Together and the action plan
8 that was devised designed to counter the perceived blame
9 culture which may have been a parrier to change?

10 A. Yes. Again, it's that confidence to be honest, to share
11 an issue, rather than holding something back, to ensure
12 that the organisation does learn that. The ability to
13 capture learning, again, has always been a -- not just
14 in policing is a real challenge. You know, everybody
15 talks about organisational learning and that it would
16 remain, but the challenge is putting structures and
17 processes in place that captures that.

18 And again, the sense of a perceived blame culture,
19 again, that's a phrase I have read throughout my career
20 as a police officer and there is a perception. Against
21 that, I would say policing has to be highly accountable.
22 If you hold the office of constable, regardless of your
23 rank, regardless of your rank, you know, you must be
24 accountable for your decisions and your actions. Now,
25 if that is perceived as a "blame culture", you know,
26 that again is the colloquial term that's often used, but

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1 it's important that that supportive mechanism, the
2 ability and the confidence to speak openly and to make
3 challenge and to raise an issue without it being pushing
4 back on you the whole sort of black box concepts that
5 we've heard of over a number of years of calling things
6 out and making sure the organisation supports that and
7 you're giving credit for that, that is entirely
8 consistent with being individually accountable for your
9 actions. And that's something that I think is a virtue
10 within the police service. It's something that comes
11 with a responsibility. I used to speak to as I did to
12 every single new recruit and said, that, you know, you
13 have not joined a job, your status has changed, your
14 status is different, you are now holder of the office of
15 constable and with that comes that responsibility, comes
16 the privilege to be an officer, but also comes high
17 levels of accountability.

18 Q. Can we turn to page 22 PDF, please, page 20, and this
19 receipts to Policing Together. The second bulletpoint:
20 "We identified inconsistent understanding of the
21 scope of Policing Together and a degree of confusion
22 about its extensive delivery mechanisms in governance.
23 There also remains some cultural resistance to
24 Policing Together. Some people do not recognise the
25 issues being raised and consider it just another central
26 initiative with concerns that it may not facilitate the

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1 wider cultural change required."

2 To what extent is there a barrier between what would
3 appear to be negative views being held by certain
4 members of the police?

5 A. I'm not surprised that there's some resistance to
6 Policing Together, because there was resistance to the
7 recognition of institutional discrimination and
8 institutional racism. Again, I would say, from my
9 perspective, that's further evidence of the need to take
10 the action that we're taking. The understanding and the
11 awareness of it, well, that again is why communication
12 is an essential part of the Policing Together work, you
13 know, crucial, linked in to the other areas of training,
14 the prevention that we've discussed and, you know, the
15 responsibilities to go forward and take on those
16 challenges and address some of that negativity that is
17 described there.

18 Q. Thank you. Could we look at page 23 PDF, page 21. It
19 relates to outcomes. And the first bulletpoint says:

20 "Police Scotland does not fully understand how
21 culture affects service delivery performance, relying on
22 service satisfaction ratings to assess this, neither
23 does it effectively measure cultural change (and the
24 impact of supporting activity)."

25 Would you like to comment on that?

26 A. It's a challenge to try and -- how do you measure

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1 cultural change? I mean it's -- I don't know if it's
2 somewhere within the report. You know, there's no
3 suggestion there to how it should be addressed, as I
4 said earlier. If somebody could point us in the right
5 direction, I'm sure the Police Service of Scotland would
6 go there, but it needs to develop further.

7 Coming back to the Policing Together work, how do
8 you assess it, how do you evaluate it, how do you make
9 sure that your intentions are being delivered, that gap,
10 again, that you describe, counsel, between strategy and
11 implementation? So put in all those measures,
12 developing a suit of measures, I know that is part of
13 the Policing Together work and no doubt it's difficult,
14 but it's important to do.

15 Q. Thank you. Can we look at page 24 now? This is the
16 start of the recommendations of the HMICS and, again,
17 I don't want to go through all of them with you.
18 I would just like to go through one of them, which is
19 recommendation 2:

20 "Police Scotland should develop and deliver a set of
21 actions to address the fundamental inequalities between
22 officers and police staff, the frontline policing and
23 other national/specialist functions."

24 Do you have any comments about that recommendation?

25 A. I don't know to what the HMI refers in terms of
26 fundamental inequalities. Is it of status, of pay, of

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1 career opportunity? Again, I don't really know what
2 that means.

3 Q. Right. And can we look at recommendation 6:

4 "Police Scotland and the Scottish Police Authority
5 should reinforce the human rights and ethics-based
6 approach for all policing activity."

7 You're nodding. You obviously accept that
8 recommendation.

9 A. Well, we have been at the forefront of that, candidly.
10 The HMI are echoing back what Police Scotland has led on
11 the introduction of human rights into the equality
12 impact assessment, the articulation of human rights in
13 our operational policing, whether it's a protest,
14 whether it's of large scale events such as COP26,
15 through Covid, our ability to put human rights at the
16 centre of the work that we doing where there was an
17 independent group chaired by John Scott QC, now
18 Lord Scott. And again, there was significant oversight
19 of that where we were challenging ourselves, ensuring
20 public confidence, because human rights were at the
21 forefront of what we do.

22 As far as I'm concerned, good policing is human
23 rights and no organisation does more to protect the
24 human rights of our citizens in my judgment than the
25 Police Service of Scotland does. Certainly when I was
26 chief, I openly articulated it and I think there's ample

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1 evidence of us doing that. So if it needs reinforced,
2 please do, because it's certainly something I support
3 and have advocated for many years.

4 Q. And just a couple of matters, again, dealing with the
5 challenge that faces Police Scotland in changing culture
6 and attitudes. Can we look at PS18903. We've heard
7 that there was a staff survey done after your
8 institutional racism statement was made and you'll see
9 that this is a PowerPoint regarding "Attitudes towards
10 and perceptions of institutional racism within
11 Police Scotland among Police Scotland colleagues". And
12 this is described as "Strategy, insight and engagement"
13 and it's from November 2023. So after you had retired,
14 but based on information available.

15 It's 17 pages. The second slide specifically
16 address your address to the SPA. You see it's referred
17 to there on Thursday, 25 May 2023, when you addressed
18 institutional discrimination and what you said:

19 "The overarching aim was for the survey seeking to
20 provide Police Scotland colleagues the opportunity to
21 convey their thoughts, feelings and experiences related
22 to discrimination, equality, diversity and inclusion
23 within the service."

24 Do you see that?

25 A. Yes, I do.

26 Q. And if we can look at slide 8, please, I think there's

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1 just an image of some of the responses. Here we are.
2 Sorry, I maybe got the wrong number, but that was the
3 one I wanted, thank you. And this is "Institutional
4 discrimination survey respondents." 49 of the
5 respondents were men. Sorry, this isn't the one I
6 wanted actually.

7 Keep going. It looks very similar to that. Maybe
8 it was on page 8. Yes, sorry, my mistake. "Insights
9 overview":

10 "40 per cent of respondents believe institutional
11 discrimination is an issue for Police Scotland, but
12 equally that would mean 60 per cent think it's not an
13 issue."

14 Is that a concern to think that 60 per cent of the
15 police actually don't think it's an issue at all for
16 Police Scotland?

17 A. I don't know how representative the survey or the sample
18 was. I don't know if it was universal or people who
19 self-selected to respond to it, but I'm not particularly
20 surprised that people are resistant. As I said,
21 I understand some of those conflicts. I think my
22 challenge would be and it is something that we had a
23 responsibility to do -- the onus was on us as a leader
24 team was to explain what we mean by "institutional
25 racism" and what it doesn't mean and, therefore, you
26 know, that interpretation, again, I don't know --

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1 I don't know what the validity and rigour of sample size
2 et cetera, et cetera would be, but it doesn't surprise
3 me that there are -- there would be individuals within
4 the service who may be legitimately don't consider it as
5 an issue. I think it is. I know it to be so. So we
6 need to continue to advocate that and we need to
7 continue to drive the Policing Together work, we need to
8 continue to communicate on this crucial issue.

9 Q. "And 80 per cent of respondents reported negative
10 conversations on institutional discrimination following
11 your statement."

12 Is this potentially touching on what you expected
13 and what you've told us today, you actually expected
14 people thinking, the chief says we're racist?

15 A. Well, if I had completed the survey, I would have been
16 part of that 80 per cent as well, because people were
17 critical, people were -- you know, in my case, you know,
18 commentators and others at times were very personally
19 and aggressively critical about throwing officers under
20 a bus and, you know, exposing them to danger and
21 whatnot, which I genuinely took great exception to,
22 because, you know, I'm massively committed and supported
23 to the welfare and wellbeing of police officers and
24 police staff and I don't think that was the case.

25 I didn't think -- I thought that was unfair and I
26 thought it was inaccurate in my judgment, but the idea

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1 that you would negative conversations on institutional
2 discrimination, as I say, I had a number of those, so it
3 doesn't surprise me again.

4 Q. Right. So you weren't personally being negative, but
5 you were party to conversations where negative views
6 were being expressed?

7 A. I thought that's what I said.

8 Q. Yes.

9 A. Reported negative conversations I think you would with
10 and that could be with friends, casual acquaintances or
11 it could be with, you know, media outlets or others so,
12 again, that doesn't surprise me.

13 Q. "And 41 per cent of respondents agree the service was
14 taking the right steps to reduce institutional
15 discrimination that may exist."

16 Would you want to express any view on that figure,
17 41 per cent of respondents?

18 A. Well, it's greater than the people who think, you know,
19 in terms of the progress we're trying to make. There's
20 obviously a whole chunk of people who doesn't think it
21 exists anyway so, you know, that in terms of the 41 per
22 cent saying we're taking the right steps there's a large
23 part of this survey, which, again, I don't know how
24 representative it is, but, notwithstanding that, it's --
25 the people who believe it's an issue almost equates to
26 the people who think we are doing the right thing.

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1 Q. "And then 37% believe the service provides resources to
2 develop an understanding of institutional
3 discrimination."

4 Is that something you would like to see improved in
5 Police Scotland?

6 A. I mean I come back to if 60 per cent don't think it
7 exists, they're not going to think that we're providing
8 the right resources, so the fact that that figure is
9 close to the 40 per cent, again, seems common sense it's
10 in the same space. And as we discussed earlier,
11 resources are critical, absolutely critical, sustained
12 resources over time are absolutely crucial to make
13 progress.

14 Q. "79 per cent are aware of the mechanisms in which to
15 report instances of discrimination."

16 Do you wish to comment on that?

17 A. It's a relatively high number. I would like it to be
18 higher. Actually, I don't know if this is a definitive
19 survey of the police officers and police staff in
20 Police Scotland. So of the people who have filled it
21 in, 80 per cent or close to 80 per cent seems high, you
22 know, but we would like it or I would like it -- as a
23 citizen, I would like that to be as high as possible.

24 Q. Thank you. And then the final entry there:

25 "50 per cent were confident that if reported an
26 instance of discrimination would be addressed"

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1 Again, is that something you would like to see
2 improved?

3 A. Absolutely.

4 Q. Finally I would like to ask you about one matter.
5 You've talked about some negative conversations, you
6 have talked about the challenge of dealing with change
7 and implementing change amongst officers and I would
8 like to ask you about the impact that -- or the
9 engagement of the Scottish Police Federation and what
10 difference that could make to implementing change more
11 widely in Police Scotland and it was quite widely
12 reported at the time that there was some criticism from
13 Police Scotland -- Scottish Police Federation to your
14 statement about institutional racism who were concerned
15 about the reputation of members of the police force
16 service and they felt that in some ways that had been
17 tarnished because of actions of a few, as they described
18 it. But David Threadgold, Chair of the Federation, had
19 said:

20 "The SPF will always work with the service to
21 identify and remove officers in Scotland who fail to
22 live up to our standards of professional behaviour.
23 Culture in any organisation is change from the top down,
24 in this case at governmental level. The chief has to
25 work to ensure that the policing budget is given real
26 terms protection to allow us to maintain our current

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1 officer and staff profile and this relentless stripping
2 of our proud service of physical and human
3 infrastructure has to stop."

4 I'm interested generally in whether you take the
5 view as former chief constable that the SPF can be part
6 of the move to change or can -- or whether they can in
7 any way hinder that move to change.

8 A. The SPF, Scottish Police Federation, can entirely be
9 part of that movement for change, the potential they
10 have is enormous, but their support to identify officers
11 who conduct themselves contrary to our values and who
12 act in a racist manner, I would expect that and I think
13 that's right. I think where I was disappointed at the
14 Scottish Police Federation after I had made my statement
15 was they said, you know, they didn't consider --
16 initially they said they didn't consider institutional
17 racism and institutional discrimination existed and
18 actually by me saying that it had damaged officers and
19 made officers vulnerable. I don't think that came to
20 being. I think actually over -- as I recall, their
21 position slightly altered over the weeks when there was
22 greater understanding and clarity about what I was
23 talking about. I was talking practices, policies,
24 process, cultural issues that are endemic to the
25 organisation and actually again it was important, very,
26 very important to recognise that and then make the

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1 change, Federation have an important role, a really
2 important role. I'm very supportive of a strong and
3 supportive Scottish Police Federation. Their role is
4 for the efficiency of the service and the welfare of
5 officers. They are there as a critical eye on policing
6 and, you know, they will give whoever the chief
7 constable is in the senior team feedback on many issues
8 and that's right and proper but I do think that they
9 would be crucial to this acceptance of institutional
10 racism, institutional discrimination to make the
11 progress that we need. And they need to look to
12 themselves; they need to look how representative they
13 are; they need to look how they are mobilising. And
14 again I would encourage them to do what I think they are
15 doing, they're beginning to move forward, but they
16 certainly need to be part of the challenge round about
17 improving the culture of the Police Service of Scotland
18 because they have leadership responsibilities back to
19 what I expected, I required of officers and staff,
20 everyone, to bring this organisation forward, to bring
21 policing forward as a vocation and as a core public
22 service, for it to be antiracist, that everybody had to
23 take that responsibility. Every single officer, every
24 single member of staff, every structure, every
25 organisation within the service had to be proactive in
26 identifying, recognising and addressing it and I think

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1 the Scottish Police Federation have enormous potential
2 in this area if they were mobilised and directed in the
3 right way.

4 Q. Thank you. Could you give me a moment, please? Thank
5 you very much I have no further questions.

6 LORD BRACADALE: Are there any rule 9 applications?

7 Sir Iain, thank you very much for coming to give
8 evidence to the Inquiry and for your personal commitment
9 to the Inquiry, I'm very grateful for that. We're going
10 to adjourn now and you'll then be free to go. Adjourn
11 until 10 o'clock on Tuesday morning.

12 (3.56 am)

13 (The hearing was adjourned to 10.00 am on Tuesday, 2 July
14 2024)

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