

## Transcript of the Sheku Bayoh Inquiry

Friday, 28 June 2024.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(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.

## Transcript of the Sheku Bayoh Inquiry

1 A. That's right.

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

4 A. That's correct.

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

8 A. That's correct.

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

10 A. Correct.

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

13 A. That's right.

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

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

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

18 A. Yes.

19 Q. -- in April 2015?

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

23 A. I retired in the August and a matter of weeks thereafter  
24 in October I was asked to take on the role of officer in  
25 overall command of a series of investigations and

## Transcript of the Sheku Bayoh Inquiry

1 reviews that relate to The Troubles in Northern Ireland.  
2 It had been extant for about six years, but it still had  
3 a period to run. The person that had been in charge of  
4 that had moved to a new role, in fact as a chief  
5 constable in the PSNI, and I was asked to take on that  
6 role, which I did and I have been more or less fully  
7 immersed in that since October of last year and in fact  
8 this week I have been in Ireland all of this week prior  
9 to today.

10 Q. Thank you. Thank you for coming.

11 A. No, thank you.

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

14 A. That's correct.

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

19 A. Yes.

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

25 A. That was our ambition, yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. That was your ambition. And then on 23 June last year,  
2 again your senior counsel made interim closing  
3 submission again on your behalf as Chief Constable  
4 and as core participant?
- 5 A. That's correct.
- 6 Q. Now, I think in your Inquiry statement, which I will  
7 come to, in paragraph 1 you say you remain committed to  
8 the terms of those submissions?
- 9 A. Yes, that's correct.
- 10 Q. And then this year the Inquiry were in touch with you,  
11 the Inquiry team, and they sent you what we've come to  
12 know as a Rule 8 request, which is a written request to  
13 answer some questions and that was -- well, let's have  
14 that on the screen, it's SBPI 00595, and I won't be  
15 going through this in detail, and that's 11 -- that is  
16 from 11 April 2024 and that's when the Inquiry asked you  
17 for a written statement. And you'll know and you have  
18 in front of you a blue folder and there should be a hard  
19 copy of that Rule 8 request in there for you and in my  
20 addition your response to that, which is SBPI 00596?
- 21 A. That's right.
- 22 Q. And you'll see that on the screen. That's a response to  
23 the Rule 8 request by Sir Iain Livingstone, QPM, and you  
24 should have that hard copy in your folder?
- 25 A. I do, thank you.

## Transcript of the Sheku Bayoh Inquiry

1 Q. As we go through your evidence today, I will -- I will  
2 ask you to refer to certain things and we'll have  
3 paragraphs of your statement or maybe other documents on  
4 the screen and you're very welcome to just follow me on  
5 the screen. However, if you prefer to look at your  
6 statement in hard copy, you have one available. If  
7 there's anything else that you think we should have that  
8 would help you give your evidence today, then please  
9 simply tell me. If I don't have it on the playlist and  
10 it can't be shown on the screen immediately, we'll get  
11 it at the next break?

12 A. Thank you.

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

17 A. Yes.

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

20 A. Yes.

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

23 "I believe the facts stated in this witness  
24 statement are true. I understand this statement may  
25 form part of the evidence before the Inquiry and be

## Transcript of the Sheku Bayoh Inquiry

1 published on the Inquiry's website."

2 And when you signed the statement, you understood  
3 that was the position?

4 A. Yes.

5 Q. Thank you. And can we look at the final paragraph of  
6 your statement, final paragraph 21, and you say:

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

9 And we will come on to that. We have heard  
10 something about the Policing Together strategy from  
11 Fiona Taylor.

12 A. Yes.

13 Q. But you say:

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

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

22 A. Yes, it is.

23 Q. Please feel free to do so.

24 A. Thank you, counsel.

25 Again, I would just wish to confirm what I said in

## Transcript of the Sheku Bayoh Inquiry

1 my statement that my respect for Sheku's mother and  
2 sisters, Adi, and the family for the dignity you have  
3 shown, the courage you have shown and the commitment you  
4 have made to seeking truth and it's one that I share  
5 with you.

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

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

21 A. That's correct.

22 Q. -- on 25 May last year. And I wonder if we could have  
23 that on the screen in front of us, SBPI 00460. And what  
24 I would like to do is take you through some of the  
25 elements of this statement and then ask you some further

## Transcript of the Sheku Bayoh Inquiry

1           questions. So if we look at the screen, it's quite  
2           small print, but I'll be reading it out and we'll count  
3           the paragraph numbers as we go through. So the first  
4           paragraph says:

5                        "Scotland's Chief Constable Sir Iain Livingstone QPM  
6           addressed the matter of institutional discrimination in  
7           policing at a meeting of the Scottish Police Authority  
8           board today (Thursday, 25 May)."

9           And then second paragraph is:

10                        "His statement is in full below."

11           And the first paragraph is:

12                        "I have been the Chief Constable of Police Scotland  
13           for six of our ten years and have been a police officer  
14           holding the office of constable for over 30 years. As  
15           such, I have a deep and personal sense of duty and  
16           responsibility for leading, shaping and representing an  
17           institution of which all the people of Scotland should  
18           be hugely proud."

19           Do you see that?

20           A. Yes.

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

23                        "Institutional racism."

24                        "Institutional racism, sexism and institutional  
25           discrimination..."



## Transcript of the Sheku Bayoh Inquiry

1                   Do you see that paragraph there?

2           A.   I do, yes.

3           Q.   "... have become iconic terms in the vital battle to  
4           tackle injustice.  Police officers and staff, including  
5           police leaders, can be conflicted both in acknowledging  
6           their existence and in using such terms, fearing it  
7           would unfairly condemn dedicated and honourable  
8           colleagues or that it means no progress has been made  
9           since the nineties.  Truly, I recognise and understand  
10          that conflict.  I have experienced that conflict myself  
11          over a number of years."

12                   And if I can pause there first of all.

13          A.   Yes.

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

17          A.   I think the essence that I'm getting at is how the  
18          phrase "institutional racism" or "institutional  
19          discrimination", as I say in my statement to the police  
20          authority, had become iconic, but it had also become  
21          controversial and there was a feeling within policing,  
22          but often beyond, where in my judgment what  
23          institutional racism meant was misrepresented.  And it  
24          was misrepresented as being a condemnation of officers  
25          and staff as being racist, where actually if you said an

## Transcript of the Sheku Bayoh Inquiry

1           organisation was institutionally racist, that means that  
2           that organisation is full of racists. That's not what  
3           it means at all. But that sense of if you declare it  
4           you will be subject to those accusations is something I  
5           think that made policing as a whole defensive around  
6           recognition of something that I think to be palpable and  
7           to be clear.

8           Then the other matter that was part of the conflict,  
9           and we used to discuss this, I have been a member -- a  
10          senior police officer for many years and as a chief  
11          constable in Association of Chief Police Officers, as it  
12          was, and then now the National Police Chiefs' Council  
13          across the United Kingdom, this matter was often subject  
14          to robust debate and some of the resistance to the  
15          acknowledgment of institutional racism, it was often  
16          articulated with a feeling that to do so would suggest  
17          that there had been no progress since the early  
18          nineties, there had been no progress since  
19          Stephen Lawrence's death in 1993 or the  
20          Macpherson Report in 1999.

21          And what we all know, what I know, is that that's  
22          not the case, thankfully, and, you know, something we  
23          need to embrace and we need to recognise policing has  
24          moved on enormously in those 30 years. The makeup of  
25          policing, the values of policing, the cultures of

## Transcript of the Sheku Bayoh Inquiry

1           policing is far different from what it was when I joined  
2           in the 1990s and I'm an individual who I always respect  
3           the past, but I won't romanticise it and, believe me,  
4           policing in terms of how it relates to its fellow  
5           citizens, how it treats its own officers and staff, even  
6           that phrase, there's no sense of a divide or second  
7           class citizens between being a police officer or member  
8           of police staff, there has been a massive improvement in  
9           police culture and how the service relates to its  
10          communities, how it provides policing service and also  
11          how it operates internally.

12                 So that progress has been hard earned and it  
13                 definitely has been achieved. However, however, more  
14                 needs to be done and I think that was the conflict that  
15                 there was a sense if you do declare policing or you  
16                 declare your own particular service to be  
17                 institutionally racist, institutionally discriminatory,  
18                 you would be unfairly condemning your colleagues,  
19                 because that's how it would be represented in the media  
20                 and that was how it was at times after I made my  
21                 statement, but I knew that would be the case.  
22                 Nevertheless, it had to be said.

23                 And secondly, there would be the suggestion or this  
24                 inference that little progress had been made since 1993,  
25                 where we all know that enormous progress has been made

## Transcript of the Sheku Bayoh Inquiry

1           and that's a good thing, a good foundation, but our  
2           understanding of these issues is far greater now and it  
3           was absolutely crucial, I think, that although progress  
4           had been made, more had to be done and a starting point  
5           to that progress was an acknowledgment and recognition  
6           of institutional racism and institutional  
7           discrimination.

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

11                 "Police Scotland has grown into an organisation  
12                 known to be compassionate values-based and highly  
13                 competent. It is well-regarded nationally, extremely  
14                 well-regarded internationally, but I know it can improve  
15                 and it must improve."

16                 And was that a recognition that although progress  
17                 has been achieved, there must be continued endeavours to  
18                 make further improvements and progress?

19           A. Absolutely, and that covers many areas. You know,  
20           Police Scotland has to improve in many elements of the  
21           service it provides, but it has achieved enormous  
22           amounts in ten years. I think the nature of a national  
23           police service is that there is an awful lot of focus on  
24           challenges and issues within it, but on a comparative  
25           basis, whether it's to do with levels of public trust,

## Transcript of the Sheku Bayoh Inquiry

1           whether it's to do with detection rates, whether it's to  
2           do with homicide investigation, whether it is to do with  
3           how we respond to major incidents and major  
4           international events, on an international comparative  
5           basis, I think policing in Scotland stands in high  
6           regard, but much more needs to be done.

7           Similarly with our culture, similarly with our  
8           approach to equality diversity and inclusion, progress  
9           has been made. It's important to recognise that, but  
10          that should be a driver for further improvement and to  
11          make sure that the organisation becomes as good as it  
12          can be.

13         Q. Thank you. And you have spoken of this conflict and you  
14         have explained your views on that. How long were you  
15         aware of this conflict between the definition of  
16         institutional racism and the way that was being  
17         perceived and the possible impact that would have on  
18         Police Scotland?

19         A. The issues round the murder of Stephen Lawrence, it's  
20         almost -- I joined the police service in 1992 and  
21         Stephen was murdered in South London in 1993. And, yes,  
22         it was within London, it was within the  
23         Metropolitan Police, but the impact of that that murder,  
24         of the failed investigation and the, you know, the  
25         absolutely shocking revelations that came from the

## Transcript of the Sheku Bayoh Inquiry

1 Macpherson Inquiry were ones that reverberated across  
2 British police and UK policing for many, many years.

3 That commitment to equality, diversity and inclusion  
4 was something that after the Macpherson Report was  
5 certainly adopted with rigour within the legacy -- the  
6 police services in Scotland. There was acceptance of  
7 institutional racism within the legacy forces at that  
8 time and much progress had been made. So the  
9 Macpherson Report and the challenges for policing  
10 I think have been a constant.

11 Where the challenge was as time passed, as years and  
12 decades passed, the question came back, well, does your  
13 organisation remain institutionally racist? Is policing  
14 institutionally discriminatory? And this is where, as I  
15 said, I referred earlier to some discussions I was  
16 involved at a national level in Chiefs' Council where  
17 there were very varied views on that and actually, as an  
18 organisation, when the birth of Police Scotland came  
19 into being, we were looking to bring together these  
20 legacy organisations, massively intense programme of  
21 change. I think we were unprecedented in particular  
22 Scottish public life and yet, at the same time, maintain  
23 our ability to provide that level of service.

24 And I have said a number of times in the early years  
25 of Police Scotland we probably didn't spend enough time

## Transcript of the Sheku Bayoh Inquiry

1 looking at our culture, you know, valuing our people,  
2 considering how we would structure ourselves as an  
3 organisation. So the debate and the discussion around  
4 institutional racism had not, if you like, remained high  
5 in the public eye or high within the agenda at that time  
6 when Police Scotland came into being. Now, that with  
7 hindsight that's wrong, should never have lost that  
8 level of focus.

9 But then as, you know, nationally, internationally,  
10 we go back to the growth of the Black Lives Matter  
11 movement, you had other issues in terms of violence  
12 against women and girls, other issues in terms of  
13 equality and diversity, you had the Me Too movement,  
14 these issues rightly started to become prominent again  
15 and were discussed within policing, discussed within the  
16 public sphere and required us again to look hard at  
17 ourselves and to look hard at the organisation and  
18 assess whether, you know, those institutional matters  
19 remained.

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

25 Q. And so when you became chief constable in August 2018

## Transcript of the Sheku Bayoh Inquiry

1           you were then at the top of the service and were in a  
2           position to start directing change --

3           A. Yes.

4           Q. -- as an individual?

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

7                     "As chief constable and leader of the organisation  
8           it was my decision to state that the Police Service of  
9           Scotland was institutionally discriminatory and  
10          institutionally racist."

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

13                    "Ultimately, the decision to make the statement was  
14          mine as chief constable and I was solely accountable for  
15          it."

16                    And does that remain your position?

17          A. Yes, that's correct.

18          Q. Thank you. Could we look at paragraph 12, please. And  
19          there you're talking about the statement you made on  
20          25 May 2023 was a statement of reality:

21                    "Recognition that institutional racism and other  
22          forms of institutional discrimination exist within  
23          Police Scotland was a fundamental step forward towards  
24          being an inclusive service where equality and fairness  
25          are clearly evident for your officers, staff and for all



## Transcript of the Sheku Bayoh Inquiry

1           our fellow citizens who we serve. My professional  
2           experience has shown that people from different  
3           backgrounds or with different requirements do not always  
4           get the service from their police service that is their  
5           right. For similar reasons, our own officers and staff  
6           do not always have the experiences and support that they  
7           deserve as public servants. It is an institutional  
8           matter when an organisation does not have all the  
9           necessary policies, processes, practices and systems in  
10          place to ensure these things do not happen. Publicly  
11          acknowledging that these institutional issues exist was  
12          essential to ensuring public confidence and fairness."

13            You've said earlier today that it doesn't  
14            necessarily mean that everyone in the organisation is a  
15            racist, to admit institutional racism does not mean  
16            everyone is racist or all the officers are racist?

17          A. It doesn't mean that at all. It's separate from  
18          individuals. This is an institutional structural  
19          matter.

20          Q. But you would presumably agree that if an organisation  
21          is institutionally racist that that will perhaps create  
22          opportunities for individuals to act in a manner that  
23          amounts to discrimination, and we're obviously  
24          interested in racist discrimination; would you agree  
25          with that?

## Transcript of the Sheku Bayoh Inquiry

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

3       Q. No, no.

4       A. I think that policing is reflective of life. Police are  
5       the public and the public are the police. I think  
6       that's particularly true in Scotland and that's a great  
7       virtue, but like any organisation people will have  
8       discriminatory views, people will have values that are  
9       not consistent with the very clear stated values of the  
10      organisation that they're in.

11             Racism or any form of discrimination, as manifested  
12      by an individual, would always be, you know, robustly  
13      and strongly condemned and actually that level of  
14      condemnation, you know, when that was done, that for  
15      some people, people thought, well, that was enough. If  
16      we see racist conduct on an individual, we take really  
17      robust steps to counter that, that shows that the  
18      organisation takes this matter seriously. I think that  
19      is important, but I don't think it's enough.

20             What's also important is to look at the structural  
21      institutional matters, some of it inadvertent, just as  
22      the Macpherson definition tells us. It could be  
23      thoughtlessness and that could be in terms of internally  
24      how we treat people of colour, how we treat women  
25      officers, women members of staff, and also how we deal

## Transcript of the Sheku Bayoh Inquiry

1           and provide a policing service to the communities that  
2           hold us to account.

3           So the individual conduct where of discriminatory or  
4           racist conduct would never be -- never be condoned,  
5           would always be condemned and actually very robustly so,  
6           but that's not enough in itself. I think it's also  
7           important to recognise some of these institutional  
8           matters and important to distinguish them.

9           Q. If an organisation is institutionally racist, would you  
10          accept that if an individual expresses a racist view,  
11          for example, that that organisation may not be as robust  
12          as it could be when it comes to condemning or preventing  
13          or minimising the expression of those racist views by an  
14          officer?

15          A. I'm not sure that is a logical conclusion. Genuinely,  
16          as I say actually, I think if anything people could say  
17          we're not institutionally racist and I'll tell you why  
18          we're not, because look how robust we take -- look how  
19          severely and firmly we respond to racism when it  
20          manifests itself. I think you need to be robust in  
21          dealing with that, but actually this is something that's  
22          less overt. This is something that you need to look at  
23          actually the impact and some of those impacts are not  
24          always clear or not always obvious.

25          Q. So do you consider that an institution being

## Transcript of the Sheku Bayoh Inquiry

1           institutionally racist or an organisation being  
2           institutionally racist can be completely separate from  
3           individual acts of racism by an officer?

4           A. I think they're two different issues. I think they are  
5           two different issues. Both of them require robust  
6           measures, both of them require acknowledgment, both of  
7           them need an institutional and a force wide -- a  
8           leadership response to that, but in my judgment we are  
9           talking about different issues.

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

14          A. Potentially, yes, potentially. I think that is the  
15          potential, but, again, what I would say, and I say that  
16          in my statement, I don't think that's unique to  
17          policing.

18          Q. No.

19          A. I think, you know, I have been in different  
20          organisations, different -- I think that's something  
21          that it's by definition a lot of those institutional  
22          challenges are not clear to you. You have to really  
23          look hard, you know, look hard at that mirror and it can  
24          be uncomfortable and I think what we've done within the  
25          Police Service of Scotland has been difficult and,

## Transcript of the Sheku Bayoh Inquiry

1 internal and external, it's been a difficult message in  
2 terms of institutional racism and institutional  
3 discrimination for people to recognise or for people to  
4 accept, but it's absolutely the right thing to do. It  
5 gives us a foundation to go and address some of those  
6 issues that are difficult to do, but I do think --  
7 policing doesn't exist in a bubble. We are reflective  
8 of other institutions, reflective of Scottish society as  
9 a whole.

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

19 A. I think it would increase how clear the absolute  
20 intolerance around any level of discriminatory conduct,  
21 behaviour, language, attitude would be, but actually  
22 I think it would be even more important than that.  
23 Actually, it would also make sure that some of the  
24 unforeseen consequences whether it's on recruitment,  
25 whether it's on training, whether it's on career

## Transcript of the Sheku Bayoh Inquiry

1 opportunities that exist internally and then also about  
2 how we are able to go and deal with increasingly adverse  
3 communities that we serve.

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

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

22 "It can be seen or detected in processes, attitudes  
23 and behaviour."

24 So if we concentrate on behaviour:

25 "Behaviour which amounts to discrimination

## Transcript of the Sheku Bayoh Inquiry

1 through... "

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

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

16 So the behaviour of the individual thoughtlessness  
17 or racist stereotyping that leads to disadvantage, yes,  
18 that's the behaviour of an individual, but actually the  
19 organisation, the institution, the chief constable, has  
20 to bear some of the responsibility for that  
21 stereotyping, if we haven't trained our officers  
22 properly, if we haven't recruited them, if we haven't  
23 ensured that our policies and practice do everything to  
24 obviate such conduct.

25 So it is related to the individual, but there's an

## Transcript of the Sheku Bayoh Inquiry

1           obligation responsibility I think is what I'm trying to  
2           say to you.

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

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

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



## Transcript of the Sheku Bayoh Inquiry

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

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

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

22 A. Yes, it was. As I said at the outset, the death of  
23 Stephen Lawrence in 1993 and the report by Sir William  
24 Macpherson certainly within policing has been the  
25 foundation upon which, you know, a lot of the work that

## Transcript of the Sheku Bayoh Inquiry

1           we've sought to progress on equality, diversity and  
2           inclusion has been built.

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

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

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

13           A. Yes.

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

18           A. Yes.

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

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

## Transcript of the Sheku Bayoh Inquiry

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?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

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

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

19 Now, we accept our officers are everything from if  
20 they're dealing with an offender, somebody who  
21 potentially is involved in shoplifting in Princes Street  
22 today, well, are they the victim of human trafficking,  
23 are they subject to labour exploitation, have they got  
24 neurodiversity issues that we're not aware of, have they  
25 got dependency issues? Our officers and staff now, they

## Transcript of the Sheku Bayoh Inquiry

1 think that way, they have these challenges. The truth  
2 is when I was a young officer, they were a shoplifter,  
3 we take them, charge them and we deal with them.

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

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

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

## Transcript of the Sheku Bayoh Inquiry

1           assist and they try to, as best they can, deal with  
2           people who are in mental crisis and awareness is given  
3           and greater support is done for that, but it's daily  
4           business, it's an enormous challenge for policing that.

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

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

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

## Transcript of the Sheku Bayoh Inquiry

1 service, with health professionals, it's an enormous  
2 issue of public -- beyond policing, it's an enormous  
3 issue of concern.

4 But the police service and police officers, again,  
5 highly demanding role and high expectations on them to  
6 go and deal with them and the vast majority of the time  
7 they go and do a remarkable, remarkable job dealing with  
8 people in crisis and bringing safety and compassion to  
9 them.

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

12 A. Because in the absence of any other agency or  
13 capability.

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

19 A. That was my position and it was one that, again, I had  
20 conflict with. I will be really candid. These are not  
21 absolute certainty we're not going to do that, we're  
22 going to do this, because I did know that there's  
23 enormous demands on officers and staff. There's  
24 everything from new legislation that comes in that puts  
25 extra demands on policing and there's numerous examples

## Transcript of the Sheku Bayoh Inquiry

1 of that, growth in terms of public protection  
2 vulnerabilities, a growth in public police in cyber  
3 crime. You know, the demands on policing grow and grow  
4 and grow and there was a sense that actually we can't  
5 meet those, because we're too engaged in dealing with  
6 mental health calls.

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

14 Q. Thank you. Looking again at the paragraph on the  
15 screen:

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

19 And again, this appears to be a direct quote from  
20 your --

21 A. Yes.

22 Q. -- statement about institutional racism. And would it  
23 be correct to say that the experience that officers have  
24 that they deserve a better experience as public  
25 servants, they're not receiving that, not all of them



## Transcript of the Sheku Bayoh Inquiry

1           are receiving that, would that be correct to say that  
2           those factors can include race, some of the reasons why  
3           their experience is not what they deserve is due to  
4           issues of discrimination including race?

5           A. Absolutely.

6           Q. And can you tell us if you were considering or thinking  
7           of any specific examples that you were aware of that fed  
8           into your ultimate decision to make a statement?

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

16          Now, we had initiated this work, Fiona had initiated  
17          this work and, again, you know, Fiona's leadership in  
18          this area was exceptional and highly, highly committed.  
19          Fiona had initiated this work prior to then Dame Elish  
20          Angiolini being commissioned to the government to go and  
21          look at the handling of complaints in Scotland and that,  
22          again, was far reaching. But Dame Elish's work, when  
23          she conducted it, she also heard the number of focus  
24          groups or meetings, whatever they were described, and  
25          the feedback that she got, again, was consistent with

## Transcript of the Sheku Bayoh Inquiry

1 individuals saying that whether it was career  
2 opportunities, whether it was people not remaining in  
3 contact because they were returning from maternity  
4 leave, whether it was access to specialist roles and  
5 access to promotions, support and networks, whether  
6 there was a lack of empathy because of some domestic or  
7 family responsibility that an individual had, that again  
8 might be related to a particular background or  
9 characteristics that they held.

10 So there was quite a body of feedback and awareness  
11 that actually it was very clear to us, very clear to us  
12 that officers and staff from minority groups were not  
13 getting the experiences and support that they deserved.  
14 So there was a number of what I would call information  
15 sources that made it very clear to me.

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

18 "Police Scotland were committed to regularly and  
19 actively challenging and changing our own policies and  
20 procedures to eradicate unwitting bias."

21 And would that also include the other elements that  
22 are mentioned in the Sir William Macpherson definition,  
23 thoughtlessness, ignorance and racial stereotyping?

24 A. Yes.

25 Q. And what -- at the time you were still chief constable,

## Transcript of the Sheku Bayoh Inquiry

1           what were Police Scotland doing to regularly and  
2           actively challenge their own policies and procedures to  
3           eradicate this?

4           A. Well, that was an element of our overall overarching  
5           approach to equality, diversity and inclusion, which is  
6           captured, for shorthand, we were calling Policing  
7           Together. There was almost -- as I said at the outset  
8           of the evidence, there has always been a lot activity in  
9           this area. In terms of equality, diversity and  
10          inclusion there has been working groups, there has been  
11          focus groups, there has been a response to a particular  
12          review or incident, but at this time, you know, with a  
13          lot of discussions and reflections that I was having,  
14          particularly with Fiona Taylor, but with other senior  
15          colleagues as well with other diversity staff  
16          associations, reflections on what was happening, as I  
17          said, across the UK and internationally for that matter,  
18          we strongly felt we needed to have a coordinated and  
19          disciplined approach to making progress in this area.

20                 And that would include a review of, you know,  
21          standing operating procedures, it would include a review  
22          of our policies and practices and that is an element of  
23          the work that we would seek to do to ensure constantly  
24          that our equality and human rights impact assessments  
25          were accurate, were valid, that may be we've carried --

## Transcript of the Sheku Bayoh Inquiry

1           we've assessed that three years ago, but our knowledge  
2           and understanding is greater now. We need to go around  
3           that process again and make sure with the experience  
4           that we've got or with the knowledge that we've got or  
5           with insight from some individual, either within the  
6           organisation or without, to make sure that that bias is  
7           eliminated.

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

9           A. Sorry, yes, yes. And it will, you know -- I would hope  
10          that that is something that continues. To me it's a  
11          constant need to update and to challenge and review.

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

17          A. Yes.

18          Q. "The phrase, the terminology, however, can be and often  
19          is misinterpreted or is misrepresented as unfair and  
20          personal critical assessments of police officers and  
21          police staff as individuals.

22                 "That is not the case.

23                 "Does institutional discrimination mean our police  
24          officers and police staff are racist and sexist? No.  
25          It absolutely does not. I have great confidence in the

## Transcript of the Sheku Bayoh Inquiry

1 character and values of our people. I am proud of  
2 Police Scotland and I am proud of my colleagues and  
3 proud of my officers and staff.

4 "So I know and I have shared the reservations and  
5 concerns about acknowledging that institutional racism  
6 exists in policing. However, it is right for me, the  
7 right thing for me to do as chief constable, to clearly  
8 state that institutional racism, sexism, misogyny and  
9 discrimination exist. Police Scotland is  
10 institutionally racist and discriminatory. Publicly  
11 acknowledging these institutional issues exist is  
12 essential to our absolute commitment to championing  
13 equality and becoming an antiracist service. It is also  
14 critical to your determination to lead wider change in  
15 society.

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

21 And I'm interested in this final part of that  
22 chapter that I have heard:

23 "Prejudice and bad behaviour within policing, as  
24 highlighted by court and conduct cases, various  
25 independent reviews and by listening to our own officers

## Transcript of the Sheku Bayoh Inquiry

1           and staff over recent years, is rightly of great concern  
2           and is utterly condemned."

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

8           A. Yes, I mean I'm being categorical and I have mentioned  
9           I think already this morning about that individual  
10          behaviour of racism or misogyny or anybody acting with  
11          any level of prejudice, you know, it's without  
12          qualification has to be condemned. And we have seen  
13          that, you know, we have seen that in conduct cases, we  
14          have seen that in the experience that officers and staff  
15          have had that at times can come through employment  
16          tribunals, can come through civil processes, can come  
17          through a whole host of mechanisms and means.

18          And we I think as a service were very robust on  
19          that. We have at times been challenged through that  
20          court process in terms of judicial review and other  
21          processes and we always felt, I always felt that, you  
22          know, we need to be true to your values and we need to  
23          support that so there was a very robust determination,  
24          ultimately, by the Lord Justice Clerk, Dorrian, where a  
25          group of what had been probationary officers were

## Transcript of the Sheku Bayoh Inquiry

1 sharing wholly inappropriate material with each other  
2 and that was challenged in terms of how Police Scotland  
3 were dealing with that on the basis of personal privacy  
4 and other matters, but our position was that that is  
5 wholly unacceptable and must be condemned and,  
6 ultimately, was supported by the court.

7 So that was one example of that that. Again, it's  
8 in the public domain. But there was a whole serious of  
9 things, some sort of less profile than that, but a  
10 number of issues that had come to your concern that made  
11 it clear that the idea that prejudice and bad behaviour  
12 didn't exist is nonsense, it does exist, and we need to  
13 take robust steps to deal with it.

14 Q. This was a recognition by you that prejudice and bad  
15 behavior, such as racist behaviour, did exist in  
16 Police Scotland and there were individuals that had been  
17 subject to conduct cases and we're obviously interested  
18 in racism, but criminal cases and there were civil  
19 cases, including a judicial review which we've heard  
20 some evidence about, where wholly inappropriate material  
21 was being shared. We've heard that was -- included  
22 racist material or racist comments being made. And that  
23 was a recognition by you that you were not suggesting  
24 that no examples of racism existed in Police Scotland?

25 A. Not at all. And again, it comes back to the discussion

## Transcript of the Sheku Bayoh Inquiry

1           we had earlier that, you know, an individual who acts in  
2           a racist, sexist discriminatory manner has no place in  
3           policing and there's a constant history of that being  
4           challenged and, again, that must continue, just as it  
5           would be unacceptable in any organisation that had  
6           strong values and that had public service at its heart.

7           So absolutely, it existed. I think was I was being  
8           categorical in the condemnation of prejudice and bad  
9           behaviour, because I think that level of condemnation  
10          goes hand in hand with recognition of some of these  
11          institutional matters, which, as I said earlier, I think  
12          is a different issue, there's obviously alignment, but I  
13          do think it's a different issue.

14         Q. And your expectations in terms of, leaving aside for the  
15          moment aspects of criminal behaviour, behaviour that may  
16          amount to criminality --

17         A. Yes.

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

21         A. Well, as the chief constable, you know, as you will be  
22          aware, the disciplinary process I delegate that through  
23          regulations -- through 2014 Regulations to a Deputy  
24          Chief Constable, in this instance DCC Fiona Taylor and,  
25          thereafter, there's a -- independent chairs are



## Transcript of the Sheku Bayoh Inquiry

1           appointed from within policing and there's a process  
2           that has to be determined, but it's very clear I  
3           wanted -- and I was very clear in terms of my standards  
4           and expectations of conduct within the police service  
5           that any level of discriminatory conduct, racism,  
6           misogyny was wholly unacceptable.

7           Now, on any particular case, it would be a matter  
8           for that particular tribunal, it would be a matter for  
9           that particular chair, if there were mitigations  
10          explanation, I don't know. But in general terms, I  
11          needed to be very clear that this was utterly condemned  
12          and, you know, that example of people, you know, on  
13          WhatsApp groups or wherever sharing wholly inappropriate  
14          memes, just disgusting language and jokes, as far as I  
15          was concerned, they shouldn't have any place in  
16          policing.

17         Q. We have heard evidence from Fiona Taylor about the 2014  
18         Regulations to do with conduct and we understand that  
19         the responsibility for that is delegated effectively and  
20         appointed in terms of at the Regulations at the time it  
21         was to -- not at the time of Mr Bayoh's death, but from  
22         the point at which Fiona Taylor took on the role was  
23         2018 and she was responsible for that side of things.  
24         So if I'm correct in understanding her evidence, you  
25         were not involved in individual decisions on that

## Transcript of the Sheku Bayoh Inquiry

1 matter, that responsibility lay with Fiona Taylor?

2 A. It lay with Fiona Taylor and the system as regulated by  
3 the 2014 Regulations.

4 Q. Yes. And am I right in saying you obviously have said  
5 "racism would be wholly unacceptable, utterly  
6 condemned," would your expectations have been -- I think  
7 you used the word "robust" earlier. What would your  
8 expectations have been in terms of the way the 2014  
9 Regulations were used and relied on by Police Scotland  
10 to deal with issues of racism by individual officers?

11 A. Well, as I said again in one of my earlier answers, as a  
12 generality, I mean quite frankly zero tolerance for any  
13 level of racist conduct, racist language, but, as  
14 always, out of fairness, it's a fair process, that's  
15 what the Regulations are there for, to look after the  
16 public, the interest of victims. the interest of  
17 complainers, but also the interest of officers who are  
18 subject these processes, there may well be facts and  
19 circumstances that are presented and how that matter is  
20 then disposed of has to be, has to be subject to  
21 particular facts and circumstances of that case and the  
22 independence that the Chair of the tribunal has. But as  
23 a generality, I was categorical in my condemnation of  
24 that type of behaviour.

25 Q. Thank you.

## Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: Sorry to interrupt again. Just going back  
2 to the discussion we had earlier referring to  
3 Macpherson's definition and the concept of unwitting  
4 prejudice and racist stereotyping, now, if you find  
5 examples of these among your officers, is that a matter  
6 to be dealt with as misconduct.

7 A. Not necessarily, Chair. That's why there's a continuum  
8 from, you know, an overt racist violent attack assault  
9 down to, you know, issues of micro-aggression,  
10 thoughtlessness, omission, something that as again  
11 I think I said in my statement it might not necessarily  
12 be intent that lay behind that. So that, again, I would  
13 approach to police conduct or approach to police  
14 behaviour and discipline goes right across that  
15 continuum. Some of it might be there's a training need,  
16 there's a management intervention, there's some  
17 mechanism taken and in the Conduct Regulations would  
18 apply at the more serious end of that scale.

19 THE ARBITRATOR: Thank you.

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

22 A. Yes.

23 Q. And if what you said a moment ago about zero tolerance  
24 to racism, how does that sit with the idea that  
25 micro-aggressions are perhaps treated at a lesser or

## Transcript of the Sheku Bayoh Inquiry

1           less serious level than the assault, the racist assault  
2           that you described at the upper level?

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

17          Q. If there is a microaggression, we have heard they can  
18          cause harm and upset, would you accept that also?

19          A. Absolutely.

20          Q. And it may be there was no intent or no conscious intent  
21          to harm or upset someone as a result of that, but in  
22          terms of taking a zero tolerance approach and trying to  
23          correct issues where they exist, why -- can you explain  
24          why dealing with matters as conduct matters in terms of  
25          the regulations would not be possible, whilst at the

## Transcript of the Sheku Bayoh Inquiry

1 same time taking account of thoughtlessness?

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

14 But right across that whole continuum, there needs  
15 to be action, there needs to positive action. That's  
16 why I was encouraging the antiracist. There is actually  
17 a proactive responsibility on the sergeant, on  
18 somebody's colleague. If somebody has done something,  
19 you know, you have just said something that's offended  
20 an individual; I didn't mean to do that; well, this is  
21 what you said; oh, thanks for pointing it out; I'm sorry  
22 about that, and address it there at the time. That  
23 wouldn't necessarily be a matter of conduct. The  
24 proportionately of that, the necessity of that would  
25 fail, but the faculty that you still have not let it

## Transcript of the Sheku Bayoh Inquiry

1 pass, if we can get the culture right, and that's what  
2 we're seeking to do by encouraging people to be  
3 proactive, by encouraging people to take ownership and  
4 leadership in this area, whatever position they have in  
5 the organisation.

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

15 A. I think it's the confidence to do the right thing as  
16 well is -- I think the use of your word "confidence"  
17 I think is right. I do think that. I think there  
18 wasn't enough investment in our first-line supervisors,  
19 our sergeants, the people -- the core individuals who  
20 would pull an individual up if they were had misjudged  
21 something or they had acted in a poor manner.

22 And I have reflected on that so I have said I was --  
23 as you outlined at the beginning, I was a deputy chief  
24 constable from 2012, so a matter of months even before  
25 the new organisation came into being, I was part of the

## Transcript of the Sheku Bayoh Inquiry

1           senior team and in the early years we undoubtedly spent  
2           a lot of time looking at consistency and conformity, it  
3           was policy, it was process, it was quite operationally  
4           focused and we didn't -- and it's a statement of fact  
5           and I'm not pointing the finger at anyone else, I was a  
6           member of the senior team but, you know, it was an  
7           enormously challenging transition and transformation  
8           that was ongoing, many demands and a lot of public  
9           focus.

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

22           Q. And is the hope that if that work continues that that  
23           will improve the culture of Police Scotland and improve  
24           the confidence of individuals to raise the issues such  
25           as micro-aggressions, examples of exclusion?

## Transcript of the Sheku Bayoh Inquiry

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

23                 When I would appoint new sergeants, I would say to  
24          them, now, remember, I don't know, I'm not sure, what do  
25          you think, these are good leadership behaviours, so that



## Transcript of the Sheku Bayoh Inquiry

1           there's a sense of collaboration and, although you are  
2           in leadership role, you have got responsibility to  
3           listen and act with humility in that leadership role.  
4           So that's work in progress and needed initiated, but it  
5           was there because there it was there to address some of  
6           the issues that you were suggesting, counsel.

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

12          A. It would be assessed by within the Professional  
13          Standards Department.

14          Q. Right.

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

20          Q. All right. So even at the level of micro-aggressions,  
21          your expectation would be that there would be a  
22          consideration and an assessment by the Professional  
23          Standards Department and we've heard from Fiona Taylor  
24          that in terms of the Regulations, those initial  
25          assessments I think were under Regulation 10 and they

## Transcript of the Sheku Bayoh Inquiry

1           were carried out by the PSD; is that correct?

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

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

7           A. Yes.

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

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

23                 Undoubtedly, undoubtedly, the work of the Inquiry  
24          had focused my mind and my thinking. We had established  
25          a professional reference group of experts, we had

## Transcript of the Sheku Bayoh Inquiry

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

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

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

## Transcript of the Sheku Bayoh Inquiry

1 the right time to do.

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

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

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

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

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

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

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

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

25 "I established a dedicated chief officer role to be

## Transcript of the Sheku Bayoh Inquiry

1 assigned to the Policing Together portfolio to drive the  
2 change and it was inclusive to many officers and staff  
3 from diverse backgrounds in a way that had never  
4 previously existed."

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

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

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

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

## Transcript of the Sheku Bayoh Inquiry

1 Q. We've heard evidence from a Professor Meer, and I'll  
2 summarise his evidence, but essentially there is an  
3 issue when people in an organisation who have enthusiasm  
4 and passion to drive something forward, they leave, they  
5 retire, they move on to different roles and the impetus  
6 can be lost.

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

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

22 A. The nature of policing, and I suppose organisations such  
23 as policing, it that there is a turnover of leadership.  
24 I served for over 31 years, I had spent six years as a  
25 chief constable, it was time for me as an individual and



## Transcript of the Sheku Bayoh Inquiry

1 my family to move on, but I didn't retire thinking  
2 everything that I had wished to achieve or the progress  
3 I wished to make had been made, but what I did think and  
4 I do think is that we had laid the foundations. I think  
5 that was part of the reason I made the statement that I  
6 did, the reason the creation of the Policing Together  
7 portfolio.

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

18 And again, I think I recently saw in the public  
19 domain that promotions of a number of new assistant  
20 chief constables, including Assistant Chief Constable  
21 Cat Paton, to take forward Policing Together, again  
22 another officer I have known for many, many years, has a  
23 fantastic record in terms of driving diversity and being  
24 a role model for senior women police officers. I think  
25 Catriona, as I understand it, now has the lead for

## Transcript of the Sheku Bayoh Inquiry

1 Policing Together, so there is a -- when a generation  
2 retires, there's -- there can be a slight gap in that  
3 transition but, you know, more people will step forward  
4 and they'll bring fresh impetus and they'll bring fresh  
5 commitment to that and, you know, I have certainly in  
6 Catriona's role as ACC for Policing Together I have got  
7 great confidence in her integrity and her commitment.

8 Q. Thank you, I'm conscious of the time. Would that be?

9 LORD BRACADALE: We'll take a 20 minute break now.

10 (11.33 am)

11 (A short break)

12 (11.56 am)

13 LORD BRACADALE: Ms Grahame.

14 MS GRAHAME: Thank you. Before the break we were talking  
15 about the loss of institutional memory and the  
16 retirements and ACC Duncan leaving.

17 Can I ask you about another issue that's been  
18 raised. DCC Spear's statement probably sums up the  
19 situation. You won't have necessarily seen this  
20 statement before. It's SBPI 00624. It's actually a  
21 Rule 8 response. I'm interested in paragraph 143 and  
22 I'll just read it out, first of all, and then I'll ask  
23 you some questions.

24 This talks about the Police Scotland equality,  
25 diversity and inclusion strategy 22 to 26, outlines the

## Transcript of the Sheku Bayoh Inquiry

1 Policing Together vision, strategic outcomes and  
2 commitments:

3 "In January 2023, ACC David Duncan was appointed as  
4 the lead for implementation of the strategy. In  
5 November 2023, Policing Together merged with the  
6 existing partnerships, preventions and Community  
7 Wellbeing, creating Policing Together partnerships and  
8 preventions. This brings together the internal and  
9 external aspects of Policing Together, streamlining the  
10 equality, diversity and inclusion business. On 10  
11 June 2024, ACC Catriona Paton [who I think you mentioned  
12 before the break] will take on the role of Assistant  
13 Chief Constable leading in this space."

14 The section that reads:

15 "In November 2023 Policing Together merged with the  
16 existing partnerships, Preventions and Community  
17 Wellbeing, creating a new title."

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

24 But it was this emerging, the combining of roles, do  
25 you see that as effectively a downgrading where a job

## Transcript of the Sheku Bayoh Inquiry

1           that was held by two senior officers is now combined  
2           into one?

3           A. I would hope not. I mean it is difficult for me to  
4           comment on the current structures within the Police  
5           Service of Scotland. I was the chief constable and I'm  
6           no longer the chief constable. There are extreme  
7           financial pressures on the police service, I think  
8           unfairly, candidly, given the fact that policing has  
9           already reformed and has put an awful lot of money back  
10          into the public purse, but, again, further savings need  
11          to be made.

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

24          Q. And at the time that you have appointed ACC Duncan to  
25          take the lead on this matter before you retired, how

## Transcript of the Sheku Bayoh Inquiry

1           many hours a week or hours a month did you anticipate  
2           him dedicating to leading on this issue?

3       A. I could say every hour of every day would be my  
4           expectation, but -- and I did have that expectation of  
5           senior colleagues, you know. Those that are privileged  
6           to hold a chief officer rank within the Police Service  
7           of Scotland, I do expect for them to bring their whole  
8           personal self to that, as well as their professional  
9           commitment and actually, because of the significance and  
10          importance, you know, I would know that David when he  
11          was in that role would have given that level of  
12          commitment.

13       Q. But that role has now been merged, so would you  
14          anticipate that that merger will result in fewer hours  
15          being spent?

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

24                 And it may well be -- I would probably be not well  
25          place in terms of detail to comment, but it may well be

## Transcript of the Sheku Bayoh Inquiry

1           that there are opportunities of synergy or duplication  
2           or alignment within those other portfolios and I don't  
3           think it will have been done lightly. There will be a  
4           series of reasons to do it, but I personally see it, as  
5           I said earlier and, you know, as -- I am personally  
6           reassured when I heard that Cat Paton was picking up the  
7           responsibility.

8           Q. Thank you. I would like to -- we have touched on  
9           conduct issues and the 2014 Regulations, I would like to  
10          go back to that for a moment. If we could look at  
11          paragraph 3 of your Inquiry statement. Sorry, that's  
12          596. Sorry, it's the very last paragraph of paragraph  
13          3. There we are. Thank you. See the final paragraph,  
14          "staff surveys were conducted"?

15          A. Yes.

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

17                 "This allowed officers and staff to raise any  
18                 concern in an anonymous manner, which would thereafter  
19                 be subject to assessment by the Professional Standards  
20                 Department."

21                 And you were talking here about an anonymous  
22                 reporting line called Integrity Matters?

23          A. That's right.

24          Q. And was this one of the initiatives that Police Scotland  
25          introduced to allow people to -- if perhaps they did not

## Transcript of the Sheku Bayoh Inquiry

1           have the confidence to raise matters in person, they  
2           could raise them anonymously through this  
3           Integrity Matters --

4       A. That's correct.

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

9       A. That's correct.

10      Q. And that was your expectation of what would happen if a  
11         complaint was raised at that time?

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

14      Q. Please do.

15      A. On that point and it was also on the issue around  
16         micro-aggressions as well, the assessment that was  
17         made -- what the Professional Standards would also do  
18         clearly would look to see a pattern, so it might not  
19         just be one. If there was more than one instance  
20         perhaps of reporting, even if there were in relative  
21         terms, and I use it simply as shorthand, a low level  
22         issue, but actually if there was a series of apparently  
23         low level or other issue, well, that would also cause a  
24         level of further inquiry. So just to put that in  
25         context about different instances. I was just

## Transcript of the Sheku Bayoh Inquiry

1 reflecting upon that at the break.

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

6 A. Yes.

7 Q. -- that emerged?

8 A. Yes.

9 Q. And can I ask you about some evidence that we've heard  
10 from Fiona Taylor. Perhaps we could have a look at  
11 Craig Blackhall's statement SBPI 00061. Now, I asked  
12 Fiona Taylor about a comment in this statement, and  
13 I would like to ask you about it as well.

14 So Craig Blackhall, as I understand it, was  
15 superintendent of the Professional Standards Department  
16 between February 2014 and 2019. So he was  
17 superintendent of PSD during the period where Mr Bayoh  
18 died and there was an investigation.

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

20 Q. Yes.

21 A. There was a number.

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

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



## Transcript of the Sheku Bayoh Inquiry

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

4           A. That's right.

5           Q. "The PIRC investigation would take primacy. The  
6           assessment of any possible misconduct wouldn't have been  
7           considered until the outcome of the investigation  
8           [that's the PIRC investigation] because Police Scotland  
9           wasn't conducting the investigation."

10          Do you see that?

11          A. Yes.

12          Q. And I asked Fiona Taylor about this Inquiry statement  
13          that Superintendent Blackhall had given. And certainly  
14          on the face of it it does look like  
15          Superintendent Blackhall was saying that an assessment  
16          of any possible misconduct would not have been  
17          considered until the outcome of the PIRC investigation  
18          and she agreed.

19          And I asked her if that remained the position in  
20          2018 when she took over the role of DCC designate in  
21          terms of the 2014 Regulations and she said she thought  
22          that was still the case, she believed that was the case.

23          A. Okay.

24          Q. I'm interested if this met your expectations in terms of  
25          the Regulations and the -- as you've described before,

## Transcript of the Sheku Bayoh Inquiry

1 the "robust" approach to conduct matters that as soon as  
2 there was a PIRC investigation and PIRC were appointed,  
3 that there would be no consideration of possible  
4 misconduct on the part of the officers under the 2014  
5 Regs by PSD?

6 A. Well, in terms of first principles, when there's a  
7 criminal investigation, that always takes primacy and we  
8 as a service, not only the conduct of individual  
9 officers, but, you know, as I saw it, we as a service  
10 were also subject to that investigation I had experience  
11 of that as chief constable where there is corporate  
12 responsibility, whether the potential around it could be  
13 anything, a statutory offence or certainly anything even  
14 under the Health and Safety at Work etc Act.

15 So the individual officers' conduct was clearly  
16 being subject to independent criminal investigation by  
17 the PIRC under the direction of the crown. But I always  
18 had a view that that potentially would and might include  
19 Police Scotland and, therefore, would include, you know,  
20 the office of chief constable in that. So I don't think  
21 it would have been possible is my view for us to have  
22 been carrying out an investigation if we ourselves were  
23 being subject that investigation.

24 Q. Well, I think the Conduct Regulations specifically  
25 relate to individual conduct, rather than

## Transcript of the Sheku Bayoh Inquiry

1           Police Scotland as a corporate entity.

2           A. Yes.

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

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

11          Q. Yes.

12          A. So you must forgive me, but that would be my  
13          understanding that a criminal investigation of this  
14          magnitude where it's independence takes primacy and we  
15          are not generating statements, we were not carrying out  
16          inquiry, because that wouldn't have been appropriate, so  
17          it would have been very difficult to make any  
18          assessment.

19          Q. Okay. And can you explain what it says here, you know  
20          the comment at the end "because Police Scotland wasn't  
21          conducting the investigation?" That would suggest that  
22          perhaps the position would be different if  
23          Police Scotland was conducting the investigation. So if  
24          Police Scotland are carrying out a criminal  
25          investigation, is -- was the position different? Would

## Transcript of the Sheku Bayoh Inquiry

1           you still expect there to be Regulations -- assessments  
2           under the Regulations or not?

3           A. Well, if Police Scotland were carrying out a criminal  
4           investigation that would always be at the instance and  
5           under the direction of the crown. And again, as I said  
6           earlier, in terms of first principles, that would always  
7           take primacy over any assessment and until those matters  
8           were resolved, either there was proceedings or there was  
9           an intimation that there was going to be no proceedings,  
10          the conduct process, in my understanding, would be held  
11          in abeyance pending the criminality being involved.

12          Q. So your expectation would be that regardless of whether  
13          it was PIRC doing the criminal investigation or the  
14          police doing the criminal investigation, that pending  
15          the outcome of that there would be no assessment of  
16          possible misconduct?

17          A. Well, the assessment might be possible, because the  
18          Police Scotland would have that knowledge, would have  
19          that awareness, they would be taking statements, they  
20          would have a picture of what happened, but the conduct  
21          process would be held until criminality was resolved.

22          Q. Right. So you think there would be consideration -- if  
23          Police Scotland were doing the investigation, although  
24          it's criminal, that there would still be a consideration  
25          and assessment maybe carried out, but proceedings proper

## Transcript of the Sheku Bayoh Inquiry

1           would be deferred pending the outcome of the criminal?

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

3           Q. Thank you. And is the reason for the distinction from  
4           your previous answer because if Police Scotland are  
5           conducting an investigation they have sight of the  
6           evidence, whereas if PIRC are conducting the  
7           investigation, Police Scotland don't necessarily have  
8           sight of that?

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

13          Q. Right. I would like to ask you some more questions  
14          about access to documentation and evidence but before I  
15          do that, you had mentioned before the break that you've  
16          obviously been aware of the evidence before the Inquiry,  
17          you were a core participant and you were taking certain  
18          steps, partly as a result of evidence that you became  
19          aware of that was led before the Inquiry.

20                 We've heard in evidence in the Inquiry in relation  
21          to -- from a PC Geddes, who gave evidence on 22 and 24  
22          June 2020, so a couple of years ago now, and he spoke  
23          about hearing a comment which was "ISIS are staying in  
24          the station". And he was custody officer at the time.  
25          He was in Kirkcaldy police office. He explained that

## Transcript of the Sheku Bayoh Inquiry

1 another officer who had come from Edinburgh was sitting  
2 and made this comment "ISIS staying in the statement",  
3 but at that time there was no one with links to a  
4 terrorist organisation called ISIS within Kirkcaldy  
5 police office and, in fact, if they had links to that  
6 organisation, they would have gone to Glasgow, they  
7 would not have been in Kirkcaldy.

8 Now, you have about taking steps and the journey  
9 towards your statement last year. Were steps taken in  
10 relation to this issue about potentially a racist  
11 comment being made, about ISIS staying in the station,  
12 in connection with a custody in Kirkcaldy? Were steps  
13 taken in relation to conduct proceedings at that time?

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

17 Q. All right. Thank you. I'll come back to the issue of  
18 documentation.

19 We have heard from Fiona Taylor that part of the  
20 difficulty for Police Scotland in relation to assessing  
21 matters in regard to conduct were that they had never  
22 had sight of the PIRC report, because it was a crown-led  
23 investigation by PIRC. And we have heard from others  
24 that where it's a crown-led investigation by PIRC that  
25 the report is in the ownership, if I can say, of the

## Transcript of the Sheku Bayoh Inquiry

1 crown.

2 A. Yes.

3 Q. Do you have thoughts now looking back on whether it  
4 would -- we have heard that the position is different if  
5 it is a chief constable-led investigation. Would it be  
6 of any benefit to Police Scotland to have sight of the  
7 PIRC report at a stage, as you would if it was a chief  
8 constable-led investigation by PIRC? Do you think you  
9 would benefit from having sight of the PIRC report at an  
10 earlier stage?

11 A. I think, and again, I don't know the circumstances of  
12 what was shared with PSD or not, but I think it would,  
13 because even in terms of efficiency, if the PIRC have  
14 carried out a thorough investigation and there's  
15 forensic evidence, there is specialist evidence, CCTV  
16 has been captured and other evidential sources and the  
17 crown have determined independently that there is no  
18 criminality, well, that matter, rather than  
19 Police Scotland, if you like, having to start again and  
20 go and reinterview all the other witnesses and seek to  
21 pick up the productions and other materials, I think  
22 there's a logic to suggesting that that would be in  
23 the -- it would help the process and probably be in the  
24 interests of justice.

25 Q. And so once the matter of criminality had been resolved,

## Transcript of the Sheku Bayoh Inquiry

1           it would certainly be more efficient and in the  
2           interests of justice in your view that the PIRC report  
3           be shared with Police Scotland?

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

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

11      A. Hm-hmm.

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

15      A. No.

16      Q. No. Were you --

17      A. I -- I very deliberately was, you know, if you like,  
18          remaining independent of the process. I didn't have  
19          responsibility for conduct matters. You know, I was  
20          involved in the consultation about whether a public  
21          inquiry was to be established or not and, again, at all  
22          times, was, if you like, allowing the process to take  
23          its course.

24      Q. Right. Can I move on to paragraph 6 of your Inquiry  
25          statement, please. And the part that says "I have never



## Transcript of the Sheku Bayoh Inquiry

1 heard any comments."

2 Here we are:

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

7 And I think you have mentioned that earlier today.

8 A. Yes.

9 Q. "Such matters would be addressed and investigated with  
10 the utmost priority and seriousness."

11 And I think you have explained how that would be  
12 your expectation of PSD and the way that racist comments  
13 or racist matters would be dealt with by  
14 Police Scotland.

15 A. Yes.

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

19 A. Yes.

20 Q. -- that no conduct proceedings have been initiated or  
21 instigated against any of the officers who attended  
22 Hayfield Road and were involved with the incident with  
23 Mr Bayoh. Fiona Taylor's expectation, as I understand  
24 her evidence, and obviously it will be a matter for  
25 the Chair, is it would be potentially considered after

## Transcript of the Sheku Bayoh Inquiry

1           the conclusion of the inquiry, or, and I don't think she  
2           had considered this possibility until she was here,  
3           until after the crown reviewed their position and  
4           consider matters again.

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

17          A. Yes.

18          Q. -- where matters have not been resolved, they have not  
19          been considered, they haven't been assessed, and the  
20          family still have that uncertainty. Does this match  
21          your expectation of the Police Standards Department and  
22          what is being done under the 2014 Regulations?

23          A. Well, I don't think it's to do with my expectation of  
24          the police standards and the Regulations. It's probably  
25          that my frustration at this is the overarching process

## Transcript of the Sheku Bayoh Inquiry

1 and system and the delays that have been there.

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

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

19 Now, prior to coming into the public inquiry,  
20 I wasn't aware of a lot of the information, a lot of the  
21 facts and circumstances that happened in May 2015 and  
22 nor should I, be because it was an independent inquiry  
23 and, as I said earlier, potentially as the chief  
24 constable I was subject to that inquiry as matters may  
25 have progressed.

## Transcript of the Sheku Bayoh Inquiry

1           So I do think the delay is excessive and prejudicial  
2           potentially and unsatisfactory for the family, for the  
3           officers involved and for the wider public interest, but  
4           how to -- what the resolutions for those delays is I'm  
5           not clear in my own mind how that could be unpicked.  
6           I think it would be possible to do it, but certainly at  
7           the moment I think the Professional Standards Department  
8           were -- I don't think there was anything other than good  
9           faith how they were acting, because they felt that there  
10          were other processes and other forums that had primacy  
11          over any assessment that they might carry out.

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

18         A.   I can and the time issue round about conduct matters I  
19               think can be problematic. I know, and I'm talking in a  
20               generality here, forgive me, again, I don't have this  
21               specific information, but, for example, I know in  
22               Regulations in England and Wales there's a so-called  
23               fast-track process. This is sort of -- almost I'm  
24               saying this in passing, my point being that there are  
25               mechanisms to try and speed up some of those process.

## Transcript of the Sheku Bayoh Inquiry

1 I think our mechanisms, our process are -- is clear from  
2 the experience that we've had since 2015 that we don't  
3 have those mechanisms to maybe add a bit of speed into  
4 it. So I'm sure it would be able to be done.

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

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

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

## Transcript of the Sheku Bayoh Inquiry

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

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

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

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

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1           the Act, but the responsibilities that they had prior to  
2           2012 in terms of the review of complaints and the access  
3           a member of the public would have continued as well, so  
4           that's a unit again.

5       Q.   The complaints handling part?

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

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



## Transcript of the Sheku Bayoh Inquiry

1 concerns? So that's the role that they both have and  
2 it's quite -- it's an active role.

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

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

16 A. Yes.

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

22 A. Yes.

23 Q. And Lord Woolman noted in his opinion that the PIRC gave  
24 this Inquiry, as he put it, "short shrift". And I think  
25 Fiona Taylor agreed PIRC did not consider questions of

## Transcript of the Sheku Bayoh Inquiry

1 misconduct to be part of their role and so they simply  
2 declined. They said that's not part of our role to  
3 consider misconduct.

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

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

15 Q. Right.

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

22 An alternate view, the one that was upheld, was  
23 actually the rights of the officers are such that can't  
24 be prevented, but the different relationships and the  
25 assessment of it, I don't know how that would play into

## Transcript of the Sheku Bayoh Inquiry

1 Lord Woolman's determination.

2 Q. All right. Thank you. Can I ask you about another  
3 matter. This is after the assessment of Lord Woolman.  
4 This is in 2019. Can we look at page 3 of your  
5 statement, paragraph 4, and you say that -- sorry:

6 "In my experience when a complaint was made our  
7 Professional Standards Department acted with exceptional  
8 professionalism and integrity in a transparent and  
9 highly professional manner."

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

19 "We can confirm that we represent the family of the  
20 late Sheku Bayoh [and they mention the individuals] who  
21 have instructed us to prepare the following complaint  
22 for your attention. You will no doubt be aware of the  
23 circumstances in which Mr Bayoh died. Today is the  
24 fourth anniversary of his death in police custody and  
25 the matter is presently being considered by the

## Transcript of the Sheku Bayoh Inquiry

1 Lord Advocate's Office on the basis of the victim's  
2 right to review after a four-year investigation."

3 And then it specifically mentions the opinion of  
4 Lord Woolman, the petition for judicial review and  
5 givings a link to that opinion.

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

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

20 I don't recall when it went out. When I see the  
21 letter in front of me, I don't recall reading it. It  
22 may well be, because of the profile of the case, I would  
23 have been aware of the anniversary that, you know,  
24 Mr Anwar had written a letter of complaint in and the  
25 matter will be dealt and that would have been my

## Transcript of the Sheku Bayoh Inquiry

1 awareness. But I, candidly, and, again, forgive me,  
2 five years on I don't recall -- I don't recall that, but  
3 my expectation would have been that this letter would  
4 have been, you know, referred into Professional  
5 Standards and would have been dealt with, I hope with a  
6 degree of priority, given the significance of Sheku's  
7 death.

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

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

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

16 A. Okay.

17 Q. Or any of your knowledge about that, but just saying  
18 that to give you that context that that was ongoing, it  
19 was presently being considered. Do you have any  
20 recollection of being -- of speaking to the  
21 Lord Advocate about this complaint against that  
22 background or being asked to defer consideration of the  
23 complaint until a later time?

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

25 Q. All right.

## Transcript of the Sheku Bayoh Inquiry

1 A. Was it Mr Wolffe at the time?

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

3 A. No, I don't.

4 Q. All right.

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

6 Q. Thank you very much. I would like to move on to another  
7 document, please, if I may. It's SBPI 00643. And this  
8 is an interim report of the Equality, Diversity,  
9 Inclusion and Human Rights Independent Review Group, the  
10 IRG, and it's a report that was given to the SPA in May  
11 of 2023. It was given to them 23 May.

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

15 A. Yes.

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

21 "Either way PSD was seen as critical in setting the  
22 tone and concern was raised about how consistent it was  
23 in addressing EDIHR issues."

24 And I understand would that mean equality, diversity  
25 and inclusion HR issues?

## Transcript of the Sheku Bayoh Inquiry

1 A. And human rights.

2 Q. Human right.

3 A. Equality -- it could be either, but I would think it  
4 would be human rights.

5 Q. "It was suggested that the department needed a deeper  
6 knowledge of equality, diversity, inclusion and human  
7 rights issues and how they manifest or are breached in  
8 workplace settings. There was also a view that PSD were  
9 more prepared to act where there were breaches involving  
10 an element of criminality, but less prepared to address  
11 issues of misconduct involving aspects of discrimination  
12 related to protected characteristics."

13 And I wonder if you have any comment on this. This  
14 is obviously in May of last year when you were chief  
15 constable, you're giving your statement about  
16 institutional racism, and it would appear that the IRG  
17 are saying that PSD are less prepared to act regarding  
18 issues of misconduct involving aspects of  
19 discrimination, which would include issues of race,  
20 which is obviously our focus.

21 A. Yes.

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

24 A. Well, I think it's the view within this report from the  
25 IRG. So again, I wasn't sighted on what lay behind that

## Transcript of the Sheku Bayoh Inquiry

1 view, I wasn't sighted on what evidence they took or  
2 steps they took to determine that, but, nevertheless,  
3 you know, if that was their view and their perception,  
4 it's something that would have concerned me definitely.

5 Q. Yes. And is that something that you would have wanted  
6 to see addressed?

7 A. Absolutely.

8 Q. If that was accepted?

9 A. If -- yes, absolutely.

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

14 A. Yes.

15 Q. Was that something that you were aware of that further  
16 training has been given?

17 A. I was aware that there were a number of steps being  
18 taken within PSD to improve their capability and to  
19 improve their skills. I touched upon one being a  
20 centralisation of the investigation, so there was  
21 greater independence and that there was, I suppose, the  
22 CPD days, you would call it in a way, continuously  
23 professional development, that actually just to maintain  
24 the fact that professional standards were so important  
25 to public confidence, were so important to protecting



## Transcript of the Sheku Bayoh Inquiry

1 the integrity of the organisation that it was important  
2 that they themselves were trained.

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

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

10 A. Yes.

11 Q. -- at matters, including matters within Police Scotland,  
12 such as the Professional Standards Department. Is that  
13 your understanding of the --

14 A. Yes, this is something that, you know, Fiona -- to her  
15 great credit, Fiona had spent some time within the  
16 Metropolitan Police within the professionalism portfolio  
17 as well and was a great advocate for independent  
18 scrutiny and oversight and having that at times can be  
19 quite difficult messages to hear.

20 Now, sometimes, you know, there might be a  
21 perception that's an inaccurate one, but it doesn't  
22 matter, that's what the view is, that's what this  
23 independent group have determined and, therefore,  
24 inviting that level of independence in, as we did with  
25 the IRG, again, was a change in our, you know, almost

## Transcript of the Sheku Bayoh Inquiry

1           traditional culture of looking to establish review  
2           groups or establish working groups and maybe have some  
3           independent advisors, but it would always -- it would  
4           still be always police run.

5           This was something that was given to the IRG and,  
6           again, I credit Fiona for doing that and it brought that  
7           level of independence and challenge that you're  
8           outlining just now.

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

10          A. Yes, I think it was.

11          Q. -- to the SPA?

12          A. Yes, I think it was an interim report. I genuinely  
13          think it was coincidental it was on the same day. It  
14          was just in the business, if you like. This work was  
15          coming through the SPA at an appropriate time and, you  
16          know, when I speak at a Police Authority, I give my  
17          report and I decided that that was the day I was going  
18          to say it.

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

24          A. No, I'm not actually specifically commenting on 511.

25          I'm just saying, you know, a group that was brought in

## Transcript of the Sheku Bayoh Inquiry

- 1           you have to take -- that's their view.
- 2           Q. Right.
- 3           A. And as a general principle, if you like, the
- 4           potential -- sometimes when you do that there's an awful
- 5           lot of learning, there's an awful lot of hard truths
- 6           told, but sometimes for different reasons, there are
- 7           conclusions reached that are not valid, but then that's
- 8           fine, we can deal with them. That doesn't alter the
- 9           value of the independent scrutiny.
- 10          Q. I perhaps misunderstood the reference to inaccuracy, but
- 11          is there a challenge in any event for individuals, and
- 12          perhaps in this case individuals working within PSD,
- 13          Professional Standards, to accept the views of the
- 14          Independent Review Group where they are critical --
- 15          A. Yes.
- 16          Q. -- of the approach?
- 17          A. I think that's what I alluded to earlier. That's the
- 18          value of it. It can be -- I think anybody -- anybody in
- 19          their professional life, somebody come and ask an
- 20          independent group to come and give you feedback, you
- 21          know, you have to be prepared to take it, but that's the
- 22          strength I think, the fact that we did that.
- 23          Q. And so you viewed that as a strength. Is this part of
- 24          the process of making improvements in regard
- 25          particularly in relation to racial discrimination?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes, definitely.

2 Q. And could we go back, please, to look at paragraph 3.6.

3 I should have come to that first:

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

6 And then they state there's five bulletpoints there:

7 "Internal policies, reviews, reports and  
8 administrative data produced by Police Scotland.

9 "External reports and reviews, including relevant  
10 HMICS thematic inspections and ongoing reviews conducted  
11 outwith Scotland.

12 "Interviews and discussions with a range of key  
13 personnel in senior managerial roles.

14 "Specialist units and representatives of the  
15 diversity staff associations and the Scottish Police  
16 Federation.

17 "Interviews and group discussions with officers and  
18 staff across a sample of four divisions, three  
19 geographic and one operational and observations of the  
20 delivery of training courses."

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

23 A. Yes.

24 Q. Was this part of how it was set up that they would be in  
25 a position to seek out information from a number and a

## Transcript of the Sheku Bayoh Inquiry

1 range of areas within and external to Police Scotland?

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

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

11 "There was a widespread view that while  
12 discriminatory attitudes were far from a thing of the  
13 past in Police Scotland, there had been a marked shift  
14 over the past decade. However, our interviews with both  
15 key interviewees and divisional staff revealed instances  
16 of ongoing discrimination against minoritised  
17 communities, including firsthand accounts of racism."

18 And was this something of concern to you when you  
19 read it?

20 A. Absolutely.

21 Q. And so does that -- the first line, first sentence, is  
22 that consistent with what you are saying earlier that  
23 whilst discriminatory attitudes were far from a thing of  
24 the past that perhaps there has been a marked shift,  
25 they have said over the past decade, you have talked

## Transcript of the Sheku Bayoh Inquiry

1           about from your perspective a shift over the 30 years  
2           that you had in the police service?

3           A. It is consistent with that. I mean I was giving that  
4           timeframe, because I suppose that takes us back to the  
5           murder of Stephen Lawrence and, you know, the  
6           significance of the Macpherson meaning within policing.  
7           And again, it's similar to the fact that there has been  
8           progress and that should be recognised, but there's  
9           still more to do. So I felt that was consistent with  
10          what I was saying and what I was speaking publicly  
11          about.

12          Q. And at the time this report was sent to SPA, it would  
13          appear that the IRG had conducted interviews with key  
14          interviewees and divisional staff and those had revealed  
15          instances of ongoing discrimination and accounts of  
16          racism at that time.

17                 Were you aware of the underlying evidence that the  
18          IRG had available or was that something that was truly  
19          independent from even you?

20          A. It was independent from me, but, again, it was  
21          consistent with the findings that Dame Elish had had  
22          from some of her focus groups. It was consistent,  
23          importantly, with a lot of the findings that we had from  
24          the focus groups and the feedback sessions that we had  
25          asked for where, you know, our senior team had sat with

## Transcript of the Sheku Bayoh Inquiry

1           officers from, you know, minoritised communities using  
2           the IRG language and asked them what's you're  
3           experience, officers and staff, how has it been, what  
4           you are your concerns? And that was why we were putting  
5           such energy into the Policing Together work.

6           That work had been initiated before Elish had come  
7           in and did her work, because that was a bespoke piece of  
8           work that government had commissioned on complaints.  
9           But all of these elements, you know, this was part of  
10          the awareness of the challenges and issues we need to  
11          take forward and actually that's why I saw the  
12          determination of institutional racism and institutional  
13          discrimination as being almost a foundation for that.  
14          You need to acknowledge it. Once you have acknowledged  
15          it, it allows you then to go forward and through the  
16          Policing Together work and other steps start to address  
17          these concerns that the IRG reflected as well.

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

19                 "Our interviews also suggest that those who do not  
20                 experience everyday forms of discrimination equate this  
21                 to an absence of occurrences of discrimination within  
22                 the workplace. During the next phase of the review, we  
23                 will seek to build as accurate a picture as possible of  
24                 the current extent and prevalence of such experiences  
25                 within the service."

## Transcript of the Sheku Bayoh Inquiry

1           And I wonder if reflecting on what's said there and  
2           the comment in your own statement to the Inquiry that we  
3           looked at earlier where you don't see or you didn't see  
4           when you were chief constable examples of racism, do you  
5           think that could be an explanation that not -- you're  
6           not experiencing it yourself as chief constable. One  
7           may say officers would be on their best behaviour if you  
8           were in the vicinity.

9           A. Yes.

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

14          A. Yes, and I think I recognise it in my statement that,  
15          you know, that -- talked about earlier about these  
16          WhatsApp groups and whatnot. These were brought to my  
17          attention. Now, never -- exactly as you suggested,  
18          counsel, they would never manifest themselves openly in  
19          front of me, but the fact that there was this, you know,  
20          the fact that you don't see it -- I also think this  
21          relates I think as well to the -- to the experience that  
22          an individual has.

23                 So you know -- so a woman officer may well know and  
24                 have experience all sorts of overt and indirect misogyny  
25                 over their service and have had to have overcome them



## Transcript of the Sheku Bayoh Inquiry

1           and deal with them in different ways, but they might not  
2           necessarily have observed racism, because it's what you  
3           see and what you experience and that's why it was  
4           challenging for me -- I think again I said in my  
5           statement, you know, when you're in a senior position,  
6           you don't necessarily see your organisation with that  
7           level of clarity and you need to be challenging around  
8           that and you need to be as honest with yourself as you  
9           can and not -- not be defensive.

10           So I think when I made this statement about  
11           institutional racism and institutional discrimination,  
12           overwhelmingly there was support from officers and staff  
13           colour, officers and staff who are women, gay officers  
14           and staff, because they had that experience that is  
15           referred to there and some of the at times quite  
16           aggressive pushback and criticism that I received came  
17           from people who, again, as it says, didn't see it,  
18           didn't experience it and, therefore, said it didn't  
19           exist.

20           So I actually thought, candidly, that what happened  
21           after I said my statement actually corroborated to an  
22           extent some of my concerns and why we needed to say it,  
23           why we needed to make sure that we drive it forward and  
24           don't allow people to be in denial and ask people to  
25           genuinely consider what we mean by institutional racism.

## Transcript of the Sheku Bayoh Inquiry

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

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

15 Q. Thank you. Can we move on to paragraph 5.2, please.  
16 This is early insight -- governance and insight I should  
17 say. There was -- there was an awareness gap -- sorry,  
18 I can't even it. I must be on the wrong paragraph, but  
19 luckily it is almost time for a short break -- oh, yes,  
20 it is there. I'm just not seeing it. Yes, 5.2:

21 "Our overall impression is that there is a clear  
22 understanding of and belief in the Executive's  
23 commitment to the EDIHR agenda. However, we have also  
24 been left with a strong impression of an awareness gap  
25 between those responsible for oversight and leadership

## Transcript of the Sheku Bayoh Inquiry

1           and the reality on the ground, in particular, the  
2           ownership of the agenda at middle management level."

3           Which they define as sergeant, inspector and chief  
4           inspector. I wonder if you have any thoughts about that  
5           comment about the existence of that middle management  
6           level and the existence of an awareness gap?

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

18          And therefore, the responsibility as a chief  
19          constable, it's a leadership responsibility, is to close  
20          that gap and part of the way we did this was through, I  
21          mentioned earlier, our Your Leadership Matters work  
22          where we put the need for that leadership firmly at the  
23          heart of the curriculum that we introduced. There was,  
24          you know, encouragement messages from myself and other  
25          members of the senior team. There was explanatory

## Transcript of the Sheku Bayoh Inquiry

1 material provided into this middle management level to  
2 try to ensure that they would address it, they would see  
3 the purpose and they would see the significance of what  
4 I was saying and what the organisation was seeking to  
5 do.

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

18 So that gap is one that exists. The leadership  
19 responsibility is to take the organisation, take the  
20 organisation where it needs to get. Even if at times  
21 some of those people within it don't want to get there,  
22 the leadership responsibility is to take that middle  
23 management level, support them, but make sure that we  
24 move the organisation forward and that's where the  
25 leadership training and other elements that are



## Transcript of the Sheku Bayoh Inquiry

1 creation of the executive post to lead the Policing  
2 Together Programme will be addressing these matters and  
3 we will be closely monitoring the effectiveness and  
4 impact of this work. We shall be reporting on this in  
5 the coming reports."

6 Can I ask you about a number of things here,  
7 "operationalisation of strategy" what does that actually  
8 mean?

9 A. Well, I never wrote the report.

10 Q. As a concept.

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

18 Now, in my view, there's always a challenge for any  
19 change, whatever the strategy relates to, but in actual  
20 fact, although there are challenges, this is one of the  
21 virtues of the single service. I worked as a senior  
22 police officer under the legacy arrangements and trying  
23 to get consensus for the right direction between eight  
24 forces was almost possible and then if there was -- if  
25 it was then going to be implemented, there would be

## Transcript of the Sheku Bayoh Inquiry

1 different around interpretations around implementation.

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

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

17 A. Absolutely.

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

25 A. Absolutely, and when I made the statement, again, there

## Transcript of the Sheku Bayoh Inquiry

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

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

17        A. Yes.

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

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



## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

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

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

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

## Transcript of the Sheku Bayoh Inquiry

1 believe was rightly being taken forward through the  
2 coherence of the Policing Together work.

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

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

18 Q. And to quote from your statement about institutional  
19 racism, you said:

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

24 And was it part of your view that there would be  
25 some sort of mechanism where you could measure whether

## Transcript of the Sheku Bayoh Inquiry

1           the steps you were taking and the new procedures you  
2           implemented were having a positive impact both on  
3           communities, but also internally for staff?

4           A. Yes.

5           Q. And you have mentioned data and information and key  
6           performance indicators, were these the types of tools  
7           that would be used to measure whether experiences were  
8           improving?

9           A. They would be. They would give us indication, not --  
10          I don't think any single one source would be definitive,  
11          but it would be -- it would be cumulative to get us to  
12          that outcome that you described, which is the trust and  
13          confidence of the communities that we serve.

14          Q. And then finally, the final part of that paragraph there  
15          talks about:

16                 "The creation of the executive post to lead the  
17                 Policing Together Programme will be addressing these  
18                 matters and we [ie IRG] will be closely monitoring the  
19                 effectiveness and impact of this work and will be  
20                 reporting on it in the coming reports."

21                 Was it part of your vision that IRG would have a  
22                 role in this monitoring of the steps that were being  
23                 taken, the strategy being implemented and how it was  
24                 evaluated?

25          A. Yes, it would provide that independence and that

## Transcript of the Sheku Bayoh Inquiry

1 feedback that we would need.

2 Q. And was it your expectation that that would be a  
3 continuous process --

4 A. Yes.

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

6 LORD BRACADALE: Did you put any timescale on reaching  
7 certain milestones of achievement?

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

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

24 LORD BRACADALE: Thank you.

25 MS GRAHAME: Thank you. Can we move on to paragraph 5.7,

## Transcript of the Sheku Bayoh Inquiry

1           please. You will see this is dealing with complaints  
2           and grievance and the IRG write at 5.7:  
3            "In her report Dame Angiolini (as she was then)  
4           commented on the need to improve frontline resolution  
5           and increase the use of less formal avenues to reduce  
6           conflicts. At this stage in our review, our impression  
7           is that the tendency to jump straight to formal  
8           grievance processes, without the opportunity to pursue  
9           mediation, persists with the consequential significant  
10          administrative burden. For senior managers this can be  
11          a drain on time and resource, which prevents a clearer  
12          focus on driving improvement."

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

15          A. I think I alluded to this earlier when you were asking  
16          about issues on microaggression and why were they not  
17          taken as formal conduct issues. I think this actually  
18          reflects that the -- the matters I think I was  
19          reflecting upon myself in as much that we were trying to  
20          give confidence to our leaders, our managers within the  
21          organisation to deal with something that's right in  
22          front them and not to go into this formality, whether  
23          it's grievance, whether it's conduct. Because we know  
24          that that then creates structure and process when  
25          actually at times that's needed, because it's

## Transcript of the Sheku Bayoh Inquiry

1           proportionate to the issue of the mischief that we're  
2           seeking to address, but at other times it could be a  
3           misunderstanding, it could be a lack of awareness. And  
4           actually, that potential for looking to mediate or to  
5           bring earlier resolution was something we were keen to  
6           do and that, again, is linked into the training and the  
7           Your Leadership Matters work that we were looking to do  
8           to give our senior line managers and sergeants and  
9           others the confidence to take those early resolution  
10          points that are mentioned at 5.7.

11         Q. And so this came from the report in 2020 by  
12           Lady Angiolini and was the service considering whether  
13           introducing the option of mediation might produce a  
14           resolution quicker, faster to improve communication  
15           between the individuals involved?

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

23           And similarly with complaints from a member of the  
24           public, again, an explanation, if done properly, if done  
25           at the right time, and an expectation that an

## Transcript of the Sheku Bayoh Inquiry

1           understanding from the officer involved in terms of  
2           their learning and improvement, often that was the best  
3           solution for all. And again, it would mean that there  
4           wasn't this excessive process-driven approach that at  
5           times was unsatisfactory.

6           So I think both on grievance and on conduct trying  
7           to get early resolution and using matters such as  
8           mediation and other tools I think was something as a  
9           direction we were keen to go.

10          Q. A recognition that perhaps the Conduct Regulations may  
11          not be the only option to resolve issues that arose  
12          within the service?

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

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

16                 "Alternatively, we encountered a degree of  
17                 scepticism and even outright fear about raising concerns  
18                 at all, either informally or formally, because it can  
19                 just lead to the person being moved and the issue being  
20                 avoided. We've heard of people being punished for  
21                 raising issues or concerns, for example, being sidelined  
22                 within teams or moved to a less convenient location."

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

25          A. That's the feedback the IRG have received. They've



## Transcript of the Sheku Bayoh Inquiry

1 obviously been speaking to officers and staff and then,  
2 you know, presenting it in the report. And I would  
3 recognise that and at times I said the scepticism and  
4 fear about raising a concern, because often it was  
5 quickly formalised. I sometimes think it's because it's  
6 almost the keep yourself right type of approach, if you  
7 like well. If I put this on paper and I deploy a formal  
8 process, whether it's grievance or conduct, I would be  
9 difficult -- it would difficult for me to be criticised  
10 thereafter so I don't -- I understand why that could be  
11 done, but it's not necessarily the best approach, not  
12 necessarily best approach for the person who has raised  
13 the concern or the grievance or even raised it, as it's  
14 said here, informally.

15 But people in leadership positions who are subjected  
16 to high levels of scrutiny, a number of whom, as I said,  
17 had not had the training that we should have provided  
18 and we were seeking to address that and we did address  
19 that, at times if you're not confident in your own  
20 judgment to do the right thing and to assess it, well,  
21 actually it can lead to a more -- not the most  
22 appropriate solution for the issue at hand.

23 I think that was consistent with, again, other  
24 discussions that we have had today as well about how we  
25 want to move to allowing people to do the right things,

## Transcript of the Sheku Bayoh Inquiry

1 to address things early and improve things, rather than  
2 unnecessarily creating a burden.

3 Q. And do you think those changes being implimented would  
4 also help individuals who may have a concern or an issue  
5 who may be facing racism of some description, but fear  
6 raising the matter for potentially being punished or  
7 sidelined or moved to a less convenient location or  
8 matters of that sort, so it would have some sort of  
9 detrimental impact on their career, and would the  
10 changes you are suggesting would it be your hope that  
11 they would minimise this concern that individuals may  
12 have?

13 A. In an ideal world the optimum it would eliminate it.  
14 Because somebody raises a concern legitimately, if it's  
15 of magnitude, well, again, processes would put in place,  
16 there would be support structures in place, but even  
17 something, as we're talking earlier, a microaggression  
18 or, again, a relatively -- relatively low level concern,  
19 the sooner that's addressed and dealt with, the better  
20 for everyone involved.

21 And, you know, we were encouraging people to step  
22 forward. You know, not only encouraging people, we were  
23 saying that's your duty. That was what lay behind right  
24 at the outset of the public inquiry my desire for us to  
25 be antiracist. It's a proactive responsibility that one

## Transcript of the Sheku Bayoh Inquiry

1           has, every member of the organisation, to raise a  
2           concern. And actually it's not good enough to say,  
3           well, that wasn't the right thing to do, but I didn't  
4           want to say anything and we as an organisation needed to  
5           create a culture that people would be recognised for  
6           that and supported it, because that is for everyone's  
7           interest. It will make the organisation better and,  
8           ultimately, allow us to provide a better service to the  
9           public.

10          Q. And for those who -- would you hope, ultimately, that  
11          Police Scotland would reach a stage where those raising  
12          concerns, legitimate concerns, regarding racism that  
13          raising that would not have any detrimental impact on  
14          their career?

15          A. Absolutely.

16          Q. Yet, would you also want to make sure that anyone who is  
17          engaging in racist behaviour is dealt with  
18          appropriately?

19          A. Again, absolutely.

20          Q. Could we look at paragraph 4.9:

21                 "We also heard of poor behaviour being known and  
22                 seen in plain sight with no action being taken; a  
23                 vicious circle of the personnel affected not having the  
24                 confidence to report concerns; peers not speaking up and  
25                 managers not taking action, exacerbated where the

## Transcript of the Sheku Bayoh Inquiry

1 concern relates to a manager."

2 Does this cause you concern that this is something  
3 the IRG are saying they're hearing of that type of  
4 behaviour?

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

9 Now, the IRG are reporting on this. These are their  
10 instances of this. I think it would be incorrect to  
11 represent this as being the norm. I think, you know,  
12 there are some instances where action was taken, where,  
13 you know, the people did step forward, but if there was  
14 a lack of confidence and it wasn't happening all the  
15 time or every time or it was happening -- it wasn't  
16 happening on a number of occasions that is really  
17 concerning. But again, as I said, that was what lay  
18 behind the changes we were wishing to make was to  
19 address that and ensure that it didn't continue.

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

22 "We encountered significant concerns about the  
23 absence of effective performance-management systems  
24 during the first decade of Police Scotland's existence.  
25 Middle managers (sergeants, inspectors, chief

## Transcript of the Sheku Bayoh Inquiry

1 inspectors) were considered to be the most neglected in  
2 this regard and at the same time the most important in  
3 helping to understand and shape culture on the  
4 frontline."

5 Do you recognise this criticism by the IRG?

6 A. Again I, think I described that earlier this morning,  
7 counsel, when the ten years or the early years of  
8 Police Scotland we didn't invest in our people in terms  
9 of their wellbeing, their training, their capability.  
10 You know, we didn't invest in that against other  
11 competing priorities at the time. And when I, you know,  
12 came into the role of chief constable, you know, I said  
13 that on a number of public occasions. That paragraph at  
14 5.14, you know, candidly reflects thing I'd said myself  
15 and I may have discussed that with members of the IRG.

16 Q. And at 5.15 it says:

17 "We heard repeatedly that people are not assessed,  
18 trained to be managers, and that promotion is secured by  
19 demonstrating technical skills and experience. Middle  
20 managers were described as the sponges who had to absorb  
21 issues from the top and bottom, resulting in pressing  
22 and competing workloads, with insufficient training and  
23 guidance."

24 And we have heard evidence in the Inquiry about  
25 officers who were acting up or in temporary roles, but

## Transcript of the Sheku Bayoh Inquiry

1           who perhaps had not gone through training in relation to  
2           carrying out those duties and those roles. Again, what  
3           concerns did you have about this? Do you recognise this  
4           as an issue?

5           A. Similar to what I said above, that describes the gap  
6           that we were seeking to address through the Your  
7           Leadership Matters work that we initialed. This report  
8           was in 2023 and we had kicked off the leadership  
9           training programme to ensure that our superintendents or  
10          sergeants or chief inspectors or people who are  
11          mentioned here were given that support that they hadn't  
12          been given in the early years when the new organisation  
13          was coming together where we were delayering management  
14          levels. But I was conscious that there was a gap that  
15          we were promoting people into roles, asking a lot of  
16          them, often giving them technical training on their  
17          specific discipline or their specific area of work, but  
18          actually the leadership training and the management  
19          training on how to deal with individuals had -- had been  
20          neglected.

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

25          Q. Can we look at 5.18, please. This is under the heading

## Transcript of the Sheku Bayoh Inquiry

1 "Training and development":

2 "The use of self-directed learning via Moodle was  
3 almost universally criticised among those we have spoken  
4 to. It was repeatedly referred to as a tick box  
5 approach and easy to work around. While it was seen as  
6 having some value in relation to technical or factual  
7 matters, such as changes to legislation, it was  
8 considered to have little or no value in relation to  
9 raising awareness of EDIHR issues and driving changes in  
10 attitudes and values."

11 We have heard some evidence about Moodle, which we  
12 understand is a computer system that is training via  
13 e-learning, digital learning?

14 A. Exactly.

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

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

23 Now, policing is not the only sector in society that  
24 delivers -- increasingly delivers training through  
25 e-learning. It's something that everybody has to adjust

## Transcript of the Sheku Bayoh Inquiry

1 to. There is a scepticism about it and there is a  
2 resistance to it, I think at times unfairly. I think  
3 properly put together there is a role for e-learning and  
4 our ability, as I have said, to deliver across a third  
5 of the UK landmass, to each and every member of our  
6 staff needs a level of flexibility. So we needed to  
7 continue it, we needed to make sure it was more  
8 engaging, improved as a quality product, and that it was  
9 supported at the right time face-to-face, where you have  
10 got more of that personal intimacy that can develop  
11 training.

12 But e-learning and remote training I don't think  
13 is -- the challenges around that to make sure the  
14 product is fit for purpose it's not confined to  
15 policing, but it's something, again, that I think is  
16 legitimate for us to continue to have used it, but to  
17 make sure that it was appropriate and that at times it  
18 was also implemented by face to face.

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

21 A. Well, the people delivering the training would probably  
22 start with that, because, as everybody knows, you on a  
23 training course one of the things you get at the end of  
24 it is, give us feedback, what was good, what was bad?  
25 And then again, it was an area through the Policing



## Transcript of the Sheku Bayoh Inquiry

1           Together work I would expect a more strategic assessment  
2           to be done with that detail and if it involved the IRG,  
3           again, that would provide that level of independence.

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

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

10      Q.   Right. 519:

11                    "It was considered to be particularly ineffective  
12                    for officers in frontline roles which were not primarily  
13                    desk-based."

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

16      A.   It would. I mean the phrase "frontline" is one that --  
17           I think many people work in frontline policing. It's  
18           not necessarily working in a response role, but the  
19           response officers would definitely be working in  
20           frontline policing.

21      Q.   Thank you.

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

## Transcript of the Sheku Bayoh Inquiry

1           Would there be merit in considering different  
2           methods of training for officers in frontline roles,  
3           such as in respondent teams, compared to those perhaps  
4           who are primarily desk-based?

5           A. Not necessarily, because you don't have a response role  
6           for 30 years in your police service and you don't  
7           necessarily have a desk-based role for 30 years in your  
8           police service and the distinction can mix. You can  
9           be -- even as a frontline officer, you may go into a  
10          particular function at a particular time and, actually,  
11          the impact of you as an individual and your colleagues  
12          and the members of the public can manifest itself in  
13          different ways.

14          So I would be looking for a consistency of the  
15          curriculum in terms of values, in terms of  
16          understanding, but always the potential flexibility  
17          about how that's delivered. And it's the challenge of  
18          from busy, busy urban centres, where it's maybe quite  
19          easy to bring a large group of officers or staff  
20          together for training, and then other parts of our  
21          country where our resources are massively spread  
22          geographically. So it would always have to be tailored  
23          to the particular demands, but I would always look, if  
24          we were doing a consistent work around about EDI, that  
25          there would be a core training that everybody should

## Transcript of the Sheku Bayoh Inquiry

1 take and that's something, again, that we sought to  
2 implement, but the means of doing that I think we'll  
3 would be constantly reviewing to try and make sure it  
4 was done in the best way.

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

16 A. Detective officers, road policing officers, firearms  
17 officers, you know, there are a multitude of disciplines  
18 within the Police Service of Scotland where people come  
19 into contact with members of public where there is  
20 that -- there is always that potential for an  
21 escalation, there's always a potential where you're  
22 going to have to use powers of coercion.

23 So however it was tailored, we need to make sure  
24 that as much and as high quality, because it's not just  
25 volume of training, it's quality of training, as much

## Transcript of the Sheku Bayoh Inquiry

1           quality training was given to the officers who deal with  
2           members of the public. But you know, I genuinely see  
3           the training required has been something that there has  
4           to be a universal element of that potentially -- you  
5           know, as I have said, training is a key part of Policing  
6           Together. It's -- I think we talk about it as a pillar,  
7           as a building block, whatever the language is. Training  
8           would be fundamental to that and there would be an awful  
9           lot of work getting done and it potentially could be  
10          nuanced in the way you suggest, but based on a core that  
11          every member of the service should be receiving.

12        Q. Certainly we've heard evidence that firearms officers  
13          receive very enhanced training. As I understand it,  
14          part of the reason for that is they are carrying weapons  
15          that can kill. But my understanding is that that's not  
16          the same type of training that's given to response  
17          teams, although response teams could resort to  
18          restraint, which can also have the risk of death?

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

20        Q. I'm talking about -- I don't have specifics about  
21          firearm training. We have heard that it's enhanced  
22          training, more regular, more stringent training, more  
23          detailed training.

24        A. So the principle of bespoke training for particular  
25          roles is one that applies all the time. That enhanced

## Transcript of the Sheku Bayoh Inquiry

1 training would probably be around de-escalation around  
2 about conflict, enhanced training on first aid.

3 The EDI training I think every officer would  
4 require, every officer and member of staff would require  
5 that understanding, whether you could be working in a  
6 police control room taking telephone calls, you could be  
7 working as a frontline officer. The principle of  
8 providing additional or bespoke training depending on  
9 role is one that's well-established, so again you would  
10 always consider it. But the difference in response and  
11 firearms is less on equality, diversity and inclusion  
12 and more on those other matters I talked about in terms  
13 of de-escalation and first aid.

14 Q. So firearms officers are given enhanced training on  
15 de-escalation, conflict and first aid?

16 A. Amongst --

17 Q. Amongst other things?

18 A. As well as clearly all the technical --

19 Q. Sorry, I interrupted you. Is part of the reason for  
20 that is because they carry weapons and they can kill a  
21 subject, so they are trained to a higher standard to  
22 learn about de-escalation and options which would not  
23 involve the use of deadly force?

24 A. Yes, but not in terms of EDI. Paragraph 519 talks about  
25 EDI training, so in that instance it's because firearms

## Transcript of the Sheku Bayoh Inquiry

1 officers are there and are deployed and are trained to  
2 deal with high stress and, therefore, they require that  
3 additional technical training. But in terms of the  
4 wider training on equality, diversity and inclusion, you  
5 know, that's something that I, as I say, I feel that  
6 every officer and member of staff should have.

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

10 A. Yes.

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

13 And having heard that evidence and having heard  
14 about unconscious bias and elements of racist  
15 discrimination that those stereotypes can be relied on  
16 and they may be racist stereotypes, do you not see any  
17 improvements that could be made in training, not just in  
18 relation to de-escalation and other techniques that  
19 don't involve force, but in also enhancing the  
20 understanding of officers, who have the option to use  
21 deadly force, to truly understand and be conscious of  
22 and aware of this potentially unconscious bias which  
23 could be resulting in very quick judgments being made in  
24 a state of unconsciousness which are based on  
25 discrimination?

## Transcript of the Sheku Bayoh Inquiry

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

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

20          Q. Where an officer has the potential to use deadly force  
21          as part of their operational duties, you can see a place  
22          for giving enhanced training in relation to issues of  
23          discrimination, equality, diversity and inclusion?

24          A. Yes. Ideally, I would like to give it to anybody who  
25          would come into contact with a member of public, because

## Transcript of the Sheku Bayoh Inquiry

1           that potential -- that potential for high-end conflict  
2           is always there.

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

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

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

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

24                       So again, that scepticism didn't surprise me.  
25          There's still -- there was still a challenge of us



## Transcript of the Sheku Bayoh Inquiry

1           trying to ensure that we could get training delivered in  
2           a way and in a speedy manner and it was certainly the  
3           starting point, rather than the endpoint, in the  
4           training that we were looking to introduces.

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

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

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

22        A. This is back to the need for us to be antiracist and for  
23        every individual to recognise the legitimacy of the  
24        position that I was outlining regarding institutional  
25        racism and institutional discrimination, but I knew that

## Transcript of the Sheku Bayoh Inquiry

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

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

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

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

22                 And there's four bulletpoints:

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

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

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

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

24          Q. The next bulletpoint:

25                         "Avoiding a one size fits all to understanding the

## Transcript of the Sheku Bayoh Inquiry

1 way canteen- and locker-room culture manifests across  
2 the service and therefore what needs to be done to  
3 change behaviours."

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

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

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

24 Q. So is this about identifying what those cultures and  
25 subcultures are and where they exist and then

## Transcript of the Sheku Bayoh Inquiry

1 identifying how that behaviour can be changed?

2 A. Yes.

3 Q. And then:

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

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

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

22 So exactly as I said, it's not a single question.  
23 You know, how the promotion process, did they continue  
24 to evolve? Again, we developed tell them, we put more  
25 mechanisms into them to try and make them values-based.

## Transcript of the Sheku Bayoh Inquiry

1           We had -- again, we invested in that, because that takes  
2           time, it takes assessor time which comes from the senior  
3           officer cadre, but it was so important to do and a lot  
4           of that was to make sure that not only were we promoting  
5           people who had competence and the technical experience  
6           and knowledge, but they had the values and they had that  
7           commitment to EDI that I would expect.

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

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

14          Q.   Right.  And then the final bulletpoint:

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

19                 And I think you have talked about that already as  
20                 being a part of the work that was intended as part of  
21                 Policing Together?

22          A.   Yes.  And again, I agree with that, counsel.  I would  
23          say that the criticism of Moodle and e-learning, you  
24          know, I was probably as cynical about them as anyone in  
25          terms of the use of IT and we're all products of our own

## Transcript of the Sheku Bayoh Inquiry

1 generation, but this was something, again, when we  
2 kicked this off, this was through the pandemic. This  
3 was into 2020 into 2021 when we started to look at these  
4 training programs and we had to make use of those. It  
5 was either that or nothing.

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

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

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

22 And we, the Inquiry team, have checked over a number  
23 of months and it would appear that as things stand to  
24 date there is no second interim report or final report  
25 and the next meeting of the SPA is scheduled for



## Transcript of the Sheku Bayoh Inquiry

1 Thursday, 27 June and the agenda has been published and,  
2 again, there's no specific reference on that agenda to  
3 any report or otherwise from the IRG.

4 So since May of last year and the publication of  
5 this report, there hasn't been a second interim report  
6 or a final report. The final report, as I understood  
7 it, was due to be published at the beginning -- in the  
8 early part of this year.

9 A. Okay.

10 Q. We've also heard evidence that you've retired,  
11 ACC Duncan has left the role, and DCC Designate Fiona  
12 Taylor has retired. And the new lead ACC, ACC Paton,  
13 took up post earlier this month.

14 When -- at the point of your retirement, were you  
15 aware of reasons for the delay in the second interim  
16 report or progress towards the final report with the  
17 IRG?

18 A. No, I wasn't. And I'm surprised IRG hasn't continued  
19 with the work, because it, you know, the membership was  
20 committed and, again, I didn't -- what you told me today  
21 I didn't know before you told me that about there hasn't  
22 been subsequent reports and I wouldn't be in a position  
23 to say why that might be.

24 Q. All right. Thank you very much. Could you give me a  
25 moment, please. Would that be an appropriate time for

## Transcript of the Sheku Bayoh Inquiry

1 the afternoon break?

2 COURT: Yes, we'll take a 15-minute.

3 (2.49 pm)

4 (A short break)

5 (3.20 pm)

6 LORD BRACADALE: Ms Grahame.

7 MS GRAHAME: Thank you. Over the break I have been advised  
8 that the IRG final report is in the process of going to  
9 an SPA meeting in September of this year.

10 A. That's good to hear.

11 Q. It was worthwhile raising the matter with you. The  
12 other matter that's been raised with the Inquiry team  
13 relates to the previous paragraph that we looked at,  
14 6.14 of the IRG report, and that was in relation to the  
15 comments about promotion and EDIHR should be embedded in  
16 the promotion process and we can have it back on the  
17 screen if you prefer. So this is the IRG report which  
18 we were looking at just before the break, SBPI 00643,  
19 and it was paragraph 6.14 and one of the bulletpoints  
20 was about -- 6.14, there we are:

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

24 And you have already given me an explanation of that  
25 in your answer. We have been provided with a review

## Transcript of the Sheku Bayoh Inquiry

1 carried out by Baroness McGregor-Smith CBE about  
2 mechanisms of change in business, not in relation to  
3 Police Scotland, and there was a roadmap to success as  
4 part of that, we. Have it and for those behind me it's  
5 SBPI 00642, but I won't ask that that be be put on the  
6 screen.

7 But in relation to recruitment and issues of those  
8 matters, some of the guidance and recommendations that  
9 they have made generally for businesses is to have  
10 name-blind recruitment, diverse interview panels,  
11 equality and diversity management systems and role  
12 modelling and mentoring as priorities in the business.

13 Are these aspects that you would expect  
14 Police Scotland to be considering as part of overall  
15 recruitment, promotion, interviews, things of that sort?

16 A. Potentially. The issue on recruitment in terms of  
17 name-blind recruitment that's a challenge when vetting  
18 is so important and we talked about Dame Elish earlier.  
19 I -- one of my other roles since I retired I sit on a  
20 reference group that Dame Elish has established for her  
21 work in terms of the disgusting conduct of Wayne Couzens  
22 and the murder of Sarah Everard and the review work  
23 that's been carried out there and some of the early work  
24 was on vetting. And one of the suggestions for new  
25 recruits was to reintroduce home visits where the

## Transcript of the Sheku Bayoh Inquiry

1 individual and their circumstances were part of that  
2 process, so that wouldn't -- the vetting challenges  
3 against the suggesting of name-blind recruitment I don't  
4 think would be practical. Again, there are numerous  
5 elements of it.

6 But in terms of seeking to identify best practice,  
7 wherever it exists, you know, I have said this a number  
8 of times, if somebody can point me to an organisation as  
9 an exemplar or a sector of Scottish life, British life,  
10 anywhere that's an exemplar of equality, diversity and  
11 inclusion, we'll go there, but I think these are  
12 massively challenging issues for everyone, for all of  
13 us, but wherever best practice exists, I think it would  
14 be foolish not to look at it.

15 Q. Thank you. I would like to move on now and look at  
16 SBPI 00484 and this is the HMICS Thematic Inspection of  
17 Organisation Culture in Police Scotland. And this is  
18 dated December 2023, so I appreciate that you retired in  
19 the August, but it covers part of the period when you  
20 were chief constable.

21 And what I would like to do is go through some of  
22 the elements that are mentioned within this document and  
23 ask you for your comments. If we could look, please,  
24 first of all at -- as I understand it, there are 155  
25 pages on this as a PDF and so the first page I would

## Transcript of the Sheku Bayoh Inquiry

1           like to look at is page 13 of the PDF, but as we look at  
2           the page, we will realise this is actually page 11 of  
3           the actual report, but if we can turn to page 13 of the  
4           PDF.

5           Here we are, "key findings", and during this report  
6           there are a number of areas where they highlight key  
7           findings and they express these as bulletpoints,  
8           paragraphs and I would like to go through some of these  
9           with you. If we can go to the middle of the page,  
10          I would like to ask you about "we found that", here we  
11          are:

12          "We found that financial and resource constraint was  
13          one of the primary factors adversely affecting culture  
14          change, particularly at the frontline, both in terms of  
15          driving behaviours, as well as impacting on capacity,  
16          motivation, and wellbeing."

17          And you have mentioned financial constraints in this  
18          day and age and I wonder if you would like to expand on  
19          that slightly in terms for the Chair. In terms of  
20          actually implementing change, to what extent would  
21          financial and resource constraint be a factor for the  
22          service?

23          A. It would always be a factor I think I mentioned earlier  
24          of the increasing expectations, the increasing community  
25          needs that policing is asked to meet, increased new

## Transcript of the Sheku Bayoh Inquiry

1           legislation that's introduced, often with very little or  
2           minimal consultation or assessment around about  
3           financial implications and that, all of that, you know,  
4           contributes to those financial and resource constraints  
5           that are mentioned in the HMI report.

6           And I do feel very strongly on the financial  
7           pressures that police is under in Scotland, because  
8           I don't think that there has been sufficient recognition  
9           from government in terms of funding on the fact that  
10          Police Scotland, policing in Scotland has actually gone  
11          through significant reform and restructure and it's a  
12          matter of record through Audit Scotland that policing is  
13          £200 million a year at least cheaper now per year than  
14          it was under legacy arrangements in real. Terms, that's  
15          an enormous amounts of money out of a 1.2 billion  
16          budget.

17          Yet, at the same time, in my judgment, we have been  
18          able to improve service consistency and achieve some of  
19          the objectives of reform, but it gets to a position  
20          where because reform and a single service has now  
21          established, you know, that budget, that need for  
22          financial protection, it can't continue to be  
23          diminished, particularly, particularly as there has  
24          already been a return to the public purse, because of  
25          the reform agenda for different reasons, you know, one

## Transcript of the Sheku Bayoh Inquiry

1 of them being a reduction in senior ranks. There was  
2 over 30 members, I think, of ACPO Scotland when I was an  
3 ACC in Edinburgh, back in the 2000s or late 2000s, and  
4 yet now, you know, we're into, you know, 17, less than  
5 that, 13, 14, chief officers. That's just one example,  
6 but that puts pressure and demand into senior leadership  
7 teams.

8 So the financial and resource constraints in any  
9 element we want to develop training, we want to do more  
10 face-to-face, people are concerned about the amount of  
11 e-learning that's required, all of these come with a  
12 cost and all of these come with a demand and that has to  
13 be prioritised. This was a prioritised -- the  
14 Policing Together work was prioritised. We did recruit  
15 additional resources into that. We put in a bespoke and  
16 specific additional chief officer to lead that, but we  
17 know resource pressures are there. And I absolutely  
18 recognise the pressure on operational police officers  
19 and police staff in terms of their wellbeing and that  
20 motivation, that ability to give discretionary effort  
21 when you yourself don't feel fully valued.

22 So the financial pressures I think are significant  
23 and, actually, as I have said before and I'll repeat,  
24 I think policing as a sector has more than taken its  
25 fair share of financial restrictions since 2012 and if

## Transcript of the Sheku Bayoh Inquiry

1           it's going to continue to provide a service that this  
2           country needs and deserves it has to be if you need  
3           accordingly.

4           Q. And so in terms of implementing change in regard to  
5           equality, diversity, inclusion and human rights issues,  
6           as we have been talking today, would you consider it  
7           reasonable to -- well necessary to prioritise but also  
8           reasonable to perhaps prioritise training and other  
9           matters in relation to situations where there is  
10          potentially engagement with police with members of the  
11          public and there is a risk of death or a risk of a  
12          serious incident occurring?

13          A. Absolutely, that's why, as I described, it was done, why  
14          Policing Together was created, why there's specific  
15          resources gone into that, but it comes where other parts  
16          of the service are being stretched and, therefore, it's  
17          that challenge that you need to support the officers in  
18          community teams and specialist teams and child  
19          protection teams who are doing incredible work for  
20          public safety and public wellbeing. But if their  
21          resource base is being challenged, because as a chief  
22          constable I have decided I need to invest in EDI,  
23          rightly, there's almost an unintended consequence. It  
24          might put additional pressure onto those teams who we  
25          are seeking to help and support in terms of developing



## Transcript of the Sheku Bayoh Inquiry

1           and maintaining the culture. So operating in that  
2           context is really challenging but, you know, that's the  
3           responsibility of leadership team and the chief  
4           constable.

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

8                        "Police Scotland has previously acknowledged that  
9           there remain cultural and behavioural issues that can  
10          result in unfair or inequitable treatment in the  
11          service. We were notified of a number of individual  
12          cases of such treatment and have taken related policy,  
13          process and procedural matters into account in these  
14          findings. The perception of a lack of organisational  
15          justice was reflected in much of the evidence we  
16          collected."

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

21          A. I'm not entirely sure what it means in terms of whether  
22          it's procedural justice within the service. I mean  
23          I would read that as being supportive of my  
24          determination regarding institutional discrimination  
25          that, you know, there has been unfairness and a lack of

## Transcript of the Sheku Bayoh Inquiry

1 equity in how individuals have been dealt with in terms  
2 of behavioural issues.

3 "Organisational justice", I suppose that would  
4 relate to proportionately and equity, but, again,  
5 I didn't write the report and again, candidly, it's the  
6 first time I have seen it.

7 Q. All right. Thank you. This was published in December  
8 2023, which he was after you retired, as I said.

9 A. That's right.

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

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

16 Sorry. I should have read the first sentence:

17 "Police Scotland is planning and undertaking a  
18 number of initiatives to embed appropriate leadership  
19 behaviours, attitudes and values at all levels in the  
20 service [and you have talked about that today] but as  
21 yet it is unclear how aligned and sustainable these will  
22 be."

23 Do you think that is a fair reflection of where  
24 Police Scotland were when you retired, maybe the clarity  
25 regarding how aligned and sustainable they were was not

## Transcript of the Sheku Bayoh Inquiry

1 quite clear?

2 A. It was developing. Definitely it has to be sustainable.  
3 This is a long-term commitment and a long-term journey,  
4 for want of a better phrase, that the organisation needs  
5 to be on, but the -- I think we've talked about, you  
6 know, Your Leadership Matters, we've talked about the  
7 work that has been done, we've talked about at the  
8 alignment with the Policing Together work, how training  
9 is at the core of that and, you know, fair enough,  
10 obviously, we need to ensure that it sustains. And you  
11 know, as I think HMICS are saying, they'll come back and  
12 make comment on that.

13 Q. Thank you. Could we look at page 18 PDF, please, page  
14 16 of the report. I'm interested in the second last  
15 bulletpoint, please, under "organisational learning":

16 "We identified good practice work in a number of  
17 policing areas where a culture of consistent evaluation,  
18 debriefing and governance of organisational learning is  
19 in place, but overall there remains a fragmented and  
20 inconsistent approach. Although learning is promoted,  
21 there remains a perceived blame culture within the  
22 organisation, which is considered as a barrier to this."

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

## Transcript of the Sheku Bayoh Inquiry

1       A. Yes. Again, it's that confidence to be honest, to share  
2       an issue, rather than holding something back, to ensure  
3       that the organisation does learn that. The ability to  
4       capture learning, again, has always been a -- not just  
5       in policing is a real challenge. You know, everybody  
6       talks about organisational learning and that it would  
7       remain, but the challenge is putting structures and  
8       processes in place that captures that.

9               And again, the sense of a perceived blame culture,  
10       again, that's a phrase I have read throughout my career  
11       as a police officer and there is a perception. Against  
12       that, I would say policing has to be highly accountable.  
13       If you hold the office of constable, regardless of your  
14       rank, regardless of your rank, you know, you must be  
15       accountable for your decisions and your actions. Now,  
16       if that is perceived as a "blame culture", you know,  
17       that again is the colloquial term that's often used, but  
18       it's important that that supportive mechanism, the  
19       ability and the confidence to speak openly and to make  
20       challenge and to raise an issue without it being pushing  
21       back on you the whole sort of black box concepts that  
22       we've heard of over a number of years of calling things  
23       out and making sure the organisation supports that and  
24       you're giving credit for that, that is entirely  
25       consistent with being individually accountable for your

## Transcript of the Sheku Bayoh Inquiry

1 actions. And that's something that I think is a virtue  
2 within the police service. It's something that comes  
3 with a responsibility. I used to speak to as I did to  
4 every single new recruit and said, that, you know, you  
5 have not joined a job, your status has changed, your  
6 status is different, you are now holder of the office of  
7 constable and with that comes that responsibility, comes  
8 the privilege to be an officer, but also comes high  
9 levels of accountability.

10 Q. Can we turn to page 22 PDF, please, page 20, and this  
11 receipts to Policing Together. The second bulletpoint:

12 "We identified inconsistent understanding of the  
13 scope of Policing Together and a degree of confusion  
14 about its extensive delivery mechanisms in governance.  
15 There also remains some cultural resistance to  
16 Policing Together. Some people do not recognise the  
17 issues being raised and consider it just another central  
18 initiative with concerns that it may not facilitate the  
19 wider cultural change required."

20 To what extent is there a barrier between what would  
21 appear to be negative views being held by certain  
22 members of the police?

23 A. I'm not surprised that there's some resistance to  
24 Policing Together, because there was resistance to the  
25 recognition of institutional discrimination and

## Transcript of the Sheku Bayoh Inquiry

1 institutional racism. Again, I would say, from my  
2 perspective, that's further evidence of the need to take  
3 the action that we're taking. The understanding and the  
4 awareness of it, well, that again is why communication  
5 is an essential part of the Policing Together work, you  
6 know, crucial, linked in to the other areas of training,  
7 the prevention that we've discussed and, you know, the  
8 responsibilities to go forward and take on those  
9 challenges and address some of that negativity that is  
10 described there.

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

13 "Police Scotland does not fully understand how  
14 culture affects service delivery performance, relying on  
15 service satisfaction ratings to assess this, neither  
16 does it effectively measure cultural change (and the  
17 impact of supporting activity)."

18 Would you like to comment on that?

19 A. It's a challenge to try and -- how do you measure  
20 cultural change? I mean it's -- I don't know if it's  
21 somewhere within the report. You know, there's no  
22 suggestion there to how it should be addressed, as I  
23 said earlier. If somebody could point us in the right  
24 direction, I'm sure the Police Service of Scotland would  
25 go there, but it needs to develop further.

## Transcript of the Sheku Bayoh Inquiry

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

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

14                 "Police Scotland should develop and deliver a set of  
15                 actions to address the fundamental inequalities between  
16                 officers and police staff, the frontline policing and  
17                 other national/specialist functions."

18                 Do you have any comments about that recommendation?

19          A. I don't know to what the HMI refers in terms of  
20          fundamental inequalities. Is it of status, of pay, of  
21          career opportunity? Again, I don't really know what  
22          that means.

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

24                 "Police Scotland and the Scottish Police Authority  
25                 should reinforce the human rights and ethics-based

## Transcript of the Sheku Bayoh Inquiry

1 approach for all policing activity."

2 You're nodding. You obviously accept that  
3 recommendation.

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

17 As far as I'm concerned, good policing is human  
18 rights and no organisation does more to protect the  
19 human rights of our citizens in my judgment than the  
20 Police Service of Scotland does. Certainly when I was  
21 chief, I openly articulated it and I think there's ample  
22 evidence of us doing that. So if it needs reinforced,  
23 please do, because it's certainly something I support  
24 and have advocated for many years.

25 Q. And just a couple of matters, again, dealing with the



## Transcript of the Sheku Bayoh Inquiry

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

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

15 "The overarching aim was for the survey seeking to  
16 provide Police Scotland colleagues the opportunity to  
17 convey their thoughts, feelings and experiences related  
18 to discrimination, equality, diversity and inclusion  
19 within the service."

20 Do you see that?

21 A. Yes, I do.

22 Q. And if we can look at slide 8, please, I think there's  
23 just an image of some of the responses. Here we are.  
24 Sorry, I maybe got the wrong number, but that was the  
25 one I wanted, thank you. And this is "Institutional

## Transcript of the Sheku Bayoh Inquiry

1 discrimination survey respondents." 49 of the  
2 respondents were men. Sorry, this isn't the one I  
3 wanted actually.

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

7 "40 per cent of respondents believe institutional  
8 discrimination is an issue for Police Scotland, but  
9 equally that would mean 60 per cent think it's not an  
10 issue."

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

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

## Transcript of the Sheku Bayoh Inquiry

1 me that there are -- there would be individuals within  
2 the service who may be legitimately don't consider it as  
3 an issue. I think it is. I know it to be so. So we  
4 need to continue to advocate that and we need to  
5 continue to drive the Policing Together work, we need to  
6 continue to communicate on this crucial issue.

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

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

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

23 I didn't think -- I thought that was unfair and I  
24 thought it was inaccurate in my judgment, but the idea  
25 that you would negative conversations on institutional

## Transcript of the Sheku Bayoh Inquiry

1 discrimination, as I say, I had a number of those, so it  
2 doesn't surprise me again.

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

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

7 Q. Yes.

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

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

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

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

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1 instance of discrimination would be addressed"

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

4 A. Absolutely.

5 Q. Finally I would like to ask you about one matter.

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

21 "The SPF will always work with the service to  
22 identify and remove officers in Scotland who fail to  
23 live up to our standards of professional behaviour.  
24 Culture in any organisation is change from the top down,  
25 in this case at governmental level. The chief has to

## Transcript of the Sheku Bayoh Inquiry

1 work to ensure that the policing budget is given real  
2 terms protection to allow us to maintain our current  
3 officer and staff profile and this relentless stripping  
4 of our proud service of physical and human  
5 infrastructure has to stop."

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

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

## Transcript of the Sheku Bayoh Inquiry

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





# Transcript of the Sheku Bayoh Inquiry

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

INDEX

1Evidence of RETIRED CHIEF CONSTABLE SIR

IAIN LIVINGSTONE

1Examination-in-chief by MS GRAHAME

## Transcript of the Sheku Bayoh Inquiry

1

2