Wednesday, 9 October 2024

(10.00 am)

PROFESSOR GUS JOHN (continued)

Examination-in-chief by MS GRAHAME

LORD BRACADALE: Good morning, Professor John.

A. Good morning, sir.

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you. Professor John, I was about to move on to another area of your statement and I wondered if we could look at paragraphs 49 and 50 and we'll have those up on the screen if we can, there we are. And in this of your statement, we'll say towards the top of page 19, it's types of training. If we move up we'll see the heading "Types of training" and it's this section of your statement where you discuss various types of training, including antiracism nondiscrimination and cultural and racial awareness training.

And you were asked at paragraph 50, you have listed them there, at 49, and I won't go through each title, but as 50, you were asked:

"What type or types of training from this list would be most useful for Police Scotland, crown and [I think that should be] PIRC and Crown Office?

"This list covers training content as distinct from

training styles. PIRC would find (a) to (e) and (n) to (z) most useful and Police Scotland and Crown Office would find them all very useful, although they might want to merge some and focus in much more depth on those with direct, organisational and operational relevance, as distinct from broader and more societal issues such as multiculturalism, interculturalism and integration."

So essentially you've said the police and the Crown Office would find the entire list useful, but they wouldn't have to do separate courses or training on each topic, but they could merge some of those topics --

A. Sure.

Q. -- within the training. But you have chosen a select few for PIRC and I wonder if you would explain to the Chair why. Now, you said first of all (a) to (e) and if we could look at the list, we'll see that (a) to (e) is:

"Racism awareness;

"Prejudice and discrimination;

"Stereotyping and racial profiling;

"Understanding and valuing diversity; and.

"Cultural awareness (dealt with in more detail below)."

And (n) to (z), so if we move down the page, we can see (n) begins with:

"Impact assessment;

"Communication and consultation;

"Understanding human rights and complying with EHR legislation;

"Knowledge of and compliance with antidiscrimination legislation;

"Institutional racism in the police;

"Understanding and tackling institutional racism;

"Stop and search;

"Religious diversity in policing.

"Police accountability;

"Racially and religiously aggravated offences.

"Tackling Islamophobia;

"Tackling antisemitism;

"Death in police custody over the decades;

"Institutional learning (again, dealt with in more detail below)."

And can I ask you, what was it about those specific types of training that you thought would most benefit PIRC?

A. Two categories, basically. As I indicated, the first category was those overarching issues, multiculturalism, et cetera. Understanding what those concepts are, what they mean, what the history of developing, implementing them has been, not just in Scotland, but across the UK, and the reason for that is that -- well we all,

including PIRC, operate within a context, it's a societal context, it's a political context that gives rise to particular laws, parliament decides to pass laws based upon a number of things. One, their obligations under international law; two, responses to what dynamics there are within society.

The race relations legislation arose because people like myself in the Campaign Against Racial Discrimination in the middle 1960s provided evidence to government of the extent of racial discrimination in society. I went with white counterparts trying to find jobs, trying to find digs, trying to buy goods or services or (inaudible) and found that while I was being discriminated against, half an hour later my white counterpart would go to the same employer, landlord, whatever and be given the same service which I was told was no longer available. And we did that kind of thing for months and that gave the evidence to government of the extent of racial discrimination which led, as I said, to the 68 legislation and then later to the 1976 race relations legislation.

So the race relations legislation and the Sex Discrimination Act of 1975, as well as the Disability Discrimination Act of 1995, all arose as a result of the mobilisation of the target groups, women, black people,

disabled people, and that our persistent activism around those issues which led to government having to take seriously our demands and that's how those laws came -- came into being.

So it seems to me it's important that people, especially if you're going to be adjudicating about matters that may have arisen as a result of prejudice, it's important that you understand where all of that came from. And I don't believe that there is enough of that understanding evident in the way some of these organisations operate. So that is, if you like, the historical underpinnings of the present.

The latter list, the latter categories I mentioned are really the nuts and bolts of the matter. These are the things that PIRC are in business to do, that's what they're doing on a day-to-day basis and it's important that there is an understanding of how issues of discrimination. And you will know that and in other parts of the statement I highlight the model which I used when I taught at the University of Strathclyde in Glasgow that model -- that groups, if you like, structures, structural and systemic discrimination, cultural, racism, whatever, institutional and personal, and the reason for that is that quite often people get stuck on the institutional component, as we know from

the police reactions to Macpherson and so on. So you hear people talking regularly about institutional racism within this organisation or that. You very rarely hear them talking about structural racism or systemic racism and how -- how cultures become racist cultures. Personal racism people understand, people are personally racist towards one another. But the others are more complex and it is institutional racism that people tend to focus on more than anything else.

So what I am doing in there is trying to suggest that that kind of training would give PIRC, and particularly investigators, a better idea of the context within which they're operating and the context within which the issues they're having to make decisions upon, or investigate, arise.

Q. Thank you. So we've heard PIRC are, as you put, in the business to do investigations and some of those investigations we have heard may involve questions of race or possible discrimination as a factor. And is it your view that this type of training would assist PIRC in taking cognisance and being aware of the context and in the context of which they're operating and doing those investigations?

A. Without a doubt. Let me give you an example. If professional standards are required to determine whether

or not a complaint against a particular person, policeman of whatever rank or whatever is to be upheld, the complainant is presenting a scenario: this happened to me at this time in this place for what I consider to be reasons of racism or whatever. I'm questioning the professional conduct of this person. I want redress, right. What understandings and we covered that a bit yesterday -- what understandings is the investigator bringing to this material? Through what lens are they seeing this particular evidence? How qualified are they to have a judgment about what the complainant is saying or to understand the context that the complainant is outlining in their complaint? It's an integrated whole. You can't -- you can't separate the action from the context. Nor can you say "I don't believe a police officer would behave like this" or whatever, nor can you say what this person experienced as racism is just banter and, therefore, we can't uphold this complaint.

And it is in that whole area, I believe, that wrong decisions are made, wrong conclusions are arrived at, and people who are the victims of such conduct feel that they've had no redress, because the people making the decisions did not bring enough understanding to their situation, to what it is that they were seeking to highlight by making that complaint.

Q. If say, for example, an investigator has no personal lived experience of that, if they've perhaps got no connections or done very limited work with a particular community, is it your view that training on issues such as the specific issues you raised here can assist them in their understanding of the context, so that when they do consider the complaint or the issue that's raised, they understand the full context behind the complaint?

A. Yes, that's what -- that's what I'm suggesting and of course, as we observed yesterday, a great deal depends on who is delivering the training, who's determining the adequacy of the content of the training and who has a broad enough understanding of what the role of an investigator is to be able to assist the investigator by providing the right types of training and training content.

Q. Thank you. Could we look at paragraph 51, please, which is towards the bottom or starts at the bottom of page 20:

"Nondiscrimination and antiracism training, as indeed EDI training generally, should have three core objectives and intended outcomes."

And you list these here for us:

"(a) to build, nurture and sustain a culture of equity."

And I think you talked about that yesterday:

"(b) to be compliant with equality and human rights legislation and use the legislation as a lever to achieve objective (a)."

And I think again you spoke about the legislative framework yesterday. And:

"(c) to ensure that everyone within the organisation embrace personal responsibility for demonstrating evidence of pursuing the above two objectives."

And again, you talked about people taking personal responsibility and reflecting in their own practice. Can I ask you one question about (b), "to use the legislation as a lever to achieve objective (a)", could you just explain a little more about what you mean there?

A. Yesterday when we talked about "Sack Them Sandra", I said why I agreed with her perspective on this, and how important it was that individuals joining organisations understood that they can't -- they can't privilege their own perspectives or beliefs or stereotypes or whatever over the organisation's objectives to build a culture of equity to make sure that there is fairness and justice in all their dealings and so on and essentially that is what I'm talking about here.

You may not want to be kind to your neighbours in the workplace, you may feel that you've always been a chauvinist pig and you will continue to be a chauvinist pig irrespective of who you're working with. What the law does is to say, this organisation must protect the rights of every individual in these particular ways. That's why we have the legislation. It's about nondiscrimination. It means that you yourself have got to accept responsibility for doing that and if you feel you can't do that, then you should know where the door is and go through it or be pushed through it. It's as simple as that.

So when I talk about using the legislation as a lever to promote that culture of equity, what I'm actually saying is it doesn't give people individual choices. You can't -- you can't decide that you will comply or you won't comply without impunity, without some sanctions, and ideally you shouldn't have to comply truculently. So the whole business of the growing culture of equity and demonstrating, even before somebody applies, this is the kind of organisation I'm going to be joining, you're really saying "This is what we stand for in this place".

At one point in an earlier life I used to do quite a lot Investment in People training. As you will remember

Investment in People was this charter-mark that -- Kitemark that organisations got and it was an interesting exercise because precisely what I'm just saying was the kind of thing we would explore in that training. How do you -- what do you understand about the organisation in which you're working? What is its culture? What do you think you bring to that? And if you were to explain to some visitors or some people who minded to join the organisation as to what it is, what you do in it, how you experience it, what would you actually say? And the way people answered that told you a lot. It told you a lot about the extent to which they were immersed in that culture, the extent to which they understood what the goals of the organisation were, they understood whether or not the organisation valued every single individual as contributing to building that culture, including themselves. And I think it's a good way of conceiving, if you like, of what these three are about, (a), (b), (c), and how individuals situate themselves within that.

Q. Thank you. You've talked about antiracism training and I think in your statement you highlight what you describe as two worrying trends. Could -- you start to talk about antiracism training at paragraph 54, but I would like to actually ask you about paragraphs 62 and

63 where you talk about the worrying trends. Now, 62, this is:

"One is the practice of subsuming race, tackling unlawful discrimination and combating racism within a general approach to equality, diversity and inclusion."

You say:

"EDI is rarely defined yet it rolls off the tongue as if its meaning is glaringly obvious to everyone, for example ... "

And you mention the evidence of Conrad Trickett who gave evidence to the Inquiry concerning a common approach to the protected characteristics. And you've given the quote there.

"I would say that so the equality, diversity and inclusion progression, if you make progress and understanding in one protected characteristic, it has a knock-on effect across all characteristics. So being inclusive, having a diverse workforce, that is beneficial to everyone. So it's not necessarily about saying, this is the piece of work we're going to do about race discrimination, it's a broader agenda than that."

And you say at 63:

"This approach fails to take into account the history of the ideology of racism, the origins of

theories of white supremacy, the perceived inferiority of ancient civilizations outside Europe and the stigma that has been attached to blackness by imperialism and colonialism and the stigma attached is uniquely to black folk, even when they share the other protected characteristics."

So you have identified that as a worrying trend that appears to be evidenced by the description given by Conrad Trickett of a very broad agenda and assuming that a person with one protected characteristic there is a knock-on effect to others, but you're concerned about that approach?

A. Yes. Yes, I am and let me -- I may have mentioned it yesterday, I can't remember. Let me try and illustrate this by saying this. As I indicated, I was one of the people advising Jack Straw when he was Home Secretary and in that capacity worked with civil servants on the Race Relations (Amendment) Act 2000. Those were very difficult discussions and I would like to think that in the process we helped to educate many of those civil servants. One of the -- one of the disappointments I had towards 2007, 2008, whatever it was, was that there was in government an insatiable appetite for not foregrounding, not highlighting, racism as an issue in society, but seeing it as just one of a number of

oppressions, all right.

So I was opposed -- like my late friend Lord Herman Ouseley, who passed away last week, I was opposed to the government deciding to roll all of these strands of discrimination into one and have a single Equality Act, because given the work that I had been doing, including what we talked about yesterday, examining the way training following Macpherson had been done in the 43 police forces and so on, and given what I knew and what Herman lived with every day, ie the need for the CRE to be able to go into organisations, assess their evidence of complying with the race relations legislation, and do so in a number of ways, and determine whether or not they were compliant and, if they were not, to tell them what they needed to do about it within a particular timeframe. The fellow knocked his head against brickwalls every single day, because the government had not resourced the CER as a watchdog, as a regulator, sufficiently so that it could perform that function. All public bodies were supposed to comply with the requirements of the Race Relations (Amendment) Act 2000 and very few were actually doing that. And I would suggest that many didn't because they knew the CRE did not have the resources to come after them.

Meanwhile, the people whom the legislation was

supposed to be protecting, whose rights were supposed to be protected, were experiencing those organisations as hostile environments, as discriminatory places. So we determined, myself, Herman and a number of others, that we would actually try and point that out to government, not that we had anything -- not that we were less concerned about the other protected characteristics.

As a matter of fact, in the work that I did when I assessed the race relations policy and action plan arising out of the 2000 legislation that individual institutions had, including the 20 universities and 46 colleges here in Scotland, one of the things I was saying to people, senior leadership teams, in every single case was that they should use their model for implementing the Race Relations (Amendment) Act as a template for how they were looking at the Sex Discrimination Act, the Disability Discrimination Act, et cetera and whatever other groups, whether it be to do with age or to do with sexuality or whatever, were within their organisations who were in fact discriminated against, although there were not specific laws to govern that particular category of oppression. And I did that -- I did that routinely, but the one thing I was absolutely clear about was that you can't -- you can't situate race on a sort of loop with all of

these other characteristics for some pretty obvious reasons.

As a black person and a black male I have multiple identities, a black woman has multiple identities and can feature in those nine protected characteristics on a number of counts in terms of age, maternity, sexuality, race, et cetera. So there is no equivalence, in other words, between race and whatever other characteristics one could choose. But more than that, more than that, the context within racism as an ideology arose is important and that is what accounts for the fact that it's so intractable. I've spent 60 years of my life dealing with racism and trying to humanise British society. It's a scourge and it persists because it's systemic, it's -- it's based on history, it's based on ideology.

So as I said in the statement, issues of white supremacy and the way in which in my own personal experience and that of God knows how many other black and global majority people, white society, British society, Scotland, England, Northern Ireland, Wales, automatically validates white people. And people like me are always being expected to provide evidence of being able to do X, Y, Z and evidence of being qualified to belong before we are automatically accepted into any

particular positions, which is why there's a lot of noise when somebody like me becomes the first black director of education in the country, when somebody like this good gentleman becomes the first black Chief Constable in the country. These things happen within a context.

And those of us who at my level engage in appointing people to senior positions or less senior positions, et cetera know what that is about, because I can tell you the number of interviewing panels I have been on where, but for my presence, black people, men and women, would have been wronged by that panel. It doesn't -- it doesn't mean that each member of the panel, white, typically male, but not always male, it doesn't mean that they are necessarily evil or that they are rabid racists, ferret-eyed racist, it doesn't necessarily mean that, but the whole context within which they are operating, the stereotypes that they bring, the way in which they are unable to get over their expectations, and they come into the room to interview people with a lot of baggage and if you have been in the business for as long as I have, you smell the baggage before you see it.

So what I'm saying here is that no one should think that you can simply have training on sexuality as a

protected characteristic, let's say, or on issues of maternity and that somehow enables you to go and look at race as a protected characteristic in a similar manner. It does not make sense. Historically, it is inaccurate and it is in fact potentially damaging to the targets of racism if that is the approach that you are taking.

Q. Thank you. I think the second worrying trend that you've identified at 64 is to focus predominantly upon personal behaviour and motivation for discriminatory or unfair or unjust conduct as distinct from culture that gives individuals licence to indulge in, for example, racial or gender or faith-based oppression.

"In my view, it is this tendency that has spawned the burgeoning unconscious-bias industry."

Of which more later. Now, we touched on unconscious bias yesterday. I'll come back to it later today as we look later in your statement. But is this second trend that you draw attention to here focusing on personal behaviour being the root of the racial discrimination as distinct from that culture and they cannot properly be separated; is that the point?

A. Let's go back to Macpherson and the spat between him and his inquiry team and the Metropolitan Police. You will know that there was a lot of resistance on the part of the Met, and indeed other forces around the country, to

his conclusion that the Metropolitan Police was institutionally racist, having examined all the circumstances surrounding the murder of Stephen Lawrence and the investigation of that murder.

And one of the reasons why they articulated it chief constables and indeed the Met Commissioner were saying we have some excellent police officers here, they're very good men and women, not a racist bone in their body, and to call the whole force institutionally racist is to paint all of them with the same brush as these bad apples that give us a bad name, whom we need to root out from the force. That was the script basically. That was the narrative.

And I mean what that signifies is the complete lack of understanding of what institutional racism is and it's a complete lack of understanding of where it comes from and what -- what enables it, which is why I'm suggesting that you can't -- you can't talk about institutional or cultural racism, unless you look at the more overarching structural and systemic racism that there is within the society. I would suggest that you cannot separate the culture of a particular police force and what people bring to their work in that police service from what goes on in government.

One of the reasons why black people came to be seen

as not wanted, not belonging, not entitled to be in Britain, et cetera is because of what government itself did. We, my parents, my uncle came here in 1951, my father in 1957, my mother in 1960, I in 1964, carrying these lovely blue passports, citizen of the United Kingdom and colonies. That's what we were by virtue of the fact that Britain didn't keep itself at home, it went wandering abroad with dire consequences and that's how my ancestors came to be in the Caribbean. And that whole ideology of racism that sprung up and fed the process of imperialism and colonialism was born of all of that stuff and you can't separate that.

When I came here in August '64, August 20, 1964 and landed at Heathrow Airport of British Overseas Airways Corporation, that later became BA, three months later there was going to be a general election. People were already at the hustings when I got here. And as somebody coming from the Caribbean, having gone to schools that operated an education and schooling system created here in Britain -- I didn't do O-levels at my age then, I did something called a senior Cambridge Examination with papers set in Cambridge -- the priests were white, everybody was white, the administrators, et cetera. And I was taught everything about Britain and how superior it was in terms of knowledge, intelligence

schools, blah, blah, blah. I was taught very little about Africa and what I was taught about Africa was not particularly nice.

So I come out of that experience, clasping my nice blue passport, citizen of the United Kingdom and Colonies, and one of the fingers first things I hear within a month of arriving here is a fellow called Peter Griffiths in Smethwick in the West Midlands campaigning for the general election and telling people around him -- I'm being historical now -- "if you want a nigger for a neighbour, vote Labour." That was his call to the residents of Smethwick. Lots of people agreed with him, they didn't want niggers for neighbours. So there was a swing from Labour, Patrick Gordon Walker, who was Shadow Foreign Secretary, a swing from Labour to at the Conservatives and Griffiths of 7.5 per cent, and Griffiths won his seat, ended up in the parliament. And that told me, as a 19-year-old, a lot about the Britain which I thought I had known. The Britain that had been constructed for me in my consciousness and understanding by British people whoever never ever talked about racism to me or others like me in the Caribbean.

So what is the point I'm making? I am saying that we need to understand what racism is, where it came from, and understand that cultures are created and

sustained in which people find it easy to indulge racism, including within the police. So the -- when we talked about my (a), (b), (c) earlier on and I talked about the legislation being used as a lever for promoting a culture of equity, what I'm saying is that people need to understand more clearly the relationship between individual choice and civic responsibilities, individual choice and the way organisations are required to obey the law, comply with the law, and how that relates -- how that relates to them.

Now, I read a lot, as you know, in the process of constructing this statement. I'm not sure that I saw reflected in all of those hundreds of pages that I read -- I'm not sure that I saw reflected enough the kind of thing I have just been saying to you.

Q. The historical context, noticeable bias, absence or such a limited content?

A. Indeed.

Q. Thank you. I would like to move on to another topic that you have been asked about. Let's move to paragraph 77, please. This is headed up "Cultural and racial awareness training". Now, we have heard evidence about awareness training, diversity awareness training, that type of thing. And you say:

"I'm asked to explain what cultural and racial

awareness training means to me and whether it's similar to or different from nondiscrimination training. It has an element of nondiscrimination training. In western societies with white majorities or with experience of colonisation and imperialism it's more than usual for people to have a concept of culture that either homogenises the culture within the nation state itself or it suggests that the attention to culture is necessary and valid only when you're thinking in terms of the cultures people carry with them. There is an assumption that there's a homogenised culture in Great Britain when you strip away the culture of people from the global majority. Cultural awareness needs to be about how people, irrespective of where they are in society, contribute to the culture of the place."

And I think that follows on very much from what you've been saying this morning.

You then comment on the evidence that we've heard from the former Deputy CC Fiona Taylor at paragraph 79, and she told the Inquiry:

"There is an organisational responsibility to ensure that our colleagues understand that the behaviours that they are evincing could potentially be seen to be racist and discriminatory, but if an individual has come through the schooling system in Scotland, the schooling

system anywhere else in the rest of the United Kingdom, for example, gone through university potentially and then come into policing, they may not have any understanding that that behaviour is potentially racist and it's our responsibility to educate those officers, to educate those first and second-line managers to help them understand that these behaviours are not acceptable."

Is it fair to say that you would agree with Fiona Taylor's perspective on this matter?

A. Absolutely. I mean I was very impressed with Fiona Taylor's evidence and I thought it would be particularly helpful to the Inquiry.

Yesterday when I talked about going to school in Cupar or Glenrothes, this is precisely the kind of thing I was talking about and she's absolute right in this characterisation. The fact of the matter is that most people who go through -- you see unlike -- unlike the likes of me who had no choice but to imbibe lots about British education, English education, I think I know more about Wordsworth and Keats and Shelley and Jane Austen and those people than most people in this room, believe it or not. One was saturated with this stuff, I promise you, and more than that, there was an assumption that all that our ancestors had done, all

that they had represented, all that they had tried to retain as African people was irrelevant, second rate, not to be entertained, of no value. And I think most people don't understand that you know.

So having had that superimposition of all of that stuff by Britain in a colonial situation where your country is run a crown colony by people appointed by the British parliament and the British monarch, and then to come here and be treated like scum with people assuming that you've got sawdust in your cranium, that nothing that you or like people like you ever did is worth valuing, that there was no knowledge production in Africa before Europeans went there, that nothing that is worth teaching in school should come from those kinds of places, we are products of that. And so for us reparations is not just about Britain or anybody else paying some money in exchange for the suffering and death of our ancestors on plantations, we have got to repair our own minds, we've got to divest ourselves of all of that colonial stuff. And children going to school in this country, people going all the way to universities in this country, have a very little understanding of the contribution of other people's cultures to the world, which is why I make a distinction between western epistemology, the production of

knowledge, the validation of knowledge, the dissemination of knowledge, and epistemologies from Africa and Asia and other parts of the world. It was imperialist and dominant and that dominant stuff is still there. Yesterday we talked a little bit about decolonisation and I gave the example of what we did in Coventry. It is within all of that context that arises.

So Fiona Taylor is absolutely right in what she's saying there. Even now, all these years later, the schooling and education system is not geared to correcting all of that stuff and it is in that context I felt singularly depressed when I heard the Prime Minister of England, Keir Starmer talking about making sure that the holocaust is taught in all schools even by those who currently are under no obligation to apply the national curriculum and he used words like "never forget", blah, blah, blah. The biggest holocaust there ever was in history was the massacre of millions, 20 million, 30 million people over the space of 400 years who were taken from their homes and their ancestry in Africa and brought to the Caribbean or to the Americas on plantations to make wealth for these places and yet nobody is talking about a monument to the enslaved. He's talking about building a monument and a memorial centre, a study centre or whatever, next to the

parliament to the Jewish Holocaust so that people would never remember -- never forget, et cetera.

Now, the point that I'm making is this. We can't -- we can't ignore the oppression that the people around us who are not white have suffered historically and we have a responsibility to understand that when we make adjustments, when we decolonise or whatever, it isn't simply that people like Gus John could feel better in his soul or I could feel better to know that my children would have a different diet of that stuff than I did. It should be principally in order that white people should understand your past and what it actually means, how it continues to define Britain where Britishness is equated with whiteness and with a sense of entitlement and belonging and all those sorts of things. And what I'm saying is in the training that we're talking about it is necessary for trainers and those being trained to understand that all of this isn't simply about ensuring that when a policeman or woman goes down the street they can treat black people better and equitably, it's not just about the other or those of us who have been othered, it is very much about doing something about the white psyche itself.

Q. So we cannot exclude the full context, the historical context, but I would like to bring it back, if I may, to

the question of the three organisations that we're looking at and the training --

A. Sure.

Q. -- that they will be providing and focus perhaps on areas where there have been issues at the time in 2015.

Now, you've detailed at paragraph 82, and if we could maybe move onto that, that:

"Cultural and racial awareness in policing requires that the police, PIRC and the crown personnel demonstrate an understanding of... "

And then you list a number of topics, (a) to (e), five topics, and these are:

"The relationship between structural systemic racism and institutional racism;

"The fact that systemic racism frames and provides oxygen to institutional racism;

"The fact that the latter creates and sustains a culture in which personal manifestations of racism become normalised;

"The fact that it is in order to protect the right of black and global majority to be treated with the respect and dignity and to work in an environment in which that right is respected;

"That employers are required to comply with equality and human rights legislation; and

"The duty therefore that employers have to ensure that every employee, irrespective of grade, embraces the personal responsibility to create and sustain an environment where everyone can feel valued and free of racial oppression."

And you've then gone on to talk about at 84 and 85 that you've identified problems with the cultural or racial awareness training that was being provided at that time in 2015 and you say:

"The type of training given was too simplistic and not challenging enough... "

Do you see that at 84?

A. Yes.

Q. Four lines down?

A. Yes.

Q. "... especially where people believe there is likely to be some kickback from those whom they're training."

And then at 85 you also talk about sitting in on trainee sessions and officers arriving for training in a truculent manner which you discussed -- we discussed yesterday, them feeling that training was a bit of a waste of time.

This is -- this was your impression about the -- was it the Police Scotland training or are you talking more broadly about all the training that you looked at in the

papers that the type of training provided in these organisations, where it existed, was too simplistic and not challenging enough?

A. I think I was talking about across the three organisations. I mean Police Scotland, for the reasons that I gave elsewhere in the statement, that given the 13 legacy organisations and the fact that there was no audit, if you like, of what had been done in each of them before or at the point at which they came together to form Police Scotland in 2013, meant that it was -- in one sense it was necessary to not set ground rules, that's not quite what I mean.

It was necessary to indicate what were the basic issues that people should show some understanding of, in relation to policing, in relation to belief standards, in relation to the manner in which communities begin to have faith and confidence in the police or not and if those were, if you like, overarching themes, how then does one begin to assess how much of that was done within any one of the 13 and how can one get from the staff, police staff and officers involved, in those 13, an understanding of what they considered their training needs to be.

Now, that may have been done, I didn't see evidence of it in what I read, but it seems to me that a good

starting point would have been to get some sense of what people considered their training needs to be if these 13 were going to be rolled into one unitary authority, so to speak, or unitary police service and on the basis of that, and how it configured, be able to determine how the training was going to be structured, what was going to be prioritised or not as the case may be.

Now, I'm not saying none of that was done. It may have been. I may have missed the evidence of it being done, but it seems to me that in approaching issues of EDI or racism or cultural awareness, et cetera, that would have been a necessary starting point.

Q. Thank you. I would like to move on. We've talked about unconscious bias training, and I would like to move on to section -- paragraph 86 of your Inquiry statement. This is a section of the statement where you give us your evidence on unconscious bias training and you were asked for a definition and you say:

"I would love to know what it means myself, because frankly it seems to me to be such a peculiar concept. So I suppose it means forming ideas, forming attitudes, which could inform and motivate behaviours which may be inappropriate. Therefore, needing to be aware that one has those biases and that, if you act upon them, that could disadvantage other people or deny their rights."

And I think at 94, if we could turn to paragraph 94, you say:

"Unconscious bias is a euphemism for direct and indirect discrimination and the hegemonic externalisation of the power to exclude, typecast, essentialise and marginalise, if not demonise. The exercise of unconscious bias often includes a range of micro-aggressions that express superiority, cultural supremacy, intolerance and even contempt."

And you have said -- you have talked about how the training has developed into an industry, not unlike racism awareness training in an earlier era. But ultimately, am I correct in understanding that from your perspective unconscious bias is really a euphemism for discrimination?

A. Essentially, yes. It's -- how should I put it? It's a euphemism for discrimination. It's also become, to a very large extent, a get out of jail clause. You will know that I have a concern about some decisions that have been made in the Employment Tribunal in a couple of cases, the case of Dr Sharma at Portsmouth University, for example, where in spite of a lot of evidence of willful, not their words but mine, willful discrimination, acts of discrimination, on the part of one particular senior manager in that place, the

Tribunal found that she had been the victim of direct discrimination, but went on to qualify that by saying it was a result of unconscious bias. And what I couldn't understand from that -- well, first of all, I was alarmed that that narrative, that terminology, had actually reached areas like judges and the Employment Tribunal, but, secondly, that the actions of individuals, which were clearly racist, were being interpreted by decision-makers, people judging the evidence, as unconscious bias. I can see -- I can see no logical reason for making those kinds of conclusions, because I mean the evidence is there.

You can't as a responsible adult manager choose to do things that are clearly discriminatory and hurtful towards somebody, the person's child is sick, they're prevented from doing their best by their child, they pass over for promotion, and people less qualified than them with no experience at all in the area are given the job. I mean and the judgment, the decision of the judge states all of those things. How then do you go from that to suggesting, yes, the person had been direct -- she had been victim of direct discrimination, but it was due to unconscious bias? What gives anybody the right, frankly, to determine that in the head of the person doing the discrimination was not -- they weren't

motivated by racism, it was just unconscious -- unconscious? Bias, what was unconscious about it? And at what point could it be expected to become conscious? That's the question that's never asked. So if you have a pattern of behaviour going on over two years, three years or whatever, and the individual complainant could demonstrate -- could identify any number of discriminatory acts on the part of that individual, at what point can his behaviour, damaging behaviour, be considered to be conscious?

So for people like me who have experienced racism all of our lives, it's not just a red herring -- it's not just a red herring, it's a dolphin.

Q. Thank you. We've heard evidence in the Inquiry on Day 110 on 25 June this year from Dr Peter Jones.

A. Yes.

Q. I mentioned him yesterday.

A. Yes.

Q. And he had delivered training to Police Scotland. He said in relation to unconscious bias:

"I don't think we can eradicate it, that is implicit bias, because it's part of that process which we need to live in our lives so what we can help do is mitigate the effect as best we can. If we slow the thinking down by putting little barriers in the way, little pauses in the

thinking, we can mitigate bias by giving conscious process time to engage. So we know that the unconscious operates somewhere between 30 and 100 milliseconds, which is actually faster than the eyes can even fully perceive an image, but the conscious brain doesn't cut in until about 400 milliseconds, four tenths of a second, so we're never able to get in soon enough. So all we can do really is to delay the thinking to introduce those little thinking spaces between the impulse and the action in the hope that we can get people then to rethink the situation."

Do you have any thoughts on that evidence? Yesterday you said you did not have the experience in the neuroscience, but in terms of training of unconscious bias, would you agree that ensuring that there is thinking time could make a difference, between someone simply making those unconscious reactions and having someone process things more carefully.

A. I would like to say that I understand all that Peter Jones is saying in what you have just shared with us, but I don't. It isn't that I am so dismissive of the whole concept that I haven't tried to, I promise you I have, but I don't understand it, nor do I understand how it would apply in real-life situations.

I mean in my statement I gave an example of what I

thought was unconscious bias and where it may have came from. I talked about this situation when I was Director of Education when this parent came to complain about the fact that her daughter had not received her grant to go to university. And at that time of the year, I left my office and went down to join the people in the awards office to ease the pressure and to get some sense of what kind of thing that they were having to deal with and on that particular day, this black parent walked in demanding to see the director. Somebody came to tell me and I said tell her that I would be out in a minute to see her. So after I finished dealing with one particular parent, I went out to the waiting area and asked for this lady and she came up to me and I said "How can I help you?" and she said to me "Are you stupid or what? I said I want to see the director" and the whole waiting room erupted and said "He is the director." And I won't repeat the expletives that she came out with, but effectively she said there was I thinking that it was a white man I was coming to see. So she didn't expect to see me as the Director of Education. So she said "Are you Gus John?" and I said, "yes, I am, and I can show you my passport to prove it" I said. So we then had a laugh and I took her into a room and within 20 minutes was able to sort out the

administrative nonsense that had led to her getting a letter saying that her daughter was not entitled or whatever, we sorted that out.

My point is this so that woman -- how come she didn't know that I was a director in the borough is another story, but that's not important. The point is that she had never had in her experience anybody black being known as the Chief Education Officer anywhere in the UK and she had been used to white people being in those positions so she didn't automatically think that this man standing in front of her saying "Can I help you?" was the person she came to see. All right. So is that a case of unconscious bias or is it not? I would suggest that she had learnt and expected from life to have certain expectations and she was externalising that.

I use the example of flying all over the place, which I do regularly, particularly transatlantic flights to the Caribbean or Africa when I do work for the African Union and what I was saying is that it isn't customary for us to go on a jumbo jet and be strapped up and waiting for the captain to make the usual announcements to hear a woman's voice. We very rarely hear a woman saying from the cockpit "I am your captain for the day to take you across to South Africa or

whatever." You would hear that and say "Ah, it's good, it's fantastic", other people might say, "Oh my God, what are we in for?" but if you then once there is some turbulence start having ideas in your head about whether or not that person in the cockpit could crack it and you would be landed safely, then something else is beginning to happen in your head based upon your stereotypes and your expectations and so on.

Now, all of that I could understand and you might be able to give some rationale explanations for that. The neuroscience stuff there I don't fully understand, nor do I know how helpful that would be to officers sitting in a training situation.

Q. So if someone has biases, unconscious or conscious, what can be done by way of training that would assist with dealing with reactions that could take place in a very, very short period of time?

A. Well, I mean I don't want to repeat what I said yesterday, but it seems to me that we need to understand how training works and what its impact is upon individuals. I don't think -- I don't think that one can train people to think differently in a given situation if they have not been thinking differently before that situation. If you have stereotypes and you find yourself in a situation where you're applying those

stereotypes, the idea that you would take time to think and summon up the training that told you about that is not particularly realistic, which is why I'm saying it seems to me that is a question of how much you absorb the knowledge and determine for yourself the extent to which you would apply that knowledge to your practice and your conduct and you would do that before you get into a situation where you have a determination about this person standing in front of you as a black male, angry or not, wanting to do X, Y, Z.

It seems to me to be very artificial. I'm not quite sure that is how human beings work or behave on a day-to-day basis. That's what worries me about it.

Q. Right.

A. I mean let me give an example of what I mean. And I have struggled with that a great deal.

So I am a man, have been since birth, socialised in a society where women are not particularly respected and are not considered to have the same power as men and sexism is a reality. The women's movement over the years has had to be very vocal about the gender oppression that women face and what has got to be -- actively has got to be done about it. So as a male, and a father, with sons and daughters, I have a personal responsibility to myself, to my wife, to them as

children, in my parental role. So I need to model the behaviours I want my two sons to adopt in their relationship with women, I need to model for my daughters the kind of behaviours that they should expect of any man who wants to be their partner, including telling those who are incapable of those behaviours to shove off.

So I take on that personal responsibility. I'm not asking society to dictate for me that this is how I should be, and I'm accepting that I am socialised into an environment that is sexist where women are treated in particular ways, where there is gender subordination and gender oppression, which I find abhorrent, and as a parent, I have a duty towards my girls and towards my sons and we have those conversations daily. Some of them believe that I'm a crank -- well, half the world believes that anyway -- but the important thing is we're talking about it and it gives them authority, permission, confidence to bring things into that arena and to speak with me, to speak with their mother, to speak with our friends about matters, and to pull me up when I'm being a jackass, all of that.

Q. It comes back again to things you discussed yesterday about personal responsibility.

A. Sure.

Q. And personal awareness. I'm about to move on, professor, but I'm conscious of the time.

Would that be an appropriate?

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

(11.28 am)

(A short break)

(11.52 am)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you. Professor, yesterday we said we may come back to the topic of reverse mentoring.

A. Yes.

Q. And from my memory of the evidence, you're the only person that's spoken about this as a topic and I think that in and I think the word you use is "trendy". It's become a more popular thing to try and in training and race awareness with staff.

And if we could perhaps look at paragraphs 142 and 143 of your statement, please. It's on page 54, and you explain at 142 what mentoring is:

the process of sharing or exchanging knowledge, experience and skills, ways of being, between someone who has experience and knowledge gained from doing and then someone else, mentoring someone else, perhaps younger, less experienced, more junior, who does not have the same skills and experience."

And then 143 you talk about reverse mentoring and say:

"That is a similar process, but on typically in which a younger child, student or employee provides mentoring to an older and more senior family member or work colleague teaching various skills and ways of producing, organising or sharing knowledge. One example of reverse mentoring in an education context is when a school student provides a master class to a group of teachers on decolonising the curriculum, pointing out how literature in English by writers outside Europe and by writers in the global African diaspora has been largely eclipsed in English literature in British schools."

And I wonder if you could help the Chair understand what benefits might be achieved from introducing reverse mentoring in Police Scotland, PIRC or Crown Office?

A. Yes, thank you. The one thing that reverse mentoring does is to rebalance relationships, let's put it like that, in the sense that managers, line managers, senior managers, have got a number of skills and typically much more experience of the trade than those whom they line manage, but those whom they line manage quite often have capacities, skills, qualities which are not acknowledged.

One of the things I used to do when I was Director of Education and Leisure was to invite colleagues to share with one another what they do when they're not doing the 9-to-5 job, what are you hobbies, what volunteering do you do, what motivates you to be of service to your community and in what forms and so on. And that exercise when completed gave an organisational profile which everybody found extraordinary in that nobody knew that there was that degree of talent and ability in the group as a whole. And people were doing all sorts of things, you know, including being volunteers with the -- with the Royal Lifeboat people or in some cases working with the Salvation Army or YMCA, et cetera or with the Red Cross. So people were able to bring their transferable skills to -- and indeed their experience of how other people managed them in those voluntary settings to their relationships in the workforce. That's one aspect of it.

The other aspect was that as people lower down the scale, so to speak, they were able to share with managers how the organisation was, how they experienced it and what that experience said about leadership and management itself. So they were therefore able to share the kind of knowledge, experience, which their managers would not necessarily have had otherwise and it honed

their own skills in terms of communication, in terms of presentation, analysis of situations and so on, but it also provided lots of valuable information for the senior people whom they were mentoring.

So it's mentoring, but, as I say, it's in reverse. The mentees then become mentors for people who would normally be their mentors. And I think if done well and if it's not just tokenistic, it is a very useful -- a very useful practice and it's also developmental for the reasons that I've given in terms of developing your staff so that people could see themselves in those roles where you yourselves are at the minute.

Q. We've heard evidence from Sir Iain Livingstone --

A. Yes.

Q. -- to the Inquiry. We mentioned that yesterday, and he talked about often people at the top of the organisation had very good training and awareness of EDI issues and the younger people coming in to the organisation had been brought up differently, trained differently, schooled differently and also had good awareness, but he described it as a sandwich and he said the bit in the middle there were people who were not as aware and knowledgeable of these matters.

Would reverse mentoring perhaps be an opportunity to

increase knowledge and awareness in the middle of the sandwich, if I can use the same analogy?

A. I think, yes. Perhaps one of the worst traits of leaders and managers is to imagine, imagine is one thing, behave as if they know everything, and can make sound judgments about all sorts of things. Quite often those judgments are wrong, because they're not sufficiently well informed and the sorts of stuff that people experience lower down the organisation, which the managers need not know about even -- I mean I don't want to go too far into that territory, but it is, for example, one of the advantages of whistleblowing.

Many managers would not be aware of the kinds of things that a whistleblower might want to impart to them by way of just share information, factual information, never mind comments about culture and behaviours which are not acceptable, but which persist anyway because nobody either knows about them or chooses to do anything about them. So it's very important for -- especially in what we agreed yesterday were pretty hierarchical organisations, it's very important for people to feel safe and confident to be able to share with managers, for example, how they believe a particular ruling requirement is going down and how they are themselves having difficulty in trying to get people to sign on to

a particular thing. So I think senior managers deny themselves that opportunity for growth by not involving their junior staff much more in that reverse mentoring process.

Q. I would like to move on to the Macpherson definition of "institutional racism"?

A. Yes.

Q. And you address this as part of your statement. Could we look at paragraph 231, please. There we are:

"The Macpherson definition of 'institutional racism' set out in the Stephen Lawrence Inquiry Report is [and just to refresh everyone's mind] the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour, which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people."

Now, at 232, you mention in response to the Swann Report on West-Indian children in British schools, the Commission for Racial Equality, CRE, you have mentioned them today, provided what is arguably a more helpful definition of institutional racism than the better-known Macpherson one. I would like to look at

this with you, Professor, because from memory I think you're the only witness who's spoken about this.

Let's read out this definition:

"A range of long-established systems, practices and procedures which have the effect, if not the intention, of depriving ethnic minority groups of equality of opportunity and access to society's resources. It operates through the normal workings of the system, rather than the conscious intent of the prejudiced individual."

And perhaps if we can have as much of that definition on the screen as possible.

Now, when the Chair is coming to consider matters of institutional racism and obviously most people have spoken about the Macpherson definition --

A. Sure.

Q. -- what benefits or advantages may be given to the Chair if he also reflects on the Swann definition?

A. I think what the Swann definition does is to -- is to recast, so to speak, this notion of unwitting. I think that's the most unhelpful part of the Macpherson definition, and it's strays into that whole area we discussed before about unconscious bias and what that means and what it excuses.

So the normal workings of the system, not

necessarily the conscious intent of the prejudicial individual, I believe is the crux of the matter. So if the culture of the organisation frames its normal workings and it allows for, if not enables, wrongdoing, the indulgence of prejudicial attitudes, whatever else it may be, then it doesn't help, as I was suggesting earlier, for the focus to be on the individual conduct and practice of people unless you do something about that culture. Now, doing something about the culture does include doing something about the indulgence of prejudices and stereotypes, but it's looking at it in the round, so to speak. For example, how do you track the number of complaints that there are about issues to do with racial discrimination or the way in which people experience the organisation as a hostile environment? What are the mechanisms for doing that? How easy is it for people to actually complain? To what extent are they deterred from complaining, because they expect some form of victimisation as a result of complaining, and how does one signal that the hallmark of the organisation is fairness and equity and justice?

So one has got to interrogate practices, policies, procedures, for example, HR policies, the way in which things are applied fairly and equitably, whether it be permission to work from home, whether it be the way

compassionate leave is granted, whether it be the way bursaries for study are allocated to some people rather than others on criteria that are never defined. There are all sorts of nooks and crannies, all kinds of crevasses, in which hidden discriminations reside which very rarely come to the fore. And the organisation could be seen as operating quite adequately while all of these things are going on, not everybody experiences the organisation as a hostile environment in that sense and it's being aware of all of that and how those practices become institutionalised that I think is at the core of whatever definition there is to be about institutional racism.

I don't want to go into it in any great detail, but if one goes back to Macpherson and understands what that report says about why the Met's investigation of Stephen's murder was flawed, what kind of stereotypes were made by those first responders, the ones who immediately were on the scene and were trying to investigate what actually happened? Was Stephen a member of a gang? Was the event gang related? Is it the case that it was white racist rather than people like themselves, himself and Duwayne Brooks, who were involved, et cetera, et cetera? What was known about right-wing neo-fascist activity in the area and

incidents that had occurred, maybe not as tragic as Stephen's murder, but other incidents which communities had suffered, which the police had paid not to? The failure to join up the dots in relation to all of that stuff so it's -- And what did all of those things, those failings and deficiencies, say about the culture of the place and if they came to the fore to that extent in those graphic ways in the process of investigating badly Stephen's murder, how were they at work in the organisation outside of that tragic event? What did all of that say about the culture of the police prior to that fateful day when Stephen lost his life?

So it's looking at all of that and, again, as I was saying throughout my evidence, we're dealing with dynamic situations in which individuals are making particular decisions, in which certain people feel constrained because of the environment they're in which they experience as hostile, non-facilitative, sometimes with a culture of fear about the place and when you complain about stuff that you find objectionable, your colleagues around you saying that you are always "playing the race card" and all those kinds of tropes. It's looking at all of that and understanding how all of that contributes to the culture of the organisation, especially as experienced by people who are members of

target groups.

Q. Thank you. And the Swann or the CRE definition, has it been adopted elsewhere in other areas or in your experience do reviews primarily look to Macpherson?

A. The latter, I mean most reviews start with Macpherson. I'm not quite sure how widely known this particular definition is. I mean I use it a lot in my teaching and in the review work I do, et cetera and introduce people to it when I do organisational audits and things, but it's not -- it is not -- it is not widely known. And the events that have caused people to look at Macpherson lead to them equating Macpherson's definition or rather inclusion of "unwitting" with this whole later trend of unconscious bias and so on and in my view it is singularly unhelpful.

Q. But the Swann or the CRE definition you've found useful personally in your professional career --

A. Sure.

Q. -- in training, but also you see that as being a useful definition for an organisation that is wanting to make cultural change?

A. Yes.

Q. Thank you. Can I look at paragraph 156 now of your statement. Here we are. And this section deals with a review of the training in place as at 3 May 2015 and

that's effectively what you have been asked to do by the Inquiry.

A. Yes.

Q. To looking at the training that was in place then. We've heard a lot of the evidence how things have changed in the organisation since 2015, but your analysis and criticisms are primarily addressed to the materials available at or around that time. And you say at 156:

"I begin with three general observations. The first is that having studied numerous documents provided by Police Scotland, PIRC and COPFS, I find it very difficult to disaggregate policies, processes and activities that are specifically geared to combating racism and tackling institutional and cultural racism. It would appear that some of that is integrated within EDI's programmes generically, but then it is not always clear just what the specific race equality objectives are or how the PSED (the public sector equality duty) is being delivered on the axis of race as a protected characteristic."

Could you expand on that, please?

A. I find it pretty striking that much of the training was packaged within a sort of generic EDI programming. I mean two obvious things about that. The -- there is

not one piece of legislation that I'm aware of to do with nondiscrimination that includes diversity, or for that matter inclusion. I suppose by implication you would suggest that the consequences of tackling discrimination, combating racism, combating gender oppression, et cetera would be inclusion and diversity, but it is unhelpful and I say that not as an academic but as a sentient being with common sense. It is unhelpful to have this generic categorisation of equality, diversity inclusion, almost like a kind of mantra that everybody adopts and owns, without really understanding what each of those -- each element of that actually means. How does equality differ from equity? What do you mean by diversity and does diversity only arise when you're talking about cultures and backgrounds, et cetera of people who are different, whether they be different on the basis of on the axis of disability or of ethnicity or of religion or whatever else it may be.

Elsewhere, and we mentioned that earlier on today, I talked about the homogenising that takes -- goes on in terms of culture and when we talked about multiculturalism and particularly in the context of multicultural education, the emphasis was always on the cultures of other groups that were not white.

Multiculturalism has never been applied to Britain excluding the white -- sorry, the black population of the British Isles, and yet patently white Britain has always been very multicultural, whether you talk about Scotland or England or Wales and those things get embedded, those understanding get embedded. So people talk about cultural awareness in relation to -- it's like a kind of sort of crude anthropology, you know. What do we know about the culture of these particular people or that particular group of people, et cetera? And yet the cultural diversity within England, to take one example, is huge. As I keep saying to people, the Royal Philharmonic Orchestra is not the same like the Rastrick & Brighouse Brass band. They arise from totally different social circumstances. There's stratification based on wealth, on class, on birth, et cetera. We have got a monarchy in this place for Christ's sake.

So my point is that we have grown up with the language of ethnic minorities or minority ethnic this that and the other. You never hear people talk about the ethnic majority and the ethnic majority as a concept isn't to be found in the literature either when you talk about racial politics or the race relations within Britain. Nobody talks about the ethnic majority,

because it is assumed that there is nothing particularly ethnic about white people.

So even David Cameron as a Prime Minister made a statement some time talking about -- he was referring to racial disparities, and he actually made statements which said something like "If you have an ethnic surname or an ethnic-sounding surname, you are less likely to be called for an interview or whatever it is." He was quoting some research. But what is an ethnic-sounding surname? My name is Augustine John for Christ's sake. What is ethnic about that? So you might talk about Sheku Bayoh being an ethnic surname because it's clearly not English, not African. I had the misfortune of having to carry this wretched name because somebody somewhere bought my ancestors as slaves, divested them of their ancestral groundings, gave them the name of their enslaver, which I then was confined to carrying for the rest of my life.

So what am I saying? I am saying that this business about culture and diversity and cultural awareness, it has never concentrated on the divisions and stratifications within white Britain itself and that notion of everything being homogenous, without class distinctions, without ethnic distinctions, is singularly unhelpful. And therefore when we come to look at

training, as I said earlier, if the training is about how to treat black people or global majority people differently and more fairly, if that's its only focus, then something is fundamentally wrong, because what you're doing is you're reinforcing those power relationships, you're still seeing people as other or othered and not particularly belonging, and you are adjusting what you see as your normal ways of doing stuff so that you can somehow accommodate them and let them feel that your services are as important to them or they are as inclusive -- included within your concerns as the rest of the population. And there's something fundamentally wrong about that in terms of focus and direction and intention.

Q. And having looked at the documents provided across all three organisations, is it fair to say you couldn't address any attempt by any of the organisations to address this issue?

A. That's right, but my particular concern is that those organisations did not specify at its most basic what objectives they had for ending race discrimination, combating racism generally. There were no race equality objectives clearly articulated in what I have seen and I mean EDI basically doesn't tell anybody anything. It certainly doesn't tell me, given my experience of

dealing with these matters for the last six decades, and to say --

To say one more thing, we talk about inclusion, and inclusion is really when you come down to it is about ethnic representation, all right, in the context of race. So you want to make sure that your staffing group, your staff profile, includes people from across the communities that you serve. We want to make our service representative of the communities we serve and that representation, numerical representation, is generally assumed to mean if there are .8 per cent of black and ethnic minority people in this particular region, there should be .8 per cent of the staff who are from those communities within your services. Now, that's very crude, and what it suggests is that it is -- it would be unusual for those same black and global majority people to be in situations where there aren't any of their number within the local population.

To give you an example, my -- the first of my two sons is a medical doctor, a GP, and he has the experience of going to do locum work in sometimes the white highlands of Cheshire, he lives in Manchester, and he would go a couple of days in advance, go down to the local supermarket or whatever it may be and he would experience all kinds of discrimination and, you know,

micro- and macro-aggressions of one sort or another. And then he would turn up in the surgery and people would start coming in. So he's the locum, okay. They would walk in to his consulting room or whatever they call it and immediately be shocked because the same person that they have been treating like dirt for the last couple of days in whatever settings, they find that he is the person they're coming to with their complaints and seeking healing and remedies and so on. And we talk about that within my family all the time.

So the stuff that I was experiencing in Oxford in 1964 and until '67 and the kind of things that he's experiencing now, there's not very much difference. Sixty years have passed, but there's not very much difference. So what I think I'm saying is that situation stays static. There's a hand of stasis about it, because it is not considered that these are the things that we need to be concentrating on. We're concentrating on how to ensure that black people have their civic entitlements and their human rights protected, et cetera, but in other words, if we're not discriminating against them, then everything is all right in the land. It's -- it doesn't work like that.

That is not how I have experienced Britain since 1964 and now my grandchildren in schools around England,

not in Scotland, England and Wales are having very similar experiences. So the same kind of things I was dealing with as a theological student in Oxford in the middle 1960s is what I'm having to go into schools and deal with now in relation to my grandchildren with children of their age, 10, 14, calling them "niggers" and suggesting that the colour of their skin is because they bathe in poo and all kinds of horrendous stuff.

So my point is this, it isn't enough to think in terms of inclusion as simply being -- getting more people in these underrepresented groups to come into the organisation and when they do come in, you're expecting them to conform, not to challenge the institutional barriers that they're experiencing now, which prevented them from coming and being part of you in the first place. So inclusion is on the terms of the organisation. It isn't assumed to give those people who are now being included permission to hold a mirror up to the organisation and say "This is what is wrong about you and your culture and your decision-making process and so on." So it's froth. It's mythical in terms of its impact.

Q. Can I move on to your second observation at 157 and you say:

"It's that it's not at all clear just what measures

are in place for assessing the impact of training upon the operational practice and general professional conduct of those trained. I may have missed it, but I have seen no evidence of where accountability on that score is delivered. Apart from people effectively marking their own homework online, how is training impact explored? Through supervision, self evaluation and forward planning, staff appraisal, race equality impact assessment?"

And thinking about all three organisations, police, PIRC and Crown Office, it is correct to say there you saw no evidence of where accountability is delivered.

Can I ask you to explain a little more about that issue that you raise?

A. Sure. As I think I indicated at various points yesterday, it is very important that the organisation has a sense of how whatever measures it is employing to change its culture are actually working, what outcomes can be detected from applying them and, similarly, how it is gathering the evidence that it is in compliance with equality and human rights legislation? Where is that coming from? What -- what are the sources of that evidence? And how is the evidence being gathered?

One of the problems as somebody who has worked in universities around the land that I have is that

vice-chancellors are very powerful people. They are effectively answerable to the chairs of the university council or board of governors or whatever they call them, but quite often those individuals themselves and those bodies, university councils, governing committees, whatever, do you not require from the vice-chancellor concrete evidence, reliable, measurable, of how the organisation is demonstrating compliance with equality and human rights and legislation.

And when that evidence is to be gathered, it is some hapless overworked EDI officer who is considered to have the responsibility for pulling that together. It is very rarely seen as one of the tasks of the vice-chancellor herself or himself or a pro vice-chancellor or deputy vice-chancellor or provost or whatever it is. And the point I'm making therefore is that accountability doesn't -- isn't seen to rest at that level in the higher echelons of the organisation, and it is indicative of how, if you like, marginalised EDI is within the overall structure of the place. And therefore what is required is for there to be leadership from the top of this agenda. I know very few situations in which, for example, an EDI committee is chaired by a vice-chancellor of a university. Maybe, if you're lucky, a pro vice-chancellor or somebody like that, but

quite often it's a member of the senior leadership team who is as far removed from the pinnacle of power as you can think of.

So in other words what I'm saying is that one can have a cascading view of accountability, starting at the top and cascading down to the lowest levels where data could be gathered qualitative and quantitative about the application of race equality objectives or whatever it is. And I would say the same for Police Scotland and PIRC and the Crown Office. It's very important that that principle of leadership accountability is taken on board and the right structures and processes put in place for gathering the evidence. Race equality impact assessment is a particularly powerful tool to use in this respect and I deal with that elsewhere in my statement.

Q. And if say, for example, the head of the organisation did not even think the public sector equality duty applied to that organisation, as an example, would you consider that that would reflect poorly on the culture which existed, so if the very head of the organisation didn't even think the PSED applied?

A. Without a doubt. You see the biggest fault line in the system, in my experience, is that organisations determine, articulate, their strategic priorities and

they have strategic plans and sometimes, apart from some wishy-washy concept of valuing diversity as an objective or whatever, there is nothing in the strategic plan or the corporate plan which emphasises how critical, let's say, EDI is to the organisation.

It isn't a strategic priority in that sense, which is why it is considered to be peripheral. Maybe that's too strong a word. It is considered to be important, but not up there with the big strategic priorities the organisation has, but effectively if those strategic priorities are going to make any sense, they have got to be seen to be permeated by these principles in my view.

Q. And so if a very important document was being prepared setting out a strategy and that made absolutely no mention of race, then that could also reflect on the general attitude of those in the organisation towards issues regarding race?

A. Yes, it sends out a very powerful message, and in that context let me also say this. In my remarks yesterday, at some point I think, I talked about networks and the black staff network in organisations, and sometimes you hear people quibbling "Why do you need a black staff network? How about other staff? don't they matter?" and so on. And that's born of some kind of a mythical principle -- well, erroneous principle, that you treat

people equally by treating them all the same. Say if you have a network for this lot, you need to have a network for that lot and they must be seen to be resourced in the same manner, et cetera, et cetera. Sandra Deslandes talked about that a bit in her evidence to the Inquiry. I mean, okay, that's not just obfuscation, it is unhelpful, organisationally damaging, because. Unless you accept that there is something that racism is a fault line within organisations and organisations must be expected by the public to do something about racism, even if nobody else does, if you accept that, then that has certain consequences, the way you structure yourself, the priority that you give to it. How you organise training in relation to it, how you equip all of your staff and particularly those who are not black and global majority to understand it and to understand how they could be implicated in perpetrating it. That's what it -- that is what it requires and the leadership of that must be senior enough so that you're sending out a message to the organisation that we take it seriously enough for the chief constable, the deputy chief constable or whatever, to be responsible for not just attending meetings, but for tracking what's going on at every part of the -- in every part of the organisation.

And that's, as I said, as I say repeatedly, it's not only to make black people feel that they're not excluded or marginalised, but because it is intrinsically good for the white organisation itself and the fact of the matter is that there are still many parts of this country, Scotland, that's mono racial.

Q. And I think this is in fact the third point that you make at paragraph 159 of your statement. You note:

"I did not see the concept of equality and equity addressed in any of the training material I examined. Equality is about treating everyone in accordance with their need(s). That is why the furniture in restaurants includes highchairs for toddlers and new trains, as on the Jubilee and Elizabeth lines in Transport for London, are flush with the platforms to facilitate entry and egress for wheelchair users and buggies. Equality and equal opportunity are closely related for that reason and people are given equal resources and opportunities to achieve an outcome, irrespective of their needs. Equity recognises that people have different circumstances, including the family into which they are born, the wealth of that country in which they live, the life chances they have on account of the quality of their education and the choices it enables them to make and that therefore they may need more resources and

opportunities than others if they are to achieve the goals that others take for granted. That is why equity is so closely related to human rights and to positive action to combat disadvantage and discrimination."

And where there were examples in the papers that you've looked at, Professor John, were officers talked about "I treat everyone the same", or "at the end of the day you want to treat everyone the same", "I treat everyone the same", those examples, if members of the organisation are left with that impression from training, has it really missed the point in relation to equity?

A. Yes, indeed, very, very much so, which is why I think it is important that those concepts are clearly explored and explained in training material, because one trope that is pretty common around the place, and I find it most irritating, is this notion that black people expect special treatment, why should we bend the rules for you lot or why are you so demanding of X, Y, Z?

I used to be told that a lot when I was Director of Education and was talking about school exclusions and the quite ridiculous school rules that there were around issues to do with uniform, for example, and particularly children's hair. I can't tell you the number of run-ins I personally have had with head teachers about sending

my children home because of their hair. There was a time when I believed, as I still do now, that you learn with the facilitation of what's inside your head, not what's upon it, but the idea that somehow or other you would send a child home for having his hair braided on his first day of secondary school, although from the time he was born he has never had his hair cut, and argue that two things; one, that it is against the school uniform rules; two, that it is indicative of gang behaviour; three, that it is an aggressive form of ethnic identification. I'm not making those things up. I read them in the submissions from a head teacher when I was asked by the Equality and Human Rights Commission to be the expert witness supporting the mother who had taken that school to court for discriminating against her child for sending him home repeatedly until she got his locks removed and his hair cut to the level that the school wanted. Now, I mean for God sake, "an aggressive form of ethnic identification".

So the point -- the point I'm making here is that it is -- it is particularly important that people understand ways in which differences don't imply wanting special treatment, and you can't want to homogenise everything to -- one size doesn't fit all, and in an education setting that becomes particularly important.

People are endowed with different talents, some people have neurodiverse conditions, ADHD, autism, dyslexia, whatever else it may be. And for you to suggest that normality demands that you exclude those people or find some separate provision for them not because of the intensity of their need, but because you feel it is going to be obstructing the progress of others to have them who are considered to be not normal associating with those others. That happened a lot.

In the early period, my early period in this country, the other one, England, we had to struggle against the Home Office and the Education Department, because they allowed, they encouraged not only allowed, encouraged schools -- by that time people were still arriving a lot from South Asia and from the Caribbean -- they encouraged schools to bus away from local neighbourhoods children of Caribbean, African, South Asian backgrounds, once their number within a particular school reached 30 per cent. So above 30 per cent of those kids on the roll, buses would turn up, children would get into those buses and they would be carted off to schools outside of their neighbourhood where there were not so many black children, completely racist. And the reason for that was they felt that these children would depress the educational achievement

of white kids, if there were more than 30 per cent of them in a school. The government allowed that. They encouraged it.

So when I talk about structural and systemic racism, that's an example of what I am talking about and, of course, we all know the whole process of the ratialisation of immigration as an egregious example of structural and systemic racism, but in this example what I'm talking about is those children were made to feel less valued than everybody else. The assumption was that by virtue of being ethnic minority they had minority intelligence and they set out to prove that. We had to fight to get -- to get schools from sending a disproportionate number of black children into schools for the educationally subnormal. Steve McQueen did a series of programmes about that in his Small Axe series a couple of years ago.

So, you know, we've lived through all of that stuff and in my own right, I call myself a scholar activist because -- people might want to question both of those things, but still -- because -- because I know that for all of these reasons I have been active in building communities of resistance to that kind of structural racism and institutional racism, particularly pretty much for the sixty years that I have lived in this

country.

Q. And I think at the conclusion of this section of your statement, again, to bring it back to the three organisations that you've looked at here, Police Scotland, PIRC, and Crown Office, I think at paragraph 163 of your statement, you say that:

"Overall, I think that before Sheku Bayoh died matters to do with race were very poorly attended to by each of these three organisations."

And that's Police Scotland, PIRC and Crown Office.

A. Well, certainly from the evidence I have examined, and I did so very closely before committing those kinds of remarks to paper, that is a conclusion that I think it is legitimate for me to reach.

Q. Thank you. Could you give me one moment, please?

A. Sure.

MS GRAHAME: Thank you very much, Professor. I have no further questions for Professor John.

LORD BRACADALE: Thank you. Are there any other Rule 9 applications?

Well, Professor John, thank you very much for coming to give evidence to the Inquiry.

A. Thank you, sir.

LORD BRACADALE: I'm also conscious that you did a lot of preparation before you came to give evidence and I'm

very grateful for that. I'm going to give a short public statement, the Inquiry will then adjourn and you'll be free to go.

A. Thank you.

LORD BRACADALE: This brings to an end the final scheduled hearing on evidence in the Sheku Bayoh Inquiry.

Since November 2022, the Inquiry has held around 120 days of hearings or evidence, as well as examining many statements from persons who did not give oral evidence. In addition, the Inquiry has ingathered and examined a great many documents. The next stage of the Inquiry will be the closing submissions.

The Inquiry has put in place a timetable for lodging and exchanging written submissions and has appointed a hearing for oral submissions beginning on 3 December 2024.

I am aware that the Scottish Ministers have for some time been considering a request by the families of Sheku Bayoh to extend the terms of reference of the Inquiry. In order to fulfill extended terms of reference, the Inquiry would require to examine further evidence. Having regard to the stage that the Inquiry has reached, and the need for the Inquiry and all core participants to plan ahead, I would very much hope that the Scottish Ministers are able to reach a decision on

this issue as soon as possible.

In any event, the Inquiry will continue with its current timetable, including the arrangements for closing submissions, on the current terms of reference, which I have already outlined.

The Inquiry will now adjourn.

(The hearing was adjourned to Tuesday, 3 December 2024 )

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