

PRESS RELEASE

01 MARCH 2022

FOR IMMEDIATE RELEASE

INQUIRY CHAIR REQUESTS UNDERTAKINGS TO ALLOW 'FULL AND FRANK' EVIDENCE TO BE HEARD

Lord Bracadale, Chair of the Sheku Bayoh Inquiry, will request undertakings from the Solicitor General and Deputy Chief Constable of Police Scotland in regard to the evidence given by key police witnesses.

Submissions were heard from counsel to the Inquiry and legal representatives for core participants at a preliminary hearing on 22 February.

Lord Bracadale ruled today that he will request undertakings in order to allow key witnesses to give “full and frank” evidence to the Inquiry. The undertakings sought are in respect of any future prosecutions and disciplinary proceedings.

Lord Bracadale made clear he is not asking for immunity on behalf of any officer or former officer.

He said: “It is vitally important that all should understand the limited nature of the undertakings which I request. The requests do not seek immunity from prosecution or disciplinary proceedings. In the event that new evidence against officer A emerges in the Inquiry it will be open to the Solicitor General and the Deputy Chief Constable to make use of that material as they think fit. The undertaking is restricted only to the use of evidence provided to the Inquiry by officer A.”

Undertakings of this kind have been given in other public inquiries.

A similar request for an undertaking will be made to the Deputy Chief Constable in relation to disciplinary proceedings.

In Scots law a witness is entitled to refuse to answer a question if a truthful answer could lead to self-incrimination.

This privilege is also enshrined in the European Convention of Human Rights.

Lord Bracadale emphasised that the Inquiry would require access to full evidence from “crucial” witnesses if it is to fulfil its terms of reference.

He added: “I have repeatedly stressed the important public interest in striving to ascertain the truth in the Sheku Bayoh Inquiry. My task is to search for the truth through the evidence. That will involve a consideration of the whole evidence, making of findings in fact and drawing inferences from proved facts.

“Each of the officers and former officers is a crucial witness in respect of highly important and potentially controversial aspects of the terms of reference. The exercise of the right against self-incrimination by these witnesses would be likely to have a profound effect on my ability to reach the truth of what happened.”

In reaching his decision to apply for the undertakings, Lord Bracadale said the Bayoh family should hear the “fullest account” of events.

He said: “I have committed to ensure that the family of Sheku Bayoh are at the heart of this inquiry. They have a strong interest in hearing the fullest account of what happened on 3 May 2015 leading to the death of Sheku Bayoh. The full evidence of the key witnesses is essential to achieving that. In the absence of the undertakings the family are most unlikely to hear the full evidence of the officers.

“The terms of reference require me to hold individual officers accountable for their actions. In order to do that I will require the full and frank evidence of officers and former officers to be available to the Inquiry. Without the undertakings my ability to hold individuals to account will be severely limited.”

Evidential hearings are due to begin on 10 May 2022.

Hearings will be streamed live on the Inquiry’s [website](#) and [YouTube channel](#).

ENDS

Media enquiries should be directed to media@shekubayohinquiry.scot

Notes to editors

1. Download Lord Bracadale’s full ruling [here](#).
2. Watch the hearing held on 22 February [here](#).
3. Download the terms of reference of the Inquiry [here](#).