

HEARING 1 – LIST OF ISSUES

Evidence will be led regarding the events of 3 May 2015, with particular focus on:

1. Handling of Calls Received by the Police
2. ACR Response
3. Risk Assessment
4. Response by Police Scotland and/or Individual Officers
 - (i) Initial Contact
 - (ii) PC Nicole Short Incident
 - (iii) Restraint of Sheku Bayoh
5. After the Restraint & Calling the Ambulance
6. Victoria Hospital
7. Items Recovered at the Scene
8. Return of Police Officers to Kirkcaldy Police Office
 - (i) Conferral
 - (ii) Recovery of Equipment
 - (iii) Status of Officers
 - (iv) Advice given to Officers
 - (v) Completion of Paperwork: Use of Spray Forms; Use of Force Forms; Notebooks; Statements
 - (vi) Examination of Officers
9. Recovery of Sheku Bayoh's Body & Evidence from Victoria Hospital

Issues

We will consider¹ five questions in relation to each of the above events:

1. What was done (or not done); and why²?
2. What **standards**³ applied as at 3 May 2015?
3. Whether and to what extent there was any **departure**⁴ from the standards;
4. What difference did any departure(s) from the standards make to the outcome?
5. Would it have made a difference if Sheku Bayoh had been white?

¹ For the avoidance of doubt, answers to these questions will not be given at the conclusion of Hearing 1. The questions will be answered in a Report by the Chair at a later date..

² Whether what was done (or not done) was reasonable in the circumstances is a matter for the Chair alone.

³ Standards will be identified throughout, by having regard to the Standard Operating Procedures; any statutory obligations; duties of care; and any other professional or ethical [as per the Code of Conduct] obligations which existed at the material time; as well as the training and guidance that was available to officers performing these duties

⁴ Departures will be identified by comparing whether the steps taken were consistent with the standards and training applicable on 3 May 2015

Law & Practice

Core Participants have been provided with a chapter on issues regarding Law & Practice which are considered relevant to Hearing 1. The contents of this chapter will primarily be a matter for legal submissions in due course.

1. Whether Police Scotland have a duty to carry out a risk assessment before deploying officers to an incident and/or at a scene. If so, who is responsible for carrying out that assessment and when should it be done
2. The circumstances in which specialist resources (Armed Response Vehicle; dog unit) should be deployed
3. The circumstances in which force may be used to detain or arrest a suspect; and the criteria that determine whether the force used was lawful
4. Whether Sheku Bayoh was “in custody” at the time of his restraint in Hayfield Road
5. Whether the Scottish Police Federation; and their staff; have a right or duty to provide advice to officers following a death in custody regarding completion of paperwork, including provision of statements; and if so, what that advice should be
6. Who has the authority to determine the status of police officers as witnesses/suspects following a death in custody; and how that decision should be intimated to officers
7. Whether the officers involved in the incident were under an obligation to complete their notebooks, use of force forms and use of spray forms on or around 3 May 2015
8. Whether the officers involved were under an obligation to prepare/provide operational statements, and/or to give statements to the Police Investigations and Review Commissioner; and if so, when
9. Whether the privilege against self-incrimination takes precedence over any such obligations
10. The duties incumbent on officers of Police Scotland regarding equality, diversity and race
11. Whether Police Scotland require serving officers to meet particular standards of health and fitness throughout their service
12. Whether Police Scotland and their officers complied with the applicable Convention rights

Key Individuals

Relatives and family members will be invited to speak about the person Sheku Bayoh was and the impact of their loss.

Evidence will also be led regarding:

1. Sheku Bayoh: his personality and temperament; ethnicity and religion; relevant past medical history; history of drug/steroid use in around 2015

2. Whether any of the attending officers had a history of racist behaviour/intolerance/lack of awareness of racial issues; a history of violence or excessive use of force; a history of heavy-handedness or dishonesty⁵
3. Training received by the officers

⁵This will be considered having regard to their Disciplinary records and any history of complaints