

Statement in Response to Rule 8 Request by Sheku Bayoh Public Inquiry

Witness

Keith Harrower

Born: [REDACTED] 1961

Police Investigations & Review Commissioner

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Statement dated 27 September 2023

These questions will focus on your role at the Police Investigations and Review Commissioner (PIRC) and your involvement in PIRC's investigation following the death of Mr Bayoh.

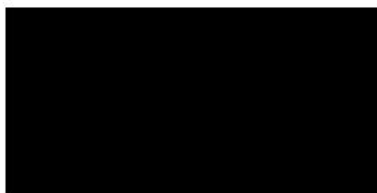
Your professional background and experience

- 1. Further to the summary of your professional career within paragraphs 2 and 4 of the statement you provided to the Inquiry on 28 October 2022 (SBPI-00259) (your "Inquiry statement"), please expand on any professional experience you consider relevant to your role within PIRC. This could include previous employment or training.**

Following my appointment to the CID in Strathclyde Police, I attended the Scottish Police College (SPC) and completed a Detective Training Course. During my extensive period working in the CID and Strathclyde Police Serious Crime Squad, I worked on a number of serious crime investigations, including murder, attempt murder and armed robberies. I also undertook supervisory roles in a number of proactive intelligence led investigations during my secondments to the Scottish Crime Squad and Special Branch Surveillance at Strathclyde Police, targeting persons involved in serious and organised crime and terrorism.

I attended a number of training courses at the SPC, locally at division and local training school for managers at various ranks. I also participated in a variety of other management/other training, including Equality and Diversity, in the police service and with PIRC (See also answer to Question 5).

- 2. Within paragraph 5 of your Inquiry statement, you identify that you knew Detective Superintendent Patrick Campbell and Assistant Chief Constable Ruairaidh Nicolson. As at 3 May 2015, was there any process within PIRC for formally recording that a PIRC staff member was acquainted with a Police**



Scotland officer, in particular an officer who was the subject of a PIRC investigation?

See answer to Question 3 below.

- 3. As at 3 May 2015, was there any PIRC policy or guidance for PIRC staff who were acquainted with a Police Scotland officer that they encountered in their PIRC role?**

The current policy in this regard is contained in the PIRC Code of Conduct November 2022. Version 2 is dated 14 March 2014, covering the date of the incident, and contains very similar information, direction and guidance for PIRC staff. In general, it provides that employees are required to discuss any areas of potential conflict with their line manager and register agreed areas of potential conflict.

It was practice that if a PIRC Investigator was directed to work on a specific investigation and subsequently established that he/she had a previous close acquaintance with any officer forming part of the investigation, which may compromise or conflict his/her position, there was a responsibility to declare such association, make a manager aware and a decision would be made on their appropriateness to continue as part of the investigation team.

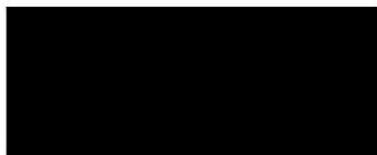
The Police Investigations and Review Commissioner

- 4. What were your duties and responsibilities as a deputy senior investigator at PIRC?**

As a Deputy Senior Investigator, I had the responsibility to supervise a team carrying out independent investigations into the most significant incidents concerning the delivery of policing in Scotland. In this regard, I was required to conduct and lead investigations in accordance with legislative requirements and guidance. I also ensured the efficient and effective management of resources allocated to investigations, took statements, conducted interviews and prepared reports for senior stakeholders, both internal and external, on the investigations that my team undertook and any other bespoke matters.

I also contributed to the provision of a 24-hour on-call facility on behalf of the PIRC. I participated in the PIRC career development and Performance Review Process; to appraise, assess and counsel staff as required, make recommendations to senior management in respect of this activity, including highlighting specific training and career development needs and opportunities.

- 5. What training did you have for this position? Please include details as to any training undertaken at the beginning of your employment with PIRC, at the beginning of your then-role (if different) and any training undertaken during this role? How do you record the training that you receive as a PIRC investigator?**

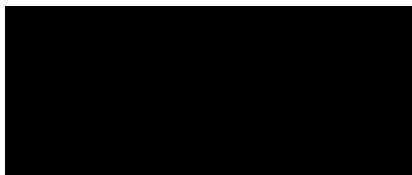


My training, experience and qualifications for the role have been outlined in my statement, attained during my 30 year tenure with Strathclyde Police.

At the outset of PIRC, I did not undergo any specific training related specifically to by investigative role. However, I did periodically undertake training on a variety of topics during my tenure with the organisation, which is recorded on a central database managed by the Corporate Services Department.

Training provided by the PIRC and recorded as follows.

Training Course	Date Attended
Taped Interview Training	May-2013
Clue 2	July-2013
RTC Training Event	August-2013
Advanced Driving and Emergency Response Training	September-2013
Data Protection	October-2013
Fatal Accident Enquiries and Death Investigations in Scotland	December-2013
iHasco online training*	April-2014
Tactical Firearms Commanders National Decision Model Course	April-2014
Plain English	September-2014
Equalities	October-2014
PIM Awareness	October-2014
Data Protection	January-2015
Social Media Training	February-2015
i6 Presentation	June-2015
Initial Tactical Firearms Command	February-2016
COPFS Management Development Programme (2 yr)	June 2016
SFIU - FAI Training	June-2017
Plain English	August-2017
Criminal Justice Act (Scotland)	December-2017
Criminal Justice Act (Scotland) - Supervisory Custody Training	January-2018
Police Fatal Shooting Presentation	February-2018
Forensic Input Death Investigation and Specialist Support	February-2018
Tasers - Presentation	April-2018
Sexual Offences liaison Officer (SOLO) - Conference	May-2018



Introduction to National Missing Person Application	September-2018
Recruitment Training	February-2019
Criminal Justice Act (Scotland) - Station Procedures	March-2019
GDPR	March-2019
Police Scotland THRIVE Awareness	May-2019
MORR Training	October-2019
FOISA Training	December-2019
Hybrid Management Session	August - 2021
PIRC Equality, Diversity and Inclusion	November 2022

6. Did you feel adequately trained and experienced to carry out your role at PIRC? Please explain why, or why not.

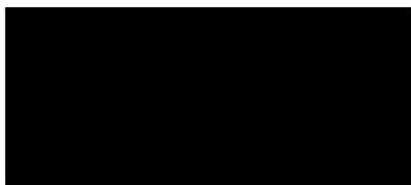
In my view, I had a wide range of investigative experience as already outlined in this statement. This was supplemented with additional training during my tenure in the PIRC. In this regard, I felt adequately trained and experienced for the role.

7. Is there any process within PIRC to assess “lessons learned” from investigations? If so, what does this process entail? Did any “lessons learned” exercise take place following the investigation in relation to the incident involving Mr Bayoh? If so, what did this involve? If not, why did this not take place? Do you think the PIRC would have benefitted from such a “lessons learned” exercise?

During the course of, or at the conclusion of more complex investigations, debriefs are sometimes held. This provides an opportunity to identify learning and other relevant information for future investigations. This involves a structured meeting with management and the investigation team involved where the key parts of the investigation are discussed in detail. Any relevant actions are taken forward.

No debrief was held in relation to the death of Mr Bayoh. This would have been a decision for senior management in the PIRC at that time. It is difficult to form an opinion at this late stage on whether any benefits would have been derived from this.

8. Did you line manage or supervise any employees? If so, please provide their names and roles. Please provide details as to how you supervised these employees – i.e., did you have periodic one-to-one conversations, if so, were notes taken? Did you conduct yearly reviews?



In my role as Deputy Senior Investigator in 2015, I had line management responsibility (first line manager) for a small team of investigators.

As far as I recall, the following Investigators were under my management at this time.

Investigator Kareen Pattenden
Trainee Investigator Lynn Ungi
Investigator [REDACTED] (now retired)
Investigator [REDACTED] (no longer member of organisation)

I oversaw all investigations and actions undertaken by the team. In this regard, I conducted regular team and one to one briefings/discussions to confirm the progress of investigations, provide advice and direction and ensured all relevant lines of enquiry were being conducted. I would have taken notes on occasions.

I also quality checked all reports compiled by the team. In addition, I was responsible for completing bi-annual Performance Reviews, details of which were recorded on the respective forms.

9. Who was your line manager or supervisor? Please provide details as to how you were supervised by them. Did you have an annual appraisal? If so, were notes taken?

In May 2015, my line manager was [REDACTED], Senior Investigator (no longer employed by organisation).

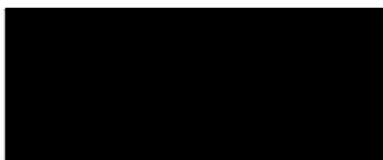
He was responsible for overseeing the investigations I conducted. In this regard, I had occasional one to one discussions with him to confirm the progress of investigations.

He was responsible for the completion of my bi-annual Performance Reviews, details of which were recorded on the respective forms. I have no knowledge or recollection of any separate notes he may have taken.

10. With specific reference to 3-5 May 2015, did you feel PIRC had sufficient resources to carry out the investigation as instructed by the Crown Office and Procurator Fiscal Service (COPFS)? If not, please provide detail as to what resources were lacking and any impact of this.

I am satisfied that I had sufficient resources to respond to the incident on 3 May 2015. In addition to the Investigators who formed part of the PIRC on-call team, I called out additional members of staff with specialist Scene Management skills to support me and be utilised accordingly.

I am not in a position to comment informatively regarding the resources in the days following as I was not directly involved in the management of the investigation.



11. Between May 2015 - August 2016, do you feel that there was adequate resourcing for PIRC to comply with its statutory obligations in terms of:

- 1.11.1. Funding;**
- 1.11.2. Staffing numbers;**
- 1.11.3. Training opportunities; and**
- 1.11.4. Expertise of staff.**

See answer to Question 10. In addition, I had no specific knowledge on funding of the PIRC.

12. In what ways do you regard the role of a police officer and the role of a PIRC investigator to be similar or different? Do you feel that your background as a police officer has any advantages or disadvantages for your work at PIRC? If so, please provide full details.

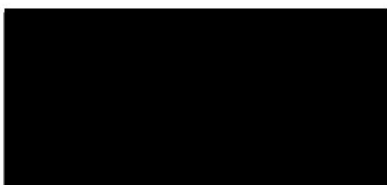
The two roles have a significant number of similarities. In particular, they have to continually expand on their investigative experience and work within the legal framework. Both officers and investigators have very similar powers under law and have to act and perform in line with their organisational policies and procedures. They are directed by their respective managers to conduct thorough investigations into a variety of incidents, including allegations of criminality and deaths, gathering relevant evidence and other information. They also have to have good communication skills to interact with both complainer, victims and their friends and family.

In my view, my background as a police officer has many advantages providing me with a variety of investigative skills and management experience in a number of specialist areas, in particular the investigation of serious crime (see also answer to Question 1).

13. In 2015-2016 PIRC had various staff members who had previously held roles within the police. Do you feel that PIRC as an organisation was impacted positively or negatively by staff having held roles within the police? Please provide details as to how.

In my view, generally PIRC benefited positively from staff having held roles within the police. They brought a varied skill set to the organisation, particularly in key areas such as Deaths, Family Liaison, Scene Management, investigation of serious crime, road collisions and firearms incidents. This said, other members of staff from other investigative backgrounds brought other unique skill sets to compliment the team overall. For example, we have had a number of investigators from a military background with unique but transferrable skill sets.

14. Prior to 3 May 2015, what experience, if any, did you have of PIRC investigations of deaths in police custody, or deaths following police contact?



I joined PIRC in February 2013. Prior to 3 May 2015, I believe the PIRC dealt with 30 deaths in custody or death following police contact. In this regard, I lead the investigations personally into three of these deaths, one which was a death in custody. However, I was involved directly as part of the investigation team in a number of the other deaths during this period. However, I cannot be more specific in my overall actions or involvement.

- 15. As a police officer, you achieved the rank of temporary detective superintendent. When leading a PIRC investigation, you may be required to liaise with and direct police officers of a rank senior to that which you achieved. What impact, if any, does this have on your ability to lead a PIRC investigation and provide direction to officers from Police Scotland?**

During my period as a Deputy Senior Investigator and Senior Investigator in the PIRC I have been required on many occasions to liaise with a number of senior ranking police officers. In this regard, I have often required to direct them to facilitate many tasks in relation to an ongoing incidents or investigations. This is always approached in a professional, polite and common sense manner and has never caused me concern or made me reluctant to make such requests. My previous rank within the police service had no real significance in this regard.

Your involvement with the PIRC investigation

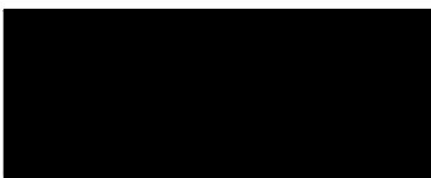
Sunday 3 May 2015

Instruction from COPFS

- 16. What did performing the duty on-call deputy senior investigator role for the PIRC involve? How many times had you performed this role prior to 3 May 2015? On how many occasions had you been required to deploy to an incident whilst you were on call prior to 3 May 2015? On how many occasions did those deployments relate to deaths in police custody, or deaths following police contact?**

The purpose of the PIRC on-call is and was to provide a 24 hour 365 day operational PIRC response for any serious incidents involving the police or other relevant agency. The on-call team is always lead by a Deputy Senior Investigator of Senior Investigator who is the first point of contact for any serious incident referred to the PIRC out of normal office hours. The on-call team would if required respond to and attend the incident to conduct any necessary enquiries and gather any evidence or information, which required to be done with a matter of priority.

Between April 2013 and 2 May 2015, I would have undertaken the on call supervisor role on average once every eight weeks. I have attended a number of incidents while on call. I cannot be specific on how often I did prior to 3 May 2015. Further, I am unable to recollect how often I deployed in relation to deaths in police custody, or deaths following police contact.



- 17. Upon receiving the instruction from David Green around 0935 hours on 3 May 2015, what were your initial considerations and priorities at the outset of the PIRC investigation? What impact, if any, did Mr Bayoh's race have on those initial considerations and priorities?**

As I stated previously, initially there was nothing about Mr Bayoh's race that was particularly relevant to the instruction I received from Mr Green at that time. This was clearly a significant and tragic incident where a man had died and a swift and professional response was required by the PIRC. However, as the incident progressed I very much kept an open mind on the circumstances. His race would have been a consideration for Investigator Ferguson at a later stage when he was dealing with Mr Bayoh's body. In addition, this would also have been a consideration for PIRC FLOs when deployed.

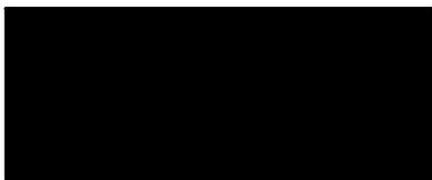
My initial priority was to contact an appropriate senior officer at Police Scotland and establish the full circumstances as known. Then, ensure the locus/loci had been properly secured and preserved, all relevant evidence was secured and give any relevant direction/actions to the police prior to PIRC resources arriving in Kirkcaldy. It was also necessary to identify any witnesses who had significant information that would require a priority response that day.

- 18. Your PIRC application form (PIRC-04212) identifies that, in some of your roles as a police officer, you were involved in investigations related to terrorism. What was the nature of your work in this regard? Upon receiving the initial instruction from David Green, or at any point on 3 May 2015, what consideration, if any, did you give to the incident involving Mr Bayoh potentially being a terrorist incident?**

During my service with Strathclyde Police, I spent several months as a Detective Inspector in Special Branch and lead the Special Branch Surveillance Unit who were responsible for gathering intelligence and evidence in relation to persons suspected of being involved in acts of terrorism. In this regard, I led a number of intelligence led surveillance operations targeting these persons.

On receiving the instruction from Mr Green, I maintained an open mind on the incident as limited information had been provided by Police Scotland.

- 19. At this stage, what was your understanding of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS? Was your understanding that the investigation was instructed under section 33A(b)(i) or section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006? Were you aware of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS changing during the investigation? What difference, if any, does the legislative basis upon which PIRC are instructed to investigate by COPFS make to a PIRC investigation?**



My understanding was that Mr Green had instructed the PIRC to investigate the death in terms of Section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (as amended). This section relates specifically to the circumstances of any death involving a person serving with the police and not any allegation that an officer has committed a criminal offence.

I do not recall being aware of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS changing during the investigation.

If COPFS direct an investigation under Section 33A(b)(i), then there may be an indication that a person serving with the police may have committed an offence. Thus, the investigation would be a criminal investigation and if any suspect/s are identified, then they must be afforded their legal rights similar to a member of the public.

- 20. What impact, if any, did the lack of a written instruction from COPFS at this point impair PIRC's investigation? Was it normal for PIRC to commence an investigation directed by COPFS without a formal written instruction? Did you expect a written instruction to be provided by COPFS in due course? Was a written instruction received from COPFS on 3 May 2015? If not, did this have any impact on PIRC's investigation?**

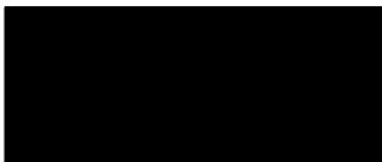
There was no expectation of an immediate written referral from COPFS on 3 May 2015. Thus, there was no immediate impact on our response to the incident. Where PIRC respond almost immediately to an incident out of hours, we would not receive a written instruction from COPFS until the first working day thereafter at the earliest. A written instruction would be expected then.

- 21. Your operational notes (PIRC-01468), at page 3, record the detail of your telephone conversation with David Green at 0935:**

Calling re a death in police custody in the Kirkcaldy area. He has received report from Police Scotland that they attended an incident at 0700 this morning, somewhere in Kirkcaldy town centre. The report was of a black male with a knife above his head causing a serious disturbance (full location unknown at present). Male and female uniformed officers attend locus, challenge male, fight takes place during which CS and baton used. Eventually placed in police vehicle and he subsequently collapses. Paramedics attend the scene and do CPR.

Your operational notes (PIRC-01468), at pages 3 and 4, also note the details of your telephone call with Superintendent Craig Blackhall at 1001 hours. He provides you with a short summary of the circumstances and you have noted:

'About 0700 hours, a number of calls to Police Scotland regarding African male armed with a knife in town centre of Kirkcaldy. Suspect makes run at female police officer and assaults her. Suspect is CS'ed, but this has little effect and he laughs. Suspect struck with baton at least once. A number of police officers



attend the locus. Suspect was unconscious on the ground. CPR done by police and then by paramedics short time later.

Within your Inquiry statement, at paragraph 10, you state that:

There are discrepancies in both of these accounts.

What impact, if any, did the discrepancies within the initial accounts of events that you received have on your approach to the investigation?

At that early stage, the discrepancies had little impact, although were not helpful. It is not uncommon however during a largescale ongoing incident for discrepancies on accounts to be prevalent.

22. What function would a deputy senior investigator generally perform in an investigatory team? Was that the function you performed in this investigation?

Routinely, a Deputy Senior Investigator would initially be the lead investigator, particularly during the initial stages of an out of hours call out. This was the role I played that night. I would be responsible for liaising with relevant officers within Police Scotland, directing resources and making operational decisions.

However, I did also provide interim updates on my actions to Richard Casey, Senior Investigator who attended at the PIRC Offices in Hamilton that day.

23. How many times had you carried out this role prior to 3 May 2015? Had you performed this role within a similar investigation prior to the incident involving Mr Bayoh?

I had carried out this role on a significant number of occasions prior to 3 May 2015. I cannot be specific in number. As indicated, prior to this date I lead three investigations into deaths (See answer to Question 14).

24. Did it involve supervising the work of any PIRC staff members? If so, who and how did you carry out that supervision?

Yes, this did involve supervising PIRC staff members. See answer to Question 8.

Investigatory steps following initial instruction

25. Your first PIRC statement (PIRC-00007), at page 2, notes that around 1010 hours you contacted Senior Investigator Richard Casey and made him aware of the incident. Why did you choose to contact SI Casey? What did you discuss with him? Was SI Casey the senior investigator on call at PIRC on 3 May 2015? As a senior investigator, what was his relationship to you as deputy senior investigator on 3 May 2015? What was his role as part of the investigation on 3 May 2015? Was SI Casey in charge of the PIRC



investigation on 3 May 2015? Why did SI Casey not subsequently travel to Kirkcaldy with the other PIRC investigators?

I made a decision to contact him, as the PIRC senior manager on call, to make him aware of what was a critical incident involving the police. It was appropriate given the nature of the circumstances. I provided him with an overview of the circumstances known to me at that time. SI Casey was one of the Senior Investigators, but was not my direct line manager at that time. He elected not to attend the incident and remained at the PIRC Offices in Hamilton to liaise with Corporate Communications and any other matters arising. I was the lead PIRC Investigator on the ground, but intermittently updated SI Casey on any developments. It was his decision not to travel to Kirkcaldy with the group. I am not fully aware of his rationale.

26. Your first PIRC statement (PIRC-00007), at page 2, notes that you:

... thereafter made arrangements for a number of PIRC officers to respond to this incident and initially attend at the PIRC offices in Hamilton for briefing and other purposes.

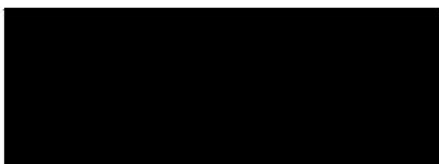
What were those “other purposes”?

There was a requirement for the Investigators to collect vehicles, uplift documentation, and other material, to carry out their respective functions that were allocated to them, particularly in relation to dealing with the respective scenes.

27. How many investigators did PIRC have on call on 3 May 2015? Was this the normal number of investigators that would be on call on a Sunday morning in May 2015? What was PIRC’s system for allocating investigators to the on-call rota? What consideration, if any, was given to the investigators’ skills, expertise and experience when setting the on-call rota? On the basis of the information you had available to you, did you consider PIRC had sufficient resources to respond to the incident on 3 May 2015?

My recollection is that Investigators Rhodes, Taylor and myself were on-call. I had the on-call mobile telephone and was the first point of contact. Richard Casey was the on-call Senior Investigator. This was the normal number on call staff on a weekly basis. Usually, Investigators from each Investigations Team would be on call on a rotational basis. However, on occasions due to annual and other leave and sickness etc, other Investigators may be required to carry out this function when required out of turn.

Where possible, an Investigator with Scene Management experience would be part of the on-call team. However, this was not always possible. I called out additional staff, namely Investigators Ferguson, Sinclair and Maguire to support the on-call team for this incident. Investigators Sinclair and Ferguson had significant Scene Management experience. The total number of Investigators who were called out to the incident was approximately 25% of the total PIRC Investigations staffing at that



time. I considered that I had sufficient and appropriate resources to respond to the incident as was known to me at the time.

28. Which other PIRC investigators were on call on 3 May 2015? What information did you pass to the PIRC investigators that were on call when you first spoke to them?

See answer to Question 27.

When I first spoke to the Investigators I gave them very brief details of the incident and instructed them to meet me at the PIRC Offices in Hamilton.

At the office, I gave the team, including SI Casey, a brief overview of the circumstances of the incident as provided to me by Police Scotland. I also allocated the Investigators specific tasks, which would be reviewed further after attending at Kirkcaldy. In this regard, Investigators Ferguson and Sinclair were to take the lead with the two scenes at the hospital and Hayfield Road respectively.

Call with DS Campbell at 1022 hours

29. At the point that you spoke with DS Campbell at 1022 hours, did you consider yourself to be in charge of the investigation into the death of Mr Bayoh? What impact, if any, did not being in Kirkcaldy at this time have on your ability to take charge of the investigation? If you considered yourself to be in charge of the investigation at that stage, to what extent, if any, were you relying on DS Campbell and Police Scotland to manage the response to the incident and to progress the investigation?

Yes, at this stage I considered myself to be in charge of the investigation. Through discussions with D/Supt Campbell, I was able to seek clarity on what had been done in relation to the scenes and direct actions accordingly. At this time, I was primarily relying on D/Supt Campbell to provide all relevant information and be the conduit where required. He provided assurance that the scenes at Hayfield Road and the hospital had been secured by Police Scotland and would be dealt with by PIRC staff at an appropriate juncture after their arrival at Kirkcaldy.

30. With reference to your call with DS Campbell at 1022 hours, you state on page 5 of your operational notes (PIRC-01468):

Locus Hayfield Road – Cordon in place. Knife and batons photo'd in situ and removed due to weather conditions.

What instructions, if any, did you provide to DS Campbell in relation to the management of the Hayfield Road scene during your call at 1022 hours? What discussions, if any, did you have with DS Campbell in relation to the removal of the knife and batons from the scene? At this stage, were you content with the steps taken by Police Scotland to manage the scene at Hayfield Road? If not, why not?



I sought assurance from D/Supt Campbell that the locus at Hayfield Road was secure and he confirmed it was and a police cordon had been established and would be maintained. The batons and knife had already been photographed in situ and taken possession of by police before my telephone call with D/Supt Campbell. I accepted the reason provided that these were removed and there was an evidential record of this. I was content that the locus was secured and this would be maintained until formally taken over by PIRC Investigators. This said, Police Scotland resources were still required to maintain integrity and security of the locus.

31. With reference to your call with DS Campbell at 1022 hours, you state on page 5 of your operational notes (PIRC-01468):

Pat Campbell informed to leave body secured at hospital.

Within your Inquiry statement, at paragraph 13, you state that:

He was instructed to do that with a view to PIRC scene managers dealing with the deceased's body or at least directing others in relation to that.

During your call with DS Campbell at 1022 hours, what, if anything, did you instruct DS Campbell to do beyond leave Mr Bayoh's body secured at the hospital? What additional decisions, if any, were taken in relation to the investigation on this and subsequent calls prior to your arrival in Kirkcaldy? Were those decisions taken by PIRC or Police Scotland?

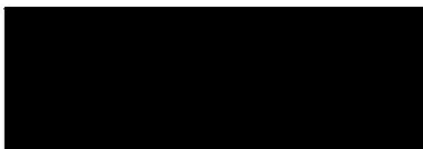
During the call, I obtained confirmation that Mr Bayoh's body was secure at the hospital and officers would standby to maintain security until PIRC Investigators subsequently attended. No other discussions took place in this regard until our arrival at Kirkcaldy.

32. In the course of the day, what discussions, if any, did you have with DS Campbell in relation to the level of resources available to PIRC on 3 May 2015?

I have no recollection of any discussion with D/Supt Campbell on the level of resources available to PIRC that day. However, he was aware that six Investigators, including myself had attended at Kirkcaldy.

33. Within his evidence to the Inquiry, DS Campbell stated, with reference to the level of PIRC's resources on 3 May 2015 (day 47, page 128, line 23 and day 49, page 174, line 5 respectively):

A. ... I had slight concerns round about their awareness of capability and also the capacity round about the number of resources that turn up at that time to take on an investigation such as this, which was gathering pace, there was significant media attention around it. So it wasn't just investigative side, there were other areas that were playing out at that time.



Q. When you say you had concerns about their capacity, what do you mean by that?

A. Resources-wise. I think we had about – I recall at one time we had probably about 20, 22 resources on it at one time from Police Scotland, detective officers involved in the investigation. I think at that day, I think they turned up with four or five PIRC.

...

A. ... it's clear it was insufficient for the job on 3 May, and that's why from a Police Scotland perspective we'd significant resources pulled from all over the country, as well as from the Major Investigation Teams, to support the PIRC in respect of the investigation.

What are your views in relation to DS Campbell's comments regarding the level of resources available to PIRC on 3 May 2015? Do you agree that the level of resources available to PIRC on that day was "insufficient for the job"? Please explain why you hold this view.

I am not in agreement with D/Supt Campbell that we had insufficient resources to respond to the incident. It is unfair to make comparisons between the PIRC and the vast resources available to Police Scotland geographically across the country. Our initial priority was to deal with the two scenes. Four Investigators, including two trained Scene Managers, were deployed to manage these in liaison with the Police Scotland Scene Managers. This included the recovery of the clothing, footwear and safety equipment worn and used by the officers during the incident. As with all critical incidents, PIRC managers have the option to request Police Scotland to provide resources, particularly specially skilled officers, to support a PIRC investigation and be directed accordingly by PIRC manager/s. It should also be noted that Police Scotland were also dealing with other related incidents at different locations, which were utilising police resources. At this time, the PIRC investigators, although having an overview of this activity did not have responsibility to manage or oversee that part of the investigation.

34. Within your Inquiry statement, at paragraph 14, you state:

I have been asked whether I knew where the police officers involved in the incident were at that time – whether I was advised that they were being held separately or whether they were given advice not to discuss the incident. I don't think so, no. If I was told, I have no recollection of that.

When speaking with DS Campbell at 1022 hours, did you consider instructing that the officers be separated or advised not to discuss the incident? If not, why not? What risk, if any, did you consider there was that the officers might confer following the incident?



I did not ask or consider asking D/Supt Campbell to separate the officers involved in the incident. I do not have the power or authority to instruct this. This is still the position today, even when a formal Post Incident Process (PIP) is being conducted, a request of this nature would not be made to Police Scotland by PIRC Investigators. I was never made aware of a formal PIP process being initiated as a result of the incident. I did not ask D/Supt Campbell to confirm or initiate a non-conferring warning to the officers involved in the incident. The officers had already been together since approximately five and a half hours before I arrived at Kirkcaldy. However, this would now be done as a matter of routine if a PIP process was formally initiated as a result of a critical incident.

35. Within information provided to the media on 14 October 2015 (PIRC-03925, page 16), PIRC state:

On the issue of conferring, where the PIRC is made aware that a Post Incident process has been initiated, the PIRC will ensure that the officers involved are instructed not to confer.

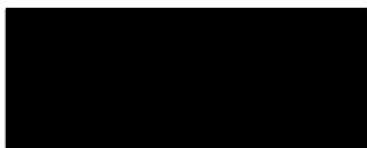
What impact, if any, did the initiation of a post-incident management process by Police Scotland have on PIRC investigations in relation to deaths in custody in May 2015? At what point did you become aware that Police Scotland had initiated a post-incident management process on 3 May 2015? What impact, if any, would an awareness that a post-incident management process had been initiated by Police Scotland have had on your approach on 3 May 2015?

It is my understanding that up to May 2015, there was no formal processes in place in Police Scotland to conduct a PIP following a critical incident involving a death. This process was exclusively used in relation to critical incidents where a firearm had been discharged. I was never made aware that a PIP had been initiated. I was told that CI Conrad Trickett was carrying out a welfare support role for the officers, nothing more. In addition, if followed properly this process requires the Post Incident Manager to provide Basic Facts of what happened, who was there and what force was used. More importantly, through this process each officer should provide an Initial Account of their individual recollection of events. In addition, the PIM should administer a non-conferring warning, which would be reiterated when PIRC investigators become directly involved in the PIP process. I am unaware if Police Scotland issued a non-conferring warning.

36. You state within your first PIRC statement (PIRC-00007), at page 3, that DS Campbell:

...confirmed that a press release had been made by Police Scotland confirming that an incident took place, but it was not in the public domain that the man was dead.

Would you have expected to have been consulted in relation to the content of Police Scotland's press release in advance? Did you have any further discussions with Police Scotland in relation to press releases or liaison with the



media on 3 May? If so, what did you discuss with Police Scotland and with whom?

I would have expected to have been consulted regarding the content of any release to the media. I did not speak to any representative from the media during that day. I do not recall having any further discussions with Police Scotland regarding any media statements. SI Casey in conjunction with the PIRC Communications Officer, dealt with media and press release. In this regard, I believe they consulted with COPFS and Police Scotland.

37. Did you liaise with or speak to the media during the investigation? If so, in what way did you liaise with the media and to whom did you speak? As at 3 May 2015, was there any PIRC SOP or guidance that covered media activity in ongoing investigations? On 3 May 2015, whose responsibility at PIRC was it to consider any action PIRC may have needed to take in relation to liaison with the media? What issues in relation to media liaison did PIRC require to consider and/or address on 3 May 2015? How were such issues considered and/or addressed?

I did not at any time speak to the media during the investigation. I cannot recall if there was a Media Standard Operating Procedure for PIRC in place at that time. As stated, SI Casey, in conjunction with the Media Officer, dealt with any media issues.

38. On 3 May 2015, what awareness, if any, did you have of media coverage surrounding the incident? What awareness, if any, did you have of reports of a female police officer being stabbed and the source of those reports? Were you aware of any details of the incident on social media?

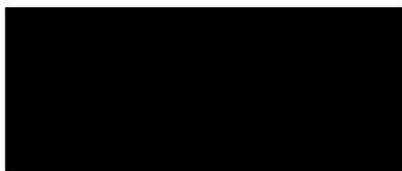
I do not recall being aware of any specifics of reporting in the media regarding the incident on 3 May 2025.

39. You state within your first PIRC statement (PIRC-00007), at page 3, that:

From enquiries conducted by Police Scotland, Detective Superintendent CAMPBELL confirmed to me that there had been some linked incidents prior to the altercation with the police, one of which was at his home address at [redacted] Arran Crescent, Kirkcaldy which was in the process of being secured by police.

What views, if any, did you have in relation to Police Scotland's decision to secure Mr Bayoh's home address at Arran Crescent? Upon what legal basis did you understand Police Scotland to be securing this property?

This was an operational decision for Police Scotland. At that time, PIRC had no responsibility for this location. I am not aware on what legal basis the decision to secure the property was made.



40. **Further to your evidence within paragraphs 15 to 17 of your Inquiry statement regarding your decision to class the officers as witnesses, what are the circumstances in which a person is treated as a suspect by PIRC? Do you consider that it is PIRC's responsibility to decide whether to categorise a person as a witness or a suspect during an investigation? What is the significance of treating a person as a suspect?**

A person would be treated as a suspect by PIRC Investigators if they had evidence which inferred that an officer or member of police staff may have committed a criminal offence. During the course of an investigation, it is the responsibility of PIRC Investigators to decide whether to categorise a person as a witness or a suspect. If a person is identified as a suspect then they have the protection of the law. In this regard, they would require to be cautioned before they were asked any questions and have the right to silence.

41. **Your operational notes (PIRC-01468), at page 3, state, with reference to your call with Supt Blackhall at 1001 hours:**

Gold Group Meeting taking place shortly.

Your operational notes (PIRC-01468), at page 5, within the notes of your call with DS Campbell, state that there would be a Gold Group meeting at Kirkcaldy Police Office at 1130 hours.

During your call at 1001 hours with Supt Blackhall, what was discussed in relation to the Gold Group that would take place "shortly"? During your call at 1022 hours with DS Campbell, what was discussed in relation to the Gold Group meeting at 1130 hours? Did you consider travelling to Kirkcaldy to attend the Gold Group meeting? If not, why not? What consideration, if any, did you give to joining the Gold Group meeting by telephone?

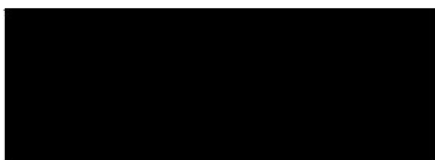
I do not recall any further discussion with Supt Blackhall or D/Supt Campbell relating to the Gold Group Meeting which was due to take place. I would not have had sufficient time to attend Kirkcaldy at 1130 hours. I did not consider joining the Gold Group Meeting by telephone. I had already liaised with D/Supt Campbell to discuss the PIRC priorities, and followed this up with another call at 1240 hours. In addition, I had to make arrangements to call out additional PIRC staff as outlined.

Briefing at PIRC offices and travel to Kirkcaldy Police Office

42. **Following your call with DS Campbell, your operational notes (PIRC-01468), at page 5, state:**

***1045 John Ferguson attending Hamilton
1050 Garry Sinclair attending Hamilton***

Why at this stage did you feel it was necessary to seek the assistance of other investigators in addition to those that were on call on 3 May 2015? How did you



choose which PIRC investigators to contact? In May 2015, how common was it for staff that were not on call to be asked to attend work and immediately participate in an investigation? Were the PIRC investigators that you contacted on 3 May 2015 available to be involved in the investigation immediately? Were you content that the number of PIRC investigators available to participate in the investigation on 3 May 2015 was sufficient to progress the investigation satisfactorily?

It was clear that PIRC staff would be required to manage more than one scene. Thus, I wanted trained and experienced Scene Managers to be part of the PIRC team to be deployed to carry out this function. As a result, I contacted Investigators Ferguson and Sinclair who were experienced Scene Managers. In addition, I wanted another member of staff to supplement the numbers, support me and undertake any additional tasks that were required. It was not common practice for members of staff who were not on-call to be called out. However, it did occur where there was an identified need or requirement. They responded to my request and attended the PIRC offices. At that time, I was content that the resources available to me was sufficient to deal with the incident.

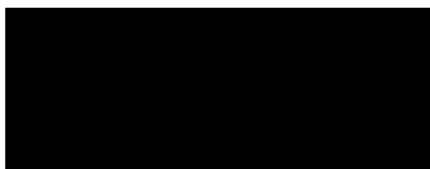
43. Your operational notes record a briefing held for PIRC investigators at the PIRC office in Hamilton at 1155 hours. What was the benefit of convening the PIRC investigators at PIRC's offices in Hamilton prior to deployment? Was it PIRC's standard practice to convene investigators at PIRC's offices prior to deployment? If so, was this practice based on a PIRC SOP? If not, why did you choose to convene the PIRC investigators at PIRC's offices in Hamilton on 3 May 2015? Did you consider asking PIRC's investigators to travel directly to Kirkcaldy Police Office instead?

Firstly, as previously indicated there was a requirement for staff to uplift vehicles and any necessary equipment or documentation. I think three vehicles were taken to Kirkcaldy. As outlined, I conducted a short briefing with staff and outlined their intended responsibilities. Doing this at that time enabled them to focus their minds on the task ahead during the journey to Kirkcaldy. I could not be sure that time could be afforded to do that later. It was fairly common to convene briefings at the PIRC offices before deployment to a critical incident, but was not always the case. This was not based on a PIRC SOP. For the reasons outlined, I did not ask the PIRC Investigators to attend directly at Kirkcaldy. In my view, this was the most appropriate response.

44. Your first PIRC statement (PIRC-00007), at page 3, records that during a call with David Green at 1230 hours:

... I provided him with a situational update on the incident and he clarified at this time that PIRC should investigate the direct interaction between the now deceased and the police and the events thereafter.

What had been your understanding of the scope of PIRC's investigation prior to your call with David Green at around 1230 hours? What required to be clarified



in relation to the scope of PIRC's investigation at this stage? What was the nature of the update you provided to David Green on this call?

Prior to my second telephone call with Mr Green, my understanding from him was that the PIRC were to investigate the police involvement and physical interaction with Mr Bayoh leading to his death, which would include the actions of the deceased and police officers in Hayfield Road, Kirkcaldy.

At the time of my second telephone conversation with Mr Green at 1230 hours, following my telephone calls with Supt Blackhall and D/Supt Campbell, I had more information in relation to the incident. I gave him an overview of the incident as I was aware of at the time referring to the notes I made in respect of these calls.

Mr Green confirmed to me that the PIRC should deal with the incident scene and Victoria Hospital. This would involve management of the scene at Hayfield Road and securing of any additional evidence. In addition, the PIRC would take responsibility for the scene at the Victoria Hospital, deal with the body, ensure all evidence was secured and facilitate transfer of the body to the mortuary. I understood that a written referral would be sent to the PIRC in due course.

45. Your operational notes (PIRC-01468), at page 5, state, with reference to your call with David Green at 1230 hours:

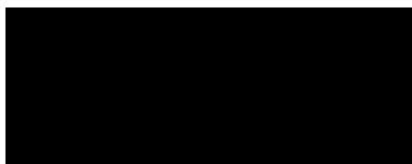
He wants to see press release.

To which press release did this this refer? Is it standard practice for press releases to be approved by COPFS prior to their publication? Why did Mr Green wish to have sight of the press release in this instance?

I believe that Mr Green was referring to the press release referred to by D/Supt Campbell recorded in my notes. In these circumstances, it is standard practice for press releases to be approved by COPFS prior to publication. I do not recall my discussion with Mr Green on this matter, but referring to my notes he clearly raised this issue.

46. Based on your understanding of events at this time, were you content with the nature and scope of the investigation instructed by COPFS? Were you content that Police Scotland take responsibility for investigation of the circumstances leading up to the incident and Mr Bayoh's movements prior to his contact with the police? If not, why not? Did your views about the scope of PIRC's investigation, and the appropriateness of the division of responsibilities between PIRC and Police Scotland, change over the course of the day on 3 May? If so, in what way?

Based on my understanding of events at that time, I was content with the nature and scope of the investigation instructed by COPFS. In this regard, I was content that Police Scotland take responsibility for investigation of the circumstances



leading up to the incident. The division of responsibilities between PIRC and Police Scotland did not change over the course of 3 May 2015.

47. Your first PIRC statement (PIRC-00007), at page 3, records a call to DS Campbell at around 1240 hours:

During this call I asked him to confirm that the police officers footwear was being taken and I also confirmed again that the status of the police officers was witnesses.

Why did you specifically ask for confirmation that the police officers' footwear was being seized during this call? Why did you feel it was necessary to again confirm the status of the police officers as witnesses, if this had already been done within your call to DS Campbell at 1022 hours (as per PIRC-00007, page 2)? What else did you discuss with DS Campbell on this call?

It was appropriate for me to continually re-assess the status of the officers as I obtained more information regarding the incident in case there was a need to consider changing their status. Thus, I re-affirmed their status with D/Supt Campbell. During this call, D/Supt Campbell confirmed that Police Scotland had appointed DCI Stuart Houston as the Scene Coordinator. I cannot recall why at that juncture I sought confirmation from D/Supt Campbell that the officer's footwear was being seized.

I have no recollection of anything further that we discussed during that call.

48. Your first PIRC statement (PIRC-00007), at page 3, records that during a call from David Green at around 1305 hours:

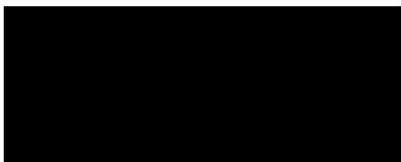
He informed me that he was arranging for a post mortem examination to be carried out on the now deceased by two doctors. He stated that it would be impracticable for this to be done on Monday 4 May, as the schedule was very busy, and enquired if it was feasible to carry it out that day. I gave him the opinion that this would be impracticable.

In your experience, is it common for post-mortems to be carried out on the same day if a person has died in police custody or following police contact? In your experience, what is the normal period of time between a person's death and a post-mortem taking place?

I do not have sufficient recall regarding specific arrangements in a short timescale for a post mortem examination. The timescales can vary significantly dependant on availability of pathologist staff and mortuary facilities.

Arrival at Kirkcaldy Police Office

49. At paragraph 24 of your Inquiry statement, you identify that you arrived at Kirkcaldy Police Office at 1330 hours. Having been informed about the incident at 0935 hours, would you have expected to have arrived in Kirkcaldy



earlier than 1330 hours? If so, what impact, if any, did the delay in your arrival have on PIRC's investigation? What impact, if any, did the requirement to liaise with DS Campbell by telephone prior to your arrival in Kirkcaldy have on PIRC's investigation?

Given the arrangements that I was required to make, telephone calls, preparation to leave my home and taking into consideration travelling time, I would not have expected to arrive at Kirkcaldy Police Station any earlier. I do not consider that there was any detrimental impact on the investigation, particularly through having to communicate by telephone at the early stages.

50. When you arrived at Kirkcaldy, what investigation, if any, did you consider Police Scotland to be carrying out? Was that investigation appropriate? Do you consider the delay in arriving at Kirkcaldy to have, in any way, affected PIRC's ability to lead the investigation? If so, in what way was PIRC's ability to lead the investigation affected?

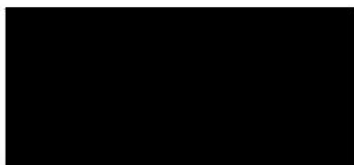
I understood that Police Scotland were investigating I believe three other incidents where, one where it was alleged that Mr Bayoh had assaulted his friend Zahid Saed. At that time, I had no issues with the appropriateness of Police Scotland's actions, given that Mr Green had directed me to deal with the incident in Hayfield Road and the hospital. I do not consider that our arrival time at Kirkcaldy Police Station affected my ability to lead the investigation.

51. At paragraph 24 of your Inquiry statement, you identify that you met with DS Campbell and others at 1330 hours. What did you discuss with DS Campbell during that meeting? Did this meeting constitute a formal handover of the investigation from Police Scotland to PIRC? If no formal handover took place at this meeting, at what point on 3 May 2015 did a formal handover of the investigation take place from Police Scotland to PIRC?

The PIRC took responsibility for the investigation into the death when Mr Green verbally referred this during his first telephone call at 0935 hours on 3 May 2015. Both Supt Blackhall (1001 hours) and D/Supt Campbell (1022 hours) were aware at these times that the PIRC would lead the investigation into the death of Mr Bayoh.

52. Do you consider that there was an effective and successful handover of responsibility for the investigation from Police Scotland to PIRC on 3 May 2015? If so, please explain why. If not, why not?

I am satisfied that the handover was effective and successful. It is very often the case in critical incidents that it would be done in this manner, particularly where the incident is a significant distance away from the PIRC offices. I still managed to obtain details of the incident, outline responsibilities, direct actions and communicate with the SIO, D/Supt Campbell.



- 53. Within your first PIRC statement (PIRC-00007), at page 3, you note that PIRC Investigators John Ferguson and Stuart Taylor were tasked with managing the scene at Victoria Hospital and PIRC Investigators Garry Sinclair and Maurice Rhodes were tasked with managing the scene at Hayfield Road. Both sets of PIRC investigators were to manage these scenes “in conjunction with the Police Scotland Scene Manager”. Who was Police Scotland’s Scene Manager on 3 May 2015? Why was it necessary for PIRC to manage these two scenes in conjunction with Police Scotland? Who was in charge of the scenes at Victoria Hospital and Hayfield Road? Is it standard practice for the PIRC to work in conjunction with Police Scotland having been instructed to investigate a death in police custody?**

As outlined, DCI Stuart Houston was nominated by Police Scotland as the Scene Coordinator. Myself and the other PIRC Investigators responsible for the two scenes met with him and agreed the forensic strategy. We were responsible for and in charge of the scenes at Hayfield Road and the Victoria Hospital. However, there had been activity by Police Scotland at both scenes prior to our arrival. Thus, it was appropriate that the PIRC Scene managers communicated with their Police Scotland counterparts to ensure a thorough, methodical and proper approach to management of the two scenes to ensure proper recovery of evidence. This is common practice in a lot of death investigations. This said, on the majority of occasions PIRC Scene Managers will have primacy and will make the final decisions.

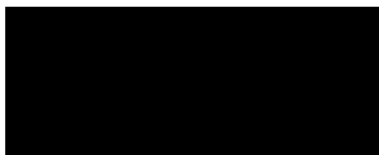
- 54. What were your main considerations and priorities in relation to the management of the scenes at Victoria Hospital and Hayfield Road? What were your main considerations and priorities in relation to gathering evidence from those scenes? How much oversight did you have over the management of the scenes at Victoria Hospital and Hayfield Road?**

My priorities at both scenes was to ensure that they were effectively managed and all available evidence was properly evaluated, secured and processed.

Investigators Ferguson and Taylor had a responsibility to deal with Mr Bayoh’s body and link in with the Police Scotland CSM and SPA staff. There was a requirement to examine the body, obtain photographs, seize any relevant evidence and arrange an appropriate transfer to Edinburgh City Mortuary after all evidential considerations had been addressed.

Investigators Sinclair and Rhodes had a responsibility to deal with the locus at Hayfield Road. In this regard, I listed a number of priority issues to address, including establishing the whereabouts of the ambulance that conveyed Mr Bayoh to hospital to have it photographed, locate the mobile telephone used to take photographs at the locus, full search of the locus and identify CCTV and other evidential opportunities.

Investigators Ferguson and Sinclair updated me at regular intervals on their respective progress.



It was also necessary to maintain awareness of any evidence, for example eye witness accounts, that may require a re-assessment of the status of the officers as witnesses.

- 55. Within Garry Sinclair's PIRC statement (PIRC-00309, page 4) and Maurice Rhodes' PIRC statement (PIRC-00324, page 4) it is noted that Investigators Sinclair and Rhodes attended the scene at Hayfield Road at around 1920 hours. Within Stuart Taylor's PIRC statement (PIRC-00358, page 4) it is noted that Investigators Taylor and Ferguson attended the scene at Victoria Hospital at around 1900 hours. Why did PIRC's investigators first attend their respective scenes on the evening of 3 May, when they had been tasked with managing those scenes following their arrival in Kirkcaldy at around 1330 hours? What impact, if any, would PIRC's investigators' arrival at these scenes earlier on 3 May 2015 have had on the investigation? Were Police Scotland managing those scenes prior to the arrival of Investigators Sinclair, Rhodes, Taylor and Ferguson?**

Both scenes were secured by Police Scotland and cordons were in place. In this regard, the passage of time had no impact on their respective abilities to manage and deal effectively with the scenes. The PIRC Scene Managers attended a Gold Group Meeting at the police station and then met with the Police Scotland Scene Coordinator. They had other actions to undertake and also communicated with the respective Police Scotland Scene Managers prior to visiting the respective scenes.

It was important that the respective PIRC Investigators dealing with the scenes were fully briefed and had a plan of action before deploying to their respective scenes.

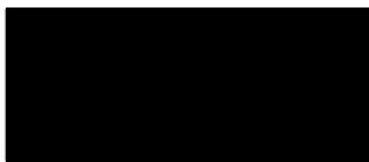
Gold Group meeting 1405 hours

- 56. What were your priorities in relation to the investigation at the time of the Gold Group meeting at 1405 hours? How were these priorities communicated to Police Scotland during the meeting?**

I had a number of priorities at the time which were discussed at the meeting.

Firstly, maintenance of the security of the scenes at Hayfield Road and the Victoria Hospital to then allow my Scene Managers to deal with these, secure all available evidence and deal with the body at the hospital. In this regard, I confirmed that Mr Green of COPFS had directed that PIRC Investigators deal with only the two scenes at Hayfield Road and the Victoria Hospital. It was confirmed that cordons were in place and Police Scotland were maintaining the security and integrity of these.

It was confirmed that Family Liaison Officers (FLOs) were on route to the police office and were soon to be deployed. This was an important aspect in relation to the family and that they were informed of the death of Mr Bayoh.



At the meeting, I confirmed that the status of the officers as witnesses and that PIRC were seeking witness statements from them in relation to the incident. However, it was important to ensure I was made aware of any developments that may necessitate the re-assessment of the officer's status as witnesses.

- 57. Did you consider yourself to be in charge of the investigation at the point the Gold Group meeting was held at 1405 hours? If not, why not? At what stage on 3 May 2015 did you consider yourself to be in charge of the investigation? If you did not consider yourself to be in charge of the investigation at the point the Gold Group meeting was held at 1405 hours, who did you think was in charge?**

At this point, I was in charge of the death investigation on behalf of the PIRC. As previously indicated, I assumed this responsibility after my initial telephone discussion with Mr Green. This did not change following discussions with SI Casey.

- 58. Following a death in police custody or a death following police contact, are meetings in relation to the investigation usually chaired by an officer from Police Scotland? If not, why was the Gold Group meeting at 1405 hours chaired by ACC Nicolson?**

Following a death in police custody, or a death following police contact, a number of Gold Group meetings are likely to be held, particularly on the first day and early stages of the incident. A Gold Group is a police process, chaired by a senior police officer, but on occasions there are some attendees from other agencies, such as PIRC.

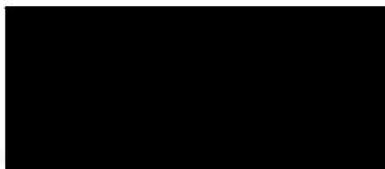
- 59. The typed minutes of the Gold Group meeting (PS07268), at page 1, state that, as part of the "Terms of Reference – Gold Strategy (CS Garry McEwan)":**

Ensure early notification to PIRC to enable a transparent and robust independent investigation into the death of Sheku Bayoh B 30/9/1983.

What is your understanding of "early notification to PIRC" within the context of these terms of reference? Do you consider that Police Scotland achieved this objective? If not, why not?

This objective was achieved as a result of the prompt communication I had with Supt Blackhall and subsequently D/Supt Campbell after the referral of the incident by Mr Green.

- 60. The typed minutes of the Gold Group meeting (PS07268), at page 3, refer to the creation of a CCTV strategy (PS01401). What, if any, involvement did PIRC have in the creation of the CCTV strategy? What, if any, role did the CCTV strategy play in PIRC's investigation?**



On 3 May 2015, PIRC Investigators had no involvement in the creation of the CCTV strategy referred to by Police Scotland. However, I believe that at a very early stage during the PIRC investigation, a PIRC strategy was created and implemented. This played a significant part in the investigation.

61. **The typed minutes of the Gold Group meeting (PS07268), at page 3, refer to consideration of “community issues” and, at page 4, refer to “cultural issues”. What community and cultural issues were discussed at the Gold Group meeting in this regard and what consideration did PIRC give to such issues on 3 May 2015?**

I have no recollection of these issues being discussed. However, I believe it would be standard practice to refer to and highlight these issues during a Gold Group Meeting. In his role as Scene Manager when dealing with recovery of Mr Bayoh’s body, Investigator Ferguson would consider cultural issues in his strategy and subsequently discussed these matters with DCI Houston.

62. **The typed minutes of the Gold Group meeting (PS07268), at page 4, state:**

PIRC looking for definitive point of contact with knowledge of all circumstances.

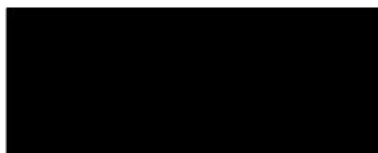
What were you looking to achieve in this regard? What steps, if any, were taken by Police Scotland to accommodate this request? Prior to this point, you had been in contact with DS Campbell, who was Police Scotland’s senior investigating officer on 3 May 2015. Did you consider that DS Campbell had “knowledge of all circumstances”? If not, why not? Whom, if anyone, did become the “definitive point of contact”?

I am unable to recall making this request. As highlighted, during the initial stages the majority of information was provided by D/Supt Campbell. However, this was added to during this Gold Group Meeting by DI Colin Robson and DCI Houston. This may have initiated this request but I am unsure. Another point of contact was not nominated.

63. **Within Detective Chief Superintendent Lesley Boal’s operational statement (PS00669), pages 2 – 3, she states:**

About 1330hrs Mr HARROWER and other PIRC investigators attended. A briefing, which provided the same information as provided at the Gold Meeting was provided. It was confirmed at this time that Sheku Ahmed Tejan BEYOH’s sister was his next of kin and that she lived [redacted]. I highlighted to Detective Superintendent CAMPBELL that, given the information and chronology established along with identification by photograph, there was an urgent need to notify her of the death.

In the absence of any strategy being discussed, I suggested that, in the interim, each police lead would draw up a strategy, for example forensic strategy, house to house strategy etc and obtain Mr HARROWER’s agreement and sign off prior



to implementation. This didn't receive clear endorsement. The only real information provided was that there would be PIRC investigators deployed to the hospital to undertake body transfer to the mortuary; a couple of PIRC investigators would be deployed at the main scene at Hayfield Road, Kirkcaldy and Family Liaison would be handed over to the PIRC at an early juncture.

What strategies had you considered or developed prior to your attendance at the Gold Group meeting at 1405 hours? Would you agree with DCS Boal's assessment that there was "an absence of any strategy" discussed at this meeting? If so, why? If not, why not? What strategies were agreed with Police Scotland at this Gold Group meeting? With whom did responsibility for the development of investigatory strategies lie at this stage?

There was not an absence of any strategy. I had considered and discussed strategies regarding the two scenes being dealt with by PIRC. Further arrangements and discussion was had in this regard at Kirkcaldy Police Station. Primacy for these locations lay with the PIRC Investigators. A Forensic Strategy was created and discussed with myself and the PIRC Scene Managers, particularly in relation to how Mr Bayoh's body would be dealt with at the hospital and mortuary. This included organising for an apparent head injury sustained by PC Short being photographed. I also directed that the PAVA cannisters in possession of the officers at the incident were weighed before being lodged as productions.

64. Were you aware on 3 May, or at any point subsequently, of any concerns expressed by DCS Boal about PIRC's management of the investigation? If so, how were you made aware, and what did you understand her concerns to be? Did you share knowledge of these concerns with others at PIRC? What did you do, if anything, to address those concerns?

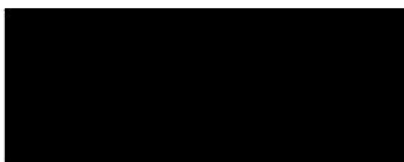
I was not aware of any concerns raised by DCS Boal on 3 May 2015, or later, about PIRC's management of the investigation.

65. Within your operational notes (PIRC-01468), at page 6, you note as part of your note of the Gold Group meeting at 1405 hours:

FLOs deployment soon.

Following the Gold Group meeting at 1405 hours, what was your understanding of Police Scotland's planned deployment of Family Liaison Officers (FLOs) on 3 May 2015? What was your planned deployment of PIRC FLOs in response to this?

At the conclusion of the Gold Group Meeting my clear understanding was that Police Scotland intended to deploy FLOs imminently and that the family would be made aware of the death. The FLOs were later identified as DS Kevin Houlison and Jane Bell. PIRC FLOs would not have been deployed that day. They would have been identified at the earliest the following day with a view to a planned briefing and formal handover of responsibility between the PIRC and Police Scotland FLOs. It was



imperative that the Police Scotland FLOs were deployed as soon as practicable on 3 May 2015 to engage with the family.

66. Within DS Campbell's Inquiry statement (SBPI-00256), at paragraph 286, he states:

The initial intention was for a joint deployment of a Police Scotland FLO and a PIRC FLO – if a PIRC FLO was available. If the PIRC considered it would be more beneficial to be two PIRC FLOs then it would be more beneficial to leave the Police Scotland FLOs totally detached from it.

What discussions, if any, did you have with DS Campbell in relation to the potential joint deployment of Police Scotland and PIRC FLOs on 3 May 2015? What would a joint deployment of Police Scotland and PIRC FLOs involve? Was it initially intended that there be a joint deployment of Police Scotland and PIRC FLOs? If so, why did this not take place? What impact, if any, did this have on the investigation?

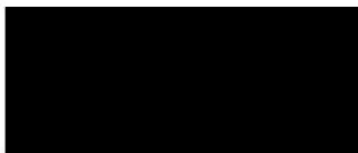
It was practice then that Police Scotland FLOs were deployed in the first instance on the majority of occasions for a critical incident to engage with the family. If there was a subsequent decision to deploy PIRC FLOs, then a detailed handover would take place between the PIRC and Police Scotland FLOs before an introduction of the PIRC FLOs to the family and they would formally take over family contact. D/Supt Campbell never discussed any intention regarding formulating a strategy to deploy FLOs on a joint basis or withdrawing their responsibility to deploy FLOs. Police Scotland clearly articulated their intention to deploy their own FLOs, as outlined at the first Gold Group meeting, but subsequently changed that plan without prior consultation with me.

The decision by Police Scotland not to deploy FLOs had a detrimental impact on the initial contact and subsequent communication with the family. In particular, they articulated to me during my visit that night that they had received contradictory information from different officers regarding Mr Bayoh and the circumstances surrounding his death.

67. At paragraph 28 of your Inquiry statement, with reference to Collette Bell's home at Arran Crescent, Zahid Saeed's home address and Martyn Dick's home address, you state:

I'm asked whether I recall any discussion, whether it was at this Gold Group meeting or at any other time, regarding the need for a warrant or obtaining consent to search these properties. It's possible but, no, I don't recall that. I can recall, at a much later stage, the family trying to get access back to one of the houses. I think it was in relation to property they wanted to recover, etc.

What was your understanding of the legal basis upon which Police Scotland were searching these properties? Did you have any concerns about the legal basis upon which Police Scotland intended to proceed with the searches? If so, how did you express these concerns to Police Scotland? What consultation, if



any, was there between Police Scotland and PIRC in relation to the search of these properties? Did you engage in any discussions with the proprietors of these properties in relation to the searches, or access being obtained to the properties in question? If so, what were the nature of those discussions?

The actions of Police Scotland in relation to these searches and the legal basis for this was a matter for Police Scotland. I am unsure what that was. At that stage of the investigation, that was not my responsibility. There was no consultation between myself and Police Scotland in relation to the searches. I did not engage in any discussions with the householders at these addresses in relation to the searches.

68. At the Gold Group meeting at 1405 hours, or otherwise during the course of the day on 3 May 2015, did you speak to Chief Inspector Conrad Trickett to confirm the nature of his involvement in the investigation? Was it your expectation at the time that a post-incident management process would be followed by Police Scotland on 3 May 2015?

I have no recollection of speaking to CI Trickett on 3 May 2015. I was only made aware that he was carrying out a welfare role on behalf of the officers. As indicated, I was not informed that Police Scotland had made a decision to put in place a formal Post Incident Procedure and that he had taken up a role as a Post Incident Manger (PIM).

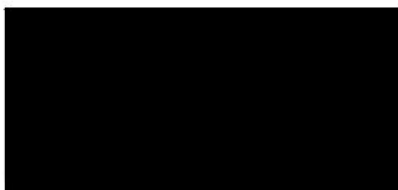
69. Your first PIRC statement (PIRC-00007) records, at page 5, that:

Also during the meeting I informed Police Scotland that following discussion with Mr David GREEN, PIRC would be dealing only with the scenes at Hayfield Road and the Victoria Hospital and would not deal with the scenes identified in the lead up to the incident, namely [Collette Bell's address at Arran Crescent], [Kirsty Macleod and Martyn Dick's home address] and [Saeed home address]. Agreement was reached that the PIRC would link directly with the officers managing the house to house enquiries for the relevant scenes. I requested that these enquiries continue, but any relevant witnesses identified would be revisited by PIRC.

Why did you decide to request that Police Scotland continue with house-to-house enquiries at Hayfield Road, when PIRC were responsible for that scene?

My understanding was that initial house to house enquires had already commenced by Police Scotland. My intention was that the PIRC Investigators dealing with the scene in Hayfield Road would link in with the relevant Police Scotland officers to establish if any significant witnesses had been identified and action these accordingly. I was aware that at a very early stage during the investigation House to House enquiries would be conducted by PIRC Investigators. However, these would not be conducted that day.

70. Were you content with the proposed investigative strategies proposed by Police Scotland at the Gold Group meeting at 1405 hours? If not, did you



raise any concerns in this regard? How did you express those concerns and what was Police Scotland's response?

As indicated, I was content with the actions identified during the Gold Group Meeting.

71. At paragraph 39 of your Inquiry statement, you state that during the Gold Group meeting at 1405 hours you confirmed the status of the police officers involved in the incident as witnesses and that PIRC were seeking operational statements from the officers involved. To whom was this request for operational statements made? What was the response that you received to that request?

This request was made in general to the Chair and other officers present. It was not directed at a specific individual officer. I do not recall any specific responses but the request was specifically made.

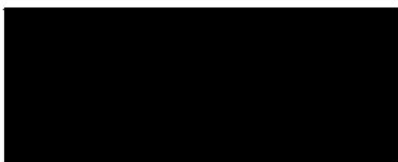
72. Your confirmation of the officers' status and request for operational statements do not appear to be contained within the typed minutes of the Gold Group meeting (PS07268). Would you have expected these matters to have been contained within the typed minutes of the meeting? Would you ever consider requesting that matters of this nature be formally noted within a meeting's minutes?

Yes, I would have expected this to be contained in the minutes of the meeting. If there had been any indication that this was not recorded I would have reinforced that inclusion.

73. Within your Inquiry statement, at paragraph 32, you state:

I am asked what role PIRC had in relation to the principal officers on 3 May 2015. Whether there was any role in terms of having contact with them on the day. No, the role did not involve contact with the officers. Up to that point, that's not something we would've done, and that's changed significantly in the changes that have been brought into that post-incident process. When we arrive at wherever the post-incident procedure is being carried out, we will introduce ourselves and give a brief overview of our role and confirm their status at that time. But, clearly, at that stage that sort of information was conveyed through Police Scotland's senior management, and the request for witness statements was done likewise, which was done on the day and subsequently. However, that has now changed for quite a period of time. In 2015, this was for the practice that these things were done through Police Scotland's senior management. It wasn't formalised and written in a procedural document or anything.

Where did the practice that approaches to officers be made through Police Scotland's senior management come from? Did you consider this to be an effective approach in obtaining operational statements from police officers? If not, why not? Why has this approach now changed? What is the approach now?



Up to the formal introduction of the PIP process for critical incidents, including deaths, was introduced by Police Scotland this was the practice that was followed. I am unsure how this process was established. It always worked well in practice and I am unaware of any issues in this regard until this incident.

Now, following most critical incidents, Police Scotland will instigate a Post Incident Process and nominate a Post Incident Manager. See answer to Question 35. PIRC Investigators have early intimation of the PIP are involved in the process. This includes their attendance at the PIP, interaction with the officers, reinforcement of the non-conferring warning and oversight of the process. On conclusion, PIRC Investigators take possession of documentation including the officers initial written accounts of the incident. In this regard, no written accounts were obtained by CI Trickett, which is one of the most significant parts of the process.

74. On 3 May 2015, did you consider that you required Police Scotland's consent in order to speak to the officers directly? Did you request permission to speak to the officers directly on 3 May 2015? If so, to whom was this request made and what resulted from this request?

I did not consider that I required Police Scotland's consent to speak to the officers. However, I did not make a specific request of any police manager to speak to them, but as previously stated I did offer to speak to the officers.

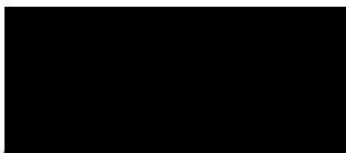
75. At what point did you become aware that the officers were legally represented? How did you become aware that they were legally represented? If you became aware on 3 May 2015, did you consider approaching their solicitor to request that they provide operational statements? If not, why not?

During the Gold Group Meeting that evening, I became aware that the officers were advised by a member of the Police Federation not to give witness statements. I assumed that they had been given legal advice in this regard but cannot recall if this was confirmed.

I took no further action at that time. Normally in 2015 and before, on the day of a critical incident we would not pursue statements from the officers but would organise these within a short time scale. As I previously outlined, currently where a PIP is instigated we now obtain initial written accounts of the incident from the officers. These would not be overly detailed and full statements would be taken later to complete the full PIP process.

76. On 3 May 2015, who did you consider to be responsible for securing operational statements from the officers? What is the role of PIRC in obtaining operational statements from officers involved in an incident whereby a person has died in police custody?

The expectation was that Police Scotland supervisors would instruct the officers to provide witness statements within a short timescale, probably within 48 hours post



incident. Otherwise, they would confirm arrangements for PIRC Investigators to meet with the officers and obtain statements from them.

- 77. Had you dealt with a situation prior to May 2015 in which officers did not provide statements for several weeks after an incident? What was the outcome? Have you dealt with such a situation since May 2015? What was the outcome?**

Prior to May 2015, I never dealt with a situation whereby police officers refused to provide witness statements. Furthermore, I have never dealt with a similar situation since.

- 78. What is the importance of PIRC being in receipt of operational statements of police officers involved in the death of a person in police custody? Specifically, what was the importance to this investigation?**

It was very important to have the officers account of the incident at an early juncture. This would provide evidence/information on the specific actions of the officers, Mr Bayoh and other relevant information to inform the investigation moving forward. The absence of these witness accounts would clearly be detrimental to the investigation.

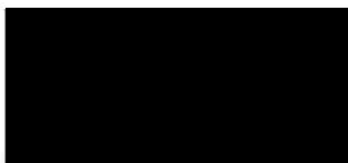
- 79. What was your understanding of the law or guidance on the issue of officers failing to provide operational statements when requested, from PIRC, Police Scotland or the Scottish Police Federation (SPF)? Did PIRC have any powers to obtain statements, where the officers were categorised as witnesses and were not willing to provide a statement voluntarily? At that time, could police officers be compelled to provide an operational statement? If so, under what circumstances and authority?**

In these circumstances, as the officers were given the status as witnesses by the PIRC they should have provided witness statements. As such, Police Scotland should have directed the officers to provide witness statements. However, on refusal it was for Police Scotland to thereafter decide what appropriate action to take. It is my understanding that PIRC had no legal authority to compel officers to provide witness statements in relation to a death or other critical incidents.

- 80. Did you have any discussions with COPFS on 3 May 2015 in relation to the officers' operational statements? If so, what was discussed and with whom? Did anyone from COPFS suggest to you that PIRC make direct contact with the officers?**

I have no recollection of discussing the operational statement issue with anyone from COPFS on 3 May 2015.

- 81. On 2 June 2015, prior to the officers providing operational statements, the legal adviser for the SPF, Peter Watson, stated within a press release issued on behalf of the SPF (SPF-00019):**



The officers involved have never refused to provide statements. It was agreed at the outset with PIRC that they would revert to us when they wanted statements and when they were clear on the basis that statements were to be given. PIRC emailed me this morning at 10:46am asking for our assistance to organise interviews and we answered at 11:29am confirming we would be pleased to assist. Those are the facts.

What is your view in relation to the comments made by Peter Watson within this press release?

As outlined, I did not make any request directly to the officers to provide statements, this was done through the police managers present at the Gold Group Meeting. I have no firsthand knowledge of efforts and communications by PIRC managers during the investigation to organise the provision or taking of witness statements from the officers. However, I am aware that they did pursue provision of the officer's statements at different stages.

Family liaison

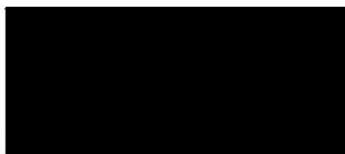
82. At paragraph 34 of your Inquiry statement, with reference to the end of the Gold Group meeting at 1405 hours, you state:

After the meeting I spoke with one of the Police Scotland FLOs, DS Houlison and explained my intention to contact the family by way of introduction of the commencement of the independent investigation by PIRC and to inform them that PIRC FLO's would be introduced to them to take over responsibility for family contact at an early stage.

At what stage did you intend to contact the family to introduce the role of PIRC within the investigation? Did you consider it necessary that Police Scotland make initial contact with Mr Bayoh's family before you did so? If so, were you awaiting confirmation from Police Scotland that initial contact had been made with Mr Bayoh's family before you contacted them on behalf of PIRC? Did you seek any update on the progress of Police Scotland's liaison with the family on 3 May 2015, prior to receiving confirmation at the Gold Group meeting at 1950 hours on 3 May 2015 that Police Scotland's FLOs had not been deployed? If not, why not?

I intended to arrange a visit to the family once the Police Scotland FLOs had initiated contact with them. This would have been done by arrangement through the FLOs. I considered it was important that the FLOs were introduced first, communicated with the family and explained our role before I expanded on this. I do not recall seeking an update in relation to the FLOs prior to establishing that they had never been deployed, but may have.

83. What is role of a PIRC FLO? How is the role explained to families?



PIRC FLOs are appointed to give family members information about the investigation. In most cases, the FLO will liaise with the family representative throughout the investigation and is intended to be their single point of contact. The main part of the role is to develop a two way flow of information between the investigation team, the individual and the family. The FLO should keep the family updated on the progress of the investigation, will give as much information as possible, as quickly as possible and will try to answer questions throughout the investigation.

In this instance, I would have provided a brief overview of the FLOs role. However, once deployed, the PIRC FLOs would go into significantly more detail.

84. What are the differences, if any, between family liaison services provided by Police Scotland and family liaison services provided by PIRC of which you are aware?

As far as I am aware, they are effectively carrying out the same role and there is no significant difference.

85. As at 3 May 2015, what guidance or SOP did PIRC have in place in relation to liaison and contact with a family?

As at 3 May 2015, PIRC had a Family Liaison SOP in existence.

86. PIRC's Family Liaison Officer SOP (PIRC-03885) is stated to have been published on 24 June 2015. What impact, if any, did the lack of a Family Liaison Officer SOP have on deployment of family liaison officers by PIRC in this investigation? What led to the Family Liaison Officer SOP being published in June 2015?

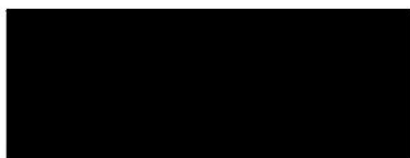
I believe the first PIRC Family Liaison SOP was created in 2013. I am unaware what led to the creation of the SOP.

87. At paragraph 47 of your Inquiry statement, you state, with reference to the deployment of PIRC FLOs:

It would've been a day or two before we then obviously deployed our own staff. With it being a Sunday evening, PIRC FLOs were not available at that time for deployment. We had very limited numbers at that time, and realistically that wouldn't have been able to be done. That was my viewpoint at the time, that that couldn't be achieved.

PIRC's Family Liaison Officer SOP (PIRC-03885) which, as noted above, was published after 3 May 2015, states, at page 2:

As it is of the utmost importance that the delivery of the death message to the next of kin is not delayed, Police Scotland will always assume responsibility for delivering this message.



Thereafter, Police Scotland would normally deploy a FLO to the family should the death have occurred following police contact. However, immediately it is known that the PIRC will be carrying out an independent investigation, Police Scotland will liaise with the PIRC and arrange a handover of FLO responsibilities.

Had you considered contacting PIRC's FLOs to discuss the incident and their deployment earlier in the day on 3 May 2015? If not, why not? Did you have any discussions with Police Scotland about the handover of FLO responsibilities from Police Scotland to PIRC taking place on 3 May 2015? If you considered it preferable for this handover of responsibilities to take place after 3 May, why was this?

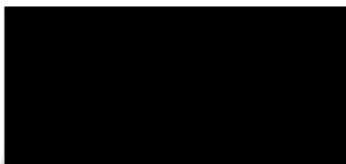
I did not consider calling out PIRC FLOs to the incident at the outset. As stated, at an early stage after my arrival at Kirkcaldy Police Station I received confirmation that Police Scotland would be deploying FLOs. That was in line with practice at that time. I did not discuss a potential handover between Police Scotland and PIRC FLOs on 3 May 2015. My expectation was that as arranged Police Scotland FLOs would initiate contact forthwith and that PIRC FLOs would be introduced at a later early juncture.

88. How many staff at PIRC were trained as FLOs as at 3 May 2015? Was it usually the case that a PIRC FLO would be on call on a Sunday morning? If so, why was this not the case on 3 May 2015? At what stage on 3 May 2015 did you become aware that PIRC FLOs were not available for deployment? Would a FLO have been available to be deployed had they been contacted earlier on 3 May? If not, why not?

I believe that PIRC had six trained FLOs at that time. In this regard, one of the two Scene Managers, Investigator Ferguson was also a trained FLO. However, he was fully employed in his incident scene and it would not have been possible to deploy him in an alternative role. It was not routinely the case that PIRC had trained FLOs available in the on call team due to the restricted number of trained staff. Given the late notification by Police Scotland that their FLOs would not be deployed, and the late hour, it was not practicable to contact any other trained staff to deploy in the role.

89. How are FLOs assigned by PIRC – is it based on who is available on the day? What consideration, if any, is given to sensitivities such as religion and gender?

Normally, where there is a requirement for a PIRC FLO to be deployed, the lead PIRC Investigator would contact the PIRC FLO coordinator who will make a decision on who would be deployed. The FLO Coordinator will consider a wide array of issues before making the decision. For example, he/she will look at the FLOs availability then, and over the forthcoming weeks, the significance and complexity of the investigation and any other relevant operational and personal



issues. In this regard, they would if relevant consider sensitivities such as gender and religion.

90. What, if any, risk assessment requires to be carried out prior to the deployment of a PIRC FLO? What, if any, risk assessment was carried out prior to the deployment of PIRC FLOs in this case?

I am not familiar with the specifics of what risk assessment would normally be conducted, or the specifics of any done in relation to this incident.

91. PIRC's Family Liaison Policy (PIRC-04460), at page 7, states:

It is essential that prior to any FLO deployment the SI has formulated a family liaison strategy. The strategy should set out the objectives for the liaison between the family and the investigation and are the basis for tasking the FLO.

...

The Family Liaison Strategy is one of the most important considerations that the SI and investigations team will have to address throughout the course of an investigation.

What steps, if any, did you take to create a family liaison strategy on 3 May 2015? What objectives were contained within that family liaison strategy?

I did not create a family liaison strategy on 3 May 2015.

92. Your operational notes (PIRC-01468), at page 6, state:

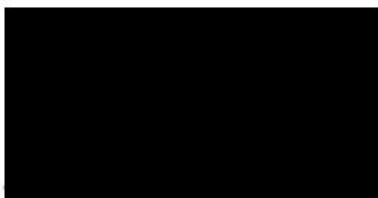
***Following strategies put in place
House to house
FLO***

To which FLO strategy does this refer? What input, if any, did PIRC provide in relation to the creation of this FLO strategy?

The creation of these strategies was referred to during the first Gold Group Meeting. This was the Police Scotland FLO strategy. PIRC Investigators had no involvement in the creation of this strategy.

93. Your operational notes (PIRC-01468), at page 7, refer to "Kay McKay PIRC Media". What involvement, if any, did Ms McKay have in the investigation on 3 May 2015 and on subsequent days? What contact, if any, did you have with Ms McKay on 3 May 2015? What did you discuss with Ms McKay?

I believe that SI Casey had contact with Ms McKay in her role as PIRC Media Officer on the day of the incident as he had committed to dealing with any media



issues. I do not recall at any time speaking to her on 3 May 2015, or any days thereafter.

Meeting at 1515 hours

94. At paragraph 41 of your Inquiry statement, with reference to your meeting with DCI Houston at 1515 hours, you state:

I requested that PC Short's injuries be photographed and PAVA and CS spray cannisters weighed.

What was the purpose of these requests? Were these actions carried out by Police Scotland? If not, why not, and what impact, if any, did this have on PIRC's investigation?

The reason for requesting PC Short's injuries be photographed was to have evidence of the nature of any injury. Having the PAVA and CS cannisters weighed and recorded would likely provide evidence of the quantity of spray discharged during the incident by the officers. I believe both requests were undertaken by Police Scotland.

95. At paragraph 41 of your Inquiry statement, with reference to your meeting with DCI Houston at 1515 hours, you state:

Detective Superintendent Campbell came in and said that officers had been advised by the Scottish Police Federation (SPF) representative not to give statements. That's my first formal notification that the officers wouldn't be providing statements. So I think that note refers more to the immediacy of that, not that they weren't going to provide statements at all. I asked Patrick Campbell to advise the SPF representative that I would be willing to meet with them to clarify their status as witnesses, however no meeting took place.

With whom were you willing to meet? The attending officers themselves or the SPF representative? What was your understanding in relation to the officers' position regarding the provision of operational statements at this stage? What was your understanding of why the officers had been advised by the SPF not to give statements? Were you at any stage on 3 May 2015 informed that the officers were unwilling to provide statements until their status as witnesses was confirmed?

As previously stated, I was happy to meet with the officers, speak to them and confirm their status as witnesses. I assumed that if this occurred the SPF representative would also be present. The officers position was reiterated later that evening at another Gold Group Meeting that they had been advised not to provide statements at that time. I was not aware of the specific reasoning behind the advice they had been given. As I previously stated, I had confirmed on a number of occasions with senior officers that the officer's status was witnesses. In this regard, I was never told that the officers were unwilling to provide statements until their status as witnesses was confirmed.



96. What was your understanding of how DS Campbell came to be aware at this time of the officers' position regarding the provision of operational statements? Was it your understanding that DS Campbell had spoken to the officers directly? Why did you consider it desirable that the officers' status as witnesses be clarified with the officers directly? What discussions, if any, did you have with DS Campbell or other officers later on 3 May 2015 to confirm that your offer to meet with the officers had been passed to the officers? Is it your understanding that your offer of a meeting was communicated to the officers? Upon what information is that understanding based?

I am unaware how D/Supt Campbell became aware that that officers had been advised not to provide witness statements. I felt that it may assist the situation and the officer's decision making if I spoke to them directly. I do not recall asking D/Supt Campbell, or any other officers, if my offer had been passed to the officers to engage directly with them. I came to the conclusion that this was a significant message and it would have been passed as a matter of priority.

97. Did you have any communication with representatives from the SPF on 3 May 2015? If so, with whom did you communicate and what did you discuss? Did you consider meeting with a representative from SPF to clarify the officers' status as witnesses?

I have no recollection of meeting with any SPF representative on the day of the incident. Meeting with an SPF representative may have been beneficial but I did not specifically pursue this. See also answer to Question 95 re SPF.

98. PC Amanda Givan attended Kirkcaldy Police Office on 3 May 2015 as a representative of the SPF. An extract from PC Givan's evidence to the Inquiry (day 18, page 64, line 7) is as follows:

Q. Did you feel by the end of the day that they [the officers] had not had clarification of their status as witness or suspect?

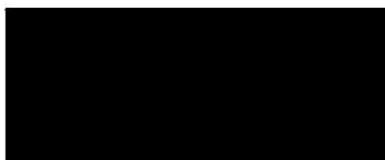
A. They absolutely didn't have clarification of their status.

Q. You're quite sure about that?

A. Absolute – yes, I'm certain.

Was it your understanding on 3 May 2015 that the officers were made aware of their status as witnesses? What led to this being your understanding? Whose responsibility was it to communicate the officers' status as witness or suspect to the officers themselves?

As stated, I spoke to a number of senior Police Scotland managers, in particular D/Supt Campbell and made them aware of the status of the officers. In addition, CI Trickett, who was reported to be taking care of the welfare needs of the officers, I



believe was present at a Gold Group Meeting when I made everyone aware of their status and there was a need for them to provide statements in due course. It was the responsibility of Police Scotland senior managers to ensure that the officers were updated accordingly.

Meeting at 1640 hours

99. Your first PIRC statement (PIRC-00007), at page 5, refers to a forensic strategy being formalised and agreed with DCI Houston in relation to the scenes at Victoria Hospital and Hayfield Road. What sort of matters require to be considered within a forensic strategy of this nature? What was discussed at this forensic strategy meeting? Did PIRC adopt Police Scotland's forensic strategy (PS01298) in its entirety?

A forensic strategy document is created by specially trained scene managers during the course of critical incidents to outline the strategic approach to examination of scenes and recovery of evidence. It also prioritises the forensic and evidence gathering approach by the Scene managers and those supporting examination.

In the circumstances, there was a need to work together with Police Scotland Scene Managers to achieve our objectives. This was not uncommon and is still the case today dealing with critical incidents.

As outlined, myself and the other PIRC Investigators met with DCI Houston, who had a drafted a Forensic Strategy. However, through discussions with us some amendments and additions were agreed to this document. I cannot be specific what these were.

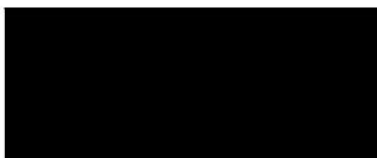
The priority scenes for the PIRC were Hayfield Road and the Victoria Hospital, where PIRC Investigators had primacy.

100. Alex McGuire's notebook (PIRC-04184), at page 5, under the heading "1645 Forensic Strategy mtg", states:

Religious considerations.

What consideration was given to Mr Bayoh's religion at this meeting with DCI Houston? What consideration, if any, did you give to Mr Bayoh's and/or Mr Bayoh's family members' religion(s) on 3 May 2015?

During the Forensic Strategy meeting with DCI Houston, Mr Bayoh's religion was discussed. As his religion had been identified as Muslim, it was agreed that this was considered in the body recovery phase and later highlighted to COPFS. This was specifically relevant to Investigators Ferguson and Taylor. Investigators Ferguson and Taylor had a full awareness and the implication of the impact of cultural issues.



101. **Within your Inquiry statement, at paragraph 44, with reference to your meeting with DCI Houston at 1640 hours and the scenes at Victoria Hospital and Hayfield Road, you state:**

At that stage, these scenes were still under the control of Police Scotland as far as standing by the hospital and controlling any access and likewise a wider scene at Hayfield Road.

Following a death in police custody, or a death following police contact, do you consider it problematic for Police Scotland to maintain continued and visible control of scenes? If so, in what way? If not, why not?

The police are the only organisation that can carry out this function as they have ability and power to enforce a cordon and protect a scene in this manner. PIRC Investigators have the majority of powers of a Constable but they cannot use these in respect of members of the public. It is only right and proper that the police carry out this function as long as necessary to support the PIRC investigation.

102. **Your first PIRC statement (PIRC-00007), at page 6, states:**

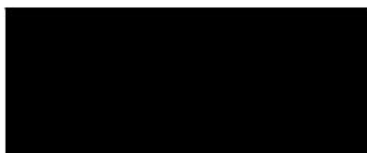
I established at this time that a wide reaching House to House strategy was being created by Police Scotland. Agreement was reached that PIRC would have sight of this and PIRC would conduct their House to House enquiries at the Hayfield Road location at a later stage.

Was PIRC's house-to-house strategy based on the strategy created by Police Scotland (PS01296)? What input, if any, did PIRC provide in relation to the creation of the house-to-house strategy? Is it standard practice for PIRC's investigative strategies to be based on those created by Police Scotland? If so, what are the benefits of this approach?

I have no knowledge of the creation of PIRCs House to House strategy, thus cannot comment on any comparison with Police Scotland's strategy. My only potential input would be the provision of information through my briefing document on the incident and any additional verbal updates I provided on the incident on 4 May 2015. In my view, is not standard practice to base a PIRC strategy on what Police Scotland had already created. This should be a standalone document used as a template and guide for Investigators to manage and complete the task. However, in the circumstances it is likely there will be similar information contained within these documents.

103. **Within DCS Boal's operational statement (PS00669), on page 3, she states:**

About 1700hrs I attended the Forensic Strategy Meeting which, albeit all PIRC investigators were present, was chaired by Detective Chief Inspector HOUSTON.



Within the forensic strategy meeting agenda (PS17896), at page 1, DCI Houston is also noted as being the chairperson of this meeting.

Would you agree that DCI Houston chaired this forensic strategy meeting? Why was it considered more appropriate for the meeting to be led by DCI Houston, rather than PIRC?

Yes, I agree that DCI Houston chaired the Forensic Strategy meeting. At that time, as the Scene Coordinator, he had the wider knowledge of the incident and the updated position from his own Scene Managers at the various scenes. In particular, he had knowledge of the two scenes that we were dealing with and what had happened earlier. Thus, common sense dictated that he walked us through what had been done and the current position. We could then discuss and make our own decisions on what was required to be done moving forward.

Gold Group meeting 1950 hours

104. With reference to the Gold Group meeting at 1950 hours, your first PIRC statement (PIRC-00007), at page 6, states:

At this time it was revealed that the Police Scotland FLO's had not been deployed as previously intended and Chief Superintendent McEWAN and others considered it inappropriate to do so.

Within DS Campbell's statement (PIRC-00215), at page 3, he states:

Again I cannot remember the exact time but late on, on Sunday 3 May, I remember Keith Harrower informing me that FLO's would be deployed by PIRC only and it was not to be joint venture with Police Scotland.

Was the decision not to deploy Police Scotland FLOs on the evening of 3 May 2015 taken by Police Scotland or PIRC? If the decision was taken by PIRC, what was the reasoning behind this decision? If the decision was taken by Police Scotland, did you agree with Police Scotland's decision? If not, did you express your disagreement with Police Scotland's approach during the Gold Group meeting at 1950 hours or subsequent to the meeting? How did you express your disagreement and what was the response to this?

I understand that the sudden change and decision not to deploy Police Scotland FLOs was made by Mr Chief Superintendent McEwan. I did not agree with this position and I felt it was inappropriate to take this decision at that juncture. I am sure that I expressed my disagreement and frustration on the decision to Chief Superintendent McEwan and others after the Gold Group Meeting. However, I cannot be more specific on how and to who. In my view, this decision was very detrimental to attempts to engage with Mr Bayoh's family and led to further frustration on their part moving forward.

See also answers to Questions 56, 65, 66 and 82.



105. **Within Chief Superintendent Garry McEwan's operational statement (PS03136), at page 2, with reference to his decision to visit the family earlier on 3 May 2015, he states:**

The underlining suggestion that I perceived at this point was the real potential for heightened community tension, anger, upset and dissatisfaction by the family and ultimately escalation beyond that should I not speak with the family direct. At this point I confirmed that the PIRC had no family Liaison officers in place and that they would not be available until the following day. This in my mind was not acceptable and I felt it was important to speak with the family and give them the details surrounding Sheku's death as I knew them at that time. I spoke with the ACC who agreed with my thoughts.

Within Chief Supt McEwan's Inquiry statement (SBPI-00258), at paragraph 114, he states:

I spoke to somebody in the PIRC, can't remember who, most likely Keith Harrower. They asked me not to go and I said I was going to go, because they didn't have somebody in place. That was because of what I would expect as a parent if they had very recently lost a member of the family.

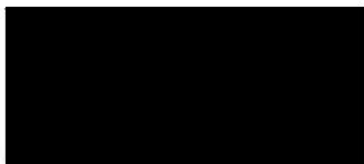
Within DS Campbell's Inquiry statement (SBPI-00256), at paragraph 284, he states:

Keith Harrower was present when ACC Nicolson actioned Garry McEwan to attend with the family. Keith Harrower thought it was appropriate for Garry to attend and answer some questions from the family before MIT and PIRC FLOs were deployed.

What discussions, if any, did you have with Chief Supt McEwan and other officers in relation to Chief Supt McEwan's meeting with the family on 3 May 2015 prior to that meeting taking place? Did you agree with the decision to deploy Chief Supt McEwan to meet Mr Bayoh's family on 3 May 2015? If not, why not, and how did you express your disagreement to Police Scotland? What was the response to this?

I do not have a recollection of a discussion with Chief Supt McEwan and other senior officers prior to him attending at the family home. I do not believe it was wise for him to attend and FLOs should have been deployed to engage with the family. I note Mr McEwan states that PIRC, most likely myself, asked him not to go, but as stated I have no recollection of this conversation. The FLOs are fully trained on how to engage with family members in such circumstances and should be left and trusted to carry out that function.

106. **What, if anything, did Chief Supt McEwan say to you on 3 May 2015 about his concerns about PIRC's FLOs being unavailable that day? Do you feel that**



his concerns were justified? If not, why not? What did you do, if anything, to address Chief Supt McEwan's concerns?

As stated, I have no recollection of any conversation with him in this regard. However, I do not believe his concerns were justified. In the circumstances, it was common practice for Police Scotland FLOs to be deployed in these circumstances in the first instance and that is what should have happened.

107. Within Chief Supt McEwan's Inquiry statement (SBPI-00258), at paragraph 46, he states, with reference to PIRC:

The most important aspect for me was the community impact, reassurance, the family side of things. I wasn't overly impressed by their initial inaction in the early stages towards the family. I thought they had failed to prioritise what I thought was important which was the family, which in turn affects the community impact and the ability to give community reassurance.

What is your opinion in relation to Chief Supt McEwan's view that PIRC failed to prioritise the family? If you disagree with his view, why do you disagree?

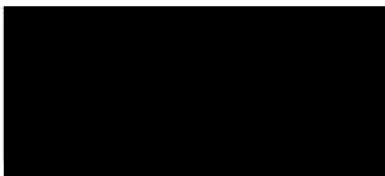
I totally disagree. One of the major issues I addressed during the first Gold Group Meeting was to seek confirmation that the Police Scotland FLOs were being deployed. It was concerning to learn at that time that the death message had not yet been delivered to the family which was a Police Scotland responsibility. My understanding was that the FLOs would deliver this message. I subsequently attended the family home and spoke to them.

108. A PIRC action (PIRC-02938) refers to Chief Supt McEwan's operational statement (PS03136):

*Chief Supt McEwan refers to PIRC in his statement.
Adverse comments to be addressed.*

Were you aware of PIRC considering comments made, or concerns expressed, within Chief Supt McEwan's statement? If so, to which "adverse comments" within Chief Supt McEwan's statement did this action refer? What steps, if any, were taken to address the issues identified within those comments? The action is marked as "complete" on 26 June 2015, two days after PIRC obtained a statement from Chief Supt McEwan (PIRC-00181) in which no reference is made to any "adverse comments" made by Chief Supt McEwan within his operational statement. What consideration, if any, was given to discussing Chief Supt McEwan's adverse comments with him when he provided his PIRC statement on 24 June 2015? Why were these concerns not discussed with Chief Supt McEwan?

I have no recollection of this PIRC action or being made aware of any adverse comments made by Chief Supt McEwan.



109. The typed minutes of the Gold Group meeting at 1405 hours (PS07268), at page 4, state:

Kate raised issue re about corporate comms and concerned re mentioned use of PAVA due it currently being topical and the public perception of it and as such a media statement to be determined ASAP and agreed between Police Scotland and PIRC

The typed minutes of the Gold Group meeting at 1950 hours (PS03139), at page 3, state:

Refer any Media interest to PIRC.

What shift, if any, was there in responsibility for media liaison between Police Scotland and PIRC (either jointly or individually) on 3 May 2015? If there was such a shift in responsibility, why did this take place?

I am not aware of any shift in responsibility for media liaison between Police Scotland and PIRC.

110. The typed minutes of the Gold Group meeting (PS03139), at page 4, state:

Action book to sit with SIO Keith Hardie.

What do you consider this to mean? What role did Keith Hardie perform within the investigation and how did his role interact with your own role on 3 May 2015?

My understanding would be that Mr Hardie was managing or overseeing the list of actions for the Police Scotland investigation which were recorded in the 'Action Book'. I believe he may have played a supporting role to D/Supt Campbell. However, I have no recollection of any conversations with him on 3 May 2015.

111. Within your operational notes (PIRC-01468), at pages 8 and 9, with reference to Chief Supt McEwan's meeting with the family on 3 May 2015, it is noted that:

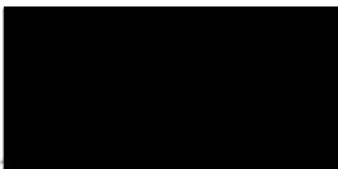
Kadi taking notes during discussions.

In light of the disputed accounts of the information that was passed to the family during the meeting with Chief Supt McEwan, what steps, if any, did PIRC take to recover these notes from Kadi Johnson?

No efforts were made to recover the notes at this time.

Meeting with Mr Bayoh's family

112. Your briefing note in relation to the events on 3 May 2015 (PIRC-03694), on page 5, identifies that "PIRC received a frosty reception" when you met



with Mr Bayoh's family at 2210 hours. Why did you feel that PIRC received a "frosty reception" at this time? Were any concerns raised at this meeting in relation to PIRC's involvement in the investigation, or PIRC's liaison with Mr Bayoh's family? If so, what were these concerns?

When Investigator McGuire and I attended at the family home there were a large number of family and friends in the house. Understandably, there was obvious upset and grief being displayed by some having received the sad and shocking news of the death of Mr Bayoh. There was also an overt display of anger and frustration, particularly by Adi and Kadi Johnson, who I mainly spoke to. This was mainly due to the conflicting information on the incident they had received from Chief Supt McEwan and other Police Scotland officers. I do not recall any concerns being raised in relation to PIRC's involvement, or our liaison with the family.

113. Within Ade Johnson's Inquiry statement (SBPI-00248), at paragraph 23, Mr Johnson states that at this meeting, with reference to yourself and Alex McGuire:

One of them was tall. He did not want to be there. He was a bit arrogant with his approach. He came in with the attitude of, "Do as I say." We were not happy, and we told him that we were not happy with his approach.

Within Kadi Johnson's evidence to the Inquiry (day 34, page 18, line 18), with reference to the demeanour of PIRC's investigators at this meeting, Ms Johnson states:

I think they were a bit firm on, you know, what they – they were a bit firm, I would say.

What is your opinion of Mr and Mrs Johnson's characterisation of PIRC's approach at this meeting as being "arrogant" or "firm"? Does this match with your recollection of the tone of the meeting with Mr Bayoh's family? How did you feel the family's relationship with PIRC was when you left the meeting on the evening of 3 May 2015?

It is very disappointing personally if this is their perception of Investigator McGuire and myself from the visit. I try to be polite and professional at all times when communicating with the public and other agency representatives. I did most of the talking and was not arrogant or firm. I believe I displayed empathy and sympathy towards them. However, when we left the house, I felt there was still a sense of frustration and anger.

114. Alex McGuire's notebook (PIRC-04184), at page 6, appears to state:

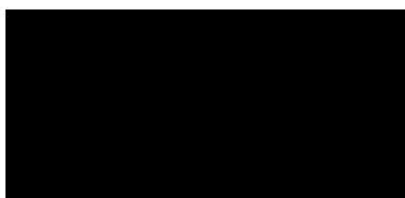
Met with family

Hostile environment

Being told conflicting stories by police

1. Looking for two murderers

2. Died on way to ambulance



- 3. Died on the street**
- 4. Resisting arrest**
- 5. Advised hit with batons / CS spray – attacked a female officer**

Issue with press release

Do these notes accord with your memory of the matters discussed with the family at this meeting? If so, what steps did you take in relation to the family's concerns about the conflicting stories they considered they had been given by the police? Were these concerns communicated to Police Scotland and/or to your colleagues at PIRC? If so, to whom were these concerns communicated? What was the "issue with press release"? How was this issue addressed?

I am unsure on the specific wording, however the family did refer to a variety of information provided to them by different Police Scotland officers, including Chief Superintendent McEwan. I agreed that it was unfortunate and inappropriate that they had received conflicting information. I assured them moving forward, they would have a point of contact (FLO) responsible for communicating with them and supporting them. I believe Police Scotland were already aware of the issues re conflicting information. I subsequently made PIRC colleagues aware of this. I do not have any specific recollection of what the family concerns were about the press release.

115. Your operational notes (PIRC-01468), at page 9, state:

Adi indicated the family had discussed matters, and no representatives were willing to do the identification until family members, including the now deceased's mother attended [redacted]. She was travelling with a group, including elders from England.

What undertaking, if any, did you provide to the family to ask COPFS to delay the post-mortem until after Mr Bayoh's mother had arrived and the family were willing to proceed with identification? Was it your understanding that the family were aware that the post-mortem would proceed regardless of whether the identification of Mr Bayoh's body took place? Upon what information did you base this understanding?

I told the family that I would fully update COPFS with their concerns and current position regarding the post mortem examination and that contact would be made with them the following morning.

As stated previously, I telephoned Mr Johnson about 1030 hours on Monday 4 May 2015 and made him aware that COPFS had confirmed that the post mortem examination was to go ahead as scheduled. In this regard, he reiterated that the family were not willing to attend to identify the body.

116. What was your view in relation to the family's decision not to proceed with identification of Mr Bayoh's body until the arrival of his mother? Did you understand their decision?



That was their prerogative and a decision for them. I have no opinion in this regard.

- 117. The post-mortem took place on Monday 4 May. What is PIRC's role, if any, in dealing with the body of a deceased person, including the post-mortem examination? What is your understanding of the involvement of Police Scotland in this process?**

In this type of investigation, PIRC Investigators, including a Scene Manager, are required to attend the post mortem and facilitate provision of any documentation, including medical records, or other relevant material the Pathologist would require to carry out the post mortem examination. PIRC Investigators would be on hand to take possession of any material, such as samples, and be present to the conclusion. They would also facilitate the identification of the body prior to the examination taking place. In addition, they would ensure that any other relevant partners, for example SPA staff, were present at the post mortem.

I understand that Police Scotland officers carried out the identification of the body. In addition, other officers may be present to assist in dealing with productions.

- 118. Did you have any involvement in arranging or coordinating PIRC's role in the post-mortem examination? If so, what was your involvement?**

I had no involvement in arranging or coordinating the post mortem, other than making contact with Mr Johnson on 4 May 2015. See answer to Question 117.

Call to David Green at 2335 hours

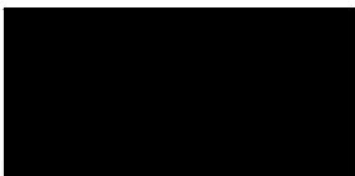
- 119. At paragraph 21 of your Inquiry statement, with reference to the post-mortem, you state:**

...it took place the following day, and I don't know the reasons behind that and it certainly wasn't for me to question that...

Why did you consider it was not for you to question the scheduling of the post-mortem on 4 May 2015? Following your meeting with the family at 2210 hours on 3 May, did you consider requesting that the post-mortem be delayed until Mr Bayoh's mother had arrived in Kirkcaldy and the family were willing to identify Mr Bayoh's body? If not, why not?

It is the decision of COPFS to schedule the post mortem examination. As previously stated, Mr Green initially considered arranging the post mortem on 3 May 2015 and I opined that this was too early. I subsequently made him fully aware of the family's view in relation to the arrangements being made for 4 May 2015. However, COPFS decided that it would go ahead that day.

- 120. At paragraph 57 of your Inquiry statement, you state:**



I conveyed to David Green basically everything that the family told us and their opinions on things in relation to the post-mortem and the requests that we were making of them. This was essentially that Mr Bayoh's mother would be present before any decision was made on whether they would participate in that process of identification.

Following your meeting with Mr Bayoh's family, was your understanding that the family would proceed with the identification of Mr Bayoh's body following the arrival of his mother or that the family would make a decision about whether or not to participate in the process of identifying Mr Bayoh's body following the arrival of Mr Bayoh's mother? What was your understanding of whether or not post-mortems could be delayed on the basis of a family's wishes? Had you had previous experience of this? If so, how were those instances resolved?

My understanding was that they would make a decision about whether or not to participate in the process of identifying Mr Bayoh's body after his mother arrived. I have no experience or knowledge of a post mortem being delayed at the request of the deceased's family.

Call to DS Campbell at 2345 hours

121. Your operational notes (PIRC-01468), at page 9, refer to a discussion with DS Campbell at 2345 hours on 3 May 2015. What did you discuss with DS Campbell?

The purpose of the telephone call was to discuss the issues related to the identification of the body prior to the post mortem. I asked D/Supt Campbell to arrange for officers who were capable of making a formal identification of Mr Bayoh's body prior to the post mortem. He agreed to undertake this task.

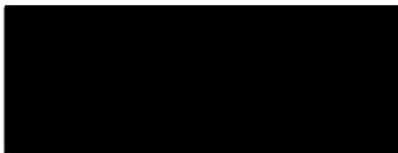
PIRC investigation on 3 May 2015

122. Were you content with the direction, instruction and support that you received from COPFS in relation to PIRC's investigation on 3 May 2015? If not, why not?

Yes, I was content with the direction, instruction and support from COPFS on 3 May 2015.

123. Were you content with the support that you received from Police Scotland in relation to PIRC's investigation on 3 May 2015? If not, why not?

In the main, I was content with the support from Police Scotland. However, as previously stated the decision to not deploy FLOs, after committing to do so, was a major issue for the PIRC and was detrimental to the relationship and communication with the family that day and during the investigation.



Clearly, the refusal of the principal police officers to provide witness statements was very detrimental to the investigation.

124. **Were you content with the support that you received from your colleagues at PIRC, including colleagues in positions senior to you, in relation to the investigation on 3 May 2015? If not, why not?**

I was content with the support provided by my PIRC colleagues on 3 May 2015.

125. **Did you consider that you, as a PIRC investigator, had sufficient powers to progress the investigation on 3 May 2015? If not, why not? What additional powers would you have benefited from to progress the investigation?**

I am satisfied that I had sufficient powers to progress the investigation on 3 May 2013. There were no additional powers that would have benefited the progress of the investigation.

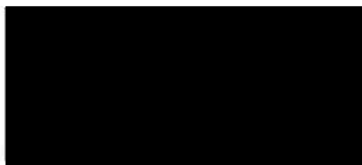
126. **With reference to 3 May 2015, your first PIRC statement (PIRC-00007), at page 5, states:**

During the course of the rest of that day I attended a number of meetings with Police Scotland to discuss a number of operational issues related to the investigation. During these meetings I reinforced the PIRC position that our initial priorities were to manage the two scenes, namely at the Victoria Hospital, Kirkcaldy where the body of the now deceased was in situ and under watch of Police Scotland officers, and Hayfield Road, Kirkcaldy where an altercation took place with officers of Police Scotland.

Beyond the meetings and discussions explicitly referenced within your first PIRC statement (PIRC-00007) and/or your operational notes (PIRC-01468), with whom from Police Scotland did you meet on 3 May 2015? What operational issues were discussed within those meetings? Why did you consider it necessary for PIRC's initial priority of managing the scenes at Victoria Hospital and Hayfield Road to be "reinforced" during those meetings? Did anyone from Police Scotland disagree with the decision that PIRC would only manage those scenes? If so, please provide details.

I cannot recall specifically the identity of any other Police Scotland officers that I spoke to on 3 May 2015 or what was discussed. It was appropriate and relevant that there was a wide awareness of where the PIRC retained primacy in the investigation. I was not aware at that time of any Police Scotland officers who disagreed with the decision that PIRC would only manage those scenes.

127. **On 3 May 2015, what awareness and/or involvement, if any, did you have in Police Scotland's delivery of the death message to members of Mr Bayoh's family and the deployment of police officers to deliver that message? Were you content with the way that Police Scotland intended to deliver the death message? If not, why not? In what way are PIRC normally involved in the**



delivery of a death message following a death in custody or death following police contact?

I had no involvement in the delivery of the death message or the initial arrangements made by Police Scotland to deliver this. This was their responsibility. Initially, during the Gold Group Meeting I was made aware that the Police Scotland FLOs would deliver the message. However, as previously stated, the family could have been made aware at an earlier juncture.

As outlined, Police Scotland are responsible for the delivery of a death message following a critical incident. PIRC would not carry out this task.

128. On 3 May 2015, did you have a working or preliminary view as to Sheku Bayoh's cause of death? If so, what was your view? If not, why not?

At the outset on 3 May 2015, I did not have a preliminary view on Mr Bayoh's cause of death as there was insufficient information to come to a proper conclusion.

129. On 3 May 2015, did you give consideration to whether race could be a factor in the incident? If so, in what way? If not, why not?

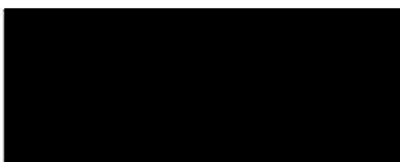
See answer to Question 17. I constantly kept an open mind in this regard.

130. Did you consider that the police officers with whom you had contact on 3 May 2015 had an awareness and understanding of PIRC as an organisation and PIRC's role within the investigation? If not, what, if any, steps did you take to address this on 3 May? What impact, if any, did the officers' awareness, or lack thereof, of PIRC's role have on the investigation? Following the establishment of PIRC on 1 April 2013, and prior to the incident on 3 May 2015, what steps had been taken to raise awareness and understanding amongst police officers of PIRC as an organisation and PIRC's role within an investigation?

I was satisfied that the Police Scotland officers that I interacted with on 3 May 2015 had an appropriate awareness and understanding of the role of the PIRC. Thus, this had no specific impact on the investigation.

I am aware that during the early phase of the PIRC a variety of steps were taken to raise awareness of the organisation amongst Police Scotland staff and officers. This included presentations to officers and management of Police Scotland, in particular at the Scottish Police College and other key departments. This included Senior Investigating officers and Probationary Constables. However, I cannot provide any specific details or dates.

131. At what point in the investigation did you become aware of the identities of the officers that attended the scene at Hayfield Road?



At some stage on 3 May 2015, I am not sure what time, I was made aware of the identity of the officers involved in the incident. Their details were recorded in the briefing document I prepared following the incident.

132. **Within PC Amanda Givan's Inquiry statement (SBPI-00072), at paragraph 92, she states, with reference to the officers that attended Hayfield Road:**

Someone wanted them examined by a doctor. There was a ridiculous wait on all of the police officers being examined by a doctor...

What involvement, if any, did you have in the instruction that the officers be examined by a doctor? If so, did you consider this to be a priority on 3 May? Please explain why, or why not. What was the purpose of these examinations? Were you aware of there being any delay in the officers being examined by a doctor? If so, what did you do about this?

I had no involvement in, or any knowledge of any instruction to have the officers examined by a doctor.

133. **What requests, if any, did you make on 3 May 2015 that the officers that attended the scene at Hayfield Road complete their notebooks, use of force forms or CS/PAVA spray forms? What was the relevant PIRC SOP or guidance concerning seizure of notebooks, daybooks, use of force forms or CS/PAVA spray forms?**

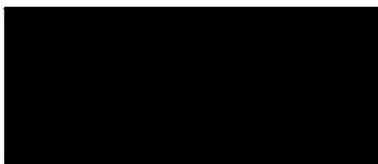
During the course of 3 May 2015, I do not believe that I made any requests to Police Scotland to complete notebooks, Use of Force Forms, or CS/PAVA Forms in relation to the incident. However, I am aware that this was requested at an early stage of the investigation after this date.

Where police officers use force or discharge CS/Pava spray, there is a requirement to complete the relevant form. In the absence of the officer concerned, there is no necessity for them to complete the form, but someone must. Normally, any such documents or items that were completed would be requested from Police Scotland and subsequently provided to PIRC.

134. **As far as you are aware, what powers, if any, do Police Scotland have to compel officers to complete paperwork after an incident including, but not limited to, notebooks, use of force forms or CS/PAVA spray forms?**

Depending on the status of the officer, I am unsure what powers Police Scotland have to compel officers to complete paperwork. However, my understanding of the processes to complete this type of document is referred to in my answer to Question 133. I believe police officer notebook entries are different and it is a matter for each officer what they record in their personal notebook.

135. **What powers, if any, do PIRC have to compel officers to complete paperwork after an incident including, but not limited to, notebooks, use of**



force forms or CS/PAVA spray forms? How soon after a death in police custody would PIRC expect to receive notebooks, use of force forms or CS/PAVA spray forms from Police Scotland?

In relation to a COPFS directed investigation, The Police, Public Order and Criminal Justice (Scotland) Act 2006, Section 44(2) of the 2006 Act provides that the Chief Constable must:

- a) provide the Commissioner with all such other information and documents specified or described in a notification given by the Commissioner; and
- b) produce to the Commissioner all such evidence and other things so specified or described.

This would include the documents or items above.

Once formally required from Police Scotland, PIRC Investigators would expect to receive these items within approximately 7 to 10 days, or earlier or later by arrangement.

136. Were you aware in the course of the investigation that the officers did not complete use of force and CS/PAVA spray forms? What, if any, steps did you take to obtain these forms?

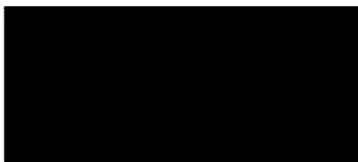
I do not recall being aware of this on 3 May 2015, but subsequently became aware. I am also aware that other PIRC Investigators pursued the provision of these documents. I do not recall who.

137. Did you make any further requests to Police Scotland for the officers' operational statements after 3 May 2015? If so, what were the nature of these requests?

I did not make any further requests for the statements from the officers after 3 May 2015. However, I am aware that DSI William Little and SI John McSporran did pursue provision of the officer's statements through Police Scotland managers.

138. You prepared a briefing note for the Director of Investigations in relation to the events of 3 May 2015 (PIRC-03694). What was the purpose of this document? When did you prepare the briefing note? Upon what information was it based?

I created the document at different stages during the course of 3 May 2015. The purpose of the document was to brief PIRC managers regarding the incident and actions taken by PIRC Investigators and others. It is fairly common practice following a critical incident that a briefing document is completed by the lead PIRC Investigator. The content of the document was based on information from a variety of sources, including D/Supt Campbell, PI Robson, Chief Superintendent McEwan, DCI Houston, Mr David Green and others.



139. The briefing note (PIRC-03694), at page 2, states, with reference to the officers' arrival at Hayfield Road:

It was reported that as the officers drove into Hayfield Road they saw the now deceased coming towards them as the vehicles came to a halt. They could clearly see he was in possession of a knife and was making his way towards them. Some of the officers, unknown how many at this stage, drew their police issue batons. At least one of the officers also drew their Pava spray and issued a warning to the now deceased, who continued to come forward. Pava was subsequently sprayed towards the now deceased, however this had little effect, there is some reference to him laughing at the officers. It was also reported that one of the female officers was apparently kicked in the back and also sustained a blow to the back of her head. She sustained no serious injury as a result but complained of pain.

As the Pava had little effect, a number of the officers struck the now deceased with their batons. It is unknown at present how often he was struck or how many officers struck him. A struggle then ensues and the now deceased was eventually taken to the ground where he was handcuffed to the rear. Due to his constant struggling, leg restraints were also applied to him.

Who provided you with the information that allowed you to compile the above summary of events? In particular, who provided you with the information that the attending officers could "clearly see that Mr Bayoh was in possession of a knife and making his way towards them"? Do you now consider this briefing note to be accurate? If not, in what way do you consider this briefing note to be inaccurate?

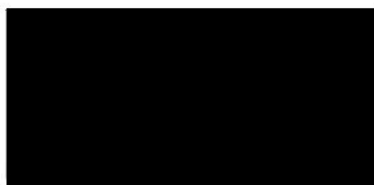
This part of the briefing document was based on the accounts provided to me in the first instance, by Supt Craig Blackhall, then D/Supt Campbell and DI Colin Robson. As stated, notes regarding these accounts are contained in my operational notes. In the summary of circumstances provided to me by D/Supt Campbell during my telephone call at 1022 hours that day, he stated "*Male appears in front of them. He runs towards them with knife. Batons pulled out and CS deployed*". The briefing note is intended to be a summary of the events conveyed to me. It was as accurate as it could be considering a slight variance in the accounts provided to me.

Also see answer to Question 138.

Monday 4 May 2015

140. Your operational notes (PIRC-01468), at page 9, state:

0700 Call to D/Supt Pat Campbell. He confirms Police Scotland collecting medical records for post-mortem.



Why were Police Scotland collecting Mr Bayoh's medical records? Was this at your request? Following a death in police custody, or a death following police contact, is it normal practice for Police Scotland to take responsibility for collecting the deceased's medical records? If this is not normal practice, who would normally be responsible for collecting such medical records?

I cannot recall why Police Scotland were tasked or volunteered to obtain the medical records. It may have been due to the short timeframe. In similar circumstances, either Police Scotland or PIRC Investigators may obtain the medical records for a variety of reasons, for example time constraints.

141. Your operational notes (PIRC-01468), at page 10, refer to a call to Ade Johnson at 1030 hours on 4 May 2015. Were any of your colleagues from PIRC also on this call? If so, which colleagues? Was the call made using the "speakerphone" function, to allow those colleagues to hear the entirety of your conversation with Ade Johnson? Why did you make this call, rather than one of PIRC's FLOs? Having made the call at 1030 hours, why was it necessary to call Ade Johnson back at 1050 hours to provide him with contact details for Alistair Lewis?

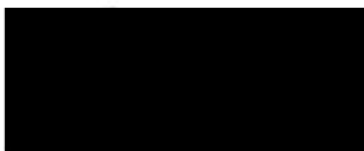
I made the telephone call to Mr Johnson from one of the office telephones. It was not on speaker phone. I recall that my colleague DSI Lewis was in the room while I made the call, as I intended to get him to speak to Mr Johnson. The purpose of the call was twofold. Firstly, to seek confirmation if the family were willing to attend the post mortem. Secondly, to ascertain if they were willing to meet myself and DSI Lewis who was to be appointed as the FLO. He confirmed the family were not willing to attend the post mortem and I made him aware it would go ahead as planned. Further, he refused to meet with me and DSI Lewis.

142. Within Ade Johnson's Inquiry statement (SBPI-00248), at paragraph 30, he states:

I am asked about when was the first time I found out about the post-mortem. It was in Aamer's office. It was on the Tuesday. I was never informed by Keith Harrower on the morning of the 4th May 2015 that the post-mortem would go ahead, Aamer had confirmed with the Lord Advocate Frank Mulholland that the post-mortem was to be on hold to allow the family to attend but also a pathologist that Aamer had instructed too.

What comments do you have in relation to Mr Johnson's recollection of your conversation with him on the morning of 4th May? Did you inform Mr Johnson that the post-mortem would go ahead? In your view, was it possible from the information that you passed to Mr Johnson that he could have misunderstood the intention to proceed with the post-mortem? Please explain why, or why not.

Yes, I confirmed that the post mortem would go ahead as planned. In this regard, he was told on 3 May 2015 that it was scheduled to take place on 4 May 2015. In my view, there could be no misunderstanding in this regard.



143. **Within your first PIRC statement (PIRC-00007), at page 7, with reference to your call with Ade Johnson at 1030 hours, you state:**

I also asked Mr JOHNSTON if he would be willing to meet with myself and Investigator Alastair LEWIS, who had been given duties to act as the FLO. He declined this invitation and told me that he had engaged a solicitor, Amer ANWAR, to act on behalf of the family and who would contact PIRC in due course.

Your operational notes (PIRC-01468), at page 10, state:

Update from Alastair Lewis. Deceased family have appointed Amer Anwar, Solicitor, to represent family.

At what point on 4 May 2015 did you become aware that Mr Bayoh's family had appointed Aamer Anwar as their solicitor? Was this during your call with Ade Johnson at 1030 hours, or later in the day when you spoke to Alistair Lewis? If you were informed by Ade Johnson at 1030 hours, what consideration, if any, did you give to contacting Mr Anwar to inform him that the post-mortem would be taking place later that day?

During my telephone conversation with Mr Johnson commencing at 1030 hours, he told me that he was in discussion with a solicitor. At 1050 hours I attempted to call him back to give him a contact number for DSI Lewis. There was no reply and I left a message for him to contact DSI Lewis on a number I provided. I also left a similar message with Kadi Johnson at the home address. I later learned from DSI Lewis that the family were being represented by Mr Anwar, Solicitor who he had spoken to.

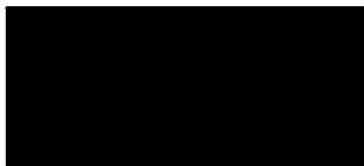
Reference to these communications are contained in my operational notes.

144. **The entry within your operational notes (PIRC-01468) within which Alistair Lewis is noted to have confirmed that Aamer Anwar had been appointed to represent Mr Bayoh's family does not include reference to a time, unlike other entries within your operational notes. At what time did you speak to Alistair Lewis in relation to the appointment of Mr Anwar as Mr Bayoh's family's solicitor? Why is no time noted within your operational notes for this conversation with Alistair Lewis?**

I am unsure what time this entry was made, I have omitted to record this. However, it was clearly before 1600 hours that day which was my last entry.

145. **Did you have any further discussions with Mr Bayoh's family members or their solicitor on 4 May 2015? If so, what was discussed?**

I had no further discussions with Mr Bayoh's family that day.



146. **Did you attend a PIRC briefing on the morning of 4 May 2015 at the PIRC office in Hamilton? Do you remember what was said? If so, please provide details. Are you aware of there being any minutes of this briefing beyond those contained in PIRC-04156?**

I believe I did attend, but have no recollection of what was discussed or actioned. I have no knowledge of any additional minutes being recorded in addition to PIRC-04156.

147. **The morning briefing minutes (PIRC-04156) note that on 4 May 2015 DSI William Little "provided summary of investigation so far". As the lead investigator on 3 May 2015, why did you not provide this summary during the morning briefing on 4 May 2015?**

I do not recall. In addition, at an early juncture that day DSI Little was appointed as the PIRC Lead Investigator.

148. **Do you recall if it was at this briefing that Deputy Senior Investigator William Little was allocated the investigation with Senior Investigator John McSporrان having oversight? If not at this briefing, do you know when was this formally confirmed? Why were John McSporrان and William Little placed in these roles at this point? Why did you not continue to take a lead role in the investigation after 3 May 2015? Were you aware on 3 May 2015 that you would not be responsible for leading the investigation from 4 May onwards? If so, what steps, if any, did you take to communicate this to Police Scotland?**

I believe DSI Little was appointed as the Lead PIRC Investigator at an early stage that morning. I do not recall who made that decision. I was due to go on leave imminently for a period of over two weeks, thus I did not retain the lead in the investigation. I was not aware on 3 May 2015 that I would not be responsible for leading the investigation from 4 May onwards.

149. **Do you recall what handover you and other members of PIRC staff who had been present on 3 May 2015 provided to DSI Little and SI McSporrان? If so, please provide details.**

During the early course of 4 May 2015, I briefed HOI Irene Scullion and DSI Little on the events and actions on 3 May 2015. They were also provided with a copy of the briefing document I had prepared.

150. **An extract from DS Campbell's evidence to the Inquiry (day 49, page 73, line 5) is as follows:**

A. I think -- sorry, I think the problem with the PIRC deployment at that stage, other than the resources, is that over the course of 24, 36 hours they changed the lead investigator. So Keith had --

Q. What issues did that cause?



A. Just obvious challenges, the fact is you're bringing someone on fresh into the investigation when you've been there for 12, 13 hours at that stage, you know what I mean, before that ... before Billy Little's appointed around that. So again, there was challenges with the fact that the change of a senior investigator from PIRC at such an early stage of a critical investigation would undoubtedly cause challenges.

Do you agree with DS Campbell that your handover of responsibility to DSI Little and SI McSporran caused "challenges"? If so, what were these challenges and what did you do to mitigate them? If not, why not?

No, I do not agree. As I stated, SI McSporran and DSI Little received a full briefing in relation to the incident and what actions had been taken. They had the necessary information to fully commence the investigation and I was still there for a period to answer any queries. There would have been more of an impact in the subsequent investigation if I had not been present later for a prolonged period due to my absence. In addition, DSI Little quickly briefed Investigators for key roles, such as productions and House to House enquiries and would direct them as he saw fit.

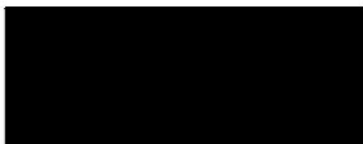
151. Police Scotland held a briefing at 1000 hours on 4 May 2015, chaired by DS Campbell (PS00784). Were you aware in advance that this briefing was due to take place? Did any representative from PIRC attend this briefing? If not, why not? What discussions, if any, did you have with Police Scotland on 3 May 2015 in relation to PIRC's attendance at this briefing?

I have no recollection of being aware of this Police Scotland briefing and any arrangements made for it.

152. Police Scotland held a Gold Group meeting at 1230 hours on 4 May 2015 (PS03161). Were you aware in advance that this meeting was due to take place? Did any representative from PIRC attend this meeting? If not, why not? What discussions, if any, did you have with Police Scotland on 3 May 2015 in relation to PIRC's attendance at this Gold Group meeting?

I have no recollection of being aware of this Police Scotland Gold Group meeting or any arrangements made for it taking place.

153. At 12.35 on 4 May 2015, DSI Little was contacted by ACC Nicolson by telephone, who expressed concerns regarding the handover of the investigation from Police Scotland to PIRC. Were you aware of this call at the time, or subsequent to the call taking place? If so, please provide full details of when you became aware of the terms of this telephone conversation, who informed you, what you were told had been said by both parties and if this call prompted you to take any action. Had you been made aware of ACC Nicolson's concerns on 3 May 2015?



I have some recollection of DSI Little receiving a telephone call on 4 May 2015 from ACC Nicolson regarding the potential handover of the investigation. However, I have no recollection of any specific information and when I became aware. I have no recollection of any such concerns being raised by ACC Nicolson on 3 May 2015.

154. Within your Inquiry statement, at paragraph 62, you make reference to “more than an inferred criticism” from ACC Nicolson during a call at 1600 hours in relation to the deployment of PIRC’s FLOs. Had you been made aware of ACC Nicolson’s concerns in relation to the deployment of PIRC’s FLOs prior to this call? If so, how were you made aware? Did you share knowledge of these concerns with others at PIRC? What did you do, if anything, to address those concerns?

No, I had not been made aware of concerns earlier from ACC Nicolson in relation to the deployment of PIRC FLOs. At this stage, efforts had been ongoing most of the day to arrange for DSI Lewis, who was appointed as the Lead FLO, to visit the family, introduce himself and explain the FLO role.

27 May 2015

155. What, if any, involvement did you have in the investigation between 4 May and 27 May 2015? If you were not involved in the investigation during this period, why not?

I was further involved in the investigation for a brief period, then went on leave. I had further involvement when I returned just over two weeks later.

156. Within the morning briefing minutes for Operation Quoich (PIRC-04156), at page 28, it is noted on this day that:

CS/PAVA – SI Mitterer and DSI Harrower tasked with establishing the effects of both being used at once.

CS/PAVA update provided by DSI Harrower:

- ***Generic research looked at.***
- ***Various contacts made with Home Office and Jackton for further information.***

What were you tasked with establishing in this regard? How did you go about doing this? Why were you chosen to carry out this piece of work? Why was this piece of work considered necessary as part of the investigation? Is the email exchange that you had with Dr Paul Rice (PIRC-04432) and the statement that Dr Rice subsequently provided (PIRC-00287) the outcome of your investigations in this regard? If not, what further evidence did you obtain as a result of your investigations in this area?



As CS and Pava spray was believed to have been discharged at Mr Bayoh by the police, I was tasked with establishing any potential effects on a person ingesting either or both of these substances. I do not recall there being any significant reason for me undertaking this task.

I was to establish if it was possible to determine from post mortem samples whether these substances were in his system.

I subsequently identified and contacted potential experts in the field.

I believe Dr Rice's statement was the outcome of this action.

157. What involvement, if any, did you have with the selection of Dr Rice as an expert witness? If you were involved in the identification of Dr Rice as a potential expert witness, how did you undertake this task? Upon what criteria was the selection of Dr Rice based?

I was tasked to identify and contact potential expert witnesses in a number of fields. In this regard, I consulted with relevant outside agencies/partners such as Independent Office for Police Conduct (IOPC), College of Policing, National Crime Agency (NCA), Ministry of Defence (MOD) and Police Service of Northern Ireland (PSNI)

I approached Dr Rice, Chief Medical Officer at the Defence Science and Technology Laboratory, as a potential witness to examine samples and provide expert opinion in relation to the deceased potentially ingesting CS or Pava Spray during the incident. In this regard, I had some email contact with him. I may have got his details through the NCA, or one of the other agencies I contacted to provide details of prospective expert witnesses. I believe that he had significant expertise in chemical and biological matters.

158. Within a later entry within the morning briefing minutes for Operation Quoich (PIRC-04156), for 30 June 2015 at page 71, it is noted that:

DSI Harrower provided an update on CS/PAVA:

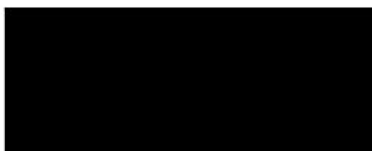
- The completed report is with Hol Scullion to proof read

To what did this report relate? What was the purpose of completing this report? Please confirm if this report has been provided to the Inquiry and, if so, identify the relevant Doc ID.

I have been unable to locate this document and have no recollection of its content.

28 May 2015

159. Within the morning briefing minutes for Operation Quoich (PIRC-04156), at page 30, it is noted that:



- ***Interim Post Mortem Report received***
- ***SI Mitterer and DSI Harrower have been tasked with establishing the research around this, however we await toxicology results which will assist with this task***

What were you tasked with establishing in this regard? How did you go about doing this? Why were you chosen to carry out this piece of work? Why was this piece of work considered necessary as part of the investigation?

I believe this is the same task related to CS/PAVA spray. See answers to Questions 156 and 157.

29 May 2015

160. Within the morning briefing minutes for Operation Quoich (PIRC-04156), at page 32, it is noted that:

CS/PAVA update provided by DSI Harrower

The MET in London have been approached in relation to the OST element

What was the "OST element" in relation to which you had approached the MET?

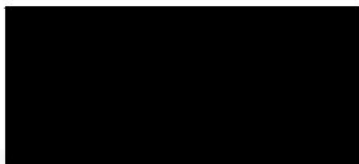
The term OST refers to Officer Safety Training. I have no recollection of any work done on this element.

2 June 2015

161. On 2 June 2015, you took a statement from DI Colin Robson (PIRC-00223). DI Robson had previously provided an operational statement in relation to his involvement in the incident (PS00280). Was it usual for officers to be re-interviewed by PIRC after they had provided an operational statement? What matters did you wish to clarify with DI Robson within this statement?

It was and is quite common to re-interview police witnesses to either seek clarification or expand on their previous statement. The action allocated to me was to obtain a more detailed statement from DI Robson.

162. After taking DI Robson's statement, what contact, if any, did you have with colleagues at PIRC who were taking statements from other witnesses in relation to the matters raised within DI Robson's statement? Having obtained DI Robson's statement (PIRC-00223), did you consider that there were any matters that required further clarification with DI Robson? If so, what were these matters? Did you consider taking a further statement from DI Robson to clarify these matters? If so, why was a further statement not taken from DI Robson clarify these matters?



I only have a vague recollection of taking the statement from DI Robson. However, I am unable to answer the other points outlined in this question.

163. On 2 June 2015, a statement was taken from DC Andrew Mitchell by Investigator Ross Stewart in your presence (PIRC-00026). When a statement is taken “in the presence of” a PIRC investigator, what is that investigator’s role within the interview? May that investigator ask questions of the witness? If so, did you ask any questions of DC Mitchell within this interview and what lines of questioning did you seek to explore with DC Mitchell?

When a statement is taken in the presence of another Investigator, the second Investigator requires to listen and provide any relevant input, for example where they consider further information should be sought or clarification is needed. This said, the Investigator taking the statement has the primary role. I have no specific recollection of asking DC Mitchell any questions.

164. Within the statement provided by Ade Johnson to PIRC on 13 May 2015 (PIRC-00106), on pages 2 and 3, Mr Johnson describes meeting with DC Mitchell and DC Wayne Parker on the afternoon of 3 May 2015. Mr Johnson describes being told by the officers that:

- (i) Mr Bayoh had been pronounced dead in the ambulance on the way to the hospital;**
- (ii) They did not know how Mr Bayoh died;**
- (iii) The police were looking for “two guys”; and**
- (iv) There was a warrant out for the arrest of Mr Bayoh.**

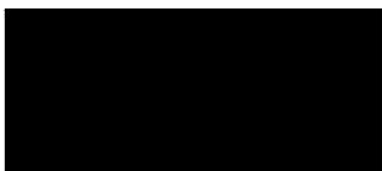
It does not appear that DC Mitchell was asked whether he or DC Parker made these statements to Mr and Mrs Johnson when he provided his statement to the PIRC. Why was DC Mitchell not asked about Ade Johnson’s recollection of events at that time?

I am unable to recall the questions put to DC Mitchell or what questions were intended to be asked of him. Thus, I cannot provide an answer to this question.

165. On 12 June 2015, the terms of reference for PIRC’s investigation were expanded by COPFS (COPFS-04010(a)) to include:

Allegations by the family that they were provided with misleading and erroneous information concerning the death of Mr Bayoh to family members and a concern as to why they were provided with that information.

After PIRC’s terms of reference were so expanded, what consideration, if any, was given to taking a further statement from DC Mitchell in relation to information he and DC Parker passed to Mr Bayoh’s family on 3 May 2015? Why was no further statement taken from DC Mitchell in relation to these matters?



I am unable to answer this question. It was not my role at that time to direct strategy or create additional actions as part of the investigation.

4 June 2015

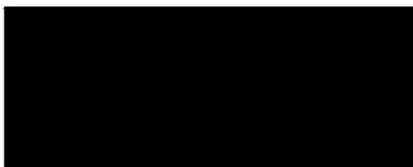
166. On 4 June 2015, you took a statement from PC Craig Walker (PIRC-00264). Please describe the process you followed in taking this statement from PC Walker and any impressions you had of PC Walker whilst taking this statement. In the process of taking the statement from PC Walker, what, if any, contact did you have with your colleagues from PIRC who were taking statements from other officers to allow the accounts received from the officers who attended Hayfield Road to be compared and contrasted for any gaps or inconsistencies? If you did have such contact with your colleagues, in what way did that influence the lines of questioning that you put to PC Walker when taking his statement?

I have some limited recollection of taking the statement at the Scottish Police College (SPC) with Investigator Ungi. I followed a witness interview strategy while taking the statement. However, I do not have sufficient recollection of PC Walker to provide any impressions of him. A number of PIRC Investigators were taking witness statements at the same time at the SPC. However, I cannot recall what contact I had with them during this period.

167. Within your first PIRC statement (PIRC-00007), at page 8, you refer to obtaining PC Walker's statement in line with a Witness Interview Strategy document (PIRC-04182). What involvement, if any, did you have in the preparation of the Witness Interview Strategy document? Was it standard practice for PIRC to obtain statements from witnesses using a document of this nature? Prior to taking PC Walker's statement, did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with PC Walker and/or the other officers that attended Hayfield Road? If so, what was discussed?

I do not believe I had any involvement in the creation of the witness interview strategy. It is not common practice to use this type of document in an investigation. However, it is very appropriate and useful to use this in a large and complex investigation to ensure all relevant questions are asked and relevant information is obtained. I have no specific recollection of any discussions with PIRC staff re the line of questioning to be explored with PC Walker. This said, I would have had discussion with Investigator Ungi who was present while I took the statement.

168. Was it common for officers to be re-interviewed by PIRC after they had already been interviewed by PIRC? Having obtained PC Walker's PIRC statement (PIRC-00264), and had sight of his self-prepared statement (PIRC-00265), did you consider that there were any matters that required to be clarified with PC Walker? If so, what were these matters? Did you consider taking a further statement from PC Walker to clarify these matters? If so, why was a further statement not taken from PC Walker clarify these matters?



I would not say it is common to re-interview witnesses after they had previously been interviewed by PIRC staff. However, where new information comes to light there may be a need. This said, there is no specific guide or rule to follow in this regard. I have no recollection of identifying any other matters which required to be covered with PC Walker.

169. **Within PC Walker's PIRC statement (PIRC-00264), on pages 4 – 5, PC Walker states:**

Another thing that concerned me that this was early on a Sunday morning. This is not something I have heard of in my police career, an incident of this type at that time of the day. I did even mention to PC Paton if the worst case scenario came to be and he came at the vehicle with a knife or a sword I wasn't getting out and I might hit him with the vehicle.

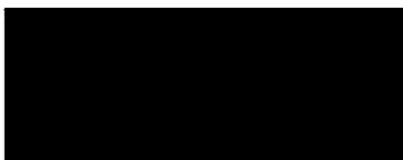
What was your view in relation to PC Walker's consideration of hitting Mr Bayoh with his police vehicle? Was this, in your view, an appropriate tactical option for PC Walker to consider in the circumstances? If so, why, and if not, why not? Did you question PC Walker as to why he considered this to be an appropriate tactical option in the circumstances he described? When preparing to take the officers' statements, was consideration given by PIRC to asking the officers why they took certain actions or chose particular tactical options in responding to the incident involving Mr Bayoh? If not, why not?

I do not consider that I am in a position to provide an opinion on this matter. The general nature of the questions asked of PC Walker are contained in the witness interview strategy. I cannot speak to the creation and content of the strategy. Any additional questions asked of PC Walker during interview are reflected in his statement.

170. **Within PC Walker's PIRC statement (PIRC-00264), on page 6, when describing the period after PC Walker believed PC Short had been pushed to the ground by Mr Bayoh, PC Walker states:**

I had a clear view of him and saw him with his right leg in a high raised position. He had his arms raised up at right angles to his body and brought his right foot down in a full force stamp down onto her lower back, the kidney area.

After taking PC Walker's statement, was his account of a "stamp" by Mr Bayoh on PC Short compared with the accounts of other witnesses? If so, in what way were the accounts of this incident compared? If not, why was such a comparison not carried out? Was any consideration given to obtaining further statements from witnesses, including the attending officers and other eyewitnesses, to explore this point? If not, why not?



I am unaware of what comparisons were done with other officer statements. The consideration of making comparisons or directing additional statements to be obtained was not a decision for me.

171. Within PC Walker's PIRC statement (PIRC-00264), on page 9, when describing providing CPR to Mr Bayoh, PC Walker states:

I placed interlocked hands on the centre of the chest and started compressions in line with the training I've had. After two or three compressions I heard the sound of a rib breaking in the chest area. In my training I was told if you were doing it right you might break a rib, don't worry and don't stop.

PC Walker does not refer to hearing the sound of Mr Bayoh's rib breaking within his self-prepared statement (PIRC-00265). Did you question PC Walker on why this was not in his self-prepared statement? What consideration, if any, did you give to taking a further statement from PC Walker to clarify why this point was not mentioned in PC Walker's self-prepared statement?

I have no recollection of asking PC Walker any additional questions in relation to hearing the sound of Mr Bayoh's rib breaking. Also see answer to Question 169.

172. Within PC Walker's PIRC statement (PIRC-00264), on page 10, when describing discussions that took place at Kirkcaldy Police Office, PC Walker states:

While I was in the canteen with my team the advice from Amanda Given was to say nothing to anyone at that time.

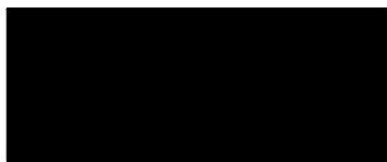
Within PC Givan's PIRC statement (PIRC-00238), on pages 3 and 4, PC Givan states:

I have been asked about advice I gave to officers regarding whether they should provide statements ... I told the officers that they may or may not be asked for a statement that day and that they should establish their status, either a suspect or a witness if they are a suspect they cannot be compelled to give a statement and that I would arrange to get legal advice.

...

At no time did I say to her or any other persons not to give a statement, other than the advice I gave to the officers.

PC Givan provided her statement to PIRC on 22 June 2015. What consideration, if any, was given to obtaining a further statement from PC Walker to put to him PC Givan's recollection of the advice she provided to officers in relation to the provision of operational statements?



I do not have a recollection of being made aware of the content of Amanda Given's statement. However, this was not a decision for me to make as I was not leading the investigation.

- 173. Did PIRC compare and contrast the statements received from the officers that attended Hayfield Road to identify areas of consistency and inconsistency? What consideration, if any, was given to taking further statements from the officers to question inconsistencies between their respective accounts? Why were further statements not taken from the officers to clarify inconsistencies between different witnesses' accounts? Who at PIRC was in charge of deciding whether or not to take further statements from witnesses?**

I believe the statements were compared, but I was not involved in this. I cannot provide answers to the other questions. This would have been the decision of SI John McSporran or DSI William Little.

- 174. After PC Walker provided his statement, PIRC's terms of reference were expanded by COPFS to look at whether there was inappropriate conferring between police officers and to investigate issues of race and conduct. What consideration, if any, was given to obtaining further statements from the officers that attended Hayfield Road to explore these areas with the officers? Why was it decided that further statements did not require to be obtained?**

This was not my decision to make.

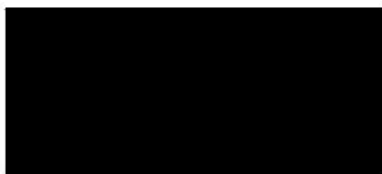
- 175. An action to re-interview PC Walker in relation to his two notebooks was raised on 29 June 2015 and allocated to you (PIRC-03180). On 5 January 2016, the action was "referred", and it was stated that there was no need to interview PC Walker in this regard. What steps, if any, were taken to re-interview PC Walker in this regard between 29 June 2015 and 5 January 2016? Why was no further statement taken from PC Walker?**

I believe that PC Walker [REDACTED] at this time and he could not be interviewed during this period. I cannot recall if any other efforts were made to re-interview him. This action was subsequently referred by DSI William Little, thus the re-interview of PC Walker was not progressed.

10 June 2015

- 176. Within your first PIRC statement (PIRC-00007), at page 9, you refer to taking a statement from PC Shirley Buttercase on 10 June 2015 (PIRC-00276). What was the purpose of obtaining a statement from PC Buttercase?**

The purpose of obtaining her statement was to obtain background and detail on the acquisition, retention, distribution and receipt or return of CS/PAVA canisters in Fife Division. She had the role to administer CS/PAVA for the division.



177. **During her statement on 10 June 2015 (PIRC-00276), PC Buttercase could not produce up-to-date PAVA spray records for Team 4 at Kirkcaldy Police Station. Within a subsequent statement provided on 16 June 2015 (PIRC-00277), PC Buttercase identified that the missing PAVA spray records had been found “lodged at the back of the bottom” of a cupboard. Did PIRC take any action in relation to the record keeping in relation to incapacitant spray in light of the issues raised within PC Buttercase’s statement? If so, what action was taken? If not, why not?**

I am unaware of any action taken by PIRC in relation to record keeping for CS/PAVA in Fife Division.

178. **Did you have any involvement in the PIRC investigation into the discharge of incapacitant spray in the A&E of Victoria Hospital, Kirkcaldy on 18 October 2014 and/or the publication of PIRC’s report in relation to this investigation (PIRC-04474)? If yes, please provide full details of your role. If you were not involved in this investigation or report, were you otherwise aware of PIRC’s finding that Kirkcaldy Police Office was not following guidance on the control, storage and recording of usage of CS Spray when you took PC Buttercase’s statement on 10 June 2015? What impact, if any, did your knowledge of, or involvement in, the prior investigation at Victoria Hospital have on the statements you took from PC Buttercase, or any actions taken by PIRC in response to the issues raised within those statements?**

I had no involvement in the PIRC investigation into the discharge of incapacitant spray at the Victoria Hospital, Kirkcaldy, or the subsequent publication of the PIRC report. I cannot recall having any knowledge of the finding re Kirkcaldy Police Office not following guidance when I took PC Buttercase’s statement.

8 July 2015

179. **On this day, you took a statement from Kirsty Macleod (PIRC-00054), who had previously provided a statement to you on 6 May 2015 (PIRC-00052) and a statement to police officers on 3 May 2015 (PIRC-00053). Why did you consider that a further statement required to be taken from Ms Macleod on 8 July 2015? What matters were you seeking to clarify with her?**

The decision to take a another statement from Kirsty MacLeod was not mine, I was just allocated the action.

180. **Within Ms Macleod’s statement (PIRC-00054), at page 2, she states:**

I have no idea where Shek got his drugs from. I wouldn’t ask him, as the less I know the better.

Were PIRC seeking to identify where Mr Bayoh got his drugs from as part of the investigation? If so, what was the purpose of pursuing this line of inquiry? Was this line of inquiry instructed by COPFS? Prior to taking Ms Macleod’s



statement, did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with Ms Macleod? If so, what was discussed? Statements were taken from the officers that attended Hayfield Road in line with a Witness Interview Strategy document (PIRC-04182). What written interview strategies, if any, were put in place for witnesses beyond the officers that attended Hayfield Road?

I am not aware of any other witness strategies being compiled for any other witnesses. I do not believe this line of enquiry was directed by COPFS. I have no recollection of discussing my line of questioning for Ms MacLeod with other PIRC staff before I interviewed her.

181. Within Ms Macleod's statement (PIRC-00054), at pages 2 - 3, she states:

The CID officer said, "We need your house", and they wanted us to go down to the police station at Kirkcaldy to talk to them. At that point I agreed to go to the police station and we were asked to hand over a set of keys for the house. The CID didn't ask permission to do anything but neither Martyn or me really challenged them about it. We just did what they asked us to do. They did not explain why they were taking control of our house or what they were going to do with it. Again, neither Martyn or me asked them any of these questions either.

What consideration during the investigation, if any, did PIRC give to the legal basis for the seizure, and subsequent search, of Kirsty Macleod and Martyn Dick's property? Did you have any concerns about the seizure and search of this property? If so, what were these concerns? What consideration, if any, did PIRC give to obtaining statements from the officers that seized Ms Macleod and Mr Dick's property to clarify the legal basis upon which it was seized?

This was not a matter I personally gave any consideration to in my role in the investigation. However, I am unaware what the lead investigators view was on this.

182. Within her Inquiry statement (SBPI-00220), at paragraph 34, Mrs Dick nee Macleod states:

I remember PIRC hounding us and trying to get another statement from Martyn and Zahid. They chapped on door and left messages. They were phone calls trying to speak to Martyn. It was all just really crap the way it was handled.

What contact, if any, did you have with Kirsty MacLeod, Zahid Saeed and Martyn Dick to request that they provide PIRC with further statements? What is your view in relation to Kirsty MacLeod's characterisation of PIRC's attempts to obtain further statements from these three witnesses as "hounding"?

Given the serious nature of this critical incident, it was appropriate to gather all available evidence, in particular witness statements from significant witnesses, which they were. I would certainly not describe any attempts in this regard as hounding. I obtained statements from Kirsty MacLeod and Zahid Saeed during the investigation. I



cannot recall what communication I had with them, if any, before I took statements from them. I am sure that I also spoke to Martyn Dick at some point, however I cannot recall when and the content of any discussion.

22 July 2015

183. **Within your first PIRC statement (PIRC-00007), at pages 11 – 12, you refer to taking a further statement from Zahid Saeed on 22 July 2015 (PIRC-00034). You state:**

The purpose of the statement was twofold, firstly to obtain additional background information on the deceased, and secondly, to interview Mr SAEED regarding intimation from the family solicitor, Mr ANWAR, that Mr SAEED wished to make a complaint regarding his treatment by Police Scotland officers on 3 May 2015. The witness SAEED claimed that he had little memory of the incident on this date and did not provide any additional background information of value.

I thereafter took details of his complaint about two CID officers, which was outlined in his statement. His memory in this regard was significantly better.

What was the implication, if any, of your statement identifying that Mr Saeed's memory in relation to his complaint about two CID officers being "significantly better"?

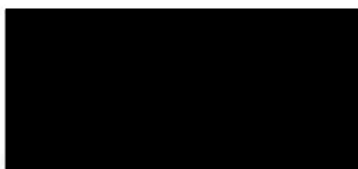
There was no specific implication, I felt it was a statement of fact in that he recalled more specific information in relation to his complaint than in response to other questions I asked him regarding the incident.

184. **Within his statement (PIRC-00034), Mr Saeed provided details in relation to his complaint against two CID officers and stated that he was unhappy about the seizure of his parents' house. What involvement, if any, did you have in the subsequent investigation of Mr Saeed's complaint against the two officers, or any investigation in relation to the seizure of the Saeed family home?**

I had no further involvement in relation to the complaints made by Mr Saeed.

September 2015

185. **Within your second PIRC statement (PIRC-00008), on page 3, you refer to taking a statement from Inspector James Young (PIRC-00388) and obtaining the Probationer Training Officer Safety Training Course Manual from him in doing so. Within your third PIRC statement (PIRC-00009), on page 2, you also refer to taking a statement from PC Ross James Robert Crawford (PIRC-00391). As at September 2015, what consideration, if any, had PIRC given to obtaining a statement from an expert witness in relation to the appropriateness of the techniques and tactics used in by the officers that**



attended Hayfield Road in engaging with and subsequently restraining Mr Bayoh? What consideration, if any, did PIRC give to this during its investigation? What consideration during its investigation, if any, did PIRC give to the Officer Safety Training received by the officers that attended Hayfield Road?

On 7 September 2015, I was allocated an action to identify an independent expert on the drawing and use of batons and guidance for discharging of CS and Pava spray. I subsequently took a witness statement from then Sergeant James Young, National Lead Coordinator, Officer Safety Training with Police Scotland.

Later that month, I also made approaches through email to Professor Derrick Pounder to assess the potential for him to provide an expert witness statement in relation to the use of CS and Pava spray discharge, to include the effects of such irritant substances on Mr Bayou during the course of his arrest and how this could physically affect him during significant restraint. He subsequently provided a copy of his CV and standard business conditions.

I do not recall what action was taken to confirm what officer safety training was provided to the officers that attended Hayfield Road.

August 2016

186. On 10 August 2016, PIRC submitted their report to COPFS. Did you have any involvement in writing the report? If so, what was your involvement?

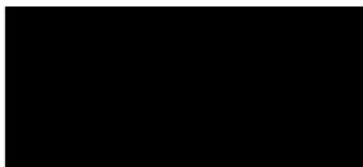
I had no involvement in the writing of the report submitted to COPFS in August 2016.

Expert witnesses

Dr Payne-James

187. Within your second PIRC statement (PIRC-00008), at page 1, you refer to providing Dr Jason Payne-James with an expert witness package. What involvement, if any, did you have with the selection of Dr Payne-James as an expert witness? If you were involved in the identification of Dr Payne-James as a potential expert witness, how did you undertake this task? Upon which criteria was the selection of Dr Payne-James based? What roles did PIRC and COPFS respectively play in the instruction of Dr Payne-James?

I made approaches through email to Dr Payne-James to assess the potential for him to provide an expert witness statement. I believe he was named by one of the agencies or other experts I spoke to as having the appropriate knowledge and expertise. I cannot be more specific. I obtained a copy of his CV and business terms. The only recollection I have in relation to how PIRC instructed Dr Payne-James was that it was in writing and that I met him and handed over an expert witness package to him, which included a letter of instruction from the PIRC.



188. Dr Payne-James was provided with a letter of instruction dated 10 August 2015 (PIRC-03434(b)). The letter of instruction refers to telephone discussions between you and Dr Payne-James. What did you discuss with Dr Payne-James within those phone calls? What involvement, if any, did you have in the preparation of this letter of instruction?

I do not recall any telephone discussions with Dr Payne-James, other than a vague recollection of arrangements for our meeting to hand over the expert witness package. I have no recollection of being involved in the creation of the letter of instruction.

189. The letter of instruction (PIRC-03434(b)) identifies that Dr Payne-James's opinion was sought on the following four points:

(a) the physiological effect of the drugs detected in the toxicology sample, individually or in combination, on the deceased in the circumstances of his arrest.

(b) the physiological effect of the CS/PAVA spray, individually or in combination, on the deceased in the circumstances of his arrest.

(c) the physiological effect of the physical restraint of the deceased in the circumstances of his arrest.

(d) the physiological effect of (a)(b) and (c) on the deceased in combination in the circumstances of his arrest.

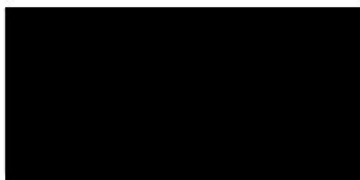
What involvement, if any, did you have in drafting the terms of reference upon which Dr Payne-James's opinion was sought? Why was Dr Payne-James's opinion sought on these matters? What aspects of Dr Payne-James's background, experience and expertise, as set out within his CV (PIRC-04260), made him qualified, in PIRC's view, to provide an opinion on these matters?

I did not draft the Terms of Reference detailed in the letter to Dr Payne-James. I do not recall who did. I am unable to answer any on the additional questions in this regard, which relate to his selection as an expert witness.

Dr Karch

190. Within your second PIRC statement (PIRC-00008), at page 2, you refer to providing Dr Karch with an expert witness package. What involvement, if any, did you have with the selection of Dr Karch as an expert witness? If you were involved in the identification of Dr Karch as a potential expert witness, how did you undertake this task? Upon what criteria was the selection of Dr Karch based? What roles did PIRC and COPFS respectively play in the instruction of Dr Karch?

I believe that SI McSparran identified Dr Karch as a potential expert witness. COPFS subsequently agreed that he should be instructed as an expert witness. As outlined in my statement, I sent Dr Karch an electronic expert witness package,



contained on an encrypted memory stick. This included a letter of instruction from the PIRC.

191. **Dr Karch was provided with a letter of instruction dated 13 August 2015 (PIRC-03435(a)). What involvement, if any, did you have in the preparation of this letter of instruction?**

I have no recollection of being involved in the creation of the letter of instruction to Dr Karch.

192. **The letter of instruction (PIRC-03435(a)) identifies that Dr Karch's opinion was sought on the same four points as those outlined above for Dr Payne-James. What involvement, if any, did you have in drafting the terms of reference upon which Dr Karch's opinion was sought? Why was Dr Karch's opinion sought on these matters? What aspects of Dr Karch's background, experience and expertise, as set out within his CV (WIT-00012), made him qualified, in PIRC's view, to provide an opinion on these matters?**

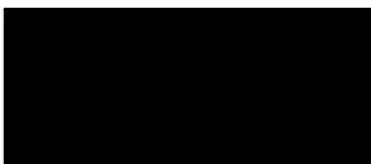
I did not draft the Terms of Reference detailed in the letter to Dr Karch. I do not recall who did. I am unable to answer any on the additional questions in this regard, which relate to his selection as an expert witness.

193. **At the point that Dr Karch was instructed by PIRC, what awareness, if any, did you have in relation to the diagnosis of excited delirium? What awareness, if any, did you have in relation to discussions about the diagnosis of excited delirium within the medical community? What awareness, if any, did you have of Dr Karch's views in relation to the diagnosis of excited delirium? What impact, if any, did Dr Karch's views in this area have on PIRC's decision to select Dr Karch as a potential expert witness and the decision thereafter to instruct him?**

As stated, I was not involved in the decision to consider or select Dr Karch as an expert witness. At this time, I had a very limited knowledge and understanding of what excited delirium was. I understood it to involve extreme agitation and aggression in a person with an altered mental state. However, this did not extend to being aware of any discussions in the medical community. I do not recall what Dr Karch's views were in relation to the diagnosis of excited delirium.

194. **A letter from the Commissioner, Kate Frame, to Aamer Anwar & Co dated 9 October 2015 (PIRC-01849), at page 6, states:**

As you may be aware, in order to facilitate the examination by your expert, Dr Nat Cary, of histology and other samples, a PIRC investigator travelled to Dr Cary's home with the samples and remained while he examined them. Dr Cary asked who the experts chosen by Crown were and was informed that they were Dr Karch and Dr Payne-James. Dr Cary expressed his professional regard for the significant expertise of both persons, considering Dr Karch to be one of the



most eminent and expert practitioners in the world in the field of cardio pathology.

Within a letter from the Commissioner, Kate Frame, to the Lord Advocate dated 12 October 2015 (PIRC-04246), on page 3, Dr Karch is described, with reference to the fields of cardiopathology and toxicology, as:

... considered to be one of the world's foremost experts in this field.

A letter from Aamer Anwar & Co to PIRC, for the attention of the Commissioner, Kate Frame, dated 6 November 2015 (PIRC-01858), sets out a number of concerns about the selection of Dr Karch as an expert witness. With reference to Dr Cary's alleged endorsement of Dr Karch, as quoted within the Commissioner's letter dated 9 October 2015 (PIRC-01849), Dr Cary is quoted, on page 8 of the letter dated 6 November 2015, as saying:

I did not lend any support to the instruction of either Dr Payne-James or Dr Karch ... It is extremely disappointing if this facilitation is now being used as a means of manufacturing my implied support for the instruction of Dr Karch ...

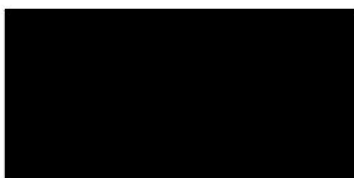
Within Dr Cary's Inquiry statement (SBPI-00269), at page 3, Dr Cary states:

I have been asked about the comments that I had allegedly made to a PIRC investigator about my professional regard for the expertise of Dr Steven Karch. I have no recollection of making such comments to the PIRC. I am aware that Dr Karch has written several books within the specialism of toxicology, however I am not aware of his expertise within the area of cardiac pathology.

What is your recollection of your discussion with Dr Cary in relation to Dr Karch? What did Dr Cary say in relation to his knowledge of Dr Karch and Dr Karch's level of expertise? What led the Commissioner to state that Dr Karch was "one of the most eminent and expert practitioners in the world in the field of cardio pathology" within her letter of 9 October 2015? What impact, if any, did Dr Cary's alleged endorsement of Dr Karch have on the selection of Dr Karch as an expert witness in this investigation?

I recall meeting with Dr Cary at his home, but have no recollection of our discussions, including whether we spoke about Dr Karch. I cannot provide a response regarding the then Commissioner's comments regarding Dr Karch as I am unaware where she obtained this information. My understanding is that Dr Cary's comments would post date the selection of Dr Karch as an expert witness, thus it would not be relevant in his selection.

195. What discussions did you have with Dr Cary in relation to the provision of a microscope to facilitate the examination of slides by another expert? What information did you provide to Dr Cary regarding the purpose of this request? Did you inform Dr Cary that the microscope was to be used by Dr Karch? Did you inform Dr Cary that the microscope was to be used in



connection with the investigation of the incident involving Mr Bayoh? If not, why not?

As stated, I have no recollection of my discussions with Dr Cary. This includes any discussion regarding a microscope.

196. What are your views in relation to the concerns expressed by Aamer Anwar & Co within the letter dated 6 November 2015 (PIRC-01858) in relation to the selection of Dr Karch as an expert witness? Were you aware of these concerns when they were raised by the Bayoh family's solicitor in 2015? If you were so aware, did you discuss the contents of the letter with your colleagues? With whom did you discuss these matters and what was the nature of these discussions?

As stated, I had no involvement in the selection of Dr Karch as an expert witness. I do not recall being made aware of concerns raised by Mr Bayoh's family in relation to the selection of Dr Karch as an expert witness. I do not believe I have ever been shown the letter previously. However, I believe I was made aware of some reference to me not remaining at Dr Carey's house while the samples were examined by him.

Instruction of expert witnesses proposed by family

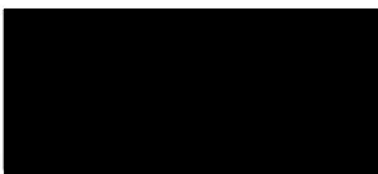
197. A PIRC action (PIRC-03243), allocated to you, identifies a requirement to make contact with three expert witnesses identified by Aamer Anwar within a letter dated 16 September 2015 (PIRC-01839): Professor Jack Crane, Dr Maurice Lipsedge and Professor Derrick Pounder. What involvement, if any, did you have in relation to the instruction of these three expert witnesses? How common is it for experts to be instructed on the basis of proposals made by the family of the deceased in cases where there has been a death in police custody, or a death following police contact, or for a family connected to a PIRC investigation to be involved in the selection or instruction of experts more generally?

I contacted these potential experts individually and they confirmed their ability to undertake the task. The Action confirms that their respective CVs were also obtained and were forwarded to COPFS.

I cannot recall from my own experience any occasion where experts have been instructed on the basis of proposals made by the family in connection with a death in police custody, or a death following police contact.

Instruction of additional expert witnesses

198. On 24 November 2015, Dr John Parkes was instructed by PIRC (COPFS-06008) to provide an expert report on the following three areas:



- (a) The physiological effect of the physical restraint of the deceased in the circumstances of his arrest and the impact that had if any upon the cause of death**
- (b) Whether, in the circumstances outlined in the attached package, the restraint was appropriate**
- (c) Whether the officers who arrested and restrained the deceased adhered to police standard operating procedures on restraint and use of force, including whether the measures they took were concomitant with the level of threat presented or perceived to be presented by the deceased.**

What involvement, if any, did you have with the selection of Dr Parkes as an expert witness? If you were involved in the identification of Dr Parkes as a potential expert witness, how did you undertake this task? Upon what criteria was the selection of Dr Parkes based? What roles did PIRC and COPFS respectively play in the instruction of Dr Parkes? What involvement, if any, did you have in drafting the terms of reference upon which Dr Parkes' opinion was sought? Why was Dr Parkes' opinion sought on these matters? What aspects of Dr Parkes' background, experience and expertise, as set out within his CV (PIRC-03383), made him qualified, in PIRC's view, to provide an opinion on these matters?

I have no recollection of being involvement in the selection of Dr John Parkes as an expert witness. I believe this was done at the behest of COPFS. Furthermore, I have no recollection of being involved in the instruction of Dr Parkes.

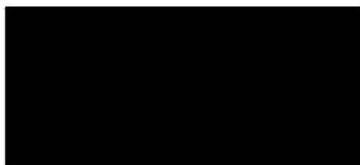
I did not draft the terms of reference for Dr Parkes and have no knowledge on how or why he was identified as an expert witness.

- 199. Beyond the expert witnesses named elsewhere within this document, please identify which expert witnesses, if any, you were involved in identifying, selecting or instructing during PIRC's investigation. Please also confirm the extent of your involvement and how you went about that task.**

At the request of Kate Frame, Commissioner, I was also actioned to identify expert witnesses in the field of cardiology. Dr E Sollieaux and Dr Mary Shepperd were subsequently identified. I believe both were engaged following approval from COPFS.

- 200. What rules, guidance, standard operating procedures and/or case law, if any, did you consider when identifying, selecting and instructing expert witnesses during the investigation?**

I did not make reference to specific guidance, standard operating procedures or case law before identifying potential expert witnesses.



Dr Cary

201. Within your second PIRC statement (PIRC-00008), at page 3, you refer to meeting with Dr Nathaniel Cary on 20 August 2015 and providing Dr Cary with histology slides and a copy of PIRC's expert witness package. You state:

The samples were left with Professor Carey for him to complete his work.

About 1503 hours that day I re-attended at Professor Carey's home address and collected the box containing the histology slides. I checked the contents and all was in order. I thereafter left this location to travel back to Scotland.

Between leaving the samples with Dr Cary and returning to collect the histology slides, what did you do? When delivering samples to expert medical witnesses, such as Dr Cary, what would PIRC investigators normally do whilst the samples were being examined? Would investigators usually remain present at the examination to maintain the chain of custody in relation to the samples? If so, why did you choose to leave the samples on this occasion? Was PIRC's standard practice based on any standard operating procedure? Has PIRC's approach in this regard changed in any way since 2015?

Prior to travelling to Dr Cary's home, I had a discussion with senior management, either SI McSparran or John Mitchell, Director of Operations, or both, on how this would be approached, as the circumstances were unusual. I had not previously delivered samples for examination in similar circumstances. It was agreed that I would leave the samples with Mr Cary and return once the examination was complete.

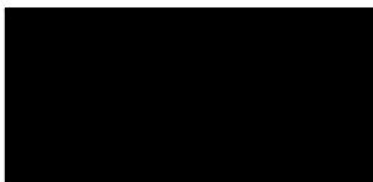
After leaving the samples with Dr Cary I went into Norwich and returned once the examination was complete. In my experience, when lodging samples to be examined I would deposit them and return when the examination was complete. This is mainly based on lodging samples at a police/police authority laboratory. I would not remain in a laboratory or forensic environment when the examination was taking place. This practice was not contained in a SOP.

I believe that later in the investigation samples were taken to other expert witnesses and instructions were given for staff to remain while they were being examined.

202. The letter from Kate Frame to Aamer Anwar & Co dated 9 October 2015 (PIRC-01849), at page 6, states:

As you may be aware, in order to facilitate the examination by your expert, Dr Nat Cary, of histology and other samples, a PIRC investigator travelled to Dr Cary's home with the samples and remained while he examined them.

Why did the Commissioner understand that you remained with the samples whilst Dr Cary examined them when this was not the case?



I am unsure how she came by this understanding.

Expert witness package

203. The expert witness package (PIRC-04244) contains a briefing paper, post-mortem report, CCTV and video footage and photographs. What role, if any, did you have in compiling the expert witness package? Who instructed the creation of the expert witness package and who was responsible for its contents? What involvement, if any, did you have in submitting the proposed expert witness package to COPFS?

I believe that I had a key role to play in compiling the expert witness packages. This included creating a summary of the evidence gathered and pulling together the documents, video footage and photographs, which were all part of the package. It would have been SI McSparran or DSI Little who actioned me to complete these, but I am unsure who it was. I cannot recall submitting any expert witness packages to COPFS.

204. A "covering memo" was created in addition to the expert witness package (PIRC-03453). What role, if any, did you have in the creation of this memo? To whom was the memo directed? What was the purpose of the memo?

I do not recall creating this covering memo. I think this was intended to be an informative note for the expert witnesses.

205. In 2017, it was identified by COPFS that the expert witness package prepared by PIRC for earlier experts contained an incomplete version of Ashley Wyse's statement, as text had been omitted from the typed version of Ms Wyse's statement. Were you aware of this issue at the time? What involvement, if any, did you have in investigating this issue? What impact, if any, did this have on the evidence upon which the expert witnesses based their opinions?

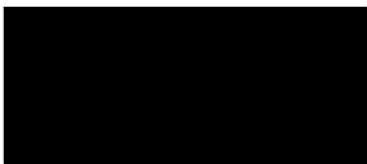
No, I was not aware of this issue at the time. I had no involvement in investigating this issue. I cannot comment on any impact this had on the expert opinions provided.

Race

206. Was anything you have stated above done or not done because of Mr Bayoh's race?

Nothing I have stated was done or not done based on Mr Bayoh's race.

207. Prior to 3 May 2015, what experience, if any, did you have of investigations of deaths in custody or deaths following police contact in which the deceased was someone from an ethnic minority? Since 3 May 2015, with the



exception of the investigation following the death of Mr Bayoh, what experience do you have such investigations?

Prior to 3 May 2015, I had no experience of an investigation of a death in custody, or a death following police contact, in which the deceased was someone from an ethnic minority. I have no recollection of dealing with one since the death of Mr Bayoh either.

208. Prior to 3 May 2015, what experience, if any, did you have in deaths in custody or deaths following police contact in which race was a factor to investigate? As at 3 May 2015, had you ever acted in a PIRC investigation in which the issue of race was within your terms of instruction?

Prior to 3 May 2015, I had no experience I can recall of an investigation of a death in custody or a death following police contact where race was a factor in the investigation. I do not recall ever having worked on an investigation since the death of Mr Bayoh where race was a factor.

209. Prior to 3 May 2015, had PIRC ever considered the issue of race within an investigation? If so, in what way was race a consideration? With the exception of the investigation following the death of Mr Bayoh, has PIRC considered the issue of race within an investigation since 3 May 2015? If so, in what way?

I do not believe so, however I cannot be positive.

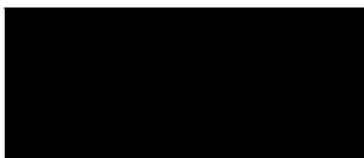
210. When PIRC's terms of reference were expanded by COPFS to include issues of race, what steps did you or others at PIRC take to address this instruction? What was the thought process behind the approach ultimately adopted? At the point PIRC's terms of reference were expanded, did you consider it necessary to take further statements from any witnesses to address the issues covered within the updated instructions from COPFS? If not, why not?

Steps to address the amended instruction were the responsibility of the lead Investigators. I have no recollection of what steps they took. Any additional actions were their responsibility.

211. Prior to the instruction from COPFS, had you or anyone at PIRC given consideration to whether race was a factor in the incident? If so, in what way? If not, why not?

Prior to this instruction, I kept an open mind on whether race was a factor in the incident. However, I was not aware of any information/evidence pointing to this. I cannot comment on any other member of staff's considerations.

212. Do you have any experiences of racism (or the race of the victim) being a factor, in any way, in a death in custody or death following police contact? If



so, please provide details of how racism was a factor, your involvement in dealing with it and the outcome.

No, I have no experience in this regard.

- 213. Is the race or ethnicity of a deceased person automatically considered by PIRC as part of an investigation following a death in custody or a death following police contact? If so, in what way? If not, is the deceased's race or ethnicity only considered when directed by COPFS?**

I would say that all the circumstances, including the race or ethnicity of a deceased person, would be automatically considered by PIRC as part of an investigation following a death in custody or a death following police contact. An open mind would be maintained as the investigation progressed and evidence and information was obtained.

- 214. As at 3 May 2015, did PIRC record the race or ethnicity of the deceased person who was the subject of an investigation following a death in police custody or death following police contact? If so, how was such information recorded? If this information was not recorded, why was this? Have PIRC's procedures for recording a deceased person's race or ethnicity changed since 3 May 2015? If so, in what way?**

Before 3 May 2015, I do not believe that PIRC recorded the race or ethnicity of the deceased person following a death in police custody or death following police contact. Now, I do not believe this has changed.

- 215. What training had you completed by 3 May 2015 in relation to equality and diversity issues, or in relation to unconscious bias? What did this training involve? Which aspects of this training, if any, were applicable to your role?**

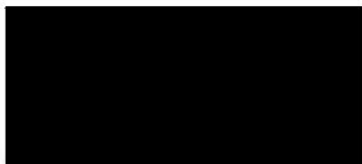
In October 2014, I received Equalities training at the PIRC. I cannot recall if this was online or face to face training or what the course content was. I did not receive unconscious bias training during this period.

- 216. Did you have any training during your time at PIRC in relation to investigating an allegation of race being a factor in the conduct of Police Scotland?**

I have not had any specific training during my time in PIRC in relation to investigating an allegation of race being a factor in the conduct of Police Scotland.

- 217. What guidance or reference materials in relation to race were you aware of being available to you on 3 May 2015, had you wished to consult these?**

I am not aware of any PIRC guidance or reference materials in relation to race being available to me in May 2015.



218. **Do you think you and PIRC were sufficiently equipped to investigate issues of race relating to deaths in police custody or deaths following police contact on 3 May 2015? Please confirm why this is your view.**

Yes, I believe PIRC were sufficiently equipped to investigate issues of race relating to deaths in police custody or deaths following police contact. Staff are experienced and trained investigators and I believe all, or most, had undergone Equality and Diversity Training. I am not aware of any specific race training available in relation to investigation of this type of critical incident.

219. **With particular reference to the issue of race, is there anything you have stated above that, knowing what you know now, you would have done differently?**

No, I cannot think of anything specific that I would have done differently in relation to the issue of race.

Record keeping

220. **In addition to your operational notes (PIRC-01468) and your notebook (PIRC-04183), what, if any, other notes did you take during the investigation? Were your operational notes completed contemporaneously? For what purpose do you use your notebook and operational notes within your role?**

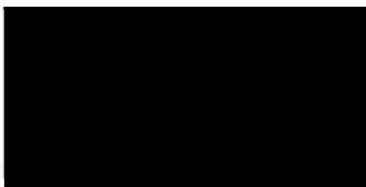
To the best of my recollection, I did not take any additional notes. My operational notes were completed contemporaneously, or soon after, depending on the circumstances and where I was at the time. As a personal choice, I had a new unused book available for any critical incident which I used exclusively to take my notes for each investigation. This was a personal choice.

221. **Do you routinely password protect documents? What was your criteria for deciding if a document should have a password applied or not? Did you have any safeguards for ensuring passwords for documents are not lost?**

I do not routinely password protect documents, but do occasionally. I make a judgment on the content of the document or folder on a need to know basis where I perceive the content to be confidential.

222. **Your operational notes (PIRC-01468) do not make reference to PIRC's SOPs or other policy documents. Did you refer to these when taking decisions on 3 May 2015? If so, to which SOPs or policy documents did you refer?**

I did not refer to any PIRC SOPs, or other policy documents, during the investigation on 3 May 2015.



Miscellaneous

223. Is there anything about your role in the matters relevant to the Inquiry that, knowing what you know now, you would have done differently? If there is, has this learning been discussed within PIRC as part of a “lessons learned” exercise?

I cannot recall anything specific which I would consider approaching differently. As far as I can recall, PIRC has not convened a ‘lessons learned’ exercise.

224. Since PIRC’s investigation was completed what, if anything, have you discussed with your colleagues at PIRC in relation to Mr Bayoh’s death and the subsequent investigation? What, if anything, have you seen or read about Mr Bayoh’s death, the subsequent investigation and the Inquiry within the media?

I have little recollection of any discussions with colleagues since the investigation was completed. However, I have been approached in relation to attempts to trace material initiated at the request of the Public Inquiry Team.

From time to time I have seen and heard a variety of reports in the media in relation to Mr Bayoh’s death, for example on the national news, news websites and extracts from the Public Inquiry.

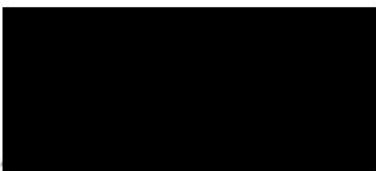
225. You completed three PIRC statements covering your involvement in the investigation (PIRC-00007, PIRC-00008 and PIRC-00009). Please confirm that the content of these statements is true and accurate. Was your recollection of events better when you completed those statements than it is now? Should there be any discrepancy between the content of your PIRC statements and this statement to the Inquiry, which account should be preferred?

The content of my three previous statements is true and accurate to the best of my knowledge. I would say that my recollection of events at the time is better than it is now. Thus, my earlier statements should be preferred.

226. The Inquiry’s Terms of Reference are contained within Annex B. If there is anything further that is relevant to the Terms of Reference which you are aware of, but you have not included in your answers to the above questions, please provide detail as to this.

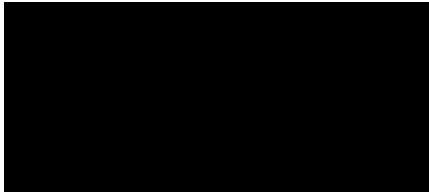
Nothing further to add.

227. Please include the following wording in the final paragraph of your statement:



“I believe the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry’s website.”

I believe the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry’s website.



October 13, 2023 | 11:31 AM BST

