



**The Sheku Bayoh Public Inquiry**

**Witness Statement**

**Calum Steele**


**Taken by [REDACTED] at 18 Woodside Place, Glasgow, G3 7QF on 17  
October 2023**

**Witness details and professional background**

1. My name is Calum Steele. My date of birth is 1973. My contact details are known to the Inquiry.
2. In June 2008 I was elected as General Secretary of the Scottish Police Federation. I took office in September of that year, and I served all the way through until I retired in February of 2023, it was just under 15 years. This was a full-time post. As it relates to my rank within Police Scotland, I was a Police Constable and I had 30 years of police service.
3. I am asked if the role of General Secretary was the most senior role within the Scottish Police Federation in 2014/2015. If you look at the Scottish Police Federation (SPF) in terms of a business, I would have undertaken the role effectively of the Chief Executive Officer (CEO). In terms of seniority, seniority is shared to a large extent between the Chairman, similar to the Chair of the board, and the CEO, the General Secretary, but in terms of the operational activities of the Scottish Police Federation, it would have been me, yes.

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4. I am asked how I came to be in the role of General Secretary and what training/qualifications (if any) I received to prepare for the role of General Secretary. It's an elected position. I suppose to some extent, like every elected position you put yourself forward on the basis that you believe you have something to offer. I stood for election back in 2008. I was re-elected on a number of occasions subsequent to that, but it's simply on the basis of the confidence of my peers that you get into a position, and I would like to think people that are completely unsuitable for such roles don't get elected.
5. I am asked what my role and responsibilities were as General Secretary in 2014/2015 up until my retirement. They were infinite which is the bottom line. To a large extent we had gone from the former aid forces plus the Scottish Police College and the Scottish Drug Enforcement Agency and then, latterly, the Scottish Police Services Authority into a unified police service. So, the role, between my first election and 2014/15, changed to some extent because I was dealing with a different body and a different structure.
6. The one thing that didn't change was the obligation to deal directly with civil servants and with the government in respect of all variety of legislative proposals and changes. Also, with the police service in terms of its policies and procedures where they were trying to bring together a multiplicity of different policies that prevailed across the former forces into one single document set, which turned out to be chaotic in the extreme. Also, within the SPF to make sure that the SPF as a body was functioning, that we were able to service the needs and asks of our members, the vast majority of which tend to be in respect of issues surrounding terms and conditions. Understandably, there is the unavoidable fact that, like any representative body, we move into areas of misconduct and representation in that sphere and, whilst I did not have day-to-day engagement in that misconduct activity, ensuring that the full-time officials, that were themselves elected by their own areas, were equipped with the tools in order to allow them to do their job was a key part of what I


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had to do. So, basically all of the governance responsibilities and functions that would fall upon any chief executive officer to make sure that the organisation was operating in a sound and legal manner.

7. In my capacity as General Secretary, I am asked if it was within my remit to engage with matters of training for SPF representatives in 2014/2015. Not directly, but I do think it's probably important to draw a distinction now between representatives, as in what you and I would probably recognise as shop stewards in any other trade union, and officials, and then also between officials and principal officials or principal officers. There are four principal officers within the Scottish Police Federation: The Chairman, the Vice-Chairman, the General Secretary, and the Deputy General Secretary. Then there are regional officials that are elected from their own areas to serve the membership in their own areas. Then there are shop steward representatives who are a pyramid structure. Shop stewards to use common trade union terminology, report up to their officials, and their officials thereafter report up to the central governance body, the Joint Central Committee, which I was responsible for overseeing. So, in terms of making sure that there was an ability and the capacity to deliver training and that that training was being promulgated out to my officials and also, where necessary, to the shop stewards, to the representatives, that was my responsibility, even though I did not have a direct hand, other than some very brief inputs at some of these training courses, on the delivery of that training.

8. I am asked to outline my involvement in the training provided to SPF representatives as at 2014/2015. I'll go back a couple of steps. The SPF electoral cycle is every four years. When we have elections, there is normally a churn of between – I'm going to be guessing here but certainly based on my own recollection – 30 and 45/50 per cent of representatives. So, we're always dealing with new people coming into the organisation, and new people in any organisation are keen and hungry to learn. They want to be able to discharge, to some extent, what would have been their pseudo-manifesto commitments

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to their electorate when they were saying, "Vote for me because I will do X, Y, and Z." So, large parts of what we call the basic training were geared around the key tools that representatives, shop stewards, would need to have at their disposal to be able to respond to most of the day-to-day questions that were asked of them, and that was largely an education on police officer terms and conditions, on the regulations on how to interpret them, and on the rights and the responsibilities of supervisors and managers when it came to the asks of police officers. Also, there was a brief introduction to the areas of misconduct and how to deal with the initial stages of misconduct, and also brief introductions into the areas of health and safety and equality. The reasons those three topics, equality, health and safety and misconduct, were touched on briefly is because there was an organisational set up that when things developed in each of these areas, they tended to move away from the shop steward representatives into the full-time officials in the areas they deal with. The commitment, in terms of demand, often fall to full-time officials as they have greater time capacity and by extension developed knowledge through familiarity of the process to manage this training.

- 9. And each of these topics thereafter were subject to further training on the specific thematic issue that the headline would suggest. So, misconduct would be a broad training course or training aspect in respect of how to deal with misconduct from the initial complaint to the service of papers, to timescales, to responses, all the way through to, if need be, hearings and Police Appeals Tribunals. The issues of health and safety: the statutory basis for it, the rights to hold meetings, the right to perform inspections, the reporting upwards and downwards with the organisation. In areas of equality, that tended to be largely in respect of how to deal with grievance, how to preserve your timescales in law, recognising that the time scales change. At one point, the time scale to lodge Claim Form ET1s reduced so we had to make sure that people were aware of what continuing Acts meant, what was necessary in order to make sure that they weren't going to jeopardise their position in law, how to deal with a grievance process, an appeal if necessary,

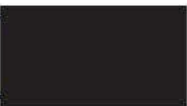
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and thereafter, how to engage with lawyers should that be required. So, in all of these areas there were tailored training courses based upon the expected level of commitment from the individual, whether that was a newly elected representative/shop steward, through to someone with more experience that was in a full-time role as an official in the area.

**General Overview of the Scottish Police Federation**

10. I am asked to outline the role and purpose of the Scottish Police Federation including our membership and structure. Quite simply the Police Federation(s) including the SPF, were established by parliament as a representative body for police officers. The Government made it unlawful for police officers to join trade unions and federations were created as a direct alternative. In respect of that question that you're asking, members are every single police officer below the rank of Chief Inspector. In terms of our people, if you like, those that have, I suppose, a working link in some form of elected role with the SPF rather than just being a member of the SPF, that's much smaller. We have the potential to have up to 135. I don't know if the structure still remains the same. The SPF has the ability to have up to 135 representatives. Those representatives are drawn equally from the ranks of constable, sergeant and inspector, and inspector includes chief inspector, and they are dispersed across the north, east and west of Scotland, coterminous with the boundaries that the police service has established for command areas in those roles. Beyond that, the SPF has 16 full-time officials, and it has four permanent officials that's the permanent officials: the Chair, General Secretary, Vice-Chair, and Deputy General Secretary. Every single one of them is a serving police officer. The only ones that are fully detached from day-to-day policing activities are the 16 full-time officials and the four in headquarters at Woodside Place, Glasgow.
11. One of the truisms and the expectations of police officers is that the moment someone is an SPF representative, they are able to answer every single

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question on every single subject regardless of its complexity, simply because they are a rep. That, of course, is completely beyond the realms of reality or even achievability, and we make no secret, or we made no secret, of the fact that the expectation placed upon representatives shoulders by the ordinary membership is very heavy indeed, and therefore we spent a lot of time in making sure that they had as many of the key basic skills to be able to perform as much of the role as is possible to a level of competence, and always said that if you don't know the answer, ask.

12. Never, never guess at an answer. Never think you know the answer. If you're in any doubt, ask. The reason being is that the reputation of the organisation can be very easily damaged by giving misinformation or the wrong information because people latch onto it and give it credibility because they say, "An SPF rep told me," therefore it assumes a degree of status amongst peers that it doesn't necessarily have because often and up until such time as people get trained, they are and I don't want to say this in a disparaging sense but just for the purpose of distinguishing between the SPF and a uniformed police officer, they are just a police officer who happens to be elected. The vast majority of the questions that are asked of the vast majority of representative relate to working hours, rest days, time off, overtime, childcare, court, annual leave, terms, and conditions issues. I would hazard a guess that that probably makes up about 95 per cent of the asks that's made of police officers. One of the things that should also be taking place, but in practice doesn't, is that local representatives should be getting knitted into the local management structures, the local management discussions that take place around the delivery of policing activity in the area, the development of initiatives, whatever that might be, to provide a conduit back through their area to feed into the national structure, so that if something is particularly innovative or particularly worthwhile, we're able to recognise that as an organisation and then promote it in other parts of the country. So that's the overwhelming majority of their asking.

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13. I am asked if all police officers can seek and access the services of the Scottish Police Federation as an example, legal, welfare and/or health advice. No. The SPF only represents officers up to the rank of chief inspector. There's no absolute right to the provision of legal services in any event. The asking of advice is absolutely anyone. Any member of the police service, provided they're in the qualifying ranks, can ask the SPF for advice. They are absolutely entitled to do so. The access to legal advice, or the potential to access legal advice, is dependent on being a paying member into the SPF. We have-- I don't know what the numbers are now, but we had a minuscule number of non-paying members, and the overwhelming majority of police officers pay. If you're a non-subscribing member, your chances of being considered for legal advice and assistance were none.
14. I am asked if this means that there is a subscription option which includes paying and non-paying membership. Yes. The terminology is the 'Voluntary fund', as in you can volunteer to make a payment to the SPF. And that option is presented to officers in their first week of service and, in a very small number of other circumstances, it can be re-offered to officers during their service as well. So, that principally relates to occasions where officers would go on a career break, and they lose all their standing commitments with the service. They've no reference to payroll. It can also relate to periods of time when officers are on unpaid maternity leave. There can be decisions taken, "Well, I can't afford to keep paying the subscription." So, at certain points for a small number of officers, the ability to pay subsequent to joining is available to them.
15. I am asked what happens if a police officer is not paying into the Voluntary Fund but request legal advice. They won't get it.
16. I am asked if the SPF will then signpost these officers to the relevant services. Yes, we'll say that it's a member service available to paying members and in

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the simplest terms, we would say that we recommend that you seek advice from a solicitor.

17. I am asked what the process is for obtaining legal advice. In broad terms, the process for obtaining legal advice is based on application, but that's not always the case. There are other instances depending on an event or an activity, so, for example, a mass class action. For example, the Scottish Police Federation was, as far as I am aware, the only "trade union" – and I use inverted commas just for simplicity – in Scotland which pursued what was known as the holiday pay as seen in the *Bear Scotland case Bear Scotland LTD and Others v Mr David Fulton and Others* UKEATS/0047/13/BI , where the calculation for what falls to be considered for holiday pay was subject to an employment tribunal, an employment appeals tribunal, and there was a ruling which placed an artificial timescale of about three months, on the ability to raise payments for holiday pay based on previous three months' income including overtime. The SPF argued with the service that because of the structured nature within which annual leave must be taken, that the service by design creates a gap of more than three months that automatically breaks that link to the automatic disadvantage of police officers. So, in those circumstances, the SPF, in identifying the inherent injustice promoted the legal advice. So, we engaged with lawyers, we said we believe we've got a case, we've put in place the mechanism for individuals to sign up, and they did so. So, in those circumstances the SPF promotes the legal advice activity for members to seek to join, but if the member themselves, on the basis of their, albeit truncated, application, is not a subscribed member, they will be discounted from that.
18. There will be other instances also where the provision of legal advice is relatively expeditious. So, for example, in the event that a police officer is brought into custody, we have an abridged method agreed with the police service and a panel of lawyers. That means that you don't have to wait for the application form to be able to kick-start the process, so that they are able to

Signature of Witness.....



provide fairly quick legal advice and assistance pending then the completion of an application form. And that process is also what takes place following serious incidents, which would include deaths in custody, or I suppose a fatal road collision would be an obvious one, where there is likely to be a very strong degree of understandable public scrutiny placed upon the activities of the police service at that moment in time. So, rather than expect police officers who are dealing with traumatic events to then switch their brain off and go and deal with a bureaucratic process in those circumstances, we do the basic check: are they a subscribed member? If yes, then the legal advice either physically goes to them if they're in custody or is provided to them over the phone or some other proxy means, pending the completion of that legal advice assistance form.

### **The Position Statement of the Scottish Police Federation**

19. On the 9<sup>th</sup> of August 2023 the Inquiry issued a Position Statement request relating to the training of the Scottish Police Federation Representatives. The Scottish Police Federation Responded to this request on the 29<sup>th</sup> of August 2023. I am now shown Scottish Police Federation Position Statement Response SBPI-00369, at page 1 paragraph 1 which states:

*"The SPF provides training to its representatives. SPF representatives are all serving police officers seconded to the Federation from Police Scotland".*

20. Against the aforementioned background, I am asked whether there was an SPF body and/or committee that was responsible for training of SPF representatives in 2014/2015. The body that's responsible for everything within the SPF is ultimately the Joint Central Committee. It is the supreme ruling body of the SPF. This is the committee from which I was elected, and it is the committee to which I answered. It is, in effect, to go back to my previous analogy, the board of directors.

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21. The Joint Central Committee as the board of directors is the ultimate decision-making body for the SPF. The Joint Central Committee many years ago, and it's a long time before I came into post, decided that there was a need for basic training. It's probably also important to highlight that the SPF is not able to affiliate to the Trade Union Congress (TUC), so does not have access to the Trade Union Congress or the Scottish Trade Union Congress (STUC) training directive and training systems. So, we had to largely devise our own training, particularly in the areas of equality and health and safety, and very specifically in terms of misconduct because it's unique to the police service, what we have. But the areas where you might expect to have some commonality, for example, with equality and especially with health and safety, we don't have access to the TUC or the STUC processes. So, we've developed, over decades, our own training systems with experts that have been brought in, to help refine and finesse training over the years. The Joint Central Committee through consecutive endorsements, approves their approach, and if there's a gap in training, or if there is a recognition of a gap in training or a desire for specific training, for example, media training, which is not something that would ordinarily fall to be considered by the majority of representatives, whether they're full time or other, then the Joint Central Committee makes a decision to approve or reject such proposals.
22. In relation to the committee, I am asked when do we decide to meet and how often do we meet to address matters of training. So, the Joint Central Committee used to meet on a basically two-monthly basis. After the Police Service of Scotland reformed, it met on a quarterly basis. It met regardless, and it met to discuss a whole variety of issues mostly pay, pensions, budgets, operational activities, and a variety of other issues. The issue of training was always reported at the Joint Central Committee, and I can't think of any occasion in my time in office, although I am open to being corrected on that, where the issue of training was not reported at either the two-monthly meetings or quarterly meetings, and I believe that the SPF has gone back to two-monthly meetings now, since I've retired. So, it was always reported at

Signature of Witness.



the meeting, and that report could be the training ask comes from the areas. So the areas know how many people they have that are new, how many people they have that are expressing an interest in equality, how many they have that are expressing an interest in misconduct, and they say, "Well, we have an ask, we have a need, we have an aspiration that we have X number of our people trained in this, Y number trained in the next thing, and Z number trained in the thing after that." So, on that basis that would inform our headquarters' function, and training generally sat – but not exclusively – with the Vice Chairman to coordinate and bring together the development of the syllabus and the external contributors that may be required to make that come into being.

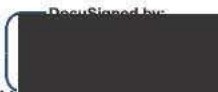
23. Very rarely in all of that time did someone say, "There is a massive gap." There were two examples where that was different. There was a recognition in advance of the G8 summit coming to Gleneagles in 2007 that there was a gap in the SPF training and that was in respect of post-incident procedures, which I suspect will be of interest to you. And there were further questions about expectation for full-time officials post-merger of the police service in respect of media training, you know, because there was a lot of uncertainty over what was taking place within the police service and where local press, local commentators and local journalists might have been seeking what once upon a time would have been the local federation voice with supreme authority, whether they were going to get training to assist with that. So, in the time that I've been associated with the SPF, those were the two specific asks that have been brought forward. Largely around the margins of health and safety, there have been requests for specific training in specific areas, and when they are made, they are made to the Joint Central Committee and they're either approved or not, depending on the strength of the merit of the case that's been approved before the Joint Central Committee.

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## Scottish Police Federation Training and Induction

24. I am asked to outline the Induction Process/Training Course provided to Scottish Police Federation Representatives in 2014/2015, in particular the training structure, the teaching delivery method, and who delivers the training. They don't get an induction process, and the reason they don't get an induction process is because they're police officers primarily. At least as far as I'm able to observe – newly-elected shop steward of any trade union. They are elected and then thereafter the organisation says-- the level of commitment and engagement that any individual who is elected to the SPF arm is down to them. We can make nobody do anything. We cannot make an SPF representative attend a training course, and actually on the issue of training courses, one of the biggest challenges that we face, and this is not new, this has been since the beginning of time, although at certain points there is greater sympathy from the senior leaders of the police service than there are at other times, but it is allowing police officers the time to receive training with the SPF. So, we might run a training course for, say, 12-15 people, and notionally we populate all of those names. On the day, maybe only 10 of them or half of them will turn up because they're not being released to be trained by the police service.
25. Now, that's different to the arrangements that exist in most other trade unions, where because of the recognition of the arrangements that exist for the TUC or the STUC, time off for the training and development of trade union representative is sacrosanct or certainly much stronger than it is for SPF representatives. The only difference or the only place where that is different is in health and safety because there are specific legislative provisions that exist around health and safety that mandate the time for the training and the development of individuals that are elected as safety representatives, which is a role that is also performed by SPF representatives.

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26. Insofar as I am able to comment, I am asked, in my opinion, if the instances in which representatives are unable to attend training affects the adequacy of service provided by the Scottish Police Federation. Well, I think it's a massive impediment and its one of the greatest areas of concerns that we have, which is why we promote such an importance on the relationships at a local level with the commanders.
27. But if the SPF at a local level has a good relationship with the local commander, and that's largely based upon the commander themselves recognising that the SPF is a body that is there to help and support rather than to hinder and obstruct, then those commanders tend to be much more willing to accommodate the release of representatives, often than response constables and sergeants, to be trained. But there are other areas of the police service, and I suspect even to this day, unless it's changed since I've retired, that there are still far too many people within the police service, senior ranks in the police service, that look at the SPF with suspicion. Something to be sceptical of, something to be wary of, something not to be collaborated with in any way, shape, or form. And when you encounter individuals of that mindset, they undoubtedly make it more difficult for people to attend training courses.
28. They say it's all implied; nothings written down – "Well, if you fancy your career in this department or in that department, going away for three or four or five days on a training course at the SPF, that's not going to help you," and they get bypassed. It's all implication. It's all suggestion. The police service is very, very good at managing people's expectations without writing it down through innuendo and suggestion, or maybe an implied threat, without being too blasé about it. That frustration that we feel, the SPF feels, at not being able to have an adequacy of trained representatives' filters through the police service in a whole variety of problems that then, rather than being resolved at the point of first call, end up festering, sometimes for months and years, before coming to a big explosive head.

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29. Nobody likes to say, "I told you so," but invariably we'll have the situations that say, "I told you so; this could have been dealt with." So, does it leave newly elected representatives well equipped? No, it doesn't – absolutely not. But that is the absolute fault of the police service, not the fault of the SPF, because we're not in a position to compel people to attend training courses. We can't say to them, "You have to attend." We do have a structure written into the SPF rules that says if a representative is not performing their role – I'm paraphrasing – to a standard, then the local electorate can write, can make complaints, and we can seek to have them removed, but the number of occasions that happened has been miniscule.
30. I am asked how I would have assessed if the representatives were performing their role to the right standard in 2014/2015. The most important part of the assessment at a representative level is based on the satisfaction of the local officers. It's not for the CEO to determine if the shop worker is delivering a good service. If the shop gets lots of complaints about the shop worker, and that makes its way to the CEO, then the CEO then takes a role. But if the shop worker is simply anonymous and nobody's making any comment on the shop worker, they just become blasé to the activity that he may not be delivering, then that simply doesn't come to the organisation's head. There's no reason that it should because it's a member-driven organisation. If the members aren't happy, the members have a mechanism to make their dissatisfaction known, and if they make that dissatisfaction known, we can undertake the necessary inquiry to identify whether it's got any basis or not.
31. I am asked if I have been involved in conversations or consultations on the importance of SPF representatives attending training or if there has been discussion on implementing a mandatory attendance by SPF representatives. Yes, I've had conversations. In fact, I've probably had them with every chief constable I've ever worked with, about having recognition agreements, whereby time is afforded to representatives to undertake a whole variety of

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different things. When I left office, we had a recognition agreement. We probably didn't have one in 2014/2015. We weren't far away from having one but, regardless, having the recognition agreement doesn't change the practice.

32. As citizens the public will have a view on the efficacy of the police service that they receive just now. They will have a view on whether they see enough police officers and whether they don't, whether certain crimes are being tolerated and whether the police are dealing as diligently with other things. They will be able to form those views based on report and response times for answering calls and the papers and based on reports of things going horribly wrong, with people dying, or whatever it may be. The police service – and this is not me making an excuse for them – knows, but it is not honest enough to say that it has too much demand for the service that it is able to deliver. But the net effect of that is that, regardless of what is agreed between myself and the chief constable, when that filters down to the shift sergeant or shift inspector who are also our members and they need to look at the potential of allowing Calum Steele to go on a training course, they say, “I can't afford to let you go because, if I do, I can't deliver a service to the public.”
33. The police service does not think in an absolute sense about what it gains in preventative engagement from the SPF. It rather deals with the response, the responsive obligations based upon the demands from the public. So, we have those agreements, we have those recognitions at an executive level – the force executive and the SPF executive. The force executive says, or at least it did, it says, “Yes, I recognise that there is SPF value. I recognise that there is value in the local management team hearing from the local shop steward about the SPF activity. I recognise that there is benefit in people being trained in how to take administrative burden off supervisors by making sure overtime claims around the leave claims are correct.” But in practice it doesn't happen.

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34. I am asked what the 'Recognition Agreement' is between the SPF and Police Scotland. To some extent you could call it a memorandum of understanding, that was signed between myself and the chief constable. It's a memorandum of understanding that says the service commits to allowing officials to attend XYZ meetings, to be part of the meetings and to allow them time, duty time, to be able to do so. So, if, for example, a meeting to discuss a local training initiative was taking place upon the representatives' days off, they would say, "You can come in for the meeting and we'll give you an equivalent amount of time off from your working duties." That's largely what it is.
35. I think what's required is it needs more than force executive paper commitment. It needs force executive managerial commitment, and by that, I mean the job isn't done when the chief constable's signature is on the page. The job is then done by the chief constable putting in place mechanisms to make sure that he or she, as we have now, is measuring the delivery of the command structure and making sure that the representatives are able to attend these meetings.
36. When you leave the decision-making down to the discretion of a manager based upon what he or she perceives in that moment in time, 99 times out of 100 are going to lean towards the delivery of service or perceived delivery of service ahead of any agreement that may have been reached with the SPF.
37. Against the background that the SPF is unable to enforce mandatory attendance at training, I am asked if new/old Scottish Police Federation representatives are provided with the most up to date Conduct and Legal Advice materials. Yes. We absolutely promote the importance of training with representatives, and we say to them that in order to be able to undertake your role as diligently as you possibly can, or to the best effect, or to at least give you a chance to be able to do so, you have to make yourself available for training. And largely, people, if they can't get on the first, try to get on the second. I don't know if this was in place at the time or if it's been devised

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since, but if someone fails to make three training courses, we say to them, "Look, do you really think you're in the best position to continue to perform the representative role? Should you think about stepping down." The ideal is obviously if everyone gets trained on all of the issues all of the time. There's no getting away from it. But the police service's approach to training, particularly in the new service and particularly with the impact of austerity, was that training was neglected. I don't know if it was a conscious thing on the part of the police service or a subconscious thing, but I can't imagine that there would have been much sympathy for individuals who happen to be SPF representatives receiving some SPF development at a time when so many were not being developed, and even the most basic elements of policing within the police service itself.

38. I am asked to outline the training course provided to Scottish Police Federation Representatives in 2014/2015, in particular the training structure and the teaching delivery method. It's multifaceted and it depends on the training course. The basic training course covers a variety of different topics, for example, issues in respect of terms and conditions, that's going to be scenario-based. Officers X work these hours, officers Y work these hours; what are they entitled to? Consultation and negotiation, they're workshopped. Sometimes external speakers come in. In respect of the equality training in particular, external speakers come in. In respect of the health and safety training, external accreditation provision comes in. So, it's multifaceted, but it's not board blasted. It's not death by PowerPoint. It's interactive where required. It's workshop. It's classroom. It's some book-learning, some pre-agreed reading. It's tailored according to the specifics.

### **Refresher/Continued Professional Development Training**

39. I am asked whether there was an onus on SPF Representatives to undertake refresher training and/or CPD in 2014/2015. Yes, and indeed is encouraged. So, the nature of elections is that sometimes people who stand for election

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are unsuccessful. Sometimes people who are incumbents are defeated, and they may retain their interest in SPF activity but not be able to perform a role, and prevail at a subsequent election, maybe two years, four years, six years, eight years later. So, if someone was trained eight, ten years ago and the world has moved on since then, then we don't say, "Oh, you received your training in the past. You're not going to get any more training again." We absolutely encourage and promote the continual refresher training for all levels, particularly inequality because the case law surrounding employment tribunal cases changes all the time.

**Scottish Police Federation Training on Welfare as of 2014/2015**

40. On the 9<sup>th</sup> of August 2023 the Solicitor to the Inquiry issued a Position Statement request relating to the training of the Scottish Police Federation Representatives. The inquiry received your response on the 29<sup>th</sup> of August 2023. The solicitor asked the following question in relation to training on welfare:

*"Specify all training Scottish Police Federation Representatives receive as it relates to welfare advice to police officers as at (a) 03 May 2015."*

The SPF responded as follows:

*"The welfare of police officers (along with the efficiency of police officers) is the statutory remit of the Scottish Police Federation. Police Officer welfare runs through all SPF representatives training, but it is not subject to a specific 'welfare' training input. Although Police Scotland has primary responsibility for officer welfare, SPF is involved in welfare relating to numerous topics including health and safety, uniforms and equipment, fleet, refreshments break, maternity, paternity, and special leave, flexible working, shift patterns to name but a few. All of these topics impact officers, welfare'.*

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41. Against the background of the SPF response, I am asked to outline what welfare is from the perspective of the SPF and what it looked like in 2014/2015. Well, the SPF has a broad responsibility based and it's even written in our logo, of welfare and efficiency. That's the welfare and efficiency of the police service and indeed police officers. The legal reality, of course, is that the welfare of the workforce is a matter for the employer, and although we all know what welfare means in an absolute sense it's almost impossible to define simply because it is so endless. Essentially, it's making sure that police officers are whole and healthy, they're fit and well-adapted, they're well-paid, well-remunerated, they have adequate training, rest, that mental and physical health is looked after, and that they're equipped to do the job that's asked of them.

42. Welfare encompasses a whole variety of other things as well, including making sure that they're properly and fairly paid and remunerated so that they don't have additional external stressors that can have a deleterious impact on how they perform their role. So, welfare is welfare in any possible sense.

The important thing, of course, is that we never let the service forget that welfare is their responsibility. We are there to, I suppose to some extent, hold their feet to the fire. There is no doubt that in the welfare provisions that the police service has rolled back. Now, that's been a deliberate rolling back. I can understand why; it's heavily been informed by the fact that the funding has been reduced and the service has had to make some decisions. I don't necessarily agree all of the decisions they've made have been the right ones, particularly when it comes to the issues of training, which was abandoned, and some of the significant neglects that there have been in respect of police officer welfare.

43. Police forces used to have welfare officers that largely were very highly respected across the former forces. They knew people by their first names. They knew if there were stresses at home, if kids were sick, if someone was

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undertaking treatment for cancer, that might be having an impact on how they were performing their role at work. That kind of very personal relationship was in existence in all of the former forces. We had much better occupational health provision than we have now, than we had in the creation of the police service of Scotland, that went to a very cost-based service that was largely built on minimum service guarantees, rather than what was the right thing to do. So, in that sense, yes, we have a responsibility for welfare, though we have a responsibility for making sure that the service is delivering the welfare. It's not the Federation's responsibility to deliver the welfare, in much the same way as it is not the Federation's responsibility to deliver the efficiency of the police service. That is also for the police service. The statutory role of the Scottish Police Federation is to make sure that the welfare and efficiency of the police service are promoted, rather than to place the responsibility on us, the Federation, to actually deliver that. We have to say whether there are shortcomings in welfare provision, we have to say whether there are shortcomings in police performance, all in a bid to drive those improved police service that everybody wants.

44. Considering the SPF's response, "*Police officer welfare runs through all SPF representatives training but is not subject to a specific 'welfare' training input*", I am asked where the actual skills are that SPF representatives are picking up that would equip them in the performance of their duties. We can never forget that the primary responsibility for the welfare of any workforce sits with the employer.
45. One of the first places I visited after being elected was the Republic of Ireland just after the start of the global financial crisis. I was keen to understand what the Garda Representative Association was doing in respect of the welfare issues associated with the anxiety coming from Gardai losing a massive chunk of income, suddenly being unable to mortgage your house and potential risk of homelessness. And, unsurprisingly, my opposite numbers in Dublin said that's the service's responsibility. It's simply not doable for a trade

Signature of Witness..



union body to fill that gap. It is the responsibility of the service to make sure that they recognise that environmental factors, sometimes external to the job, but more often than not internal to the job, are their responsibility to deal with. It's not the SPF that trains police officers to pull a trigger. It's not the SPF that trains police officers to drive cars fast. It's not the SPF that trains people to get dropped off high-rise buildings or balconies. It's the service that's got that responsibility, and if they are asking police officers to do these various different things, in the event that something goes wrong, it is absolutely their responsibility to make sure that they care for those that they have asked to do that job.

- 46. So, in terms of what we would do to equip police officers to deliver that role, we wouldn't because it's not our role and we would never countenance the fact that it is our role, but we do make sure that they absolutely know that they should be pressurising every single management part of the service to make sure that they are delivering what is asked of them, or what they should be doing in that regard.
  
- 47. The service is focused on this thing called TRiM, "Trauma Risk Incident Management". It's kind of become the default thing to go to. When I first became involved in the SPF, which is actually way back in 2002/3, although I was elected as general secretary in 2008, there was research undertaken by the Rivers Centre of Edinburgh at Edinburgh University which said that it wasn't police work that made police officers unwell. It was policing management that made policing unwell. So, the expectation that you either carry on regardless or that you respond in a certain way was what the problem was. But the police service did nothing with that report and put it on a dusty shelf and forgot about it. So, the police service, though, I think, working its way down to what is the minimal accepted level, has settled on TRiM. That's the process for after traumatic incidents and events have taken place. I don't think that comes anywhere near close to dealing with the some of the nuances that can exist. I mean, I remember for example one of the harshest

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things I dealt with as a young police officer was a cot death. That's a harrowing thing to deal with. I am prepared to bet that even to this day police officers who are dealing with cot deaths don't get looked after in the way that they should do not because the service consciously decides that it doesn't matter, but because it's got itself into a situation where it just doesn't think that it has to care about incidents like cot deaths or even fatal road accidents or whatever.

48. Insofar as I am able to comment, I am asked, in my opinion, if there is adequate support and training provided by Police Scotland to police officers as it relates to their mental well-being. No, it's better than nothing but there are opposing schools of thought. Some schools of thought say that no matter how traumatic it is, if you talk about it, it's going to be better for you. Well, that may be true of some people, but other people are very good at dealing with trauma by compartmentalising internally and never talking about it, and forcing people to talk about issues that they don't want to talk about can itself be more traumatising than the event that they dealt with. But because of this one size fits all, this TRiM process, is what the service defaults to and I fundamentally believe this to be the case, I believe that the service has convinced itself that if it puts TRiM in place, it's ticked the welfare box and jobs done.
49. I am asked if the training that was provided to SPF representatives in 2014/2015 encompassed training in supporting police officers insofar as it relates to their mental health and well-being. No. Having said that, though, there are two areas where I would say that that is not strictly true. In the past number of years, because the issue has become such a prominent public health discussion, the issue of suicide, the SPF has developed and it may have been with the service rather than in isolation, it has developed what is called suicide intervention training, which I think is a horrible terminology because I'm not sure that you ever know if you're intervening or not, but

Signature of Witness.  .....



basically there has been some training taking place. I suspect it may have been with the service rather than separate.

50. And the SPF actually led in this a long time before the service woke up to the issue. Similar in respect of menopause awareness training. I think the SPF was delivering menopause awareness training way back, around about 2008/9/10, a long time before the service paid attention to it, but those are specific kinds of awareness rather than anything else. So, the awareness of the particular issues that can affect women in respect of menopause was something that the SPF was alert to a long, long time ago. That then largely fed through the equality side of the SPF business and, because of a particularly bad spell of police officer suicides there was some attention paid to the issue of police officer suicide.
51. But in the round the answer is exactly as I would give in respect of the welfare: it's the responsibility of the service. Internally, the SPF has a system where if individual SPF officials feel that they are struggling, we are able to refer them to, effectively, our own equivalent of an occupational health service where we have specialists that we're able to gain access to.
52. Insofar as I am able to comment, I am asked, in my opinion, would the provision of mental health training be helpful SPF representatives in carrying out the performance of their duties. I'm not sure that it necessarily would be either a help or be a hindrance because it would imply that there is a responsibility in the SPF that doesn't exist. The responsibility absolutely sits with the employer or the chief constable, but anything that increases awareness of mental health issues in any workforce is never a bad thing, or indeed within any representative structure is never a bad thing. It's what that training looks like and what it creates then in terms of an expectation thereafter.

Signature of Witness.



53. I am asked, in my opinion, if SPF representative were trained to provide support to police officers who are subject to conduct investigations in 2014/2015. Yes. For example, it's built into the misconduct training course. We are bringing testimony for those that have been through the process that talk about the impact on their mental health and reiterate the absolute importance of making sure that we maintain regular contact with these individuals, just as a touch point, because when police officers are being investigated for misconduct it is one of the loneliest places in the world to be because the service is capable of treating them abysmally when they're going through that process. So, they have that awareness, albeit it's not necessarily down as a module that says, "This is the mental health module in respect of misconduct training." It's just part of the process of the roundness of how we deliver that training.
54. I am asked what might be expected of a hypothetical reasonable SPF Representative, acting in accordance with their training, regarding the service/support provided to police officers in the aftermath of a death in police custody or a death following police contact in 2014/2015. The biggest part of that welfare provision would be making sure that they understand their own position, because doubt and uncertainty is never good in any circumstance. The starting point for any of these things is do you know what you're performing? Do you know who you are? Do you know what this means for you? I'm probably going to jump ahead a couple of steps for you, but if you're a witness, that's an entirely different set of stresses to being an accused or a suspect, and having that understanding and developing that, or gaining that understanding at the earliest possible situation, helps bring certainty.
55. Now, certainty as to whether you're a suspect, a witness or an accused is better than uncertainty as to whether you're a suspect, a witness, or an accused. So, whilst that deals with an element of what would be, broadly, welfare aspects, it's welfare that's embedded rather than, "This is a conscious welfare activity and a welfare question that I've got to ask." I don't think the

Signature of Witness.



service has got any better at this and I certainly don't think that PIRC has. Even things as simple as the taking clothes from police officers, it's genuinely not that long ago that a police officer, if they were involved in a death in custody, would find themselves -shortly after that had finished- in a forensic suit because the service would take all of their uniform, take all of their shoes, and they're in a paper overall. The psychology of that is immense.

56. There are lots of different psychological things that come into being, but more often than not what we look at is making sure that the individual is being looked after. "Do you have someone that-- will you be able to get home safely? How long have you been working? Let me drive you or let me arrange someone to drive you home, or let the service arrange someone to drive you home," which is where we look first of all. "Have you told your husband, your wife, your boyfriend, your girlfriend that you're going to be late home? Let's make sure that that happens. Do you have clean clothes? Let's make sure that you don't have the trauma of going into hand-me-downs that are in the general store that we've got for clothing that are available, and make sure that you've got some clothes. Why are clothes being taken? Has that been explained to you? Is there any form of anxiety in respect of that?"
57. All of these things are enormously, enormously stressful, and whilst we don't have a tick list of things to go through and at this stage we're generally not dealing with ordinary representatives; we're dealing with full-time officials at this stage because we've had such a developed understanding. These things are known organically and through learning from others that these are the things that you have to make sure of. The police service generally doesn't care because all it wants to do is it wants to get on with doing what it wants to do and it doesn't care about the fact that these people are its employees in the broadest possible sense, that should be looked after, because it disregards that side of it when it comes to the investigation.

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58. I am asked my opinion as to whether, overall, I am satisfied that SPF Representatives would have had the requisite skillset required to offer adequate welfare or wellbeing support to officers in 2014/2015. The expectation would be when those kinds of things happen i.e., traumatic events, that you largely bypass the local representatives and you go to the full-time officials, the permanent officials, who have much greater experience to be able to do that, but I think this again goes back to what I said quite early on in the basis of our conversation. The moment someone is elected as an SPF representative, regardless of whether they're trained or whether they're not, there's an expectation that exists that they know every single thing about every single aspect of every single police activity all of the time, and that just doesn't happen.
59. I am asked whether SPF representatives, in terms of what would have been asked of them in 2014/2015, would have had the requisite skills to deal with the majority of what was asked of them. Absolutely. Would SPF representatives, in the event that they found themselves dealing with traumatic deaths in custody, have had the skills? Probably not, but only because they would never be asked by the SPF to perform those roles; we would expect that to be performed by full-time officials. And even then, because we were in still the relatively early stages after the police service, not everybody had been trained to the level that we had wanted them to. But that, in its own right, when it comes to the specifics of what our role is, is probably an irrelevance because our role is about making sure that the officers understand their status and preserve their positions. That's what the role of the SPF is.

### **Scottish Police Federation Training on Legal Advice: Status, Operational Statement and Completion of Paperwork**

60. On the 9<sup>th</sup> of August 2023 the Inquiry issued a Position Statement request relating to the training of the Scottish Police Federation Representatives. The

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Scottish Police Federation Responded to this request on the 29<sup>th</sup> of August 2023. I am now shown Scottish Police Federation Position Statement Response SBPI-00369, at page 1 where the following question was asked:

*“Specify all training SPF Representatives receive as it relates to providing legal advice to police officers as of 03 May 2015.”*

The Scottish Police Representatives responded as follows on pages 1 and 3:

*“The legal advice training provided to SPF representatives stems from the legal Advice Guidance provided to members. The Guidance provided as of 03 May 2015 is attached and the current guidance is attached”.*

61. Against the background of the SPF response, I am asked to outline my understanding of what legal advice was from the perspective of the SPF in 2014/2015. It looks the same as it does now and indeed has always looked. There is a difference between legal advice and legal assistance. Legal assistance is when, to some extent, there are processes going on, where legal advice can be, “We don’t think you’ve got a case here.” The issue in respect of the provision of legal advice to police, the Scottish Police Federation never provides legal advice. Not under any circumstances do we provide it because we’re not qualified. We’re not lawyers.
62. We provide the means to access legal advice and through some of the processes that I previously discussed, we also make sure that legal advice or that legal assistance is there from the very beginning in cases where there is, for example, a class action to be raised. But the question of, “Specify all the training received in respect of legal advice for deaths in custody,” it doesn’t really matter whether it’s a death in custody or whether it’s anything else; the investigation is a matter for the police service. It’s always going to be. In fact, Crown has got supremacy. The ability for the SPF to influence Crown

Signature of Witness.....

investigations, police investigations or PIRC investigations is none and, without putting too fine a point on it, that's the way it should be.

63. All we can do is make sure that when it comes to our members, that they are looked after in the best possible means possible through legal assistance where it is necessary. And in the case of deaths in custody, where at the very least there is always going to be a fatal accident inquiry, that means that the engagement for the provision of legal advice – which in almost all cases, unless someone is a non-paying member, becomes legal assistance – is arranged through the SPF official on the ground, often by making a phone call to whoever the solicitor on call might be, to put that in place.
64. I am asked what training on legal advice or assistance look like in 2014/2015. You provide legal assistance and in relation to that you said that could possibly be through signposting, by calling an official, and is that along those lines. For the purpose of deaths in custody, and again part of what we have agreed with the service, is that when there are incidents such as deaths in custody they contact, immediately, the SPF. Now, that doesn't always happen. Even to this day it doesn't always happen, and many hours can pass before that takes place, and when that occurs there is an immediate vulnerability concern for what has been happening to our member during that period of time. All the things that we talked about in respect of welfare, for example, have they been considered?
65. But in the instance where there is a death in custody and the SPF official is contacted and attends, even then we don't provide legal advice, we don't provide legal assistance. We make sure that the officers understand what they have to ascertain, and in some instances, depending on the extreme level of trauma individuals can be dealing with, that's not an easy thing to get across. But I say again: the service tends not to care. The service just thinks, "Well, you're a police officer and I'll do what I want for as long as I want. You'll wait when I want you to wait, until such time as you're dealt with." And

Signature of Witness.....



the vast majority of police officers are very subservient in that manner in that they don't themselves know that they can say no or that they should be saying something else. If they're told to wait, they'll wait, regardless of how long that might be and regardless of what that might mean for their own mental health. But I want to be clear that the legal advice and assistance application form, that's not training. That's just simply the set of considerations that the applicant has to be aware of when they're filling it in. Yes, representatives are aware and full-time officials are aware of what the application form contains, but it's not training.

66. I am referred to the 'Legal Scheme 2015: Guidance to Legal Services from the Scottish Police Federation' on page 7 of the Position Statement, under the heading 'What is Not Covered'. It is the Inquiry's understanding that in 2015, the SPF did not provide cover for criminal investigation, defense, or Fatal Accident Inquiries, insofar as legal advice and assistance is concerned. This is now covered by the SPF in accordance with 'Scottish Police Federation: Legal Advice and Assistance Guidance' in January 2023. I am asked if I know when this was introduced and what the reason was for this change in policy. So, the provision for police officers who are subject to criminal investigation whilst on duty should be covered by something that is known as a Scottish Home and Health Department circular. It goes back to the even before the Scottish Executive and the Scottish Government, a Scottish Home and Health Department circular of 1978 which, in a nutshell, says that if a police officer acting in good faith is – I'm being very, very simplistic – subsequently accused of criminality, then the police authority, as it was then, will pay their legal expenses. So that's why that says there. In respect of off-duty issues, at that moment in time the SPF offered insurance schemes, and one of the elements that was covered by insurance was for off-duty criminal allegations.

Signature of Witness.....

67. This guidance on legal services from the SPF relates to the voluntary fund, the thing that I mentioned earlier on, the voluntary subscription which provided the funds for the voluntary fund. That is why it's said in those circumstances that it does not cover for on duty, it does not cover for criminal allegations, because there were two other areas which it was covered. The reason that changed subsequently was we got rid of the insurance provision and we brought the insurance provision in its entirety into the SPF. So, it was previously covered as off duty through insurance. We adjusted our subscription, and we brought that whole internally, so that's why the difference exists.
68. I am asked my opinion as to whether SPF representatives presently have the requisite skills to provide the right guidance to officers, as it relates to officers seeking legal advice and assistance. When I joined the police service back in February of 1993, I was given a small laminated blue card that fitted in the inside of my notebook. That blue card was given to every single police officer that joined the police service and it said what to do in the event that you are subject to investigation. It says the same things that are said by the SPF today: "Find out if you're a suspect, if you're a witness or if you're accused," and written in bold print on that was, "If in doubt, seek legal advice." So that was the advice that I was given now over 30 years ago when I joined the police service and that hasn't changed all the way through, through until the day I retired. I would be astonished if it's changed now.
69. In fact, the only time that there was any material change to that, and I'm not sure it was a change in terms of what the SPF said but following the *Cadder v HM Advocate* 2010 UKSC 43 ruling, which I know took place around 1999-2001. The only time that I think that changed was when the Crown Office reinforced its advice to the police service that where a police officer was to be a potential suspect in a matter, they shouldn't even be asked for an operational statement, but that was an internal thing for the police service rather than one that had material change in the SPF. So, in terms of would

Signature of Witness.....



the adequacy of training have existed in SPF officials to be able to understand the importance of the suspect, the witness or the accused question, the answer is absolutely yes.

### **Scottish Police Federation Training on Conduct**

70. I am now shown Scottish Police Federation Position Statement Response SBPI-00369, at page 3 where the following question was asked:

*“Specify all training Scottish Police Federation Representatives receive in dealing with incidents resulting in deaths in Custody and Deaths after Police Contact, insofar as: -*

- (i) Ascertaining the status of police officers who were involved in the incident.*
- (ii) The provision of those officers’ operational statements and*
- (iii) The completion of those officers’ notebooks, use of spray forms; and use of force forms as at (a) 03 May 2015.*

The Scottish Police Federation responded as follows:

- (i) No specific SPF training but representatives are advised to inform members to ask if they are a witness, suspect or accused.*
- (ii) SPF has issued advice on operational statements generally- see Conduct Advice*
- (iii) SPF does not give advice or training on these issues.*

### **Scottish Police Federation Advice on Status of Officers:**

71. Considering the Scottish Police Federation response above, I am referred to the ‘Conduct Advice 2015’ on page 5 of Position Statement SBPI-00369 where it states:

Signature of Witness.....

*“When you are interviewed/counseled/questioned in circumstances where you believe that a criminal or misconduct enquiry may be taking place, ask the following questions: Is this an investigation into a possible criminal offence? Am I a witness/ suspect/accused?”*

72. I am asked to provide commentary on this section. That’s entirely correct, and I would go beyond that and say that we have to recognise that even though SPF officials have a role to perform, we are not legal representatives. So, whilst I could ask of an inquiry officer, “Is X a suspect, a witness or an accused?” the inquiry officer, if he or she was being professional, would say, “I’m not telling you. It’s a matter for X’s legal representative to know that.” But if X was to ask the question, he could say, “Am I a suspect, a witness or accused?” Of course, you would have to tell him. So, it would be highly unusual for an SPF representative or an SPF Representative to seek of the inquiry team, or the inquiry officer or the SIO, details as to whether X, Y or Z was a suspect, a witness, or an accused. That should only be done by the Individual themselves, ascertain if you are a suspect, a witness or an accused. Yes, that answer is absolutely, entirely to the point.
73. I am asked whether the ‘Conduct Advice’ guidance goes out to all members, or whether it functions as an aide memoire to SPF Representatives. I would be astonished if that wasn’t publicly available on our website.
74. Insofar as I am able to comment, I am asked if I am aware if probationers were directed to the SPF guidance or website during their probationer training in 2014/2015. I suspect the answer to that is no in an absolute sense, but only because we have no direct knowledge of what the service delivers in terms of its training. The SPF makes sure that they understand how to get access to the SPF, and I think – although I would not like to swear on it – that that same blue card I was issued in 1993, they got issued, or a version of it, in 2014/15 as well. Now, I suspect there’s a bit of information overload that hits brand new police officers in their first week, but I can say with a high degree of

Signature of Witness.....



probability that it is unlikely that this level of detail would have been provided to new officers on the day they join.

75. I am asked what is communicated to newly trained SPF Representatives to alert them to relevant and most up to date training. I mean, there is no granular training in respect of that specific aspect. Every single full-time official knows about the importance of suspect, witness and accused. In fact, I would proffer that the vast majority of police officers, even if they've never stood for election in the SPF, by virtue of having the blue card or by virtue of knowing someone has been through the misconduct and investigation process, knows at their heart the importance of these three questions. Am I a suspect? Am I a witness? Or am I accused? So, the SPF-- absolutely all of our officials are aware of this.
76. I mean, in terms of the relevance of it from a training course, it would take about three seconds. You have to ask these questions because the vast majority of SPF officials are experienced police officers and many of them have been experienced detectives. They understand the difference in the status that are provided by individuals. We've heard from various different lawyers, even including Peter, over the years, coming to our training courses, explaining why this is important and understanding the difference between statements that are made at different times and when they can be admitted and when they can't and the legal process. All of that is understood by our representatives. Whether it is specifically delineated at every single training opportunity, I would say that the answer is no, but it's absolutely understood.
77. I am asked what might be expected of a hypothetical reasonable SPF Representative, acting in accordance with their training, regarding the advice provided to officers relating to their status in the aftermath of a death in police custody or a death following police contact in 2014/2015. It's as it's written in the guidance. It says, "Until you establish your status and until you establish your team, you're not going to seek legal advice."

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78. I am asked what might be expected of a hypothetical reasonable SPF Representative, acting in accordance with their training, regarding the advice provided to officers if they had been verbally assured that they were witnesses in 2014/2015. Given the significance of status of a police officer, even the most enthusiastic SIO who knows, or who is driven by his or her desire to undertake the investigation regardless of extraneous factors, if they make that information known, then that will be more than available. There will be a written record of that.
79. Against the background of my previous answer, I am asked if SPF representatives would provide advice around the form that reassurance should take i.e., written or verbal. Yes, absolutely, but I think there's a danger here that we're turning this round into placing the onus on the representative. That's not the representative's job. It is absolutely understood that in the event of a death in custody, that in 99.9 per cent of occasions, unless you are unlucky enough to have a member that is not a subscribed member to the SPF voluntary fund, that that member will have access to legal advice and assistance. Within a very short space of time, the police service will know who the legal representative is. That's why I said how important it is that the police service notifies the SPF at the earliest possible opportunity when these things occur because when there is that time lag between the incident and the notification of the SPF, we don't know what's taking place. We don't know if the rules of evidence are being followed fairly because, again, the police service is very, very good at manipulating in its own people the extraction of statements and other information that have a dubious legal status.
80. So, the service should know, particularly following a death in custody, that there will be a legal advisor available for the officers. If they choose to ignore the fact that they know it by trying to circumnavigate the legal representative

Signature of Witness..



by going to the officer themselves, then they are acting manifestly unfairly. So, I would not expect any kind of casual, "Ah, don't worry about it. You're a suspect," or, "Don't worry about it. You're going to be a witness in this." I would not expect that to take place because it doesn't do justice to the magnitude of what they're dealing with, and it also doesn't do justice to the proper record keeping for the investigation. You know, a casual conveying of the status of an individual, particularly following a death, is something I just don't think the service does. I can't believe that it would do it.

81. I am asked what time period would be reasonable for Police Scotland to notify the Scottish Police Federation after a death in custody or death following police contact. It's pretty difficult in the vast majority of deaths in custody to say whether someone is a suspect or whether someone is accused immediately, because there needs to be some accumulation of some form of picture as to what's taken place. That is why it's so important that notification takes place at the earliest possible opportunity. Without doing so there are risks that the officers' rights and welfare needs are neither guaranteed or considered. I mean, it's largely the welfare aspects are being taken care of. The investigations for the service, or for the PIRC or whoever it may be, but if you look at the conduct advice in the manner that it is written, this is general advice in respect of general activity. So, the reason you would contact the Federation representative after saying, "Look, I don't know. I'm going to seek some legal advice." You'd phone your Federation representative saying, "Look, I've said nothing. I'm looking for legal advice. What do I do now?" We'll say, "Well, there's the application form. We'll check if you're a subscribed member and we'll put you in touch with the lawyer." That's what the role of the Federation representative is in those circumstances.

**Scottish Police Federation Advice on Completion of Operational Statements:**

82. I am referred to 'Conduct Advice 2015' on page 6 of Position statement SBPI-00369 where it states:

Signature of Witness.  .....

*"An operational statement should relate only to operational duties undertaken by you during any particular tour(s) of duty and need not include any comment by you regarding the report, complaint or allegations made against you. If you are the constable subject to investigation you CANNOT be compelled to make any oral or written statement or answer any questions in relation to the complaint prior to seeking advice. If you make any statement in the ordinary course of duty you should be aware that such a statement may subsequently be used in any misconduct proceedings taken against you."*

83. Against this guidance, insofar as I feel I can comment, I am asked what might be expected of a hypothetical reasonable SPF Representative, acting in accordance with their training, regarding the advice provided to officers relating to the completion of their operation statements in the aftermath of a death in police custody or a death following police contact in 2014/2015. Well, it starts actually way before that. It starts with understanding whether you're a suspect, a witness, or an accused. Once that clarity is given, or if that clarity is given, then you're able to make a determinative course of action. We don't know what the internal mechanisms are, so the fact that the general guidance and advice of, "Establish whether you're a suspect or witness or an accused and remain silent", that "remain silent" general provision, whether expressed or whether not, also applies to what you write down.

### **Scottish Police Federation Advice on Completion of Paperwork**

84. I am now shown Scottish Police Federation Position Statement Response SBPI-00369, at page 3 where the following response was provided on the completion of paperwork by officers:

*"The SPF does not give advice of training on these issues".*

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85. I am asked, in my opinion, if it would be helpful for SPF representatives to receive training in relation to the completion of forms and paperwork by police officers. I don't think it is because internal processes of the service change periodically. In fact, they change fairly regularly. You know, it would almost be like a never-ending feast. You're constantly changing the information from the service, and there is, of course, the fact that on occasions what the service asks certainly the SPF doesn't necessarily agree with. If the service was always right, the SPF wouldn't be winning legal cases against them, and the simple reality is that on many things we disagree, but we never, ever lose sight of the fact that the chief constable has the ultimate authority. The most senior police officer in Scotland has the right to determine what his or her officers will do in respect of certain things, so in instances where we disagree, we're not going to train our officers to say that you must deliver a message contrary to our own position.
86. Insofar as I feel I can comment, I am asked what might be expected of a hypothetical reasonable SPF Representative, acting in accordance with their training, regarding the completion of paperwork in the aftermath of a death in police custody or a death following police contact in 2014/2015. I wouldn't. I understand why it's an issue in this Inquiry because it's become one, but I would be surprised if, in general, following any traumatic incident, it would be a priority for any police officer, including the SIO, to make sure that such things would be covered. The obligation to report to PIRC is absolute. The completion of the forms in order to be able to do that I don't think is a significant issue. As long as the report goes to the PIRC and the thing's been done, the fact that it may not have been done at the particular moment in time I don't think is enormously significant.

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**Advice provided by Scottish Police Federation Representative Amanda Givan:  
Inquiry Statement and Oral Evidence on 14<sup>th</sup> of June 2022**

**Advice regarding the Status of Officers on 03 May 2015**

87. I have now been shown the Inquiry Statement of Scottish Police Federation Representative Amanda Givan SBPI-00072 at page 36, paragraphs 159-161 which deals with the guidance/advice provided to officers, that state (respectively): -

*“I have been asked what advice, if any, I gave to the officers. It will have been: in the event that you’re asked for a statement or requested to provide a statement that they should be establishing what their status is. That’s quite an important thing to police officers. So, establish, ‘Am I a witness or am I a suspect?’ And obviously, depending on what information they are told will depend on what the advice that would come next. That is pretty much the substance of the advice that I gave throughout the day. In the event that someone comes and asks you for a statement, find out what your status is, witness or suspect. If you’re a suspect, then we’ll get some legal advice and if you’re a witness, game on.*

*‘Game on’ means if they were confirmed to be a witness, then they could provide an operational statement. They can put in whatever they want in their operational statements. So, providing that they’re given sufficient information about what’s looked for, there’s no issues with them provided that they are considered to be a witness.*

*In the event that they’re a witness, they can provide a statement to the police. If they were considered to be a suspect, then they would probably be looking for some legal advice first before doing that, and it would be unlikely to happen in written form would be the reality of that.”*

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88. It is explained to me that Senior Counsel to the Inquiry, Angela Grahame KC, sought clarification in respect of this passage of Givan's statement during Miss Givan's oral evidence to the Inquiry on the 14<sup>th</sup> of June 202. The transcript of Miss Givan's evidence reads as follows at page 55:

**Counsel Angela Grahame KC:** *What advice did you give to the other officers?*

**Amanda Givan:** *"So, the advice that I gave to the officers: was at some point someone who is investigating may come along and ask you for a statement. What you should be enquiring is what your status is, am I a witness or am I a suspect? If you're a suspect then you probably want to seek some legal advice before you do that because they really shouldn't be asking you for a statement if you're a suspect, and if they confirm that you're a witness, then -- I suppose -- we never got to that part but the next part might have been: are we doing that today? Is today the best day for that to be done given what had gone on earlier? But yes, it was as straightforward as that, of going: if you're asked for a statement, you should be asking -- because they will not ask me for that, I wasn't there, you should be ascertaining whether you're a witness or a suspect."*

89. I am asked whether Amanda Givan's response regarding the advice given to officers is in line with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as of 2015. I think it's entirely in line, entirely reasonable.

Signature of Witness.....

**Advice regarding the Completion of Notebooks and Use of Force Forms on  
03 May 2015**

90. I have now been shown Amanda Givan's statement SBPI-00072 at page 37, paragraphs 164-165 which deals with the completion of notebook and use of force forms (respectively):

*"I don't think I gave any advice regarding the completion of notebooks. Don't remember specifically speaking about notebooks."*


Regarding Use of force forms:

*"Regarding Use of Force Forms, I advised them that there were other supervisors who were on duty who could fill out that information who already had that information, so, until they were advised whether they were suspects or witnesses, that they probably shouldn't complete that form. I did do that."*

91. It is now explained to me that Senior Counsel to the Inquiry, Angela Grahame KC, sought clarification in respect of this passage of Givan's statement, by asking if this is consistent with what Miss Givan said on the Day. Miss Givan responded as follows at page 92 of her transcript:

**Amanda Givan:** *"Yes, I mean it's -- had they been told that they were witnesses, clearly any information that they provide in forms or documents -- it would all be relevant."*

**Counsel Angela Grahame KC:** *And you are saying there, there were other supervisors who were on duty who could fill out that information, was it your understanding at the time that one use of force form could be completed per incident and a supervisor could complete that?*

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**Amanda Givan:** *"I'm not sure whether one would have sufficed for the whole incident, but certainly, you know, there's lots of occasions where these forms are required to be filled in, but perhaps the officer involved has had to go home because they are either unwell or they have become injured, so there's flexibility within that process that allows someone else to fill the form in, so I had every expectation that these officers that were involved in this process, that they wouldn't be required to fill out this information when probably sufficient detail was available by other supervisors"*

Miss Givan offers further clarification at page 93:

**Amanda Givan:** *"... I would have an expectation that if these officers were involved in something traumatic or dramatic and they needed to be sent home, that someone else could fill that document, if it was necessary to be done there and then, but they shouldn't be required to fill out a form when their status is uncertain".*

92. I am asked whether Amanda Givan's response regarding the advice given to officers is in line with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as of 2014/2015. Yes, I think to some extent that Amanda's articulation there is probably pretty good and fits with what I said a few moments ago about the role of the form in its own right. The form was an internal thing that the service put in place to facilitate its reporting to the PIRC. The statutory obligation is the reporting to the PIRC. There is no statutory obligation that the individual officer has to report to the PIRC. Given the totality of the circumstances in which the officers were dealing at that moment in time, the expectation – whether that was gleaned at the time or whether that came through hindsight, in retrospect – that somebody else would have done it I don't think is in any way unreasonable, and entirely would be probably in line with the thinking of the vast majority of SPF representatives in those circumstances. I seem to remember, that when the process for reporting to

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PIRC was being devised that it was in any case within 24 hours, that that was a catch-all in the whole thing.

**Advice regarding the Completion of CS / PAVA Spray Forms on 03 May 2015**

93. I have now been shown Amanda Givan's statement SBPI-00072 at page 37, paragraphs 166 which deals with the completion of CS/PAVA Spray forms:

*"I have no idea about CS/PAVA forms. That's something you would need to ask people in Police Scotland. I think there's perhaps a form to fill in if you've used it in order to get a new, fresh bottle, but I've never filled any of that in, so I don't know what the process is for that, and I certainly wouldn't be the one to give advice on that."*

94. It is now explained to me that Senior Counsel to the Inquiry, Angela Grahame KC, sought clarification in respect of this passage of Amanda Givan's statement, at page 94 of her transcript:

**Counsel Angela Graham KC:** *So, that's not something you had experience of?"*

**Amanda Givan:** *"No, I mean obviously before I took up this job I have used or had been issued with PAVA. I've never used it, so I -- like everything, there are processes for absolutely everything in Police Scotland, so I have no doubt that there is a process and a procedure to fill in a form if you have discharged your PAVA or CS spray in order to get a replacement bottle. I just have never filled that form in. I wouldn't know where it would be and I probably wouldn't be the best person. Had I been asked that question, I would have suggested that they perhaps speak to Scott Maxwell, or another sergeant on a team if they needed more information -- they would actually have more information about how to do that than me."*

Signature of Witness.





95. I am asked whether Amanda Givan's response regarding the advice given to officers is in line with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as at the 2015. To every extent, that's going way beyond what an SPF representative would be involved in. That's then into some of the operational sides of the service. In fact, it's into all of the operational sides of the service. In fact, it's into the operational administrative side of the service because the operational activity itself has taken place, and we don't involve ourselves in the operations of the police service in that sense.

96. I have now been shown Amanda Givan's statement SBPI-00072 at page 37, paragraphs 167 which says:


*"I don't believe there's any requirements to fill out statements, notebooks or Use of Force forms."*

97. It is now explained to me that Counsel to the Inquiry, Angela Grahame, sought clarification in respect of this passage of Amanda Givan's statement at page 95 of her transcript:

**Counsel Angela Grahame KC:** *So, when you say, "I don't believe there's any requirements to fill out statements, notebooks or use of force forms", that was your understanding in relation to the events in May 2015.*

**Amanda Givan:** *"Yes. I don't believe there was any request or requirements made by anyone to do that before they left, or before they were updated with what their status was".*

98. I am now asked whether Amanda Givan's overall response regarding the advice given to officers is in line with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as of 2015 regarding completion of notebooks, forms, and

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statements. Yes, I mean, it's an elongated way of getting back to where we started, and that is, "Are you a suspect, a witness or an accused?" You can't have a situation where a police officer says, "I am remaining silent," and then the police service says to them, "Okay, we know you're remaining silent, but write down what happened." So, in that sense, it's just a reframing of the starting point, "Am I a suspect, a witness or an accused?" All deaths are traumatic. Some are more traumatic than others and the reactions that individuals can have to any traumatic incident is not homogenous. They vary vastly across people, and they also are dependent on how long they've been working, whether they're tired, whether they're emotional, a whole variety of other factors that come into being. Yes, of course it's important for everybody, and I'm not in any way diminishing the fact that when a death occurs, and I'm going to use "at the hands of the state," put in inverted commas, that there is anything other than a massive public interest in getting to an understanding as to what happened as quickly as possible, but you also have to make sure that you recognise that people that you ask to perform a difficult role themselves have to be looked after.

**Advice provided by Amanda Givan to PC Walker and PC Tomlinson on 03 May 2015**

99. I have now been shown Amanda Givan's statement SBPI-00072 at page 39, paragraphs 178 which outlines PC Craig Walkers account:

*"I have been told PC Craig Walker's account includes the following (PIRC-00264 page 11): "While I was in the canteen with my team the advice from Amanda Given was to say nothing to anyone at that time. That was my intention anyway until we found out more about what kind of enquiry was going to take place and what the man had died of. I also made it known that I would not be completing my notebook either and I suggested that others don't do theirs. Some of the team, I'm not sure who, spoke about doing their*

Signature of Witness.



*notebooks but I wasn't doing that. No other officers outwit the team gave any instructions on the notebooks."*

100. I am now asked whether the position provided by Amanda Givan fits with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as of 2015. Yes, well, to be very simplistic, that doesn't sound like Amanda advised him of anything. That looks like he came down to the conclusion off his own back, but do I consider that the conclusion he came to in his own right was unreasonable? No, I don't, because of the preamble that he gives there, albeit I think the caveat "until we find out what the cause of death was" is probably a bridge too far, but when he says that he's trying to understand what kind of inquiry it is – I mean, to some extent we're second and third guessing what he actually meant – I think in that sense, he probably means whether he was a suspect, a witness, or whether he was an accused, and his conclusion that he wasn't going to complete his notebook sounds to me like just a general interpretation that he's come to about the maintenance of silence until such time as that has been clarified.

101. I have now been shown Amanda Givan's statement SBPI-00072 at page 40, paragraphs 180 which outlines PC Ashley Tomlinson account:

*"I have been told PC Tomlinson's account includes the following (PIRC-00263 page 6): "... I asked Amanda Given if I should fill in my notebook, she said not to, and I asked her if I needed a solicitor, and she said yes because by that time the man had died, and we would need legal advice. She said that it was a death in custody and the PIRC would investigate. She told us not to give statements to the police and if anyone approached us to ask for statements, we had to refuse and seek legal advice. Amanda also told us not to fill in a Use of Force or CS spray form because that would have outlined our actions without speaking to a solicitor first... (Page 7) The decision not to give a*

Signature of Witness..

*statement or fill in CS/Use of Force forms and notebook was an instruction from Amanda Given."*

102. I am now asked whether the position provided by Amanda Givan fits with my expectations of the hypothetical reasonable SPF Representative acting in accordance with their SPF training and guidance as at 2015. Yes, I mean, like with all these things, views and recollections change with the passage of time. That's always the case, but would I expect an SPF representative to say, "Don't do this," or, "Don't do that"? I would say no. Unless the question is established, your status, would I expect explicit information or guidance to be given in that regard? Then the answer, I would say, would be yes. Is the advice, if indeed it was given, of, "Don't fill in your notebook," or, "Don't fill in your forms (until such time as that has been established)," is that in its own right unreasonable? I would say no, it is not unreasonable, but of course whether that conversation took place is down to the recollection of only the individuals that were there themselves.

#### **Scottish Police Federation Training on Media Engagement as of 03 May 2015**

103. I am asked what training SPF Representatives and Officer Bearers receive on media engagement including social media as of 2015, particularly on when to issue a press release. It's just a judgment depending on what the issue is. So, there were, I think, press releases in their own right and press comments. They fall into having a different presentation, but in reality, amount to the same thing. The confidence of the SPF and the permanent officials to deal with the media, according to their own judgment, is very strong, but the training that the SPF receives and indeed that I received in respect of media training have been received on a number of occasions, involves former journalists, broadcast journalists, print journalists, news producers. That's done in a format that understands the importance of a different approach for different media. You know, you take a different approach for broadcast media

Signature of Witness.





than you do for print media, but in terms of the training, there's no training (as to when to issue a press statement).

104. I am asked what training SPF Representatives and Officer Bearers receive on when to make a statement, either reactively or proactively. Yes, well, I think this relates to me because I think I was by far and away the most proactive commentator on not the death itself, but on the issues that were being examined, so have I received anything as to when and how to make a statement? Well, the answer is no, in an absolute sense, other than the fact that when the press, in whatever guise they look like, come to you, sometimes you say nothing, more often than not you don't, based upon the events and information that's known to you at any moment in time. So, my very first comment in respect of the death of Sheku Bayoh, or the circumstances around the death of Sheku Bayoh, were made after about the time that Aamer Anwar was giving his first press Conference, and that came as a direct result of a contact from a journalist who was there who did what many journalists have done, and that is they contact the SPF because they know that they will get a comment that is useful for their story, whether that's in the positive or whether that's in the negative. That's been the experience since the police service was created and indeed way back, largely since I've taken office. So, I can't think of any occasion in respect of the Sheku Bayoh death, or indeed the commentary surrounding it, where I ever instigated, entirely off my own back, comment. It was always in response to something that was either asked of me or said by others.

105. I am asked if there is any training on when to consult a solicitor, or when the SPF might cooperate or liaise with Police Scotland for comment. We don't liaise with Police Scotland for comment, we're different bodies. We have different responsibilities. There are very obvious things that I understand as a police officer as what you can and what you cannot comment on. For example, if there's a live criminal investigation, I clearly know what not to go into. More importantly, so do journalists themselves. Often the service

Signature of Witness.  .....

fundamentally disagrees with the positions that we take. There are other occasions, though, where the service might wish it could say something, but doesn't because it believes it's going to maintain silence but is more than happy for the SPF to comment because it is demonstrating that the issue is of importance to police officers, if not necessarily the police service.

### **Contact with other Witnesses**

106. I am asked if I know or have had contact with other witnesses in this Inquiry. I know many of the police and former police witnesses professionally, and I know Amanda Given personally, as well as professionally.

### **Post Involvement and Media**

107. I am asked if I have been involved with investigation since 03 May 2015. I have had precisely zero involvement with the investigation.

108. I am asked if I have been following the inquiry so far via social media or the news. If so, what have I heard. Not especially. I loosely followed the evidence of the initial police witnesses and some of the civilian witnesses. I saw the prevarication of Mr Saeed, as well as the implausible evidence of a witness who was adamant he saw no stamping by Mr Bayoh, despite the fact it became clear he had no view below shoulder height onto the street due to a large hedge. I watched the evidence of Nicole Short and Amanda Given in full.

109. I have seen the reporting of the evidence of Chief Superintendent Lesley Boal who was attributed with saying it was blindingly obvious that the officer's actions were racially motivated. If this is accurate it reinforces my observations on the importance of police officers understanding their status. It also demonstrates that there was a prevailing suspicion of wrongdoing on the part of the officers, by the police service from the earliest possible juncture.

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110. 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.

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December 3, 2023 | 9:39 PM GMT  
Date.....