


## **SUBMISSIONS**

**on behalf of**

**The Chief Constable, Police Service of Scotland  
(‘Police Scotland’)**

**RE: APPLICATION FOR RECUSAL ON BEHALF  
OF (1) THE SCOTTISH POLICE FEDERATION;  
(2) PC CRAIG WALKER; and (3) Ms. NICOLE  
SHORT**

## **INTRODUCTION**

1. An application has been made on behalf of the Scottish Police Federation (‘the SPF’),  PC Craig Walker and Ex PC Nicole Short (‘the Applicants’), Core Participants in the Inquiry, inviting the Chair of the Inquiry and one of the assessors, Mr Bhatt, to recuse themselves from the Inquiry on the grounds of apparent bias. The broad basis for the application is the conduct of and lack of disclosure of details of discussions at meetings held by the Inquiry with the Families of Mr Bayoh and their legal representatives. Information about the contents of those meetings which have taken place over the period 2021-2024 have only been disclosed to Core Participants recently. The information and material will be referred to collectively as the ‘Minutes’ albeit they comprise documentation other than minutes, such as emails and correspondence, and do not appear to be a complete record.
2. Neither the Chief Constable, nor her predecessor has had a private meeting with the Chair in connection with this Public Inquiry. All matters have been dealt

with through the legal representatives of the office of Chief Constable and the Inquiry legal team.

3. The Chair has directed that a public hearing on the fairness of the conduct and procedure adopted by the Chair in meeting with the Families be set down on 12 and 13 June 2025.
4. The Chair has invited submissions from all Core Participants but his position on the application is unknown as at the date of these submissions and will not be disclosed until 2 June 2025.

## THE FAMILIES AT THE HEART OF THE INQUIRY

5. The Chief Constable recognises that the Families of Mr Bayoh are in a different position from other Core Participants. It is crucial that the Inquiry fulfils its function to achieve its aims in respect of their Article 2 rights and that the Families remain at the heart of the Inquiry.
6. This was specifically addressed in the opening statement of the then Chief Constable, Sir Iain Livingstone, QPM. The following statement, with which the Chief Constable is in complete agreement, was addressed directly to the Families : <sup>1</sup>

*The Chief Constable who is present here today has asked that I address my first remarks to you, his family. You are at the heart of this Inquiry. The Chief*

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<sup>1</sup> Day 2, 11/05/2022, 32:9-32:18

*Constable wishes to express his support for this Inquiry to you in person and publicly. Today he offers his condolences to you for the loss of your loved one. The Chief Constable was powerfully affected by Kadi's statement yesterday that she does not feel safe in Scotland, that she fears for her children and for her nieces and nephews. As Chief Constable, he leads a police service whose purpose is to improve safety and wellbeing of the people and communities of Scotland. That mission is and must be for the benefit of all citizens and, as Chief Constable, he is clear that Police Scotland has a major role in ensuring that Scotland is a safe, secure and welcoming place.*

7. This was re-affirmed in the interim closing oral submission in a further direct address to the Families as follows:<sup>2</sup>

*You are at the heart of this Inquiry and the Chief Constable wishes to acknowledge the courage, the strength and the dignity you have shown throughout.*

*The Chief Constable made a commitment to you in his opening statement. When he expressed his support for this Inquiry, he affirmed the mission of Police Scotland to improve the safety and wellbeing of the people and communities of Scotland, including your community, and to do so for the benefit of all citizens.*

## **THE POTENTIAL CONSEQUENCES ARISING FROM THE SPF APPLICATION**

8. The Chief Constable is acutely aware that, should the Chair recuse himself or in due course be deemed to be disqualified from continuing as Chair, the

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<sup>2</sup> Day 61, 27/06/2023 , 33:19-34:22

consequences for the Inquiry will be further delay. The Inquiry was announced in November 2019 and the Terms of Reference ('ToR') were published on 21 May 2020. The Bayoh Families, who are undoubtedly at the heart of the Inquiry, and who campaigned long and hard to have this Inquiry, would be bitterly disappointed, and rightly so.

9. The Chief Constable is also aware of the consequences were the Chair to continue if the test of apparent bias were to be satisfied. Core Participants exposed to adverse findings would have cause for complaint. The ultimate findings would not attract the respect required to achieve the aims of the Inquiry and the Inquiry would fail to serve its purpose. The integrity of the process must be preserved in the interests of the Families and all communities.
10. It is entirely regrettable that these issues have arisen now, particularly given the extensive commitments by Police Scotland in support of the work of the Inquiry, their extensive engagement with the Bayoh Families as well as all the communities served by Police Scotland.
11. The Chief Constable has absolutely no wish to see the Inquiry halted or delayed further at this late stage. However, a serious matter such as this relating to procedural unfairness or questionable conduct on the part of the Chair, having been raised by a Core Participant, through responsible legal representation, calls for an answer.
12. Trust and confidence in policing is essential. One of the aims of this Inquiry is to maintain that confidence. Police Scotland has expended considerable resources in seeking to further all work necessary in light of the Terms of Reference ('ToR') set by the Scottish Government.

13. The Chief Constable is committed to absolute candour. This includes approaching the issue without agenda. The consideration of the issue is not an attack on the integrity of the decision maker. The Chair is a highly regarded retired Senator of the College of Justice.
14. The Chief Constable, as the leader of Police Scotland, a key organisation within the Scottish Justice system, is compelled by the principles of fairness and integrity and her public duty therefor to consider the points raised by the SPF.
15. It is of fundamental importance to public confidence in the public inquiry system in Scotland that justice is seen to be done as well as being done: *Dring v Cape Intermediate Holdings Limited*.<sup>3</sup>
16. The Chief Constable requires to address matters in line with the obligations of her office including those she has to all communities served by Police Scotland. Police Scotland has been open to rigorous and thorough examination by the Inquiry. The organisation has also examined and reflected on all the processes and procedures in 2015.

## MEETINGS WITH THE FAMILIES IN PRINCIPLE

17. There is and should be no criticism of the Families of Mr Bayoh in attending the meetings. Chairs in other inquiries have met with victims and bereaved next of kin as part of the Article 2 investigative requirement for involvement of the next of kin ‘to the extent necessary to safeguard his or her legitimate interests’<sup>4</sup> and in order

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<sup>3</sup> [2020] AC 629 at [1].

<sup>4</sup> *Jordan v United Kingdom* (2003) 37 EHRR 52 at [109]

to ensure that they are at the heart of the inquiry. The Chief Constable has no issue with the Chair meeting with the Families of Mr Bayoh before the commencement of the evidential hearings provided that the meetings did not stray beyond matters such as introductions, processes and procedures and welfare. However, on any view, transparency as to what was discussed is key and there is an expectation that there would be meticulous minutes kept of such meetings in order to avoid any misunderstanding or questions being raised as to the purpose and nature of such meetings.

18. When the issue of the meetings was raised by the SPF, the Solicitor to the Inquiry reassured Core Participants that the purpose of the meetings was to reassure the Families that they were at the heart of the Inquiry, to maintain their confidence in the Inquiry, and to encourage them to continue to participate fully in it. It was expressly stated that *'the purpose of the annual meetings was to address issues relating to the welfare of family members as the inquiry progressed and the impact on family members of the processes and procedures of the inquiry.'*
19. It was only on 29 April 2025 and 2 May 2025 and after the draft petition was raised by the Applicants that the Minutes were disclosed. Therefore it has only recently come to light through disclosure of that material the full extent of the meetings and an indication of the matters discussed.
20. The issue taken by the SPF with these meetings is that those discussions encompassed evidential matters that were in issue or dispute as well as the means for the Families to obtain particular answers.
21. The question which arises is whether in doing so, the Chair, guided by or together with his team, appears to have confused putting the Bayoh Families at

the centre of the Inquiry in order to get to answers in pursuit of the truth and justice (a proper and appropriate aim) with conducting the Inquiry on behalf of the Families in trying to prove the case as advanced by the Families (an improper and impermissible aim for an independent Chair and inquisitorial public inquiry).

22. The Chief Constable also notes that other inquiries have employed other mechanisms such as human impact hearings, engagement sessions, focus groups, online questionnaires, or the publication or display of written contributions from victims or next of kin. Such mechanisms allow effective participation by victims and next of kin. They provide an opportunity for their account as to events and their impact without the formality or the emotional stress and trauma that can be associated with the process of giving oral evidence in public. They can be more effective than *ex parte* discussions with victims and next of kin and, more particularly, avoid the risk of any misunderstanding as to what was discussed or of any appearance of bias. Additionally, for those witnesses who do give oral evidence, there is also provision of a witness support service, which is understood to have been in place in this Inquiry.

## **THE APPLICATION AND THE NEED FOR AN ANSWER**

23. It is imperative that the Inquiry and the Chair maintain credibility if the Inquiry is to fulfil its aims and its ToR. The fact that there were *ex parte* discussions between the Chair and one Core Participant on which no information was shared with the other Core Participants has given rise to concern on the part of the Applicants.

24. As the Inquiry and the Chair are aware, Police Scotland had raised concerns about the procedural fairness of the Inquiry on a number of occasions. In line with the procedure preferred by the Inquiry, these concerns were intended to be addressed through closing submissions urging/ reminding the Chair not to be misdirected by the approach taken to these matters by his Inquiry team.
25. An organisation is in a different position from an individual. The Chief Constable is in a position to take a view about such matters having regard to the impact on Police Scotland of any findings which the Chair makes in the context of transformative change already having been advanced in the interests of the public. The Chief Constable recognises that this is not the same for individuals who are exposed to an individual consequence of findings which may impact on their careers, personal lives and liberty. That is one of the reasons for the officers, as individuals, having legal representation separate from that of the organisation. Nevertheless, the Chief Constable cannot abrogate her welfare duties as regards the officers nor the clear interest in procedural fairness in the interests of justice. These duties extend to officers who do not have core participant status but whose actions are under scrutiny by the Inquiry.
26. The Chief Constable is not in possession of all the essential details in order to provide a balanced and informed view. The Chief Constable is conscious that she has only had sight of the application and the Minutes. She has not, as yet, heard from the Families, or new Senior Counsel now instructed for the Inquiry. From the current timetable it appears that their submissions will not be available



until the 2 June 2025. The explanation of the Chair is also awaited although a Note is to be provided by 2 June 2025.<sup>5</sup>

## THE ASSESSORS

27. In respect of the application as regards Mr Bhatt, the Chief Constable is of the view that the Minutes, now unredacted and put in context, do not disclose apparent bias on his part. In any event, it is noted that Mr Bhatt (along with Mr Fuller, addressed below) was appointed by the Chair in accordance with his power under section 11 of the Inquiries Act 2005 in order to assist the Inquiry in its work. Both assessors have achieved eminence in their respective fields as set out by the Chair's introduction of each of them.<sup>6</sup>
28. Mr Bhatt has the requisite expertise to so assist the Inquiry on the question of 'race'. Secondly, as observed by the authors of *Public Inquiries*<sup>7</sup> at [3.66] – [3.68], 'assessors do not have any of the inquiry panel's powers and are not responsible for the inquiry report or its findings', and 'the substance of the advice that an assessor gives to an inquiry panel will ordinarily be disclosed to core participants [but] an assessor will not give evidence to the inquiry (and will not therefore be subjected to examination or cross-examination by advocates for core participants'. It is considered that, given his expertise and limited role (which does not extend to fact-finding or drafting of the report), there is no basis to seek his recusal and the application is misconceived in this regard.

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<sup>5</sup> *Howell and others v Lees-Millais and others* [2007] EWCA Civ 720 at paragraph 6 under reference to the earlier cases of *Re Medicaments and Related Classes of Goods (No.2)* [2001] 1 WLR 700 and *Locabail v Bayfield* [2000] QB 451

<sup>6</sup> 18 November 2021 PH-00018 18/1

<sup>7</sup> Jason Beer QC, 2011, *Public Inquiries*, Oxford University Press

29. It is noted that no application is made in respect of Mr. Michael Fuller, QPM. The Minutes disclose that he has provided proper and fair independent advice to the Chair in respect of 'race' and stressed the importance of taking an evidence-based approach. The Minutes do not disclose any basis for asserting that there is any apparent bias on the part of Mr Fuller.<sup>8</sup>

## RELEVANT CASE LAW AND GUIDANCE

### Case law

30. The case law as to the requirements of impartiality and fairness imposed on the Inquiry pursuant to sections 9 and 17 of the Inquiry Act respectively is clear and settled. The submissions made on behalf of the Applicants at [4] – [9], [62] and [65] as to the relevant case law are adopted. They represent an accurate statement of the law. The following further observations on the applicable law are made.

31. The test for whether there is apparent bias is that set out by Lord Hope of Craighead in *Porter v Magill*,<sup>9</sup> sometimes referred to as the '*Porter* test' and is as follows:

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<sup>8</sup> PH00002 4/12-4/13. However for completeness, see *Re Medicaments and Related Classes of Goods (No.2)* [2001] 1 WLR 700 in which the Court of Appeal held that a fair minded observer would apprehend a real risk that one of the members of the court below should recuse herself on the ground of apparent bias, as should the other two members of the court who may have been influenced by her bias.

<sup>9</sup> [2002] 2 AC 357 at [103]. See also helpful review of the case law in *Alan Bates v Post Office Limited* [2019] EWHC 871 (QB) at [27]-[77] by Fraser J as regards the *Porter* test.

*The question is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.*

32. Apparent bias includes giving the impression of having pre-judged any issue.

In *Otkritie International Investment Management Ltd and others v Urumov*,<sup>10</sup> Longmore LJ explained at [1] and [2]:

*[1] It is a basic principle of English law that a judge should not sit to hear a case in which "the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that [he] was biased", see Porter v Magill [2002] 2 AC 357 para 103 per Lord Hope of Craighead. It is an even more fundamental principle that a judge should not try a case if he is actually biased against one of the parties. The concept of bias includes any personal interest in the case or friendship with the participants, but extends further to any real possibility that a judge would approach a case with a closed mind or, indeed, with anything other than an objective view; a real possibility in other words that he might in some way have "pre-judged" the case.*

33. In *Helow v Secretary of State for the Home Department*<sup>11</sup>, the House of Lords clarified that the fair-minded and informed observer 'is neither complacent nor unduly sensitive or suspicious'.<sup>12</sup> They are someone who takes a balanced approach to any information they are given, takes the trouble to inform themselves on all matters that are relevant, is 'the sort of person who takes the trouble to read the

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<sup>10</sup> [2014] EWCA Civ 1315. See for example *Steadman-Byrne v Amjad* [2007] EWCA Civ 625 and the discussion at [10]-[16]

<sup>11</sup> [2008] UKHL 62

<sup>12</sup> At para [39]

*text of an article as well as the headlines'* and is able to put information into its overall social, political or geographical context.<sup>13</sup> Such a person reserves judgment until they have seen and understood both sides of the argument.

34. The case law also makes it clear that the fair-minded observer is not unduly sensitive or suspicious, but that where there are real grounds for doubt as to a lack of bias, the doubt must be resolved in favour of recusal. See Lord Bingham of Cornhill (now CJ) in *Locabail (UK) Ltd v Bayfield*.<sup>14</sup>

*... a real danger of bias might well be thought to arise if there were personal friendship or animosity between the judge and any member of the public involved in the case; or if the judge were closely acquainted with any member of the public involved in the case, particularly if the credibility of that individual could be significant in the decision of the case; or if, in a case where the credibility of any individual were an issue to be decided by the judge, he had in a previous case rejected the evidence of that person in such outspoken terms as to throw doubt on his ability to approach such person's evidence with an open mind on any later occasion; or if on any question at issue in the proceedings before him the judge had expressed views, particularly in the course of the hearing, in such extreme and unbalanced terms as to throw doubt on his ability to try the issue with an objective judicial mind (see *Vakauta v Kelly* (1989) 167 C.L.R. 569 ); or if, for any reason, there were real grounds for doubting the ability of the judge to ignore extraneous considerations, prejudices and*

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<sup>13</sup> At para [3]

<sup>14</sup> *Locabail v Bayfield* [2000] QB 451, at [25] and the Inner House decision of *Millar v Dickson* 2002 SC (P.C.) 30 at [65] as to the inevitability of disqualification when there is doubt in the mind of a reasonable person in which it was cited. See also *Man O'War Station Ltd v Auckland City Council* [2002] UKPC 28 per Lord Steyn at [11]: '*This is a corner of the law in which the context, and the particular circumstances, are of supreme importance,*' and there should therefore be '*an intense focus on the essential facts of the case*'

*predilections and bring an objective judgment to bear on the issues before him. The mere fact that a judge, earlier in the same case or in a previous case, had commented adversely on a party or witness, or found the evidence of a party or witness to be unreliable, would not without more found a sustainable objection. In most cases, we think, the answer, one way or the other, will be obvious. But if in any case there is real ground for doubt, that doubt should be resolved in favour of recusal. We repeat: every application must be decided on the facts and circumstances of the individual case. [ Emphasis added]*

35. In respect of the latter point, the length and complexity of the case can be a particular consideration as can the type of proceedings. It does not appear to be in dispute that the Chair is subject to a requirement to act with fairness and conform to the requirements of natural justice.<sup>15</sup>

36. In *Lawal v Northern Spirit*<sup>16</sup>, it was stated that the possibility of bias can in this respect be of subconscious bias . This was something confirmed by the Court of Appeal in *Resolution Chemicals Ltd v H Lundbeck A/S*<sup>17</sup> where it was emphasised that there must be a real possibility of bias; although the standard of probability does not have to be reached, the test is not whether there is “any possibility” of bias. The test is ‘a real possibility’ of bias, whether subconscious or otherwise.’

37. A key feature here is the hearing of evidence, the discussion of evidence and statements about evidence outwith the presence of other Core Participants. In this respect the House of Lords case of *Kanda v Government of the Federation of*

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<sup>15</sup> See paragraphs [8]-[10] of the application.

<sup>16</sup> [2003] UKHL 35 at [2]

<sup>17</sup> [2013] EWCA Civ 1515 at [36]

*Malaya*<sup>18</sup> contains important authority. The next passage follows on from the paragraph quoted by the Applicants at paragraph [7 ] of their submissions:

*If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them. This appears in all the cases from the celebrated judgment of Lord Loreburn L.C. in Board of Education v. Rice <sup>23</sup> down to the decision of their Lordships' Board in Ceylon University v. Fernando. <sup>24</sup> It follows, of course, that the judge or whoever has to adjudicate must not hear evidence or receive representations from one side behind the back of the other. The court will not inquire whether the evidence or representations did work to his prejudice, Suffice it that they might do so. The court will not go into the likelihood of prejudice. The risk of it is enough. No one who has lost a case will believe he has been fairly treated if the other side has had access to the judge without his knowing. [ **emphasis added**]*

38. When considering a recusal application based on more than one issue, the matters raised should be considered separately and also in combination. To fail to consider the matters in combination would be a misdirection.<sup>19</sup>

39. No doubt an important point for all concerned is the huge impact any disqualification would have at this stage of the Inquiry and the potential implications for further procedure. However, there is persuasive authority that

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<sup>18</sup> 1962 A.C. 322 at [337]

<sup>19</sup> *Dorman and others v Clinton Devon Farms Partnership* [2019] EWHC 2988 (QB), at [10]

the prejudice to the administration of justice and delays that arise from a successful recusal application are not relevant factors when determining whether the decision maker should accede to such an application. In *Morrison v AWG Group Ltd*<sup>20</sup>, when dealing with an allegation of apparent bias, The Court of Appeal held that such issues:

*...are totally irrelevant to the crucial question of the real possibility of bias and automatic disqualification of the judge. In terms of time, cost and listing it might well be more efficient and convenient to proceed with the trial, but efficiency and convenience are not the determinative legal values: the paramount concern of the legal system is to administer justice, which must be, and must be seen by the litigants and fair-minded members of the public to be, fair and impartial. Anything less is not worth having.*

## **GUIDANCE TO JUDICIAL OFFICE HOLDERS ON JUDICIAL ETHICS IN SCOTLAND**

40. Further assistance can be taken from Parts 4 and 5 of The Guidance to Judicial Office Holders on Judicial Ethics in Scotland (revised 2023)<sup>21</sup> (on Judicial Independence and the Principle of Impartiality) which are also relevant. In particular, [4.17] and [5.9] provide the following guidance:

4.17. *A judge may be asked to chair a public inquiry, on a topic which may be non-legal, but highly technical. It is consistent with judicial office for a judge to serve in these capacities, if the reason for the appointment is the need to harness*

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<sup>20</sup> [2006] EWCA Civ 6 at paragraph [29]

<sup>21</sup>[https://www.judiciary.scot/docs/librariesprovider3/judiciarydocuments/judicial-institute-publications/guidance-to-johs-on-judicial-ethics.pdf?sfvrsn=8c484132\\_1](https://www.judiciary.scot/docs/librariesprovider3/judiciarydocuments/judicial-institute-publications/guidance-to-johs-on-judicial-ethics.pdf?sfvrsn=8c484132_1)

*to the task the special skills which a judge possesses; characteristically the ability to dissect and analyse evidence, appraise witnesses, exercise a fair and balanced judgement and write a clear and coherent report. A judge should not accept such an appointment where the purpose is to lend the respectability of the office of a judge, or the reputation of the holder, to a political end. A judge should, before accepting any such appointment, ensure that appropriate safeguards are in place to secure their independence and impartiality. A public inquiry set up under the Inquiries Act 2005 will normally provide such safeguards.*

5.9 *A judge should be circumspect as regards to contact with those legal practitioners who are currently appearing, or who may appear regularly, in the judge's court. A judge should not act in such a way as to give rise to a justified perception that they might be inclined to favour the submissions of a particular practitioner.*

## **THE MEETINGS BETWEEN THE CHAIR AND THE BAYOH FAMILIES**

41. The SPF has already set out the meetings in detail based on the information available. The submissions and material to come from the Families, the Inquiry Counsel and the Chair will no doubt provide further detail and context to those Minutes. The Chief Constable does not consider it appropriate for her to offer a view on the Minutes as regards the application made at this stage other than to state that on the face it they call for an answer .



## OTHER RELEVANT CONCERNS

### The 'impasse'

42. There is, however, one aspect of the Minutes upon which she requires to comment as regards Police Scotland.

43. In the speaking notes for the first meeting is also reference at section 5 to delay by the inquiry in using legal powers.<sup>22</sup> There is reference to an 'impasse' with the Crown and Police Scotland in the summer. The implication, which is likely to have troubled the Families, is that Police Scotland had made unilateral representations to Crown office to withhold documentation from the Inquiry. It is the position of Police Scotland that this section of the speaking notes is a misrepresentation of the position and is unfair. The fact is that the Inquiry had failed to produce a protocol to deal with the proper consideration of redaction of Police Scotland documentation (in which there was a potential public interest not to disclose parts thereof) when such documents had also been provided to the Inquiry by the Crown. Police Scotland were encouraged to liaise with the Crown to assist the Inquiry. This is all addressed in detailed letters to the Inquiry from Police Scotland legal services dated 15 September 2021 and 1 October 2021 which are produced herewith and the terms of which are adopted.<sup>23</sup> All of this resulted in the Inquiry redaction protocol being amended on 22 December 2021 with assurances from the Inquiry legal team that they would consult Police Scotland in future where they were the most appropriate provider to be consulted.

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<sup>22</sup> PH -00002

<sup>23</sup> For completeness and in fairness the response from the Solicitor to the Inquiry in that chain is also produced.

44. The Chief Constable requires to address this in these submissions because she is concerned that in a process whereby considerable expense and resourcing has been applied to provide the Inquiry with the fullest disclosure possible and where Police Scotland has supported the Families in seeking to establish the facts with absolute candour, there is a suggestion that they were involved in prevention or delay of disclosure. Nothing could be further from the truth. An entirely responsible question was raised by Police Scotland with the Inquiry regarding who could properly advise on public interest redaction for police generated material in particular where that material was of a specialist nature. The said letters of the 15 September 2021 and 1 October 2021 should have been before the Chair.

45. In a situation in which Police Scotland has been striving to restore the confidence of the Families it is incredibly disappointing that this misinformation has been given to them thereby risking undermining the trust that has been built up. A fair minded reader could infer that the bald assertion is in conflict with the commitment of Police Scotland to absolute candour.

## **CONCERNS RE THE INVESTIGATION OF TRAINING**

46. The application having been raised and submissions called for, the Chief Constable requires to remind the Inquiry of her concerns regarding the approach to training.<sup>24</sup>

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<sup>24</sup> Baker v Quantum Clothing Group [2009] EWCA Civ 566 at [36]

47. The Chief Constable has been particularly concerned about how the Inquiry has approached the crucial chapter of training, which is central to understanding the response of the Core Participant officers on the day.
48. The concerns of the Chief Constable as to the lack of procedural fairness on the part of the Inquiry were detailed in numerous letters to the Inquiry (particularly on 11 and 18 September 2024) and subsequently to the Deputy First Minister. The submissions to the Deputy First Minister paragraphs [74]-[83] are referred to for their terms and adopted.<sup>25</sup>
49. The Chief Constable's ongoing commitment to the Inquiry is with the express intention of ensuring that the Inquiry remain credible and fulfil its public aims, including the aim to help to restore public confidence in systems or services by investigating the facts and making recommendations to prevent recurrence.
50. The Chief Constable (as did her predecessor at the outset) has made clear that she does not seek any particular outcome or answer from the Inquiry. Instead, the Chief Constable is mindful of Police Scotland's role as a key institution within Scotland's Justice system. Accordingly, she has remained acutely aware of her duty of candour; sought to work with the Inquiry in order to get to the truth and to provide answers to the members of the Bayoh Families and the wider communities that Police Scotland serves. Police Scotland has embraced

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<sup>25</sup> Submissions on behalf of the Chief Constable to the Deputy First Minister dated 7 February 2025 circulated to all Core Participants on that date.

the opportunity to learn lessons and make improvements wherever necessary and appropriate.

## **CONCLUSION**

51. The Chief Constable has a strong preference for the Inquiry to continue. However, she recognises that in fairness the concerns raised by the Applicants require an answer.

52. Acting properly in accordance with what should be expected from an informed and fair minded analysis, the Chief Constable requires to await the disclosure of the full details and context of the Minutes which will come from the Families and the Chair.

**Submitted on behalf of the Chief Constable, Police Scotland**

**Maria Maguire K.C.**

**Lisa Henderson K.C.**

**Suzanne Lambert, Barrister**

**22 May 2025**