



Scottish Police Federation

5 Woodside Place Glasgow G3 7QF

JCC Circular 27 of 2020

Ref: CS/LS

21 May 2020

Attachments: Sheku Bayoh TOR to SPF

Dear Colleague

Sheku Bayoh Terms of Reference to SPF - Information

Please find attached document for your information.

Yours sincerely

Calum Steele
General Secretary



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David Hamilton
Chair – Scottish Police Federation
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21 May 2020

Dear David,

PUBLIC INQUIRY INTO THE DEATH OF SHEKU BAYOH – TERMS OF REFERENCE

I would like to thank David Kennedy and Professor Watson for meeting with me on 30 January 2020 to discuss the Terms of Reference for the Public Inquiry into the circumstances surrounding the death of Sheku Bayoh. Please find enclosed a copy of the final Terms of Reference, which, in line with the Inquiries Act 2005, I announced to the Scottish Parliament today.

As I outlined when we met, my intention was to keep the Terms of Reference focused on the incident but sufficiently broad to allow Lord Bracadale to look at wider issues he considers to be pertinent to the Inquiry. While the final Terms of Reference that I published today do not feature all of the issues raised with me during my discussions, I am confident the scope is broad enough to include consideration of the operational and procedural aspects suggested by different stakeholders.

In line with the phased approach I have taken so far to establish the Public Inquiry - first announcing my intention to hold an Inquiry and then latterly announcing that Lord Bracadale will be Chair - today I am publishing the Terms of Reference and will later announce the formal setting up date. The setting up date is the starting point for the course of the Inquiry and marks the point at which the Chair takes over responsibility for the Inquiry and can start considering evidence.

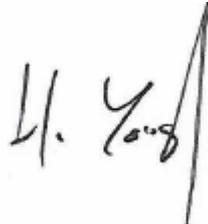
As I am sure you will appreciate, the current Coronavirus health pandemic has had an impact on our ability to take forward work on the Public Inquiry, while resources are refocused on essential Covid-19 priorities. Progress in certain areas, such as work to identify premises, will be affected by the current restrictions, but I will continue to discuss these matters with Lord

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Bracadale and will be providing further updates in due course. This will include developments on the appointment of Assessors and confirmation of the setting up date.

I recognise that there will be a range of different perspectives on the Terms of Reference, but I believe the Terms of Reference published today are suitably broad to strike a balance and retain the confidence of all parties involved.



HUMZA YOUSAF

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PUBLIC INQUIRY INTO THE DEATH OF SHEKU BAYOH - FINAL TERMS OF REFERENCE

The aim of this Inquiry is twofold: Firstly, the Inquiry will establish the circumstances surrounding the death of Sheku Bayoh in police custody on 3 May 2015 and make recommendations to prevent deaths in similar circumstances, as would have been required under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016. Secondly, the Inquiry will assess and establish aspects of the case that could not be captured, or fully captured through the FAI process, namely (a) the post incident management process and subsequent investigation and make any recommendations for the future in relation to these; and (b) the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard. The remit of the Inquiry is accordingly:-

- to establish the circumstances of the death of Sheku Bayoh, including the cause or causes of the death, any precautions which could reasonably have been taken and, had they been taken might realistically have resulted in the death being avoided, any defects in any operating models, procedures and training or other system of working which contributed to the death and any other factors which are relevant to the circumstances of the death;
- to make recommendations, if any, covering the taking of reasonable precautions, improvements to or introduction of any operating models, procedures and training, or other system of working, and the taking of any other steps which might realistically prevent other deaths in similar circumstances;
- to examine the post-incident management process and the investigation up to, but not including, the making by the Lord Advocate of the prosecutorial decision communicated to the family of Sheku Bayoh on 3 October 2018 (and the Victims' Right to Review process that was undertaken by the Crown Counsel in 2019), including: (i) the effectiveness of procedures for gathering and analysing information, (ii) the securing and preserving of evidence, (iii) the roles and responsibilities of those involved, (iv) liaison with the family of the deceased and (v) compliance with any relevant Convention rights; and make recommendations, if any, for the future in respect of these matters;
- to establish the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard; and
- to report to the Scottish Ministers on the above matters and to make recommendations, as soon as reasonably practicable.