

## OFFICIAL - SENSITIVE

From: [Redacted - Section 38(1)(b)]  
DSF: Police Division  
25 February 2020

Cabinet Secretary for Justice

### **PUBLIC INQUIRY TERMS OF REFERENCE: STAKEHOLDER ENGAGEMENT**

#### **Purpose**

1. To provide you with an overview of your recent engagement with key parties to discuss the shape and remit of the Public Inquiry into the death of Sheku Bayoh.

#### **Priority**

2. Routine.

#### **Background**

3. On 20 December, you wrote to a range of interested parties indicating that you would welcome the opportunity to hear their views on the Public Inquiry's remit and to discuss how best to equip it with the necessary diversity of expertise and background to deliver that remit.

4. [Redacted - *Section 30(b)(i)*]

5. In the discussions, you have outlined your intention to keep the Terms of Reference (ToR) focused on the incident but sufficiently broad to allow Lord Bracadale to look at wider issues he considers to be pertinent to the Inquiry and there appears to be broad agreement with this approach.

#### **Recurring themes**

6. [Redacted - *Section 30(b)(i)*]

7. [Redacted - *Section 30(b)(i)*]

#### **Specific suggestions**

8. [Redacted - *Section 30(b)(i)*]

#### **Next steps**

9. [Redacted – *Out of scope*]

**Recommendation**

10. You are invited to note the minutes of meetings attached.

[Redacted - Section 38(1)(b)]

DSF: Police Division

[Redacted - Section 38(1)(b)]

25 February 2020

**OFFICIAL - SENSITIVE**

<b>Copy List:</b>	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Community Safety			X		

DG Education, Communities & Justice  
Gillian Russell  
Neil Rennick  
Clare Hicks  
Craig French  
[Redacted - Section 38(1)(b)]

[Redacted – *Out of scope*]

## SHEKU BAYOH PUBLIC INQUIRY – MEETING WITH SCOTTISH POLICE FEDERATION (SPF) – 30 JANUARY 2020

**Present:** Cabinet Secretary for Justice, Prof Peter Watson, PBW Law, David Kennedy, Scottish Police Federation

In attendance: Craig French, SGLD, [Redacted - Section 38(1)(b)], Police Division (note)

### **Key highlights:**

- **Chair appointment:** The Scottish Police Federation welcomed the appointment of Lord Bracadale and the opportunity to discuss the Terms of Reference (ToR) and Assessors.
- **Terms of Reference:** The Cabinet Secretary confirmed his intention to keep the ToR broad brush while the Chair would decide on the details and specific aspects to focus on.
- Mr Yousaf outlined that the ToR would broadly cover the lead up to the incident, the incident itself, post-incident management and the question of race. Ensuring diversity is embedded in the Inquiry would be key to securing public confidence
- Among the issues to be covered by the ToR, the Federation identified Health and Safety, Body Worn Cameras, Tasers and cause of death. In particular, the advances in new forensic knowledge and terminology which were not available at the time of the incident but would now mean that the incident would have been approached as a medical emergency not a policing emergency.
- Mr Yousaf outlined that the ToR would not cover the detailed operational aspects or equipment but would cover the aspects of the FAI, allowing those detailed aspects to be considered within that framework, as well as the wider system issues that were relevant in this case, including the question of race.
- The Federation welcomed the indication that post-incident management would be covered by the ToR as this was considered to be lacking in this case.
- **Assessors:** The Federation considered the question of Assessors would follow the ToR as the remit would determine the type of Assessor required. If, for example the ToR was to examine the role of the Crown, the Inquiry would need Assessors who could advise on this.
- The Cabinet Secretary highlighted the distinction between Assessors and Expert Witnesses who would provide expertise on specific aspects. The key to Assessor appointments was to ensure diverse perspectives.
- The Cabinet Secretary confirmed that the Assessor appointments would be balanced and he was open to looking at serving or retired officers, as well as including perspectives from Scotland and beyond.
- The Federation would consider this invitation and write in with suggestions and this could be informed by the ToR one this was shared.
- **Preliminary hearing:** It would be for the Chair to decide on whether to have a preliminary hearing or frontload the Inquiry with documentary evidence gathering.
- **COP26:** The Federation were keen to assist with this and would welcome early notice of procedural aspects, particularly if hearings were to be held this year given likely impact of COP 26 on policing.
- **Budget and location:** In closing, Mr Yousaf noted that budgetary provision had been identified but the location had yet to be confirmed.

[Redacted – *Out of scope*]

[Redacted – *Out of scope*]

[Redacted – *Out of scope*]

[Redacted – *Out of scope*]

[Redacted – *Out of scope*]

[Redacted – *Out of scope*]

**From:** French C (Craig) <Craig.French@gov.scot>  
**Sent:** 24 January 2020 15:47  
**To:** [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>**  
**Cc:** [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>**  
**Subject:** RE: Official - sensitive: Public Inquiry********

Thanks. For the erdm file, here's my letter to peter Watson.

Craig

**From:** [Redacted - **Section 38(1)(b)]@gov.scot>  
**Sent:** 24 January 2020 15:45  
**To:** French C (Craig) <Craig.French@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>  
**Cc:** Hicks C (Clare) <Clare.Hicks@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>**  
**Subject:** RE: Official - sensitive: Public Inquiry**********

Hi Craig,

That's correct, the meeting is at 10am on Thursday rather than the afternoon.

Kind Regards,

[Redacted - **Section 38(1)(b)]**

[Redacted - **Section 38(1)(b)] | Public Inquiry Policy Officer | EU Exit, Police Scrutiny and Complaints | Police Division | Education, Communities and Justice Directorate | Scottish Government | 1R St Andrew's House | Regent Road | Edinburgh | EH1 3DG  
[Redacted - **Section 38(1)(b)] | [Redacted - **Section 38(1)(b)] | [Redacted - **Section 38(1)(b)]@gov.scot********

**From:** French C (Craig) <Craig.French@gov.scot>  
**Sent:** 24 January 2020 14:39  
**To:** [Redacted - **Section 38(1)(b)]@gov.scot>  
**Cc:** Hicks C (Clare) <Clare.Hicks@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>; [Redacted - **Section 38(1)(b)]@gov.scot>**  
**Subject:** RE: Official - sensitive: Public Inquiry**********

[Redacted – Out of scope]

Just about to write to peter watson. Is it now confirmed that the meeting is at parliament at **10:00hrs** on Thursday, rather than in the afternoon?

C

[Redacted – Out of scope]

Scottish Government Legal Directorate

T: 0131-244-1636  
E: craig.french@gov.scot



Professor P Watson  
PBW Law  
18 Woodside Place  
GLASGOW  
G3 7QF

Your ref: SCOTT01-07 PBW/AB  
Our ref: MCF  
24 January 2019

Dear Professor Watson

**Inquiry into the Circumstances of the Death of Mr Sheku Bayoh**

Thank you for your letter of 16 January.

Arrangements have been made for Mr Kennedy to meet with the Cabinet Secretary for Justice at Parliament at 10:00 hrs on Thursday 30 January. I understand that an invitation has also been extended to you to attend the meeting.

Yours sincerely

[Redacted - Section 38(1)(b)]

CRAIG FRENCH





## BRIEFING NOTE FOR CABINET SECRETARY FOR JUSTICE

### Meeting with Scottish Police Federation, 30<sup>th</sup> January 2020

<b>Title</b>	<b>Meeting with Scottish Police Federation</b>
<b>Who</b>	<i>David Kennedy, Deputy General Secretary Professor Watson, Legal Representative</i>
<b>What</b>	<i>Meeting to discuss the scope of the Public Inquiry into the death of Sheku Bayoh, specifically the Terms of Reference and appointment of Assessors to ensure the issue of diversity is covered.</i>
<b>Why</b>	<i>To welcome the opportunity to consider the views of all interested parties on the Public Inquiry's remit and structures, to discuss how we can best ensure the necessary diversity of expertise and background is delivered.</i>
<b>Where</b>	<i>Room TG.23, Scottish Parliament</i>
<b>When</b>	<i>Thursday 30<sup>th</sup> January 2020, 10:00-11:00</i>
<b>Supporting Official</b>	[Redacted – Section 38(1)(b)] – <i>Head of EU Exit, Police Complaints &amp; Scrutiny, Police Division Craig French, SGLD</i>
<b>Attached documents</b>	<b>Annex A</b> – [Redacted – out of scope] <b>Annex B</b> – <b>Meeting Brief</b> <b>Annex C</b> – [Redacted – Section 29(1)(a)] <b>Annex D</b> – [Redacted – Section 30(b)(i)]

**Copy to:** Minister for Community Safety and Legal Affairs  
DG Education, Communities and Justice  
Gillian Russell  
Neil Rennick  
Clare Hicks  
[Redacted – Section 38(1)(b)]  
[Redacted – Section 38(1)(b)]  
[Redacted – Section 38(1)(b)]  
Craig French  
[Redacted – Section 38(1)(b)]  
[Redacted – Section 38(1)(b)]  
[Redacted – Section 38(1)(b)]  
[Redacted – Section 38(1)(b)]  
John McFarlane

[Redacted – out of scope]

## MEETING BRIEF

<b>Item 1:</b>	<b>Terms of Reference</b>
<b>Background:</b>	[Redacted – Section 30(b)(i)]
<b>Discussion:</b>	<ul style="list-style-type: none"> <li>• We must not lose sight of the purpose of this Inquiry: to establish the circumstances leading to and following the tragic death of Mr Bayoh in order to identify any steps which could prevent deaths in similar circumstances – and to improve the post-incident management following such deaths.</li> <li>• If systemic issues emerge that were causal or contributory factors in this case, then it is right that the Inquiry address these.</li> </ul> <p><b>Lines to take:</b></p> <ul style="list-style-type: none"> <li>• <b>The Terms of Reference will determine the scope, direction and parameters of the Inquiry, so it will be important to take the time to get them right.</b></li> <li>• <b>The Inquiry will cover matters which would be covered by a FAI and also a range of other issues such as the post-incident management of the investigation.</b></li> <li>• <b>I will be discussing the draft Terms of Reference with Lord Bracadale and other interested parties and would welcome your views as part of that engagement.</b></li> <li>• <b>Are there any aspects which you think it essential for the Terms of Reference to cover?</b></li> </ul>

<b>Item 2:</b>	<b>Appointment of Assessors</b>
<b>Background:</b>	[Redacted – Section 30(b)(i)]
<b>Discussion:</b>	<ul style="list-style-type: none"> <li>• Welcome Mr Kennedy and Professor Watson's views on the appointment of assessors.</li> <li>• Recognise the importance of ensuring that the Inquiry is equipped with the necessary diversity to secure the confidence of the Bayoh family but that this must be balanced against ensuring that experience of policing is also properly represented.</li> </ul> <p><b>Lines to take:</b></p> <ul style="list-style-type: none"> <li>• <b>It is imperative that the circumstances leading up to Mr Bayoh's death and the events that followed, including whether his race played a part, are examined in full and in public.</b></li> <li>• <b>In order to do this effectively, the Inquiry must be equipped with the necessary diversity of expertise and background to scrutinise the extent to which race was a factor in the case.</b></li> <li>• <b>I will be discussing how to do this with the Chair but would welcome your views on the best way to build diversity into the Inquiry.</b></li> </ul>

- |  |  |
|--|--|
|  | <ul style="list-style-type: none"><li>• I am minded to appoint advisors and would welcome your thoughts on potential candidates.</li></ul> |
|--|--|

[Redacted – Section 29(1)(a)]

[Redacted – Section 30(b)(i)]

**From:** Redacted – Section 38(1)(b)]@pbwlaw.co.uk>  
**Sent:** 04 February 2020 11:00  
**To:** French C (Craig) <Craig.French@gov.scot>  
**Cc:** Peter Watson <pbw@pbwlaw.co.uk>  
**Subject:** SCOTT01-07 Sheku Bayoh Public Inquiry

Dear Craig,

Please see attached.

We look forward to hearing from you.

Kind regards

[Redacted – Section 38(1)(b)]  
Legal PA to Professor Peter Watson



18 Woodside Place  
Glasgow, G3 7QF  
0141 439 1990

[www.pbwlaw.co.uk](http://www.pbwlaw.co.uk)

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**PBW LAW**  
SOLICITOR ADVOCATE

Craig French  
The Scottish Government  
Email: [craig.french@gov.scot](mailto:craig.french@gov.scot)

Our ref: SCOTT01-07 PBW/AB

Date: 04 February 2020

Dear Craig

**Sheku Bayoh – Public Inquiry**  
**Scottish Police Federation**  
**Nicole Short, Ashley Tomlinson and Craig Walker**

Firstly, can I extend our thanks on behalf of the Scottish Police Federation and ourselves for the time devoted by the Cabinet Secretary to meet with us. We found the meeting helpful.

We would like to accept the invitation to revert to you with our suggestions as to areas that we may be interested that the Inquiry covers and our suggestions in respect of assessors. However, before completing our views on these matters, it would be helpful to have some idea, even in outline, of the terms of reference for the Inquiry. I would be grateful if you could update me as to when this is likely to be, and we will continue for our part to consider our response in respect of the matters which we were asked for.

Do not hesitate to contact me by telephone if this is easier.

Yours sincerely

[Redacted - Section 38(1)(b)]

**Prof Peter Watson**  
Solicitor Advocate