



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

9th Meeting, 2013 (Session 4)

Tuesday 19 March 2013

The Committee will meet at 9.30 am in Committee Room 1.

1. **Decisions on taking business in private:** The Committee will decide whether to consider a draft report on its inquiry into purposeful activity in prisons in private under item 5 today and at future meetings. The Committee will also decide whether to take items 6 and 7 in private.
2. **Inquiry into the effectiveness of the provisions in the Title Conditions (Scotland) Act 2003:** The Committee will take evidence from—
 - Professor Kenneth Reid, University of Edinburgh;
 - Professor Robert Rennie, University of Glasgow;
 - Lionel Most, Property Law Committee, Law Society of Scotland.
3. **Subordinate legislation:** The Committee will consider the following negative instruments—
 - Police Service of Scotland (Police Cadets) Regulations 2013 (SSI 2013/42);
 - Police Service of Scotland (Conduct) Regulations 2013 (SSI 2013/60);
 - Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 (SSI 2013/62).
4. **Victims and Witnesses (Scotland) Bill - witness expenses:** The Committee will be invited to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses on the Bill.
5. **Inquiry into purposeful activity in prisons:** The Committee will consider a draft report.

6. **Public Bodies Consent:** The Committee will consider a draft report.
7. **Subordinate legislation:** The Committee will consider a draft report.

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The papers for this meeting are as follows—

Agenda item 2

Paper by SPICe (private paper)

J/S4/13/9/1 (P)

[Further information on the Committee's inquiry into the effectiveness of the provisions in the Title Conditions \(Scotland\) Act 2003](#)

Agenda item 3

Paper by the clerk

J/S4/13/9/2

[Police Service of Scotland \(Police Cadets\) Regulations 2013](#)

[Police Service of Scotland \(Conduct\) Regulations 2013 \(SSI 2013/60\)](#)

[Police Service of Scotland \(Senior Officers\) \(Conduct\) Regulations 2013 \(SSI 2013/62\)](#)

Agenda item 5

Paper by the clerk (private paper)

J/S4/13/9/3 (P)

[Further information on the Committee's inquiry into purposeful activity in prisons](#)

Agenda item 6

Paper by the clerk (private paper)

J/S4/13/9/4 (P)

[Further information on the Public Bodies Act consent memorandum for the Public Bodies \(Administrative Justice and Tribunals Council\) Order 2013](#)

Agenda item 7

Paper by the clerk (private paper)

J/S4/13/9/5 (P)

Papers for information

Letter from the Scottish Government on strategic police priorities

J/S4/13/9/6

Letter from the Scottish Police Authority on day one allocation of business activities

J/S4/13/9/7

Justice Committee

9th Meeting, 2013 (Session 4), Tuesday, 19 March 2013

Subordinate legislation

Purpose

1. This paper invites the Committee to consider the following three negative instruments:

Police Service of Scotland (Police Cadets) Regulations 2013 (SSI 2013/42);

Police Service of Scotland (Conduct) Regulations 2013 (SSI 2013/60); and

Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 (SSI 2013/62).

2. Further details of the procedure for negative instruments are set out in Annexe A to this paper.

Police Service of Scotland (Police Cadets) Regulations 2013 (SSI 2013/42)

Purpose of instrument

3. This instrument is one of seven instruments to be laid under section 48 of the Police and Fire Reform (Scotland) Act 2012 on the governance, administration and conditions of service of constables and police cadets.

4. The main policy aim of this instrument is to ensure that police cadets retain their current terms and conditions on transfer to the Police Service of Scotland. The policy note on the instrument (at Annexe B) states that, “in agreement with the main policing stakeholders, these regulations save the Police Cadets (Scotland) Regulations 1968 to ensure that the small number of cadets who transfer to the Police Service of Scotland on 1 April 2013 will be able to complete their training and development”.¹

5. In addition, the regulations make a number of modifications to:

- ensure that references to the new police bodies are included where appropriate;
- allow the Chief Constable flexibility to be able to set the hours in which cadets are assigned to duties with a police officer to fit with the cadets’ training requirements; and
- amend cadets’ pay and charges for board and lodging to reflect the current rates agreed by the Police Negotiating Board.

6. This instrument comes into force on 1 April 2013.

7. Further details on the purpose of the instrument can be found in the policy note (at Annexe B).

¹ Policy note on Police Service of Scotland (Police Cadets) Regulations 2013 (SSI 2013/42) at Annexe B of this paper.

8. An electronic copy of the instrument can be found at:
<http://www.legislation.gov.uk/ssi/2013/42>

Consultation

9. The Scottish Ministers are required to consult and share any draft regulations laid under section 48 of the 2012 Act with a number of specified organisations and to consider any representations from them. The policy note on the instrument (at Annexe B) states that the Scottish Government has consulted in line with this requirement.

Subordinate Legislation Committee consideration

10. The Subordinate Legislation Committee considered this instrument at its meeting on 5 March and agreed to draw the instrument to the attention of the Parliament on a number of reporting grounds.

11. Firstly, the instrument refers to Regulations (on the minimum age for appointment) that apply to England and Wales, rather than to the equivalent Scottish Regulations as intended. The Scottish Government has confirmed that it will correct this error through amending regulations.

12. Secondly, the Police Cadets (Scotland) Regulations 1968 have been amended 13 times and so the SLC noted that it was difficult to establish the actual terms and conditions of service for a police cadet, particularly as an 'as-amended' version is not available electronically. The SLC considers, in the interests of accessibility, that it would have been preferable if Scottish Ministers had consolidated the 1968 Regulations. However, the Scottish Government is of the view that consolidation or new provision would have given the impression that the Police Service of Scotland might appoint new police cadets after 1 April 2013, when in fact only 19 cadets remain and there is no intention to make any further cadet appointments.

13. The Scottish Government did however agree to ask that the SPA provides a consolidated form of 1968 Regulations to each of the remaining police cadets transferring to the Police Service of Scotland.

14. The extract from the SLC's report on this instrument is attached at Annexe C.

Justice Committee consideration

15. The Justice Committee is required to report to the Parliament on this instrument by 25 March 2013.

Police Service of Scotland (Conduct) Regulations 2013 (SSI 2013/60)

Purpose of instrument

16. This instrument is one of seven instruments to be laid under section 48 of the Police and Fire Reform (Scotland) Act 2012 on the governance, administration and conditions of service of constables and police cadets.

17. The main policy aim of this instrument is to maintain within the Police Service of Scotland existing procedures for the handling of conduct matters for officers below the rank of assistant chief constable. They set out the process and procedure to be followed when an allegation of misconduct is made against a constable on or after

1 April 2013. Misconduct of constables below the rank of assistant chief constable is dealt with internally. Oversight of the conduct regime will lie with one of the deputy chief constables.

18. The policy note on the instrument (at Annexe D) indicates that new conduct procedures for all officers are currently being developed with input from a stakeholder working group. However, at the request of the Association of Chief Police Officers in Scotland (ACPOS) and other stakeholders, the Scottish Government agreed not to introduce the new procedures at this time to allow more time for the necessary development work and training to be undertaken within the Police Service of Scotland. New regulations will be introduced following agreement with stakeholders.

19. The instrument comes into force on 1 April 2013.

20. Further details on the purpose of the instrument can be found in the policy note at Annexe D.

21. An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2013/60>

Consultation

22. The Scottish Ministers are required to consult and share any draft regulations laid under section 48 of the 2012 Act with a number of specified organisations and to consider any representations from them. The policy note on the instrument (at Annexe D) states that the Scottish Government has consulted in line with this requirement.

Subordinate Legislation Committee consideration

23. The Subordinate Legislation Committee considered this instrument at its meeting on 5 March and agreed that there was no need to draw the Parliament's attention to the instrument on any grounds within its remit.

Justice Committee consideration

24. The Justice Committee is required to report to the Parliament on this instrument by 15 April.

Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013 (SSI 2013/62)

Purpose of instrument

25. This instrument is one of seven instruments to be laid under section 48 of the Police and Fire Reform (Scotland) Act 2012 on the governance, administration and conditions of service of constables and police cadets.

26. The main policy aim of this instrument is to set out new procedures for the handling of conduct matters for senior officers in the Police Service of Scotland. Senior officers are officers at the rank of chief constable, deputy chief constable and assistant chief constable.

27. These Regulations:

- set out the meaning of misconduct and gross misconduct;

- specify that a senior officer is entitled to have representation throughout misconduct proceedings;
- provide the Scottish Police Authority with a power to suspend senior officers whose conduct is alleged to amount to misconduct or constitute a criminal offence;
- specify that the SPA must carry out a preliminary assessment of any allegation of misconduct or gross misconduct. If the SPA decides that the allegation would, if proved, amount to either misconduct or gross misconduct, it must refer the matter to the Police Investigations and Review Commissioner (PIRC), who must investigate allegations of gross misconduct. The PIRC may either investigate allegations of misconduct or refer them back to the SPA. The PIRC must report its findings to the SPA, which will decide whether there is a case to answer;
- provide that, if the SPA has decided that the senior officer does have a case to answer, it must refer the matter to a misconduct hearing;
- establish the procedure for misconduct hearings. The SPA must appoint a panel of three to conduct the hearing: the chair will be a member of the SPA or its staff; the second member may be a member of the SPA, its staff, its committees or any other person considered appropriate by the SPA; the third will be an independent member chosen by the SPA on the basis of their skills, knowledge and expertise;
- set out the disciplinary action which may be taken where the senior officer has either been found guilty of or admitted misconduct or gross misconduct; and
- establish a procedure for appealing against a finding of misconduct or gross misconduct or against any disciplinary action to be taken.

28. The instrument comes into force on 1 April 2013.

29. Further details on the purpose of the instrument can be found in the policy note at Annexe E.

30. An electronic copy of the instrument is available at:
<http://www.legislation.gov.uk/ssi/2013/62>

Consultation

31. The Scottish Ministers are required to consult and share any draft regulations laid under section 48 of the 2012 Act with a number of specified organisations and to consider any representations from them. The policy note on the instrument (at Annexe E) states that the Scottish Government has consulted in line with this requirement.

Subordinate Legislation Committee consideration

32. The Subordinate Legislation Committee considered this instrument at its meeting on 5 March and agreed that there was no need to draw the Parliament's attention to the instrument on any grounds within its remit.

Justice Committee consideration

33. The Justice Committee is required to report to the Parliament on this instrument by 15 April.

34. In correspondence to the Justice Committee of 18 February 2013, ACPOS² expressed concerns that the arrangements proposed for misconduct hearings for senior officers lack independence. This letter is attached at Annexe F. The Scottish Government has written to the Committee (at Annexe G) responding to the points made in ACPOS' letter.

² The letter states that this is a joint response from ACPOS, the existing eight police forces, the Scottish Crime and Drug Enforcement Agency, Police Scotland, Scottish Chief Police Officers Staff Association, Association of Scottish Police Superintendents and the Scottish Police Federation.

Negative instruments: procedure

Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Subordinate Legislation Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.

Each negative instrument appears on the Justice Committee’s agenda at the first opportunity after the Subordinate Legislation Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Policy Note

Police Service of Scotland (Police Cadets) Regulations 2013

SSI 2013/42

1. The above instrument was made in exercise of the powers conferred by section 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The instrument is subject to negative procedure.

Policy Objectives

2. The 2012 Act, which received Royal Assent on 7 August 2012, changes the policing landscape in Scotland. It brings together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013.

3. The main policy objective of these regulations is to ensure that police cadets retain their current terms and conditions on transfer to the Police Service of Scotland.

4. In agreement with the main policing stakeholders, these regulations save the Police Cadets (Scotland) Regulation 1968 (“the 1968 Regulations”) to ensure that the small number of Cadets who transfer to the Police Service of Scotland on 1 April 2013 will be able to complete their training and development. The Police Service of Scotland does not intend to recruit new police cadets in the near future.

5. The 1968 Regulations set out the government, administration and conditions of service of police cadets and these regulations ensure that these continue to have effect after 1 April 2013. A small number of modifications have been made to the 1968 regulations to ensure that references to the Police Service of Scotland and the Scottish Police Authority are introduced appropriately. Other modifications are set out below.

6. Regulation 5(2) of the 1968 regulations has been deleted as this regulation specified that when a police cadet was assigned to duties with a police officer their weekly period of duty would be 40 hours. The utilisation of cadets has changed greatly since the 1968 Regulations were introduced and we wish to give the chief constable the flexibility to set hours that fit within the cadets training requirements.

7. The pay of cadets and the charge for board and lodging, has been amended to reflect the current rates agreed by the Police Negotiating Board.

Consultation

8. To comply with the requirements of section 54(1) and 54(2) of the 2012 Act, the Scottish Ministers have consulted and shared a draft of the Regulations with the Police Negotiating Board for the United Kingdom and persons mentioned in section 54(2)(a)(i) to (vi) of that Act, and have considered any representations made.

9. A public consultation took place from 14 December 2012 to 11 January 2013 and key stakeholders have been involved in a 'reference group' to discuss any significant policy changes to the regulations.

10. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes:

- Association of Chief Police Officers in Scotland (ACPOS)
- Association of Scottish Police Superintendents (ASPS)
- British Transport Police
- Her Majesty's Inspector of Constabulary for Scotland (HMICS)
- Police Complaints Commissioner for Scotland (PCCS)
- Police Negotiating Board
- Police Service of Scotland
- Scottish Chief Police Officers' Staff Association (SCPOSA)
- Scottish Police Authorities Conveners Forum (SPACF)
- Scottish Police Authority (SPA)
- Scottish Police Federation
- Scottish Women's Development Forum

Impact Assessment

11. A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
Safer Communities Directorate
6 February 2013

Extract from the Subordinate Legislation Committee 17th Report 2013

Police Service of Scotland (Police Cadets) Regulations 2013 (SSI 2013/42)
(Justice Committee)

1. This instrument revokes and saves the Police (Cadets) (Scotland) Regulations 1968 (“the 1968 Regulations”), together with 13 amending instruments which are similarly revoked and saved. It revokes a further 13 instruments which amended the 1968 Regulations, those amendments now being spent.
2. The 1968 Regulations are also made subject to a number of modifications set out in paragraph (3) of article 2, and paragraphs (4) to (11) make, in effect, transitional provision as to the contracts of employment of police cadets.
3. The regulations are subject to the negative procedure and are due to come into force on 1 April 2013.
4. In considering the instrument, the Committee raised certain matters with the Scottish Government. The correspondence is reproduced in Appendix 2.
5. Paragraph 1 of Part 3 of the Schedule to the instrument refers to “The Police (Minimum Age for Appointment) Regulations 2006” (“the English Regulations”). There is a footnote reference indicating that the instrument in question is SSI 2006/552. However, SSI 2006/552 is in fact the Police (Minimum Age for Appointment) (Scotland) Regulations 2006 (“the Scottish Regulations”). The Scottish Ministers have confirmed that this is a typographical error and that their intention was to make provision revoking and partially saving the Scottish Regulations.
6. The Scottish Government considers that the error is unlikely to be problematic in practice and proposes to correct this matter either by correction slip or in a future instrument. The Committee considers that as this is an error affecting the substance of the instrument and given its concerns as to the accessibility of the 1968 Regulations discussed below, a corrective instrument would provide better transparency for cadets affected by the regulations.
7. Separately, the Committee notes that the effect of this instrument is not to make fresh provision about the terms and conditions of service of police cadets. Instead, it prolongs the existence of the 1968 Regulations as amended, subject to the further modifications made by this instrument.
8. However, ascertaining the content of the 1968 Regulations is extremely difficult. To the best of the Committee’s knowledge, they are not available in a consolidated form, commercially or otherwise (save as mentioned below). Access to the original unamended text of the 1968 Regulations is not freely available to the public, although copies can be obtained from commercial resources or (in hard copy) from law libraries. Indeed, the Committee’s scrutiny of this instrument (particularly the modifications in article 2(3)) has been dependent upon the Scottish Ministers sharing an unofficial consolidation which they had prepared for their own purposes.
9. It is accordingly unusually difficult to ascertain what provision the 1968 Regulations make. The Scottish Government accepts that other approaches were

open to them, and that in particular they might have restated the 1968 Regulations (i.e. consolidated them) or have drafted entirely new terms and conditions. The Government points, however, to the fact that they understand there only to be 19 police cadets remaining in Scotland, with no intention to appoint any further cadets when those appointments come to an end. This fact appears to have been given substantial weight when deciding what approach to take. The Scottish Government goes on to say that either a consolidation or new provision would have given the impression that the Police Service of Scotland might appoint new police cadets after 1 April 2013, and that their stakeholders had neither asked for nor wanted such provision to be made.

10. The Committee considers that there is some force in the Scottish Government's argument, so far as it relates to formulating entirely new terms and conditions of service for police cadets. However, it is not convinced that there is any particular merit in the argument so far as it relates to a consolidation of the 1968 Regulations. Nor is it persuaded by the argument that these Regulations are essentially personal to the police cadets themselves, rather than being of wider application. In 1967 and in 2013, the UK Parliament and the Scottish Parliament respectively decided that the terms and conditions of service for police constables and police cadets should be set out in subordinate legislation which is subject to the negative procedure. In that respect, these instruments form part of the law of Scotland and the Committee can see no justification for saying that the lack of accessibility is excusable simply because it will affect only a small number of people.

11. The Committee observes that the Scottish Ministers will now ask the Scottish Police Authority to provide a consolidated copy of the 1968 Regulations to each of the remaining police cadets. In practical terms, this may help to ensure that the police cadets are aware of their terms and conditions of service. However, it appears to the Committee to be somewhat undesirable that understanding the effect of this instrument is dependent upon obtaining access to an unofficial and unpublished consolidation of the 1968 Regulations.

12. The Committee draws the instrument to the attention of the Parliament on reporting ground (i). Paragraph 1 of Part 3 of the Schedule to the instrument appears to be defectively drafted, in that it refers to the Police (Minimum Age for Appointment) Regulations 2006 (a statutory instrument which applies to England and Wales) rather than referring to the Police (Minimum Age for Appointment) (Scotland) Regulations 2006 as was apparently the Scottish Ministers' intention.

13. The Committee recommends that the Scottish Ministers lay an amending instrument to address this defect at the first available opportunity.

14. The Committee draws the instrument to the attention of the Parliament on the general reporting ground. This instrument saves and continues in effect the Police (Cadets) (Scotland) Regulations 1968 together with 13 relevant amending instruments. Article 2(3) of this instrument further modifies the 1968 Regulations. It is accordingly extremely difficult to ascertain the terms and conditions of service of police cadets as the Police (Cadets) (Scotland) Regulations 1968 have been amended extensively, are not available in an as-amended form (save in an unofficial consolidation prepared by the Scottish

Ministers), and are not freely available in electronic form even in their original and unamended form.

15. The Committee notes the Scottish Ministers' intention to request that the Scottish Police Authority provide a consolidated form of the 1968 Regulations to each of the police cadets transferring to the Police Service of Scotland.

16. The Committee considers that it would have been preferable, in the interests of accessibility of the subordinate legislation made under the Police and Fire Reform (Scotland) Act 2012, had the Scottish Ministers simply consolidated the 1968 Regulations rather than relying upon the saving provisions of this instrument coupled with the existence of an unofficial and unpublished consolidation document.

Policy Note

Police Service of Scotland (Conduct) Regulations 2013

SSI 2013/60

1. The above instrument was made in exercise of the powers conferred by sections 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 ("the 2012 Act"). The instrument is subject to the negative procedure.

Policy Objectives

2. The 2012 Act, which received Royal Assent on 7 August 2012, changes the policing landscape in Scotland. It brings together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013.

3. The main policy objective of these Regulations is to maintain in the new Police Service existing procedures for the handling of conduct matters for officers below the rank of assistant chief constable (ACC).

4. This instrument is a technical update of the current regulations (the Police (Conduct) (Scotland) Regulations 1996) in order to reflect the establishment and role of the new Police Service. It is envisaged that new conduct procedures for all officers, which are currently being developed following input from a stakeholder working group, will be implemented in the Police Service. However, following a request from ACPOS and with support from other key stakeholders it was decided that it was not feasible for the necessary development work and training to be undertaken within the police service by 1 April 2013. New regulations will be introduced in due course following agreement with stakeholders; in the meantime the procedures implemented by these Regulations continue to be fit for purpose.

5. These regulations set out the process and procedure to be followed when an allegation of misconduct is made against a constable on or after 1 April 2013. Responsibility for oversight of the conduct regime will lie with a designated Deputy Chief Constable (DCC) in the Police Service. Misconduct of constables below the rank of ACC is dealt with internally.

6. Part 1 deals with the initial assessment of the allegation of misconduct including the suspension conditions which must be met before a constable can be suspended. Part 2 covers preliminary investigations into the misconduct allegation. Misconduct of a minor or trivial nature may be dealt with by giving the constable a warning. Other kinds of misconduct will be investigated and Part 3 deals with those cases where following the investigation a misconduct hearing is held.

7. The regulations provide that constables may be represented at misconduct hearings either by another constable, in practice this is likely to be someone from the appropriate staff association, or by a legal representative. Where a finding of misconduct is made at the hearing or in cases where the constable admits the misconduct the regulations set out the available disposals including admonition, reduction in rank, and a fine.

8. Part 4 sets out how appeals to the chief constable will be handled. Constables may appeal against the findings, the disposal or both. The chief constable must determine the appeal and may confirm or reverse the finding of misconduct and vary the disposal or substitute it,

9. Schedule 1 sets out the types of conduct which constitute misconduct

Transitionals and Savings

10. Schedule 2 makes provisions to allow any misconduct cases which are pending on 1 April 2013 to continue to be dealt with under the current regulations by the Police Service.

Consultation

11. To comply with the requirements of section 54(2) of the 2012 Act, the Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) of that Act and have considered any representations made.

12. A public consultation took place from 14 December 2012 to 11 January 2013 and key stakeholders have been involved in a 'reference group' to discuss any significant policy changes to the regulations.

13. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes:

- Association of Chief Police Officers in Scotland (ACPOS)
- Association of Scottish Police Superintendents (ASPS)
- British Transport Police
- Her Majesty's Inspector of Constabulary for Scotland (HMICS)
- Police Complaints Commissioner for Scotland (PCCS)
- Police Negotiating Board
- Police Service of Scotland
- Scottish Chief Police Officers' Staff Association (SCPOSA)
- Scottish Police Authorities Conveners Forum (SPACF)
- Scottish Police Authority (SPA)
- Scottish Police Federation
- Scottish Women's Development Forum

Impact Assessment

A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
21 February 2013

Policy Note

Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013

SSI 2013/62

1. The above instrument was made in exercise of the powers conferred by sections 15(3), 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 ("the 2012 Act"). The instrument is subject to the negative procedure.

Policy Objectives

2. The 2012 Act, which received Royal Assent on 7 August 2012, changes the policing landscape in Scotland. It brings together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013.

3. The main policy objective of these Regulations is to set out procedures for the handling of conduct matters for senior officers in the Police Service. Senior officers are those of the rank of chief constable, deputy chief constable and assistant chief constable. These officers are appointed by the Scottish Police Authority and section 52(3) of the 2012 Act requires regulations made under section 48 of that Act to provide for the Authority to determine cases involving the standard of behaviour of senior officers.

4. The provisions in the regulations reflect the new conduct regime for senior officers which will take effect from 1 April. This regime divides behavioural matters into two categories: misconduct and gross misconduct. Standards of professional behaviour (set out in Schedule 1) have been developed by a working group of relevant stakeholders including the police staff associations, ACPOS and the Police Complaints Commissioner for Scotland. Under the new conduct regime a breach of these standards may be treated as misconduct whilst a breach so serious that it may justify dismissal may be treated as gross misconduct.

5. The disciplinary action in proven cases ranges from action to improve the senior officer's conduct to dismissal.

6. Throughout the misconduct procedures, including at appeal, the senior officer may be represented. The representative may be a police friend (that is a constable, a member of police staff, an individual nominated by the senior officer's staff association), an advocate or a solicitor. Both the senior officer and the representative will be provided with relevant information and documents relating to the misconduct or gross misconduct and will be advised in writing if there will be a misconduct hearing. It will therefore be clear from early in the process whether the breach of the professional standards is misconduct or gross misconduct.

7. At each stage in the misconduct process prior to the misconduct hearing there is an option for the SPA to determine that no further action is required. For example, at the preliminary assessment the SPA may decide that the conduct amounts to neither

misconduct nor gross misconduct and that no action is required. Equally the SPA may make the same determination following an investigation.

8. Where the SPA assesses that an allegation of misconduct should be investigated it must be referred to the Police Investigations and Review Commissioner (PIRC). Gross misconduct must be investigated by the PIRC whilst misconduct cases may be investigated by PIRC or may be referred back to the SPA for action. The clear policy intention is that PIRC will investigate high tariff cases.

9. Misconduct and gross misconduct may be referred by the SPA following investigation to a misconduct hearing. The misconduct hearing will be conducted by a three person panel. The chair will be from the SPA and one of the members of the panel must be independent. The panel will determine the case and may consider written or oral evidence or both. Where a misconduct case has been referred the panel cannot determine that gross misconduct has occurred. The panel will also determine the disciplinary action which is to be taken. In cases of misconduct the most serious sanction is a written warning, unless the senior officer is already subject to an existing final written warning. For cases where the senior officer is subject to a final written warning and cases of gross misconduct, the most serious sanction is dismissal.

10. Part 4 sets out how appeals against the misconduct hearing panel's decision will be handled. Senior officers may appeal against the findings, the disposal or both. The SPA is to be allowed to determine how the appeal may be determined subject to the provisions in the regulations. The SPA may confirm or reverse the finding of misconduct, confirm or vary any disciplinary action, require improvement action instead of disciplinary action or remit the case back to the misconduct hearing panel where it has been established that there is evidence which was not considered at the hearing.

Transitionals and Savings

11. Schedule 2 makes provisions to allow any misconduct cases which are pending on 1 April 2013 to continue to be dealt with by the SPA under the current regulations, the Police (Conduct) (Senior Officers) (Scotland) Regulations 1999 where the senior officers transfer to the Police Service on that date. The provisions also ensure that allegations made after 1 April 2013 where the misconduct of the transferred senior officer occurred before that date can be dealt with by the SPA using the procedures in the 1999 regulations.

Consultation

12. To comply with the requirements of section 54(2) of the 2012 Act, the Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) of that Act and have considered any representations made.

13. A public consultation took place from 14 December 2012 to 11 January 2013 following which there was further direct engagement with key stakeholders including SPA, SCPOSA, ACPOS and the chief constable of the Police Service on the provisions in the regulations.

14. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes:

- Association of Chief Police Officers in Scotland (ACPOS)
- Association of Scottish Police Superintendents (ASPS)
- British Transport Police
- Her Majesty's Inspector of Constabulary for Scotland (HMICS)
- Police Complaints Commissioner for Scotland (PCCS)
- Police Negotiating Board
- Police Service of Scotland
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Impact Assessment

A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
Safer Communities Directorate
25 February 2013

Correspondence to the Justice Committee from ACPOS on the Police Service of Scotland (Conduct) (Senior Officers) Regulations 2013 (SSI 2013/62)

I understand that the Justice Committee is currently scrutinising these Regulations.

The police service, in the form of a joint response from ACPOS (representing the existing eight forces and SCDEA) and Police Scotland, as well as Scottish Chief Police Officers Staff Association (SCPOSA), the Association of Scottish Police Superintendents (ASPS) and the Scottish Police Federation (SPF), representing all officers of every rank, have made clear to Scottish Government our very real concerns on these new Regulations.

I won't rehearse all of these concerns, which were submitted as part of the consultation process and I know that your Committee advisers will be reviewing all such responses and advising you accordingly.

Our over-riding concern, over and above ensuring that senior officers are dealt with fairly and proportionately, has always been in regard to public confidence in the complaints system in respect of the most senior officers. While some progress has been made through our regular dialogue with Scottish Government, we do not believe that it goes far enough. We think, therefore, it is worth bringing directly to your attention our principal concern that there is a very real risk that these Regulations will have neither the confidence of the public or of the senior officers within the service who will be affected by them. The main points of our concerns are:

- The new Regulations discard a key strength of the existing Regulations, which is the appointment of an independent misconduct panel chair from a list held by the Lord President;
- The relatively small number of members and senior officers of the Scottish Police Authority, and the close day-to-day working relationship that presumably they will have with an equally small number of senior officers, must run the risk, even if only in public perception or in the media, of the system lacking in true independence or impartiality;
- The lack of a clear separation between the misconduct panel and the appeal process, is in our view, unfair and legally challengeable.

As you would expect, we have had regular dialogue with officials from Scottish Government throughout this process, including a meeting with the Cabinet Secretary for Justice. We agree with Scottish Government that there is an opportunity to improve existing weaknesses but the decision to remove the independence of the Lord President appointed Chair, appears to us to be a prime example of 'throwing the baby out with the bath water' because that aspect cannot be considered in any sense to be part of the existing weaknesses. We have heard no sound basis for removing this important element, other than the Lord President's apparent reluctance, which we understand and respect, to be so involved. If the Scottish Government wishes to take that responsibility away from the Lord President, surely there is then an onus to replace that with something of equal standing?

We maintain our position that a truly independent hearing panel would enhance the process, protecting the interests of everyone involved and providing the SPA with expert guidance in order to assist their ultimate determination of the case.

As we are about to enter a new era of policing, there was an opportunity to take the best of the existing arrangements and ensure that what was introduced for the future was an improvement on the past. That has not been achieved. We recognise the weaknesses in the existing system and we agree with the Scottish Government's efforts in making the SPA accountable for the efficient and effective handling of complaints against senior officers but the net effect of the new Regulations potentially compromises public confidence and fairness.

Kevin Smith QPM
Chief Constable
ACPOS President
18 February 2013

**Correspondence to the Justice Committee from the Cabinet Secretary for
Justice responding to points from ACPOS on the Police Service of Scotland
(Conduct) (Senior Officers) Regulations 2013 (SSI 2013/62)**

The Justice Committee will be shortly be considering the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013. I am aware that Kevin Smith, President of ACPOS, has written to you about these. I thought it would be helpful to provide you with some additional background on the development of the Regulations.

The points raised in Mr Smith's letter were also raised with my officials and me, and discussed extensively with me at a meeting on 11 February which Mr Smith and representatives from the police staff associations and the Scottish Police Authority attended.

I believe that these Regulations deliver a fair, robust, and proportionate approach to dealing with misconduct allegations against senior officers. It is my belief that the procedures set out will serve to strengthen the effectiveness the system and therefore improve public confidence in it.

The approach taken in the Regulations is to provide a regime for senior officers which moves away from one of blame and sanction to one of learning and improvement. The conduct process also needs to be less bureaucratic, speedier and more cost effective to address concerns about the length of time taken to deal with these cases under the old system and the resulting cost to the public purse.

Senior officers are appointed and held to account by the Scottish Police Authority. It is right and proper that the Authority should be ultimately responsible, and accountable, for decisions about misconduct cases. This is why the Regulations provide that the Authority will chair the misconduct hearing panel.

The Regulations also ensure that independence is provided in the conduct process where appropriate, most notably in independent investigation by the Police Investigations and Review Commissioner, and a mandatory independent member of the misconduct hearing panel.

Another enhancement provided by these Regulations is the introduction of an appeal process for disciplinary outcomes short of dismissal. This is a new step in the process for senior officers and it is in line with the ACAS Code of Practice on disciplinary procedures which sets out that those persons subject to disciplinary decisions should have the opportunity to appeal against the decision. The Regulations require that the appeal is determined by an individual who was not involved in the original panel decision. This ensures a clear separation between the misconduct panel and the appeal process in these cases. The Regulations in fact go further than the ACAS Code of Practice, which provides only that this should happen wherever possible.

Senior officers who are dismissed also have recourse to an independent appeal. As now, any dismissal may be appealed to the Police Appeals Tribunal which is wholly independent, and whose members are drawn from a list of suitable persons appointed by the Lord President.

It is worth noting that there is no parallel in any public service in Scotland, including other ranks within the police service, to the wholly independent hearing panel which Mr Smith has suggested in his letter to the Committee.

As a public body the SPA has duties to act fairly and proportionately, is subject to public and Parliamentary scrutiny, and is accountable to Scottish Ministers and, through them, to Parliament for how it carries out its functions. I am confident that the SPA will ensure that the conduct process is applied fairly and equitably to senior officers in a professional and robust way.

I have asked the SPA to begin discussions with the staff associations about how the procedures set out in the Regulations will be implemented and the first of these discussions will take place later this month. I am confident that these discussions will provide further reassurance that the Regulations strike the appropriate balance between effectiveness, efficiency and fairness.

Kenny MacAskill MSP
Cabinet Secretary for Justice
Scottish Government
14 March 2013

Justice Committee

9th Meeting, 2013 (Session 4), Tuesday, 19 March 2013

Police and Fire Reform (Scotland) Act 2012

Letter from the Scottish Government to the Convener

Strategic Police Priorities

I am writing to inform you that Scottish Ministers have agreed the strategic police priorities for the new Scottish Police Authority (SPA).

As you are no doubt aware, Section 33 of the Police & Fire Reform (Scotland) Act 2012 requires Scottish Ministers to set strategic priorities for the SPA, which reflect the new policing principles. The strategic priorities are set out at Annex A.

I am sure you will recognise that Scottish policing is performing excellently. Crime is at a 37 year low. The number of crimes involving handling an offensive weapon are now at their lowest level in 18 years. Public confidence is high and rising, and the people of Scotland are feeling safer in their communities. I want to build on that.

The strategic police priorities are stretching and ambitious, and reflect the role which policing is expected to play in supporting the delivery of the Scottish Government's wider Purpose and outcomes. Their delivery is firmly rooted in the four pillars of public service reform – prevention, performance, people and partnership. They empower local commanders to work with local communities to deliver greater integration of services at a local level driven by better partnership, collaboration and effective local delivery. Ultimately, they reflect the aspiration this Government, as set out in the new policing principles, to improve the lives of the people of Scotland by reducing crime and harm, and improving wellbeing.

The strategic police priorities were finalised following a broad stakeholder consultation, which closed on Thursday 10 January 2013. The consultation issued to 156 bodies and generated 48 responses, which included representations from a wide range of groups, including local government interests, Health Boards, third sector organisations (such as Victim Support and SACRO) and, of course, the SPA and the police service. There was strong support for the broad thrust of the strategic police priorities, with the majority of respondents agreeing that they are pitched at the right level and adequately reflect the Scottish Government's purpose and outcomes, and the new policing principles.

The SPA is currently finalising its Strategic Plan, which sets out its approach to delivering the strategic police priorities, along with specific objectives. Similarly, the Chief Constable is finalising the Police Service of Scotland's annual plan which will set out specific deliverables for the first year of operation. Both of these documents will be published before 1 April and there will be a line of sight through the priorities, objectives and deliverables set out in the strategic priorities and plans.

My officials have been working closely with the SPA, PSoS and HM Inspectorate of Constabulary for Scotland to produce a national performance framework for policing, which will track performance against the strategic police priorities.

The strategic police priorities will be laid in Parliament today and will be placed on the Scottish Government's website.

I would be happy to meet if you would like to discuss.

Kenny MacAskill
Cabinet Secretary for Justice
13 March 2013

ANNEX A**STRATEGIC POLICE PRIORITIES**

1. The Scottish Police Authority (SPA) and the Police Service of Scotland will deliver the statutory policing principles set out in the Police and Fire Reform (Scotland) Act 2012. The SPA is the national body responsible for the governance of policing in Scotland. It will allocate resources to the Chief Constable and hold him to account for the policing of Scotland and the delivery of statutory functions, in turn accounting to Scottish Ministers for policing and the functions the SPA is directly responsible for, including the Forensic Service and Independent Custody Visiting.
2. The priorities are intended to clearly incorporate the contribution which policing can make to achieve the Scottish Government's purpose and national outcomes, and the related priorities within the Strategy for Justice. Consistent with our wider ambition for public services, these are strongly underpinned by the four pillars of public service reform – prevention, performance, people and partnership.
3. They are intended to set clear national priorities but also to empower local commanders to work with partners in the public, private and third sectors, and local communities within the Community Planning framework to deliver greater integration of services at a local level driven by better partnership, collaboration and effective local delivery.
4. We expect that further specific and measurable deliverables relating to Scottish Government's national outcomes will be included in the Strategic Plan which the SPA will draft on the basis of the strategic priorities.
5. The strategic priorities are:

Make communities safer and reduce harm by tackling and investigating crime and demonstrating pioneering approaches to prevention and collaboration at a national and local level.

Actively support a decisive shift towards prevention by promoting evidence based practice and effective partnerships to make the most of collective resource, knowledge and expertise, especially around reducing violence and reoffending, substance misuse, promoting better outcomes for young people who offend and protecting children, young people and vulnerable adults.

National outcome 4: Our young people are successful learners, confident individuals, effective contributors and responsible citizens

National outcome 5: Our children have the best start in life and are ready to succeed

National outcome 6: We live longer, healthier lives

National outcome 8: We have improved the life chances for children, young people and families at risk

National outcome 9: We live our lives safe from crime, disorder and danger

Strengthen Scotland's reputation as a successful and safe country by demonstrating excellence in effectively planning for and responding to major events and threats.

Work across national, international and organisational boundaries to ensure the Commonwealth Games and other important events are safe and secure; contribute effectively to multi agency arrangements to deal with emergencies; and minimise threats to our communities arising from extremism and serious organised crime.

- National outcome 1: We live in a Scotland that is the most attractive place for doing business in Europe.
- National outcome 9: We live our lives safe from crime, disorder and danger
- National outcome 11: We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others

Provide an efficient, effective service focused on protecting frontline services, delivering the benefits of police reform and promoting continuous improvement.

Deliver the three benefits of reform¹ and work with others to ensure that the criminal justice system is fair and accessible, using science, technology and innovation to support the delivery of an effective and efficient police service.

- National outcome 14: We reduce the local and global environmental impact of our consumption and production.
- National outcome 16: Our public services are high quality, continually improving, efficient and responsive to people's needs

¹ (1) Protect and improve local services despite financial cuts, by stopping duplication of support services eight times over and not cutting front line services.

(2) Create more equal access to specialist support and national capacity where and when they are needed.

(3) Strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more local councillors and better integrating with Community Planning Partnerships.

Make communities stronger and improve wellbeing by increasing public confidence and reducing fear of crime, making the new Police Service of Scotland an exemplar of visible, ethical and responsive policing.

Ensure that victims, witnesses and communities experience positive engagement with the police by providing inspirational leadership and embedding a culture, identity and values which provide a highly skilled and motivated workforce to deliver improved local services with the consent and involvement of communities.

National outcome 6:	We live longer, healthier lives.
National outcome 7:	We have tackled the significant inequalities in Scottish society.
National outcome 9:	We live our lives safe from crime, disorder and danger
National outcome 11:	We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others
National outcome 13:	We take pride in a strong, fair and inclusive national identity
National outcome 16:	Our public services are high quality, continually improving, efficient and responsive to local people's needs

Justice Committee

9th Meeting, 2013 (Session 4), Tuesday, 19 March 2013

Police and Fire Reform (Scotland) Act 2012

Letter from the Scottish Police Authority to the Committee

Initial allocation of day one business activities between the Police Service of Scotland and Scottish Police Authority

I am writing to provide the members of the Justice Committee with an update on the latest SPA Board meeting.

The Police and Fire Reform (Scotland) Act 2012 means Police Staff currently in Forces, Unitary Authorities, Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency all become employees of the SPA on 1 April. The Act also requires the SPA to appoint employees as either Police Staff under the direction of the Chief Constable, PSoS, or assign them to the SPA to support the Chief Executive.

At its meeting in Edinburgh on 8 March 2013, the Scottish Police Authority (SPA) Board agreed the initial allocation of business functions which will let employees know if they report into the SPA or Police Service of Scotland (PSoS) on Day One.

The Board heard from the Chief Constable and the Interim Chief Executive of the SPA before reaching their decisions.

As a Board we took a decision to consider these proposals in a closed session out of consideration for staff. Our view is that when staff require to hear something from their employer, they should do so directly and not through a third party such as the media. We also wanted to ensure transparency of decision-making and that is why we invited unions and police representative bodies to attend and observe our considerations. Communications with staff is now underway and I am writing today to update you on the outcome of our decisions.

The three guiding principles in the Board's decision making process were:

- Minimising disruption;
- Providing both the SPA and the Chief Constable with the staff they require to fulfil their responsibilities;
- Creating a viable service for day one.

With this in mind, as a general rule, most Police Staff from the 8 Forces will be appointed to PSoS while most staff in SPSA will be assigned to SPA on 1 April. For the vast majority of staff, they will experience no change on Day One – doing the same job, in the same location, for the same line manager.

For operational and business needs, there are a small number of areas where Police Staff from forces will be assigned to SPA, and where SPSA staff working in the

SCDEA will be appointed under the direction and control of the Chief Constable. These are primarily in areas such as procurement and internal audit, which the Committee will recall was an area of early agreement when the Chief Constable and I gave evidence some months ago.

These staff represent less than 2 per cent of the total civilian workforce across Scottish policing, but again most staff in these groups will be asked to keep doing the same job in the same place as currently.

The HR teams at the Forces, Unitary Authorities, SPSA and SCDEA are currently arranging for letters or emails to be sent to all employees to confirm arrangements for Day One. These will be issued to staff by the end of this week.

As a board we have for some time been looking at police reform as an integrated three-stage process: day 1, interim, and steady state. We have always envisaged that real change for staff will come in these interim and steady state phases, and that will only be done after full, formal consultation with staff and unions and with a thorough assessment of the long-term needs of policing.

We know staff have been anxious for clarity on where they fit into the new structures and we are both pleased that we can now move forward and start to deliver that for people this week.

For your information, I attach a summary of where each business activity has been allocated. This has today been communicated to staff and published on the SPA website.

Vic Emery
Chair, Scottish Police Authority
14 March 2013

FORENSIC SERVICES	
Resource	All existing SPSA staff appointed as SPA staff All force forensic gateway staff appointed as police staff
Role/Key deliverables	Delivery of support services to the Police and Procurator Fiscal from Crime Scene to Court
Rationale for appointment to SPA/PSoS	<p>Section 31 of The Act states “The Authority must provide forensic services to the Police Service, the Police Investigations and Review Commissioner and the Lord Advocate and procurators”</p> <p>Based on the requirements of the Act the business activities associated with Forensic Services would naturally flow to the SPA.</p> <p>The existing force and SCDEA resource involved in Forensic Gateway and Forensic co-ordination work are closely aligned to the day to day operations of the policing function.</p>

ICT	
Resource	All existing SPSA staff appointed as SPA staff All existing force based Business relationship manager appointed as police staff.
Role/Key deliverables	ICT support requirements of Scottish Policing from fault rectification to implementation of local and national solutions
Rationale for appointment to SPA/PSoS	<p>From the Organisational Principles (Business Activities) paper Approved 18 January 2013</p> <ul style="list-style-type: none"> • That ICT will be a business activity managed by the SPA and provided as a service to Police Scotland and other stakeholders. • ICT staff will be employees of the Scottish Police Authority, and will be specifically designated as SPA staff under the terms of the legislation. <p>This means the business activities associated with ICT would naturally flow to the SPA.</p> <p>The existing force resource involved as Business Relationship managers provide support work that is closely aligned to the day to day operations of the policing function.</p>

LEGAL SERVICES	
Resource	SPSA staff to be appointed as SPA staff and Staff from existing authorities to be appointed as SPA staff Staff from the existing Forces to be appointed as Police staff
Role/Key deliverables	To provide legal advice and support across a range of matters, including representation at Courts and Tribunals, obtaining Sexual Offences Prevention Orders, acting at disciplinary Hearings, licensing matters, Human Resources issues, provision of property etc.
Rationale for appointment to SPA/PSoS	From the Organisational Principles (Business Activities) paper Approved 18 January 2013 <ul style="list-style-type: none"> That, in legal services, some staff will be appointed as police staff under the direction and control of the Chief Constable and others will be SPA staff and provide legal services to the Authority.

TRAINING	
Resource	SPSA staff to be appointed as SPA staff and staff from the existing forces to be appointed as Police staff
Role/Key deliverables	The Training Education and Development (TED) service will include all training, education and development activities across the Police Service of Scotland (PSoS). This includes all activities at local, regional and national level.
Rationale for appointment to SPA/PSoS	To minimise disruption and ensure continuity of service on Day One.

PROCUREMENT	
Resource	SPSA staff to be appointed as SPA staff Staff from the existing forces who are involved in procurement, purchasing and stores to be appointed as SPA staff
Role/Key deliverables	<ul style="list-style-type: none"> <i>Procurement</i> – The act of tendering, placing and managing contracts. <i>Purchasing</i> – The act or requisitioning and placing orders. <i>Stores</i> – The act of receiving deliveries, holding and distribution of stock.
Rationale for appointment to SPA/PSoS	<p>Some aspects of procurement activity for the existing forces are already carried out centrally by the SPSA – specifically, ICT procurement under an agency agreement. The Act grants the Authority the general power to “enter into contracts” (Section 4 (2) (a)).</p> <p>From the Organisational Principles (Business Activities) paper Approved 18 January 2013</p> <ul style="list-style-type: none"> That procurement activity will be undertaken by the SPA and

	<p>provided as a service to the Police Scotland and other stakeholders.</p> <ul style="list-style-type: none"> • Procurement staff will be employees of the Scottish Police Authority, and will be specifically designated as SPA staff under the terms of the legislation.
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ESTATE MANAGEMENT	
Resource	SPSA staff to be appointed as SPA staff and Staff from the existing forces to be appointed as Police staff
Role/Key deliverables	<ul style="list-style-type: none"> • Acquisition and disposal of property • Managing space within property • Building maintenance • Security • Cleaning • Catering • Environmental Management
Rationale for appointment to SPA/PSoS	Two options were considered and it was agreed, to minimise disruption to have the status quo on Day 1.

FLEET MANAGEMENT	
Resource	SPSA staff to be appointed as SPA staff Staff from the existing forces to be appointed as Police staff
Role/Key deliverables	<ul style="list-style-type: none"> • Vehicle acquisition and commissioning. • Vehicle servicing/repairs. • Vehicle decommissioning and disposal. • Management of outsourced vehicle maintenance. • Management of accident damage repairs. • Administration relating to vehicle accidents/damage. • Vehicle fuel provision. • Hire/Sponsor/Lease/vehicle/support. • Driver services (in some Forces) e.g. mail runs, production transfers, vehicle movements, car valeting, deployment of major incident equipment, etc.
Rationale for appointment to SPA/PSoS	Fleet Procurement & Policy: Given the significant values involved, Business Case proposals will require SPA approval. Vehicles will be requisitioned in accordance with these Business Cases and against procurement contracts and in accordance with procurement mechanisms described in section (f). Vehicle management and day to day fleet operations also to be undertaken by PSoS.

INTERNAL AUDIT	
Resource	Appoint all staff as SPA staff
Role/Key deliverables	An independent appraisal function which provides assurance to the SPA that there is a sound system of governance and control in place.
Rationale for appointment to SPA/PSoS	<p>The SPA Members have a statutory role to hold the chief constable to account for the policing of Scotland (Section 2 (1) (e)) this suggests the need for internal audit activity being undertaken by the Authority.</p> <p>From the Organisational Principles (Business Activities) paper Approved 18 January 2013</p> <ul style="list-style-type: none"> • That internal audit activity will be undertaken by the Authority • Internal audit staff will be employees of the Scottish Police Authority, and will be specifically designated as SPA staff under the terms of the legislation.

NATIONAL SYSTEMS SUPPORT (CJ SYSTEMS)	
Resource	<p>The staff from the SPSA to be appointed as SPA staff.</p> <p>The vetting staff from the SPSA associated with this area to be appointed as SPA staff.</p>
Role/Key deliverables	The current national police databases maintained and supported by SPSA National Systems Support (NSS) include; the Criminal History System (CHS), Scottish Intelligence Database (SID), Automatic Number Plate Recognition (ANPR) system, Violent and Sex Offender Register (ViSOR), Scottish DNA Database (SDNAD), Police National Computer (PNC), IDENT1 and Police National Database (PND).
Rationale for appointment to SPA/PSoS	<p>NSS currently provides this vital service to the 8 Scottish Police forces, reducing the risk of legal challenge, data breaches and harm to both the police and members of the public. This activity currently operates within the SPSA and to minimise change for day one it is recommended that this activity be re-parented to the SPA.</p> <p>Agreement has been reached that the head of the NSS will attend the PSoS management team meeting with this area of policing to ensure service delivery support is meeting the needs of PSoS.</p>

REDEPLOYMENT POOL	
Resource	<p>Staff from SPSA to be appointed as SPA staff</p> <p>Staff from the existing forces to be appointed as police staff.</p>
Role/Key deliverables	Manage and support staff that do not have a role under the new structure of Scottish Policing and facilitate matching of vacant positions with staff in the redeployment pool.
Rationale for	Staff that are currently in a redeployment or supernumerary pool

appointment to SPA/PSoS	within their existing organisation will transfer into the redeployment pool.
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CUSTODY	
Resource	Appoint all as police staff
Role/Key deliverables	To provide the safe management of persons in the custody of Police Scotland from the point of entry to the point of release from custody or into the care of another agency or organisation.
Rationale for appointment to SPA/PSoS	The business activities related to custody are generally aligned to the day to day administration of the policing function.

FRONT DESK	
Resource	Appoint all as police staff
Role/Key deliverables	To provide front counter services at local police stations for face to face and telephone contact. This includes the initial reporting of incidents and vehicular accidents as well as the presentation of documents, attendance of persons required to register with police and additional administrative support duties.
Rationale for appointment to SPA/PSoS	The business activities related to front desk operation are generally aligned to the day to day administration of the policing function.

CONTACT, COMMAND AND CONTROL	
Resource	Appoint all as police staff
Role/Key deliverables	To manage emergency and non-emergency initial contact with the public and to support police operational communications on a 24/7 basis, including special events, spontaneous firearms command or major incidents. Performance management in relation to service delivery
Rationale for appointment to SPA/PSoS	The business activities related to contact, command and control are generally aligned to the day to day administration of the policing function.

SCDEA – SUPPORT STAFF	
Resource	The existing SCDEA staff in the SPSA will be appointed as police staff with the exception of those in 'Support Services' such as Information Management and ICT who will be covered as part of those business activities. Those staff will be appointed as SPA staff with the exceptions of SCDEA HR staff who are appointed to Police Scotland for Day One. All other existing force staff appointed as police staff
Role/Key deliverables	To manage, analyse and report on intelligence information to inform operational and Tactical deployment and performance.
Rationale for	The business activities related to SCDEA operational support are

appointment to SPA/PSoS	generally aligned to the day to day administration of the policing function.
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ADMINISTRATION	
Resource	Administrative staff who are part of an existing defined structure such as HR, Finance, Procurement, ICT will transfer based on where that particular business activity is allocated. All SPSA administrative staff will be appointed as SPA staff. All remaining staff will be appointed police staff.
Role/Key deliverables	To provide a wide range of administrative support to Divisions and Departments.
Rationale for appointment to SPA/PSoS	The business activities classified as administrative are highly variable when compared across the existing eight forces and the SCDEA. This area of the business activities will require additional work to more accurately classify. The support services provided by the administrative staff are generally aligned to the day to day administration of policing and as such the least disruptive approach is to continue as is for day one.

LICENSING	
Resource	Appoint all as police staff
Role/Key deliverables	To provide administration, advice, prevention and enforcement around licensing areas including Liquor, Firearms and Nationality, representing the Chief Constable at Local Authority Licensing Boards.
Rationale for appointment to SPA/PSoS	The business activities related to licensing are generally aligned to the day to day administration of the policing function.

ROAD SAFETY	
Resource	Appoint all as police staff
Role/Key deliverables	To support national and local road safety campaigns through education and engagement in partnership.
Rationale for appointment to SPA/PSoS	The business activities related to road safety are generally aligned to the day to day administration of the policing function.

TRAFFIC WARDENS	
Resource	Appoint all as police staff
Role/Key deliverables	The role of traffic wardens vary according to Local Authority areas policy on parking and in particular where it is non-criminalised.
Rationale for appointment to SPA/PSoS	The business activities related to traffic wardens are generally aligned to the day to day administration of the policing function.

LOCAL POLICING/ OPERATIONS SUPPORT/ CRIME – BUSINESS MANAGEMENT	
Resource	Appoint all as police staff
Role/Key deliverables	<p>Business Admin/Management Units provide support to operational policing units in a wide variety of ways. Typically they provide a link between operational and central support areas where forces operate in a devolved structure; this is not a universal approach across all forces.</p> <p>Some staff within these areas will already be included within numbers for other areas, e.g. Administration, HR and Finance, Crime.</p>
Rationale for appointment to SPA/PSoS	The business activities related to local policing are generally aligned to the day to day administration of the policing function.

FINANCE	
Resource	<p>SPSA staff to be appointed as SPA staff</p> <p>SCDEA finance staff to be appointed as Police Staff</p> <p>Staff from the existing forces to be appointed as Police staff</p>
Role/Key deliverables	The Finance function is responsible for preparing, monitoring and controlling the organisation's annual budget as well as managing all aspects of financial governance. The finance function also provides and runs the range financial systems.
Rationale for appointment to SPA/PSoS	<p>To minimise the risk to the finance business activities for Day One position it is agreed that the principle of minimum restructuring is exercised before Day One and this means there will be only limited re-parenting.</p> <p>The proposed arrangement has the PSoS providing a business partnering arrangement for the transactional part of the finance activities. It is recognised that for the SPA to fulfil its function there will need to be SPA members of staff who provide the necessary authorisations to execute the transactions against the SPA bank account. This includes:</p> <ul style="list-style-type: none"> - accounts receivable - accounts payable - payroll payments - pension payments - receipt of Scottish Government Funding <p>The preparation of these types of activities will be carried out by PSoS within a set of agreed rules and parameters. Once the transactions are ready to be executed the PSoS team will provide the SPA team with the agreed information for review and authorisation.</p> <p>To make the authorisation activity work there is agreement</p>

	<p>between PSoS and the SPA that members of staff with the requisite experience are needed by the SPA. Once the role requirements are identified the SPA finance director will recruit for these posts. It is envisaged that due to the experience and knowledge required to fulfil these roles they are most likely to be recruited from police staff.</p> <p>To comply with the rules on delegation under the Act where anyone who is police staff requires to have authority delegated to them, they would have short term designation as SPA staff. This designation would be effected in terms of the 'Staff Reassignment Agreement' between the SPA and PSoS. The duration this designation would be agreed by the finance directors and the member of staff.</p>
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HUMAN RESOURCES	
Resource	<p>Group HR Director SPA have re-parenting into them:</p> <ul style="list-style-type: none"> • People Integration Team, including the National Escalation Team • SPSA HR team excluding SCDEA HR team • The SPC <p>All other HR staff will be appointed as Police Staff and will report into the PSOS HR Director for Day One. This will include:</p> <ul style="list-style-type: none"> • HR Department of 8 forces (secondments will stand) • SCDEA HR Function • Training and Development Departments of 8 forces
Role/Key deliverables	Duties can include: People Integration; Policy & Remuneration; HR Partnering / Service Desk; Health, Safety & Wellbeing; Recruitment; Career Development / PDR; Equality & Diversity; SCoPE / Data Management
Rationale for appointment to SPA/PSoS	Board members approved the option which would create the minimum of disruption of HR employees whilst recognising the operational needs of both organisations.

INFORMATION MANAGEMENT	
Resource	<p>The current SPSA IM staff, including those from the SCDEA will be appointed as SPA staff.</p> <p>The current ACPOS IM staff will be appointed as SPA staff.</p> <p>The IM staff from within the existing forces will be appointed as police staff.</p>
Role/Key deliverables	Ongoing delivery of a comprehensive Information Management (IM) service for Police Scotland that meets the needs of the organisation in terms of statutory requirements and service-level obligations.

Rationale for appointment to SPA/PSoS	<p>The current experience base supporting the needs of PSoS for day one are best provided by the existing force teams. Likewise the corporate experience of the SPSA team is well prepared to support the needs of the SPA.</p> <p>It is recognised that this is a potential growth area for both PSoS and SPA and that each may need to provide the other with support as permitted under section 83 of the Act.</p>
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CRIME POLICY DEVELOPMENT	
Resource	Appoint all as police staff
Role/Key deliverables	The role of the policy unit is to identify, collate, develop, quality assure, publish and monitor policy documents including standard operating procedures to ensure access to current clear guidelines which support the strategic values, priorities and direction and support legal compliance wherever relevant.
Rationale for appointment to SPA/PSoS	The business activities related to policy development are related to the crime policy development and are generally aligned to the policing function.

COMMUNICATIONS	
Resource	<p>The SPA Interim Public Affairs and Communications team, the SPSA communications team, and the Strathclyde Police Authority communications officer to be appointed as SPA staff.</p> <p>The Interim Police Scotland communications team, the 8 Force communications teams, and the ACPOS communications team to be appointed as police Staff.</p>
Role/Key deliverables	Corporate Communications covers all aspects of internal and external communications. Development and monitoring of best practice and standards for communications
Rationale for appointment to SPA/PSoS	<p>From the Organisational Principles (Business Activities) paper Approved 18 January 2013</p> <ul style="list-style-type: none"> That, in communications, some staff will be appointed as police staff under the direction and control of the Chief Constable and others will be SPA staff and provide communications services to the Authority. <p>Communications support is required for both the SPA and PSoS. The staff within existing forces and ACPOS are experienced in meeting the day to day requirements of policing activities.</p>

EXECUTIVE SUPPORT	
Resource	Staff from the SCDEA and SPSA will be appointed SPA staff. Staff from the existing forces will be appointed police staff.
Role/Key deliverables	The Provision of personal assistant and staff officer support to senior members of staff.
Rationale for appointment to SPA/PSoS	As with other business activities the force executive support staff are closely aligned the activities of their respective chief officer ranks. It is recognised that due to the reduction in the number of corporate director type posts from within the eight forces and the SPSA that there will be a requirement to assess future requirement based on published PSoS and SPA organisational charts.

PERFORMANCE ANALYSIS	
Resource	Staff from ACPOS and SPSA will be appointed SPA staff. Staff from the existing forces will be appointed police staff.
Role/Key deliverables	Support to all areas of business providing analysis of internal performance based on key performance indicators, internal surveys, initiatives and campaigns as well as external communications broader data including customer surveys or partner data.
Rationale for appointment to SPA/PSoS	<p>From the Organisational Principles (Business Activities) paper Approved 18 January 2013</p> <ul style="list-style-type: none"> • That, in performance analysis, some staff will be appointed as police staff under the direction and control of the Chief Constable and others will be SPA staff and provide performance analysis services to the Authority • That the allocation in terms of who will be appointed police staff and who will be SPA staff needs further discussion and consultation, and should be based on an assessment of the needs of the Authority and Chief Constable. <p>The staff providing performance analysis activities are closely aligned to the computer systems and databases that capture and store the data. For day one it is recommended that those associated with the existing forces be appointed as police staff.</p>

RISK MANAGEMENT AND BUSINESS ASSURANCE	
Resource	Staff from the SPSA will be appointed SPA staff. Staff from the existing forces will be appointed police staff.
Role/Key deliverables	<ul style="list-style-type: none"> • Strategic Risk Management (including Operational, Programme & Project Risk Management); • Business Continuity Management (BCM); • Insurance (Claims management dealt with by Legal); <p>Business Assurance, incorporating co-ordination of external reviews and management of recommendations and internal review</p>

	of processes and functions for control, co-ordination and promotion of organisational learning, compliance with policy, efficiency and effectiveness and (Force Inspectorate, Continuous Improvement, Business Change and Best Value review functions).
Rationale for appointment to SPA/PSoS	<p>Many of the staff provide support for both the risk management and business assurance activities. On this basis for day one those associated with the existing forces will be appointed police staff.</p> <p>The plans for risk and business assurance within the PSoS represent a 30% reduction in resource levels from across the eight existing forces. The PSoS assessment is that this is a realistic figure to meet the requirements of the Service.</p> <p>SPSA operates a Safety & Resilience model and a meeting will be arranged to discuss the working model for going forward with PSoS BCM. It is anticipated that this will be an area where resource will be imbalanced, with SPA under resourced and immediate review will required to take place to address, how this imbalance can be addressed in the short term prior to restructuring.</p>

HEALTH & SAFETY	
Resource	<p>Staff from the SPSA will be appointed SPA staff.</p> <p>Staff from the existing forces will be appointed police staff.</p>
Role/Key deliverables	To provide professional advice and guidance at all levels of policing reducing the risk from operational policing deployments, accidents, ill health and litigation whilst ensuring compliance with legislation. To support the development of the risk assessment process and provide further guidance through the planning phase for high profile or major events with increased risks associated.
Rationale for appointment to SPA/PSoS	<p>The current experience base supporting the needs of PSoS for day one are best provided for by the existing force teams. Likewise the corporate experience of the SPSA team is well prepared to support the needs of the SPA.</p> <p>It is recognised that this is a potential growth area for both PSoS and SPA and each may need to provide the other with support as permitted under section 83 of the Act.</p> <p>It is anticipated this will be an area where resource will be imbalanced, with SPA under resourced, and immediate review will required to explore how this imbalance can be addressed in the short term prior to restructuring.</p>

PLANNING	
Resource	Staff from the SPSA will be appointed SPA staff. ACPOS staff will also be appointed SPA staff. Staff from the existing forces will be appointed police staff.
Role/Key deliverables	To work with partners for the purpose of developing multi-agency emergency planning procedures as well as plans for the safe management of events to maximise public safety and minimise the opportunities for criminality. Existing work also involves the creation of strategic plans for the SPSA and planning and performance input into the creation of plans for existing forces and authorities. Future work will be to support the Authority's obligations to create and maintain a strategic police plan and a performance framework. See also the commentary on Performance Analysis above.
Rationale for appointment to SPA/PSoS	The staff providing performance analysis activities are closely aligned to the computer systems and databases that capture and store the data. On this basis for day one it is recommended that those associated with the existing forces be appointed as police staff. The SPA also has key planning and performance obligations. It is assumed that, for Day 1, these can be met through a small SPA team, but on the assumption that support will be provided, where needed, from police staff working on planning and performance (as has been the case during the preparation of the strategic police plan).

PROFESSIONAL STANDARDS INCLUDING VETTING	
Resource	Staff from the SPSA will be appointed SPA staff. Staff from the existing forces will be appointed police staff.
Role/Key deliverables	Professional Standards Department oversee the investigation and enquiry into criminal and non-criminal complaints about the police and police staff including quality of service complaints. The department manages the disciplinary hearings process as well as issues around the conduct and efficiency regulations. The department will also contain the counter-corruption unit and will work with key partners including COPFS and PIRC.
Rationale for appointment to SPA/PSoS	The current experience base supporting the needs of PSoS for day one are best provided for by the existing force teams. The SPSA team will initially cover the needs of the SPA. There are new set of requirements and expectations place on SPA that need to be understood before a full decision can be made related to these activities as part of the steady state planning.

PORTFOLIO/PROGRAMME OFFICE	
Resource	SPSA staff to be appointed as SPA staff Staff from the existing forces to be appointed as police staff
Role/Key deliverables	The portfolio/programme office supports the provision of best value for the delivery of business change and ensures that programmes are achieving the identified business benefits, within budget, on time and with a full understanding of impact on service delivery.
Rationale for appointment to SPA/PSoS	Outside of a programme office within ICT, the rest of the programme office staff are currently police staff in the existing forces. They are all actively working to support the business change requirements of the forces. Many of these individuals are supporting the NPRT project teams and this activity will require on-going support beyond day one.

TRANSFER OF POLICE AUTHORITY STAFF	
Resource	All authority staff will be appointed as SPA staff
Role/Key deliverables	Existing authority staff where identified as exclusively supporting existing policing organisations.
Rationale for appointment to SPA/PSoS	All of the employees in dedicated Police Authority roles will be aligned to the relevant business activities within the SPA, given the nature of the work carried out.

TRANSFER OF ACPOS STAFF	
Resource	All SPSA staff within ACPOS to be appointed as SPA staff with the exception communications who will become part of PSoS communications team.
Role/Key deliverables	All of the SPSA staff in ACPOS roles will be aligned to the relevant business activities.
Rationale for appointment to SPA/PSoS	These are called out specifically in other sections of this paper, such as Portfolio / Programme Office.

OTHER BUSINESS ACTIVITIES (This list includes a collection of activities that contain relatively fewer numbers of staff)	
Resource	Staff from existing forces will be appointed as Police staff.
Role/Key deliverables	This is a collection of roles that are unique to individual organisations and will typically require placement either inside an existing business. Examples of the wide and varied roles in this category include: Forensic Computer Analysts, Data Analysts, Ports Administrators, Grooms, Kennel Assistants, Archivist staff, youth justice staff, CCTV operators.
Rationale for appointment to SPA/PSoS	The initial analysis of police staff posts throughout the existing forces identified numerous posts which could not quickly be reconciled into the categories provided for in the business activities

	<p>paper.</p> <p>All of these posts, and more importantly the people, have been fully accounted for by PSoS.</p> <p>There exists in current use a variety of terms for similar roles across forces - these require further review in order to categorise them within the provided headings of the report.</p>
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