

JUSTICE SUB-COMMITTEE ON POLICING

AGENDA

1st Meeting, 2013 (Session 4)

Thursday 21 March 2013

The Committee will meet at 1.40 pm in Committee Room 1.

- 1. **Declaration of interests:** Members of the Committee will be invited to declare any relevant interests.
- 2. **Choice of Convener:** The Committee will choose a Convener.
- 3. Working practices: The Committee will consider its working practices.
- 4. **Work programme:** The Committee will consider its approach to developing its work programme.

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JSP/S4/13/1/A

The papers for this meeting are as follows—

Agenda item 1

Paper by the clerk JSP/S4/13/1/1

Agenda item 2

Paper by the clerk JSP/S4/13/1/2

Agenda item 3

Paper by the clerk JSP/S4/13/1/3

Agenda item 4

Paper by the clerk JSP/S4/13/1/4

1st Meeting, 2013 (Session 4), Thursday, 21 March 2013

Declaration of Interests

Note by the Clerk

Purpose

1. Members are invited to declare any interests relevant to the remit of the subcommittee on policing.

Declarable interests

- 2. Declaring relevant interests before participating in Parliamentary proceedings is a statutory requirement under the Interests of Members of the Scottish Parliament Act 2006 and failure to do so is a breach of the Code of Conduct and also a criminal offence.
- 3. It is the responsibility of individual members to be aware of the rules on declaration of interests and to judge whether a registered interest is sufficiently relevant to particular proceedings to require a declaration. Section 3, Volume 2, of the Code of Conduct for MSPs explains in detail the rules on declaration of interests and further guidance is provided in Section 3, Volume 3.

First meeting

- 4. At the sub-committee's first meeting, all members will be invited to declare any registrable interests relevant to that sub-committee's remit. This declaration can be brief but should be sufficiently informative to enable a member of the public to understand the nature of the member's interest. It is not sufficient simply to refer to the register entry, but nor is it necessary to rehearse all of the details of an interest as it appears in the Register.
- 5. Standards Clerks are happy to provide advice to Members on what might constitute a declarable interest.

Subsequent meetings

- 6. Members are also required to declare any relevant registrable interests at subsequent sub-committee meetings if they are relevant to the item of business under discussion. Members must make these declarations before participating in the relevant item and at every meeting where that item appears on the agenda. This allows the public attending or reading the official report of any sub-committee meeting to understand the nature of the member's interest.
- 7. The Code of Conduct also advises members, as good practice, to declare any business or personal relationships with any advisers or witnesses to the subcommittee.

1st Meeting, 2013 (Session 4), Thursday, 21 March 2013

Choice of convener

Note by the Clerk

Purpose

1. This paper invites members to choose the convener of the sub-committee and to decide whether to also select a deputy convener.

Background

- 2. Under Rule 12.5.5, it is for the members of a sub-committee to choose their convener. The d'Hondt formula does not apply to sub-committee convenerships and so, the convener may come from any political party or grouping that is represented on that sub-committee.
- 3. A sub-committee may also, if it wishes, appoint a deputy convener, although there is no obligation to do so. A deputy convener is able to carry out the functions of a convener if they are unable to act as convener, for example, chairing a meeting or part thereof. Where the convener is absent and there is no deputy convener, the sub-committee can appoint a temporary convener to carry out the functions of convener.
- 4. At its meeting on 19 February, the Justice Committee agreed to propose that the convener of the Justice Committee should also convene the sub-committee and it was under this premise that the convener of the Justice Committee was proposed as a member of its sub-committee. This proposal is not of course binding.

Selection process

- 5. The first meeting of the sub-committee will be chaired by the oldest member until a convener is chosen. The oldest member will, following declaration of interests, invite nominations for the convenership. There is no requirement for nominations to be submitted in advance of the meeting or to be seconded.
- 6. If there is only one nomination, members will be asked to agree to the appointment. In the event of more than one nomination, the oldest member will call a division, and then put the question on each nomination in turn. The nominee receiving a majority of votes will be declared as the convener. Once selected, the new convener will take the chair to convene the remainder of the meeting and subsequent meetings.
- 7. If the sub-committee wishes to appoint a deputy convener, the same process applies, but it is conducted by the newly-chosen convener.

¹ The oldest member is defined as the oldest member of the committee/sub-committee present at the meeting, who has indicated to the Clerk that he or she agrees to chair the meeting.

1st Meeting, 2013 (Session 4), Thursday, 21 March 2013

Working practices

Note by the Clerk

Purpose

1. This paper invites the sub-committee to consider its working practices.

Relationship with other committees

Justice Committee

- 2. Under Rule 12.5.7, sub-committees are required to report to the parent committee. The sub-committee can consider how this might work in practice at such time as it decides to produce a report on a particular matter.
- 3. The existence of the sub-committee does not preclude the Justice Committee from examining any policing matter and indeed it is expected that matters will arise between sub-committee meetings that the Justice Committee will wish to consider.

Representing committees

- 4. In proposing the establishment of a policing sub-committee to the Parliamentary Bureau, the Justice Committee's intention was that it should include membership from other committees with an interest in policing. The Justice, Local Government and Regeneration, and Equal Opportunities Committees are represented on the sub-committee. The expectation was that each member of the sub-committee should represent the views of their respective committees and indeed report back or refer relevant issues to those committees where appropriate.
- 5. The sub-committee may also wish to report to, or copy any report to, other committees, such as those represented on the committee, where appropriate.

Frequency of meetings

- 6. The Parliament has established the sub-committee to last until the end of the Parliamentary session. It is for the sub-committee to decide how often it wishes to meet during this period. It may be useful for the sub-committee to agree a usual schedule, for example, once every one or two months, to allow members to schedule time in their diaries.
- 7. However, the sub-committee may, for example, wish to meet more regularly in the coming months to examine how the new policing arrangements, due to be in place on 1 April 2013, are operating in practice. It may also wish to consider whether to meet again in advance of 1 April, for example, to receive progress updates from the main policing bodies.
- 8. There may be difficulties in accommodating a meeting slot for the subcommittee within the usual Tuesday, Wednesday or Thursday morning slots, given the existing committee commitments of members. Other options, such as meeting on

a Monday afternoon, Friday morning, at lunchtime or in the evening may therefore need to be considered.

9. The sub-committee is invited to consider the frequency of its meetings and to agree when next to meet. It may also wish to consider options for meeting slots.

General approach

- 10. The Justice Committee's intention was that the sub-committee would operate in a non-partisan way and by consensus and, to facilitate this approach, the membership of the sub-committee was proposed without proportionality or an in-built majority. Instead, the sub-committee was composed of one member from each of the political parties and grouping represented on the Parliamentary Bureau, along with the Convener of the Justice Committee.
- 11. As mentioned earlier in this paper, the Justice Committee also had an expectation that sub-committee members would represent their respective committees rather than acting in an individual capacity.
- 12. Nevertheless, it is for the sub-committee to agree its general approach.
- 13. The sub-committee is invited to consider and agree whether it wishes to follow the Justice Committee's suggested approach regarding working in a consensual and non-partisan manner.

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Approach to developing a work programme

Note by the Clerk

Purpose

1. This paper provides background information relating to (a) the Police and Fire Reform (Scotland) Act 2012 as it affects policing, and (b) current issues in relation to police reform. The sub-committee is invited to note this paper and to consider how it wishes to approach developing its work programme.

Police and Fire Reform (Scotland) Act 2012

Background

- 2. The sub-committee's remit is to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing.
- 3. Governance of the eight police forces in Scotland is currently shared in a tripartite arrangement between the Scottish Ministers, the eight police authorities and joint police boards, and the eight chief constables. The Police and Fire Reform (Scotland) Act 2012 replaces the eight police forces with one single force, the Police Service of Scotland (PSoS), and the police authorities/joint police boards with a single Scottish Police Authority (SPA). The Scottish Police Services Authority and Scottish Crime and Drug Enforcement Agency are also abolished under the Act.
- 4. Further details of the new arrangements and responsibilities, which come into effect on 1 April 2013, are outlined below.

Chief constable

- 5. The chief constable of the PSoS is responsible for the policing of Scotland and is accountable to the SPA for this. Section 17 of the 2012 Act sets out the chief constable's specific responsibilities as follows:
 - direction and control of the PSoS;
 - day-to-day administration of the PSoS, including the allocation and deployment of resources received from the SPA;
 - involvement in preparing the strategic police plan and the SPA's annual report;
 - preparing annual police plans;
 - seeking to secure continuous improvement in the policing of Scotland;
 - designating local commanders and ensuring that adequate arrangements are in place for the policing of each local authority area; and
 - providing the SPA with information relating to the PSoS, policing or the state of crime.

¹ Stephen House was appointed as Chief Constable of the PSoS on 25 September 2012.

- 6. The chief constable must ensure that the policing of Scotland is "done with due regard to any recommendations made or guidance issued by the SPA on the policing of Scotland" (section 17).
- 7. The chief constable is responsible for appointing constables (other than senior officers who are appointed by the SPA) (section 8) and special constables (section 9), and for assigning and promoting constables to ranks below that of assistant chief constable (section 11).
- 8. Section 21 specifies that constables, police staff and cadets are, in the carrying out of their functions, subject to the direction and control of the chief constable.
- 9. The chief constable is responsible for producing an annual police plan setting out (a) the proposed arrangements for the policing of Scotland, and (b) details of how these arrangements contribute towards achieving the objectives set out in the SPA's strategic plan (section 35). The annual police plan must also have regard to the policing principles set out in the Act, the strategic police priorities set by the Scottish Ministers and the strategic police plan produced by the SPA. The chief constable is required to invite the SPA to comment on a draft plan and lay a copy of the final plan before the Scottish Parliament.

Scottish Police Authority

- 10. Section 2 of the Act sets out the main functions of the SPA², as follows:
 - to maintain³ the PSoS;
 - to promote the policing principles⁴;
 - to promote and support continuous improvement in the policing of Scotland;
 - to keep under review the policing of Scotland;
 - to hold the chief constable to account for the policing of Scotland.
- 11. In relation to the provision of resources, the SPA will be directly responsible for providing forensic services to the PSoS (and a number of other bodies).
- 12. In addition, the SPA is responsible for appointing future chief constables (subject to approval of the Scottish Ministers) and appointing deputy and assistant chief constables (in consultation with the chief constable) (section 7).
- 13. Under section 26 of the Act, the SPA may appoint police staff to assist in the carrying out of police functions; however, the chief constable also has the power to make these appointments on behalf of the SPA. Police staff will be employed by the

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² The SPA Chair, Vic Emery, was appointed on 31 August 2012. Other members of the SPA were appointed on 24 October 2012.

³ Section 3 of the Act specifies what is meant by 'maintain' the PSoS, as follows: the SPA must pay constables pay and allowances, and reimburse any expenses reasonably incurred by a constable. The SPA may also provide and maintain anything necessary or desirable for the carrying out of police functions, including vehicles, equipment, information technology systems, land, buildings and other structures. It must provide to the chief constable before the start of each financial year details of how it intends to allocate financial resources it expects to have available to it in respect of that financial year.

⁴ The policing principles set out in section 32 of the 2012 Act are: (a) that the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland, and (b) that the PSoS, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way which (i) is accessible to, and engages with local communities, and (ii) promotes measures to prevent crime, harm and disorder.

SPA (or be provided to the SPA under arrangements with a third party⁵) and the SPA will determine their terms and conditions (section 27).

- 14. In addition, the SPA must prepare a strategic police plan setting out the main objectives for the SPA and for the policing of Scotland, which is to be reviewed at least every three years. This plan must have regard to the policing principles set out in section 32 of the Act and the strategic police priorities set by the Scottish Ministers. The SPA is required to involve the chief constable in preparing the plan and submit it to the Scottish Ministers for approval. The final plan must then be laid before the Scottish Parliament (section 34). Section 39 requires the SPA to produce an annual report providing an assessment of its performance in carrying out its functions and that of the PSoS. The annual report must also be laid before the Scottish Parliament.
- 15. Section 83 specifies that the SPA and chief constable may make arrangements under which the SPA is to provide assistance to the PSoS (such as SPA staff providing services to the PSoS). Arrangements may also be made under which the PSoS can provide assistance to the SPA (such as constables or police staff providing services to the SPA).

Scottish Ministers

- 16. The Policy Memorandum on the Police and Fire Reform (Scotland) Bill stated that, while the Scottish Ministers would remain accountable to the Scottish Parliament for policing, the Bill would "provide a clear separation between the Scottish Ministers and the services by ensuring their role is primarily a strategic one". 6
- 17. Under the 2012 Act, the Scottish Ministers are responsible for appointing members of the SPA (schedule 1), approving appointment of the chief constable (section 7), setting strategic police priorities (section 33), and approving the strategic police plan prepared by the SPA (section 34). The Scottish Ministers will agree a funding settlement which will be paid directly to the SPA, following the annual Parliamentary budget process.⁷
- 18. Section 5 of the Act allows the Scottish Ministers to issue directions to the SPA which must be complied with. Such directions may not be given in respect of (a) a specific operation being or to be carried out by the PSoS, or (b) the way in which the PSoS is carrying out (or is to carry out) a specific operation. Directions must be published and laid before the Scottish Parliament.

Scottish Parliament

19. The Scottish Parliament must make arrangements for keeping under review the operation of the Act and must publish reports in pursuance of this (section 124).

Local authorities

20. The chief constable must designate a constable as local commander who may cover more than one local authority area (section 44). The local commander will be

⁵ This provision replicates the provision in the Police Act 1967, which allows a police authority/joint police board to employ police staff on a contract basis as well as directly.

⁶ Policy Memorandum on the Police and Fire Reform (Scotland) Bill, paragraph 87. Available at: http://www.scottish.parliament.uk/S4_Bills/Police%20and%20Fire%20Reform%20(Scotland)%20Bill/Policy Memo.pdf

⁷ Policy Memorandum on the Police and Fire Reform (Scotland) Bill, paragraph 119.

responsible for (a) preparing the local police plan which is to be approved by the local authority, and (b) reporting to local authorities on the carrying out of police functions in their local area (section 45).

21. The Act is silent on how local authorities should make arrangements for their scrutiny of policing. During scrutiny of the legislation, the Committee heard that this was deliberate to allow local authorities flexibility in determining the most appropriate mechanisms to examine local policing and formalise their relationships with local commanders. A number of local authorities are running pathfinder projects to pilot local arrangements before 1 April 2013.

Auditor General for Scotland

22. Under the 2012 Act, responsibility for the audit of policing will transfer from the Accounts Commission to the Auditor General for Scotland. The Auditor General may initiate examinations into the economy, efficiency and effectiveness of the PSoS and arrangements made by the chief constable in relation to securing best value (section 42).

Her Majesty's Inspector of Constabulary for Scotland

- 23. Her Majesty's Inspector of Constabulary for Scotland (HMICS) will be responsible for inspecting the SPA and PSoS and will take on the additional task of examining the delivery of best value (section 74). HMICS is to publish a plan setting out inquiry priorities and details of how these inquiries will be carried out in a proportionate, accountable and transparent way (section 75).
- 24. George Graham QPM was appointed as the new HM Inspector of Constabulary on 1 March 2013.9
- 25. HMICS published its plan for 2013-14 on 8 March, which includes the following activities:
 - profile building and routine engagement with the new PSoS and SPA;
 - chief officer and local policing commanders conferences;
 - crime audit; and
 - themed reports on custody, roads policing, CONTEST prepare (dealing with major incidents), and local scrutiny and engagement.¹⁰

Police Investigations and Review Commissioner

- 26. The Act renames the Police Complaints Commissioner for Scotland (PCCS) as the Police Investigations and Review Commissioner (PIRC). It also extends the PIRC's remit to include, when directed to do so by the appropriate prosecutor, investigation of certain serious incidents involving the police and circumstances where a person serving with the police may have committed an offence (section 62)
- 27. The PIRC will also be able to investigate any relevant police matter where it considers it to be in the public interest (section 65).

http://www.hmics.org/sites/default/files/publications/HMICSworkplan2013-2014%20final.pdf

⁸ Policy Memorandum on the Police and Fire Reform (Scotland) Bill, paragraph 221.

⁹ HMIĆS website. Available at: http://www.hmics.org/about-us/who-we-are

¹⁰ HMICS work plan 2013-14. Available at:

Current issues

28. Recent developments in relation to the new policing arrangements are set out below. The Justice Committee has considered a number of these issues as part of its scrutiny of policing matters in recent months.

Police Service of Scotland: appointments

- 29. The new chief constable was appointed on 25 September 2012 to work on the move towards a single service. Four deputy chief constables were appointed on 26 November 2012¹¹, with responsibility for the following areas:
 - reform lead and designated deputy for chief constable;
 - territorial policing;
 - crime and operational support; and
 - Commonwealth Games and major events.
- 30. On 24 December 2012, six assistant chief constables were also appointed with specific responsibilities for the areas of: Local Policing East; Local Policing North; Local Policing West; Serious Crime and Public Protection; Crime, Serious Organised Crime and Counter Terrorism, and Operational Support. 12

Scottish Police Authority: appointments

- 31. The chair of the SPA was appointed on 31 August 2012, followed by members of the SPA board on 24 October.
- 32. Appointments to the SPA interim project team and, in particular recruitment of a business manager from the private sector without open competition, have attracted some criticism in the media. 13 In correspondence to the Justice Committee of 8 February 2013, the SPA confirmed that there were a total of 23 employees currently working in the SPA interim project team; 19 seconded from within policing and national and local government, two hired from outwith policing, and two seconded employees who are contractors.¹⁴

Responsibilities over human resources and finance

- 33. The SPA and chief constable now appear to have reached agreement on where responsibility for human resources and finance should lie, following intervention by the Scottish Government in advance of an SPA meeting on 18 January 2013.
- 34. The SPA had argued that HR and finance are corporate functions and therefore must come under its responsibility, while the chief constable had insisted that he

¹¹ Scottish Police Services Authority website (26 November 2012). Available at: http://www.spsa.police.uk/news/assistant chief constables appointed police scotland

¹² The Scotsman (24 December 2012). Available at:

http://www.scotsman.com/news/scottish-news/top-stories/assistant-chief-constables-for-new-nationalpolice-force-named-1-2706169

13 Evening Times (27 January 2013). Available at:

⁽http://www.stars.eveningtimes.co.uk/mobile/news/home-news/cronyism-claim-after-policy-authorityboss-helps-business-partner-land-plum-

job.20021650? =078c2519e6d7ce33525a0de8c826d82400c4773a

Correspondence from the Scottish Police Authority to the Justice Committee (8 February 2013). Available at:

http://www.scottish.parliament.uk/S4_JusticeCommittee/General%20Documents/20130208_SPA_to_ CG.pdf

needed some HR and finance functions to ensure both the operational independence of the chief constable and a balanced workforce in the PSoS.

- 35. Scottish Government officials wrote to the SPA on 17 January 2013 asking that it adjust its proposals "to ensure that the chief constable has access to police staff to assist him in relation to his administration responsibilities in the areas of HR and finance". The letter stated that "the Cabinet Secretary is of the view that these changes are essential to the discharge of efficient and effective policing in Scotland". ¹⁵
- 36. The SPA wrote to the Scottish Government on the same day stating that, "with more than a little reluctance the Board has agreed to this request at this eleventh hour". The SPA then endorsed the Scottish Government's proposal at its meeting the next day (18 January). The chief constable is also understood to be content with the arrangements.

Police Service of Scotland: new approaches

- 37. The chief constable of the PSoS has in recent months announced a number of new approaches as part of the reforms, including:
 - introducing a single non-emergency number (101) to make it easier for the public to report crime or other concerns that do not require an emergency response;
 - developing a Specialist Crime Directorate to look at counter-terrorism, major crime, homicide, port policing, business and e-crime, child-trafficking and counterfeiting;
 - establishing a national rape investigation unit where specially trained officers will look at rape cases that are unsolved or where the evidence is disputed:
 - creating a network of armed response units across Scotland to give all areas of Scotland access to firearms-trained officers; and
 - creating a new Trunk Roads Patrol Group aimed at improving public safety and increasing police presence on the roads.

Police Service of Scotland: headquarters

38. On 9 March 2013, the SPA approved a business case presented by the PSoS on the creation of a forward command base at Randolphfield, Stirling, subject to an impact assessment being carried out. Tulliallan is to be retained as a ceremonial headquarters and base for some senior officers and staff working on reform. The Scottish Police College, which is separate to the PSoS, will continue to be based at Tulliallan.

39. The chief constable's report on the relocation suggests that the move will cost £55,229. 16

¹⁵ Correspondence from the Scottish Police Authority to the Justice Committee (28 February 2013). Available at:

http://www.scottish.parliament.uk/S4_JusticeCommittee/General%20Documents/20130228_SPA_correspondence.pdf

¹⁶ The Scotsman (8 March 2013). Available at: http://www.scotsman.com/news/scottish-news/top-stories/stirling-earmarked-as-police-scotland-headquarters-1-2825442

Cost-savings/balance of workforce

- 40. During passage of the Bill, concerns were raised regarding the lack of detail in the outline business case for police reform; the ability to achieve the projected savings in the outline business case within the expected timescales; and the impact of the projected police staff redundancies on the frontline. Many of these concerns remained during the Justice Committee's scrutiny of the policing budget 2013-14.
- 41. On his appointment, the chief constable warned that as many as 3,000 police staff could lose their jobs, although he expected the final figures would be significantly less. The chief constable has also suggested that it may not be possible to meet the future budget for policing unless the commitment on police officer numbers is reduced. The chief constable warned that as many as 3,000 police staff could be significantly less. The chief constable warned that as many as 3,000 police staff could lose their jobs, although he expected the final figures would be significantly less. The chief constable warned that as many as 3,000 police staff could lose their jobs, although he expected the final figures would be significantly less. The chief constable warned that as many as 3,000 police staff could lose their jobs, although he expected the final figures would be significantly less. The chief constable has also suggested that it may not be possible to meet the future budget for policing unless the commitment on police officer numbers is reduced.

Local policing

- 42. Within the new command structure for the territorial divisions of the Police Service of Scotland, there will be 14 local policing commanders at the rank of chief superintendent responsible for delivering local policing as set out in the local police plans. The 14 local policing commanders were appointed on 22 January 2013. 19
- 43. Every council ward is to have its own annual local policing plan. It is for local authorities to put in place their own arrangements for examining local policing and approving local police plans.

Strategic police priorities

- 44. As mentioned earlier in this paper, the 2012 Act requires the Scottish Ministers to set strategic police priorities which will inform the SPA's own three-year strategic plan and feed into the development of the chief constable's annual plan and local plans. On 20 November 2012, the Scottish Ministers published draft strategic priorities for consultation, which closed on 10 January 2013.²⁰
- 45. The final strategic police priorities were published on 13 March as follows:
 - to 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;
 - to strengthen Scotland's reputation as a successful and safe country by demonstrating excellence in effectively planning for and responding to major events and threats;
 - to provide an efficient, effective service focused on protecting frontline services, delivering the benefits of police reform and promoting continuous improvement; and
 - to 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.²¹

http://www.safercommunitiesscotland.org/pop_ResourceDetail.cfm?ResID=200

¹⁷ BBC website (26 September 2012). Available at: http://www.bbc.co.uk/news/uk-scotland-19728563

¹⁸ The Courier (6 February 2013). Available at: http://www.thecourier.co.uk/news/scotland/scottish-government-says-officer-numbers-will-be-maintained-in-new-police-force-1.67560

BBC website (22 January 2013). Available at: http://www.bbc.co.uk/news/uk-scotland-21141498

²⁰ Scottish Government website (20 November 2012): Available at:

Scottish Government website. Available at: http://www.scotland.gov.uk/Topics/Justice/public-safety/Police/ConsultationFuturePolicin/StrategicPolicePriorities

SPA strategic plan

46. The 2012 Act states that the SPA must publish a strategic police plan and review it at least once every three years. A consultation on the SPA's draft strategic police plan closed on 22 February 2013. The final draft of this plan is to be submitted to the Scottish Ministers for approval, published, and then laid before the Parliament by the end of March 2013. The SPA has made a commitment to review its first strategic police plan within 12 months and to make any necessary adjustments required.²²

47. The sub-committee is invited to note this paper and to consider how it wishes to approach developing its work programme.

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²² Scottish Police Authority website. Available at: http://www.spa.police.uk/about-us/consultation-on-draft-strategic-plan/