



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE SUB-COMMITTEE ON POLICING

AGENDA

2nd Meeting, 2013 (Session 4)

Thursday 28 March 2013

The Committee will meet at 1.15 pm in Committee Room 6.

1. **Work programme:** The Committee will consider its approach to developing its work programme.

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The papers for this meeting are as follows—

Agenda item 1

Paper by the clerk

JSP/S4/13/2/1

Justice Sub-Committee on Policing

2nd Meeting, 2013 (Session 4), Thursday, 28 March 2013

Approach to developing a work programme

Note by the Clerk

Purpose

1. This paper provides some 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. Possible approaches to developing the Sub-Committee's work programme are also provided in this paper and Members will be invited to put forward their own suggestions at the meeting.

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 constable¹ 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

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](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.⁸ 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).

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

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

¹⁰ HMICS work plan 2013-14. Available at:

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

Current issues

28. Current issues 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-national-police-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-authority-boss-helps-business-partner-land-plum-job.20021650?_078c2519e6d7ce33525a0de8c826d82400c4773a

¹⁴ 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). However, it is understood that the details of these arrangements are still under discussion and are to be considered at the SPA Board meeting on 28 March.

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.¹⁷ In line with the Scottish Government's policy on no compulsory redundancies, any reductions to the civilian workforce would need to be achieved through voluntary redundancies and natural wastage. It is understood that those who have applied for voluntary redundancy have now been notified whether or not their applications have been accepted, and that staff now know where they will be based in the new service. There have been on-going concerns highlighted by some Members as to whether the loss of civilian staff will lead to backfilling by police officers.

42. It is understood that discussions on the PSoS budget for 2013-14 are still on-going, but that there is an expectation that this will be agreed at the SPA Board meeting on 28 March.

43. The chief constable has suggested that it may not be possible to meet the future budget for policing unless the commitment on police officer numbers is reduced.¹⁸

Local policing

44. 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

45. 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

46. 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

47. 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;

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>

¹⁹ 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: http://www.safercommunitiesscotland.org/pop_ResourceDetail.cfm?ResID=200

- 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

SPA strategic plan

48. 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

Approach to developing a work programme

49. The Sub-Committee agreed at last week's meeting to meet on Thursday lunchtimes on a fortnightly basis, at least initially. A schedule of fortnightly meetings up until summer recess is set out below:

Thursday 18 April
 Thursday 2 May
 Thursday 16 May
 Thursday 30 May
 Thursday 13 June
 Thursday 27 June

50. The Sub-Committee could, in the first instance, agree to hold a series of evidence sessions with the main police bodies with functions under the 2012 Act, and others, to establish how the new arrangements are working and to identify any particular issues that it may wish to consider in more detail.

51. It is worth bearing in mind that the Sub-Committee probably only has time to hear from one panel of witnesses at each lunchtime meeting.

52. An alternative approach would be for the Sub-Committee to decide whether there are any immediate issues that it wishes to focus on at this stage, perhaps based on the current issues set out above and, any others suggested by Members. Relevant witnesses could then be invited to give evidence on the particular issue or issues identified.

53. The Committee is invited to consider and agree its approach to future work.

²¹ Scottish Government website. Available at: <http://www.scotland.gov.uk/Topics/Justice/public-safety/Police/ConsultationFuturePolicin/StrategicPolicePriorities>

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