



SCOTTISH POLICE FEDERATION

Established by Act of Parliament

John Finnie MSP
Convener
Justice Sub-Committee on Policing
Room T2.60
The Scottish Parliament
EDINBURGH
EH99 1SP

Ref: CS/LS

14 September 2020

By email to: justicecommittee@parliament.scot

Dear Convener

Policing during the Coronavirus – regulations on house parties

I refer to the above, to your letter dated 28th August, and to the Sub-Committee's evidence session on the 27th August. I thank you for your letter and whilst you are not seeking an immediate response we consider it is important to address a number of issues that arose during the evidence session, as well as in your correspondence.

The Chief Constable clearly has well-meaning intentions. His statements in respect of the moral obligations he feels in respect of the health and safety of officers are welcome. The Scottish Police Federation (SPF) does not doubt his sincerity, and on an individual basis I have always found him to be sincere and display genuine concerns on the issue.

That being said, it is regrettable that the intentions of the Chief Constable do not make their way into organisational practice, or address the legitimate concerns that continue to prevail around the risks of Covid19 in an operational policing environment.

In our submission to the Sub-Committee on the 22nd August, we highlighted that one of the greatest risks facing the police service at this time was complacency. Whilst we stand fully behind that assessment, it was surprising to see that the response of the Chief Constable to the Sub-Committee dated 9th September, albeit almost certainly unintentionally, contains a perfect illustration as to why our concerns exist. We will return to this issue later.

The SPF has faced (and to some extent continues to face) resistance, and even hostility from the Police Service of Scotland (PSoS) on issues of officer health and safety, and Covid19. This hostility exists amongst some of the Chief Officer team and reinforces the worst of attitudes towards the health, safety and welfare of police officers. It is our strong view that in too many parts of the service a culture of secrecy and obfuscation has quickly taken hold on issues of legitimate interest to the SPF in respect of Covid19.

It is deeply regrettable that we are corresponding on issues that ought to have been resolved within the service a long time ago but in the face of highly partial and incomplete public messaging from the PSoS it is an unavoidable consequence that correction of the record has to be made in such a public manner.

It is important also to advise that the SPF has also raised its concerns in respect of the health and safety issues with the Scottish Police Authority (SPA) but this was met with a dismissive response.

Prior to turning to the specific issue of house parties, the SPF considers it is of the utmost importance to advise of its concerns over the appropriateness, completeness, or even relevance of the PPE guidance relied on by the PSoS from Health Protection Scotland (HPS). We wish to be clear that the SPF does not doubt the appropriateness or relevance of HPS PPE advice and/or guidance for other settings, as we have no frame of reference to draw any alternative conclusions; but it is abundantly clear to us that HPS is woefully ill equipped to offer relevant advice to an operational policing environment.

This is highly relevant as the PSoS consistently reports that it is following HPS guidance, absent any context of the wholly inapt nature of much of that guidance.

For example. In its guidance for the PSoS, HPS stated;

“There is no scientific evidence identified that assesses {emphasis added} the aerosol generating nature nor the transmission risk related to fighting/restraint scenarios. Fluid-resistant barrier precautions would be sufficient protection against spit/saliva or other secretions/excretions produced in a restraint scenario (which are considered to be large droplets/particles (not aerosols) and therefore would not be considered AGPs).”

Thereafter HPS recommended PPE for such scenarios was;

TBPs (droplet precautions); disposable gloves, disposable aprons, eye/face protection i.e. type IIR FRSM, face visor/goggles.

Only those with a complete absence of understanding of the realities of fighting / restraint in the police setting could seriously consider that officers would, a) stop to enable the donning of plastic aprons, goggles, visors, and gloves, in the microseconds that usually precede occurrences of fighting/resisting or, b) have ready access to such items on their person as a matter of routine. The entire recommendation would be laughable were it not so serious.

It is equally telling that HPS stated that *“There is no scientific evidence identified ...”* to support its implied position that AGPs are not produced in fighting/restraint scenarios. We consider that this is a deliberate phrasing which rather than establish evidence of absence actually reinforces there is an absence of evidence (to support its implied position). The high-octane nature of such incidents very obviously produces droplets and other secretions. It is difficult to accept however that AGPs are not generated as suspects and offenders are capable of extreme physical exertion, are often pumping with adrenalin, display fight or flight instincts and general increased rates of breathing, and hyper vigilance

On the subject of the now much publicised breath test procedures HPS again use the careful phrasing;

“There was no scientific evidence identified that assessed {emphasis added} the aerosol generating nature nor the transmission risk related to provision of breathalyser sampling ...”

The PSoS has taken this as evidence of absence where any ordinary reading of the sentence points to an absence of evidence. In correspondence with the SPF, the PSoS has stated;

“the guidance advises that there is no scientific evidence to conclude {emphasis added} that the roadside breath test (or evidential breath test) constitutes an Aerosol Generating Procedure (AGP) ...”

We consider the Sub-Committee should also be aware that in their very first engagement with the PSoS (at a meeting in which the SPF was present), HPS opening gambit, before any attempt was made to understand or appreciate the sheer complexities and realities of operational policing, was to state that the PSoS PPE considerations were too high (with particular reference to FFP3 masks) and that they should reduce their assessment in order to redirect supplies to the NHS.

In his evidence before the Sub-Committee on the 27th August, the Chief Constable stated;

“I have had to reassure colleagues in the Scottish Government on a number of occasions that the police service was not accessing PPE for its officers and staff that should have been going to other parts of the public sector ...”

It is difficult not to conclude therefore that the advice from HPS, upon which the PSoS places so much reliance is anything other than highly partial, and frankly largely operationally useless.

On the 14th May, in correspondence to the PSoS, the HSE wrote;

“HSE considers that if an employer is following the relevant HPS guidance for their sector in terms of controlling the public health risks, they will be taking reasonably practicable precautions to control workplace risks.”

On the 20th May, the Chief Constable reported to the SPA that on the issue of breath testing the PSoS followed the “advice and direction of the Health and Safety Executive” (amongst others).

Unless the PSoS was in possession of other information from the HSE, which we concede is eminently possible; on the basis of the information shared by the Service with the SPF, this was an exaggeration of the reality, as the HSE clearly offered no specific advice or guidance on the issue.

It is well known that the SPF ultimately formally reported the PSoS to the HSE in respect of the health and safety of officers and breath test procedures. It is telling that despite being the body that raised the report, the HSE responded to the PSoS (only copying the SPF in to that response). It is also telling that the response to the PSoS did not address

the substance of the formal report and rather concentrated on the issue we know the PSoS was fixated on, namely the appropriateness of the surgical mask as PPE). We believe it is not too much of a stretch to consider that the HSE was more concerned with endorsing the PSoS position than dealing with the content of the formal complaint raised. We can think of no legitimate reason for the HSE directing its reply to the body complained about rather than the complainant.

The circular nature of the PSoS citing HPS guidance, and HSE guidance (which in itself simply endorses the adoption of HPS guidance) as justification for its positions amounts to a bureaucratic circling of wagons that is impossible to penetrate.

By way of further illustration of this point, the afore mentioned correspondence from the HSE to the PSoS states;

"The Police Scotland Operational Guidance also recognises that any interaction should be subject to an ongoing dynamic risk assessment by the officers. As such, if a person originally identified as not suspected or confirmed as having COVID-19 is uncooperative or evasive when approached or the officer has any reason to doubt the Covid-19 status of those involved then they may, at any time, apply the higher level of PPE.

Therefore, as long as the officers involved are provided with the necessary PPE to achieve both standards of protection, they should be equipped to decide to adjust the standard of PPE to best suit a given set of circumstances. This would appear to be a proportionate procedure to manage the work-related risks of exposure to coronavirus."

Returning now to the letter from the Chief Constable dated 9th September, in which he writes;

"Officers are empowered to make a dynamic risk assessment prior to entering a dwelling and utilise whatever they deem to be the most appropriate PPE for that situation. Even when there is no suggestion of risk, officers have face masks and protective gloves available."

And

"However officers may still be exposed to higher risk through attendance alone"

In his oral evidence before the Sub-Committee on the 27th August, the Chief Constable stated;

"When one sees, for example, an individual who is not wearing a face mask in a shop, one does not always know that there might be a legitimate reason for that, from the person being asthmatic to them suffering from epilepsy or another condition."

We consider that the comments of the HSE, as well as those of the Chief Constable provide an almost perfect illustration of the complacency that we have highlighted. They also lay bare the complete inadequacy of the PSoS's operational guidance and the casual approach of the HSE as custodians of occupational health and safety.

It ought not to take correspondence with the Justice Sub-Committee to draw out the impotence of the position of the PSoS, and seemingly endorsed by the HSE, that like conditions such as asthma or epilepsy, Covid19 is invisible. Both the PSoS and HSE appear to rely on some mythical powers that police officers have to identify the "Covid19 status" of individuals and bizarrely seem content to draw comfort that in doing so, the health and safety of police officers is addressed.

Attendance at house parties is a known Covid19 risk. It has always been a known Covid19 risk and, according to reports, the main driver for the rapid acceleration of Covid19 cases.

It is simply unacceptable that the PSoS considers that passing the decision on the PPE for each separate house party should be one for individual police officers based on some nebulous judgement. This is an abject failure but for as long as the HSE, HPS and PSoS continue to rely on each other in support of this ineptitude, police officers will continue to be exposed to risk of exposure to, and transmitting of the Covid19 virus. As the infection rates accelerate across the country this position is even more indefensible.

It is widely reported that over the weekend of 29th August, the PSoS attended over 300 house parties (one of which in itself was attended by over 300 participants). From our engagement with members, and despite access to "full PPE" (which essentially means the inclusion of FFP3 masks) we have failed to identify a single occasion where the FFP3 masks were worn by attending officers. Indeed, it appears that use of the surgical mask was also limited to non-existent.

It is clear to the SPF that the repetitive statements in respect of full PPE (essentially the FFP3 mask) is itself misleading. Officers have one FFP3 mask and if the mask is used, a replacement has to be formally requested.

Members have made clear to us that whilst they are pleased to have FFP3 masks they are reticent to use them for a number of reasons;

1. The PSoS has not made clear its expectation of officers and the use of FFP3 masks.
2. The PSoS has allowed a culture of complacency to develop in respect of mask use.
3. Officers are only issued with one FFP3 mask at a time.
4. The replacement process is too slow resulting in officers being reluctant to use masks in case the next call they attend presents a "greater risk" than the one before them at that particular time.

This letter was being finalised as details of the Covid19 outbreak at the Scottish Police College began to hit the news wires. There is a lot that we could say about the manner in which the PSoS responded to that but to do so would add exponential length to what is already a comprehensive submission. What we will say however is that the first time the SPF learnt that the case number was 7, was shortly before it appeared on the NHS Fife website.

Clearly, we accept that the responsibility for determining health and safety guidance and procedures within the PSoS are a matter for the PSoS. It is regrettable in the extreme that despite the very clear stated intentions of the Chief Constable that we do not have

confidence that appropriate guidance, procedures, and leadership are in place for many areas of policing.

Police officers perform a singularly unique role in our society generally and the uniqueness, and indeed complexity of that role has been added to with Covid19. The PSoS needs to distinguish between the eminently justified pride in the police service response (to public needs), and not consider that as an endorsement that all in the garden is rosy, and ensure it engages in a meaningful and tangible way to address the legitimate concerns of the workforce.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Calum Steele', with a horizontal line drawn through the middle of the signature.

CALUM STEELE
General Secretary

*Please reply to: Scottish Police Federation, Headquarters, 5 Woodside Place, Glasgow, G3 7QF
Tel: 0141 332 5234 Website: www.spf.org.uk*