



OFFICIAL REPORT
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Justice Sub-Committee on Policing

Thursday 14 September 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 14 September 2017

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JUSTICE SUB-COMMITTEE ON POLICING

14th Meeting 2017, Session 5

CONVENER

*Mary Fee (West Scotland) (Lab)

DEPUTY CONVENER

*Margaret Mitchell (Central Scotland) (Con)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Green)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Ben Macpherson (Edinburgh Northern and Leith) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Deputy Chief Constable Designate Iain Livingstone (Police Scotland)

Dr Nicola Marchant (Scottish Police Authority)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Sub-Committee on Policing

Thursday 14 September 2017

[The Convener opened the meeting at 13:00]

Decision on Taking Business in Private

The Convener (Mary Fee): Good afternoon and welcome to the 14th meeting in 2017 of the Justice Sub-Committee on Policing. There are no apologies.

Agenda item 1 is a decision whether to take in private item 3, which is consideration of our forward work programme. Does the committee agree?

Members *indicated agreement.*

Internal Complaints Procedures (Police Scotland)

13:00

The Convener: Agenda item 2 is an evidence-taking session on Police Scotland's internal complaints procedure. I welcome Iain Livingstone, deputy chief constable designate, Police Scotland, and Nicola Marchant, deputy chair, Scottish Police Authority. Thank you for providing written evidence, and I would particularly like to thank Mr Livingstone for rearranging his diary at short notice to attend today's meeting.

As this is the first time that you have appeared before the sub-committee, I invite you both to make some very brief—and I mean very brief—opening remarks.

Deputy Chief Constable Designate Iain Livingstone (Police Scotland): I am pleased to be here. Although I had commitments in Belfast, I changed them, because I recognise the significance of the issue that we are discussing today. My preparation time might have been shorter than ideal, but I have a lot of experience in and commitment to this area, and I am looking forward to helping the committee with its deliberations.

Dr Nicola Marchant (Scottish Police Authority): As the committee is aware, the chief constable is taking a period of leave to address allegations around conduct. As a result, he is not with me to give evidence, but I am ably supported by my colleague, DCC Livingstone.

It would not be appropriate for me to comment in any more detail on the allegations at this stage. However, I assure the committee that we have taken steps to meet the welfare needs of all the parties involved, and the SPA will, as you would expect, continue to closely monitor and address any issues with fairness, rigour and speed.

People are at the heart of policing and will remain central to its evolving service to the public. The implementation of the policing 2026 strategy requires a focus on what kind of organisation Police Scotland needs to be and the kind of culture that we want at all levels. That is at the heart of today's topic. Culture and ethics have been a focus for me throughout my professional career in science and industry and in my time in policing as chair of the SPA's people committee and now as the authority's deputy chair, and that is why I am glad to have the opportunity to appear in front of you today.

I want to make three points. First, we have improved the visibility of how the SPA investigates complaints against those charged with

investigating police standards. If a complaint is made against Police Scotland's anti-corruption unit or professional standards department, the SPA now receives an automatic notification that allows us to dip sample the case upon conclusion, test that the appropriate procedures and due process were followed and highlight any learning points. A report is then made to the policing committee to inform its scrutiny.

Secondly, we have widened SPA oversight of relevant policies and performance. The SPA's people and policing committees are developing complementary plans for scrutiny in their work plans, and the scrutiny process will be further supported by the audit committee, which will broaden its oversight in the coming year.

Thirdly, we have filled a clear policy gap that was identified in previous evidence to the sub-committee. We now have whistleblowing policies approved in both the SPA and Police Scotland, with communications rolled out to staff and officers on how concerns can be raised. As I have said, policing is a people business, and successful people organisations need a whistleblowing policy as part of their people-related policies and guidance.

It is essential that our people have clarity on what the behaviour expected of them consists of: integrity, impartiality and honesty. That is in our code of conduct and professional standards, and it is supported by a suite of options for people to raise concerns, starting with the line manager. Respondents to our recent staff survey reported good relationships with and real confidence in their line managers, so that is a good starting place for us.

However, culture and behaviours take longer to change than a document takes to draft. We are on a journey. We are not there yet, but I believe that we are making important good progress. Thank you.

The Convener: I thank you both for your opening remarks. We now move to questions, and I refer members to paper 1, which is from the clerk, and paper 2, which is a private paper.

I will start off by touching on the issue of staff morale, particularly given DCC Livingstone's involvement in the issue of wellbeing. Your communications and engagement strategy document states:

"Staff who ... are consulted, listened to, considered and supported are more likely to take fewer absences, work harder, remain with their organisation and ... present a professional and positive picture of this organisation to the public."

However, a submission that we have received from the Scottish Police Federation states that

"only 8% of police officers believed the service was genuinely interested in their wellbeing."

The submission goes on to say that "officers are simply 'scunnered'"—those are the exact words that the submission uses. It also states that there is

"a lack of confidence in complaint procedures"

and expresses

"concern over the level of understanding that exists within professional standards departments over the difference between misconduct and performance."

The submission also comments that an "adversarial approach" is taken and that

"working conditions"

are

"disregarded and ignored."

It also states that police officers have

"little confidence that things will improve".

The submission paints a picture of a demoralised staff with no confidence that complaints will be dealt with and no hope of improvement. I am interested to hear your thoughts and comments on the submission's views.

Deputy Chief Constable Designate Livingstone: By definition, a formal complaints process recognises that there will be complaints. However, I recognise that we have not got things right if internally people are beginning to raise grievances and complaints.

I also recognise that in the early days when we brought the Police Scotland organisation together, there was a real focus on process and structure. I was part of that journey and I am still here today, but my judgment looking back is that a lot of it was about process rather than people and that we probably did not spend enough time looking at people. However, we now have an opportunity to state that a sustainable organisation will last only if we are investing in our people. We use the word "wellbeing", but what lies behind that is traditional good practice and looking after your peers and colleagues: the men and women who work beside you.

In the past six months, we have started a bit of work in Q division, which covers Lanarkshire. Again, this is not rocket science; it is about identifying a number of individuals who are part of the team. It is not about having a central human relations unit or a central group of experts but about people who are part of operational teams. We have gone for about 12 to 16 in a team in each of our divisions in the country and have identified individuals—members of police staff and police officers of different ranks—who will be the points

of contact and to whom people can go to for assistance. We hope that that can prevent anything from arising or from developing further. Traditionally in policing, anyone who had financial problems, stress issues or problems at home did not put their hands up to having them; it was all about getting your head down and getting on with it.

We have done that work in Lanarkshire, however, and we are now pushing ahead with it across the whole of Scotland. There is vast enthusiasm for and commitment to it. The Scottish Police Federation has informed the process and we have taken a lot of really good advice and guidance from it; it is incredibly supportive, as are all the staff associations. I should say that I have been involved in this work. In itself, it is not the answer, but it is a start that shows that we are investing in our people going forward.

In recent months and years, we have made significant progress with some of the issues about complaints processes. I have restructured the professional standards department, and we have also restructured the counter-corruption unit, renaming it the anti-corruption unit and ensuring that it is properly focused on corruption threats and that it has a high threshold. The professional standards department is now operating as a national unit. I have refreshed the senior management team, and I have regular meetings with members of the Scottish Police Federation to pick up its concerns.

I recognise the challenging position that the Scottish Police Federation has presented. I am not saying that its concerns lack validity; what I am saying is that we have begun to address them. I will always work with the Scottish Police Federation and staff associations to ensure that we understand their concerns and that we take steps collectively to address them.

The Convener: I understand why the focus has been on process, and it is good to hear you acknowledge that there is work to be done in the areas of staff and morale. However, it is almost as if you are now playing catch-up. The process might be there, but so is the issue of staff morale. If there had been a way to work the two in unison so that, as you changed the processes, you brought the staff on, the submission from the SPF might not have painted such a dark and dismal picture.

Deputy Chief Constable Designate Livingstone: That might be right. One thing that we know is that the level of change and the level of the demand on policing are not going to decrease. We will look at new threats, the nature and role of policing, and where policing needs to be as it continues to change. As we move forward with further changes to policing, we need to learn

the lessons from the massively radical and individually and organisationally disruptive change that we made. The timeframe for that change was incredibly compressed, as the priority was public safety and organisational standards, but I acknowledge that we probably did not do enough to bring our people with us and to invest in them, and I personally commit to making sure that we do not repeat those mistakes.

The Convener: Dr Marchant, before I bring you in to comment, Liam McArthur has a brief supplementary question on that.

Liam McArthur (Orkney Islands) (LD): I am happy to wait until after Dr Marchant has spoken.

Dr Marchant: I support what DCC Livingstone said. I am the chair of the people committee, which works closely with Police Scotland. We invite colleagues from the staff associations to sit round the table with us at all our open meetings, and we regularly look at health and wellbeing. We did a deep dive, wrote it up and put it in the public domain, and we are monitoring that. On 5 September, Police Scotland ran an excellent day that focused on health and wellbeing, and my colleague from the people committee, Graham Houston, attended. We intend to keep monitoring, listening and learning.

Liam McArthur: I heard what Mr Livingstone said about time pressures and I am sure that everybody would accept that. However, I am struggling to understand where professional development for officers and staff at all levels, and training in leadership for those in more senior positions, is being factored in. Presumably, if you got that right, the chances are that morale would improve and the number of complaints would tend to fade away or reduce. Where does that sit in your priorities for the work that you are doing at the moment?

Deputy Chief Constable Designate Livingstone: Again, I acknowledge and recognise the insight behind that question. We have not invested in our leadership training to the level that we should have. The people who are coming through now have not had the benefit of the same leadership development that I had when I was coming through as a younger officer, and leadership training is a critical element for the implementation of our 10-year strategy.

The strategy is a very good document, but the key test will be about making things happen. Often, people think that information technology will be a determinant of an awful lot of it, and that we need a new system and greater structure and mobility. We absolutely need that, but there are other fundamental elements and one of them is to get a proper integrated leadership development programme, which we are bringing forward very

quickly. Internally, we have already approved a piece of work on the identification of talent and talent management, as well as core front-line management training to give managers the confidence to challenge and lead, which will make sure that the organisation is fit for purpose.

In response to your observation that there was not enough focus on leadership development during the period of change and operational challenges that we have been through, I come back to what I said in my opening remarks—we needed to focus more on our people. The development of a proper leadership development programme is a core part of what we are looking to do in the early years as we take forward the new part of Police Scotland.

13:15

Dr Marchant: I totally support that, and the people committee has asked to see it as it is developed. It is important not only that we see leadership and how we are developing it but that we are ensuring that there is a sustainable organisation. That is essential, and leadership and developing the leaders of the future are key components of it, as is what I would call a strategic workforce plan that looks at the workforce that we will need to deliver that organisation. The policing 2026 strategy will not be delivered without our people—they are at the heart of that and DCC Livingstone further supports that. It is a key enabling thing, and we will be monitoring it closely.

Liam McArthur: Leadership is crucial, but continuing professional development is presumably relevant at all levels and in all aspects of the workforce.

Deputy Chief Constable Designate Livingstone: Yes. We are seeking to implement quite a deep and layered structure. We are putting resources and priority into it and we are making sure that we allow people to step out at times and that they see that as a priority. It is easy to cancel professional development activities such as leadership or operational training because, in policing, there is always another priority that needs to be addressed. We are insisting that professional development is given priority, because without it we will not build the sustainable organisation that will take us forward. However, your observations are valid and we are addressing them.

The Convener: Stewart Stevenson has a brief supplementary.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Mr Livingstone, you talked about managers having the confidence to challenge. Are you also focusing on what I see as another requirement, which is that managers must learn to be challenged? Do you agree that there is value in

being challenged by those who are, very often, closer to the front line than managers inevitably can be, whose voices in many organisations—this is not only about the police—are often not as well heard and responded to as they might be?

Deputy Chief Constable Designate Livingstone: I agree with that. My experience is that the culture of the organisation now is different from that of the organisation that I joined—people are more likely to challenge. It is a fantastic development in society that automatic deference to authority does not apply, and that respect and regard have to be earned. One of my children is an officer in Police Scotland and she regularly challenges me on decisions and issues that arise. That is a characteristic of the younger officers who are coming through. Your observation is probably right; it is not so much about the younger officers having the motive to challenge as about making sure that the older officers and senior leaders are prepared to accept and take that challenge. That is something that I am seeking to push forward.

John Finnie (Highlands and Islands) (Green): Good afternoon, panel. Thanks for your submissions and, particularly, for your attendance, Mr Livingstone. When you talk about people and looking after each other, I take reassurance from the role that the staff associations—the Scottish Police Federation and the Association of Scottish Police Superintendents—play in that.

To look forward we sometimes need to look back. I am going to touch on an area that is in your written submission. I think that there are only two members here who sat on the previous Justice Sub-Committee on Policing, but we faced challenges and, indeed, felt that there was obstruction and prevarication in relation to the issues that we legitimately raised about the counter-corruption unit. I accept that it was not your area of responsibility at that time, Mr Livingstone, but the submission refers to your notifying “external partners” on 1 May 2017 about the repositioning of that unit. Can you expand on that?

Deputy Chief Constable Designate Livingstone: The purpose of the counter-corruption unit, when it was originally conceived, did not come from an internal corruption or professional standards thought process. I was part of the process, which dates back to a time before Police Scotland was even envisaged. It came from work carried out by the serious and organised crime task force, and I was involved along with the then chief constable, Sir Stephen House. It was to do with identifying and countering the threat to policing, and therefore the threat to civic life, that organised crime might pose.

As the unit developed, in the early years of Police Scotland, it lost its focus and started to drift

into areas that were not its primary purpose. The unit started to pick up criminal allegations against police officers that were not allegations of corruption, and other issues of internal policing and audits that were not part of its original remit.

Her Majesty's inspectorate of constabulary in Scotland came in on the back of the issues that you allude to and carried out a detailed inspection—we mention its 39 recommendations in our submission. All of the recommendations were accepted, with the exception of four. Some were investigative recommendations that could not be discharged until the investigations were carried out.

The counter-corruption unit was realigned with what I would say its focus should have been. As a public statement of that, both internally and externally, it was renamed the anti-corruption unit. I know that it is a name, or a label, but it is important. Although it is a distinct unit and entity, it needs to be integrated with allegations and pieces of intelligence that come in to other parts of the Police Scotland structure.

A key part of our operational response, which came out of the HMI work, was the creation of a gateway assessment unit to make sure that there is not a piece of information sitting somewhere in one part of the organisation that we should align with a piece of information in another part. Just as important, the unit ensures that, if there is suddenly some interest in a piece of information in one part of the organisation, another part can disprove it using a body of evidence that shows that it is false. The creation of the assessment unit is vital, because all pieces of intelligence and anonymous information are assessed and properly aligned. If there is a need for a local management intervention—which is not a formality—that will happen. If something needs an investigation because it is considered to be a potential conduct issue, professional standards will take it. If it is an issue of corruption, the anti-corruption unit will take it.

The anti-corruption unit now falls under my remit as the deputy chief constable designate. I have complete oversight of its functions and capabilities. Critically, I am very intrusive at quite a tactical level. My background as an investigator—a detective—allows me to do that with a degree of rigour. On a weekly basis, I sit with the anti-corruption unit, go through its casework and make sure that it is acting in a lawful, necessary and—the key thing for me—proportionate manner at all times. I think that the unit is in a different place. I do not dismiss the challenges and difficulties that arose previously, but I am confident about it going forward.

John Finnie: You talked about proportionality, and you will be aware of the widespread

perception that, as previously configured, the unit seemed to feel that it was above compliance with the norms that were expected of the officers the unit was dealing with. We understand that there is a report from Durham Constabulary and a report from Northumbria Police on their independent reviews. Accepting that there are very sensitive areas, will you undertake to make available to the committee as much of that information as can legitimately be made available?

Deputy Chief Constable Designate Livingstone: I give you an unqualified undertaking that I will do so. You acknowledge that the information will be redacted because of individual officers and areas of sensitivity. However, once all the necessary investigations are carried out, and discussions and any formal processes are concluded, I will share as much as I can, because I recognise the legitimate public interest.

John Finnie: I move to the other side of things and the role that the grievance procedure plays in resolution. Many things escalate because of an unwillingness to challenge. A whistleblowing policy is welcome, but it could be perceived, in some respects, as a failure of willingness to come out with issues openly. What awareness do police officers and staff have about the grievance policy and senior management's openness to using it as a legitimate tool to address issues and so stop things festering?

Deputy Chief Constable Designate Livingstone: Mr Stevenson's question also touched on that point. I do not have a scientific assessment of awareness levels about the grievance policy, but I see the wellbeing work as being a key part of awareness. Respected operational leaders work in the field and on the ground, and part of their role is to consider the needs of any officer or member of staff who raises a concern. That might include pushing or signposting them towards a formal process, such as grievance. Therefore, awareness levels are addressed through that network and through vocalising—as I am now—support for that approach and the legitimacy and validity of raising concerns.

Some concerns are raised about good operational practice, and we want that. I do not know what is the best way to police Inverness or Edinburgh—I could have told you 20 years ago, but not now—so we need operational practice to be raised, and if there is a concern, we need that to be raised too. I am hoping that awareness of that approach will increase, as will people's willingness to turn to it. In an ideal world, I would try to address and obviate any concerns before they reach any level of formality—that is what we seek to do with our wellbeing initiative.

John Finnie: That reply is reassuring. Thank you.

Liam McArthur: I will flip that answer from DCC Livingstone around. We talk a lot about the need to reduce reoffending. It strikes me that when a complaint is made, whether it is a grievance or whatever, how it is taken forward will presumably get to the root of the problem and ensure that the problem is addressed and that the process is satisfactory for all concerned. How is a judgment or decision made about whether a complaint is taken forward under conduct protocols or performance protocols?

We talk a lot about conduct and we beat somebody over the head for doing something that they should not have been doing, rather than trying to make sure that they learn from the process and that the organisation benefits in the medium to longer term as a consequence.

Deputy Chief Constable Designate Livingstone: It is a fine line at times; the Scottish Police Federation submission talks about that issue, which is one that I recognise. Regardless of whether there is an informal management intervention, a grievance or a conduct investigation, something must always come out of it. It is fine to say that Officer Smith and Officer Jones did A, B, C or D, but it is about what the process issue is or what organisational learning comes from that to make sure that other officers do not find themselves in similar situations.

My judgment is that our mindset—our approach—is far less punitive than it was previously. The traditional approach to professional standards was punitive, with investigation, identification and punishment. Now, if we have behavioural trends in specific parts of the country, we try to see what lies behind them. People might be accessing information or using home email to do work, which would be a breach of our processes, because we have not given them the facilities to support them. We do not always look just at the individual officer; we look at the organisation as well. We make sure that officers are held to account when they need to be, but that the organisation learns from that to try to prevent such things from happening again. The focus on organisational learning is significant—I think that that is what your question touches on.

13:30

Margaret Mitchell (Central Scotland) (Con): My apologies for not being here for your opening statements.

Mr Livingstone, I want to ask you specifically about communication and engagement, and the strategy for 2014 to 2016. That covers internal communications. Do you consider that it has been

more or less a complete failure, given the statements from Calum Steele, for example, saying that the workforce does not feel listened to and is pretty well ignored?

Deputy Chief Constable Designate Livingstone: I recognise the submission that the SPF made. I do not think that the approach to communication and engagement has been a complete failure. We would not have had such a successful development of policy on whistleblowing if we had not had the involvement of the Scottish Police Federation, the Association of Scottish Police Superintendents and many staff associations. They have been core to its development and core to the quality of the product. We would not have made the significant steps in wellbeing if we had not had the commitment and drive of the SPF and the ASPs and others.

When we develop policy and practice, our level of communication and engagement is now vastly improved. Is it complete? Does it happen in every scenario? Is it as layered and deep as we would like? No, it is not. It is, however, far better than it was. Had the SPF been here, I think that its representatives would say that the level of engagement that it has had in the development of those significant initiatives has been very sound.

Margaret Mitchell: It is not just the SPF. When I go out and about and speak to rank-and-file police officers, that is the sentiment that I am getting back. They are a dedicated force, and they are the people we need to look after to make sure that we have an effective police force. However, constantly, they say that they are not considered and there is not a good line of communication—that is an issue in relation to not only individual complaints but the communication strategy in general.

This is not a new issue. As John Finnie said, two of us have been on the Justice Subcommittee on Policing since its inception and we know that this strategy dates back to the strategy for 2014 to 2016, yet here we are in 2017 getting headline-grabbing statements such as that the force is “scunnered”. The officers to whom I speak say that they feel disregarded and ignored. Surely, by any stretch of the imagination, that cannot be deemed a success.

Deputy Chief Constable Designate Livingstone: At the outset, I said that, as we look back from 2017, we can see that, during the intense process of reform and amalgamation that we went through, we did not spend enough time bringing the workforce with us. We did not spend enough time explaining, consulting or engaging—whatever language you want to use. There were reasons for that. As we have said previously, we had a very compressed timeframe.

As I said, and I give a clear undertaking again, we cannot in any way meet the challenges that we will face unless we have the workforce with us. That is why I gave the two examples of the wellbeing work and whistleblowing, in which the workforce, representatives of the workforce and diversity interests have been fundamentally involved.

I, too, go out and about regularly and speak daily to police officers and staff. I live and breathe it. I recognise the concerns, but I think that we have made steps forward to address the fact that we had been more focused on process than people. I am committed to making sure that we listen and bring our workforce with us.

Margaret Mitchell: You have mentioned two things: wellbeing and whistleblowing. Surely it does not have to get to the stage that someone feels that they have to be a whistleblower before they feel a part of the organisation that is valued and consulted? They should not just be consulted, but, when they give feedback, they should get some response to that. That never seems to happen.

I asked the Cabinet Secretary for Justice about this in the chamber. He said that you had it sorted. What specifically are you doing to address it?

Deputy Chief Constable Designate Livingstone: Again, you are right. If we get to whistleblowing and grievance and raising the flag, that shows that something has gone wrong and that an individual is concerned. The reason that I am talking about the work around wellbeing is that that is absolutely critical to our approach to internal complaints and to grievances and concerns. At times, we will need to have those processes and we will need to ensure that they are legitimate and fair, as we have discussed.

In terms of wellbeing, we have created a network of individuals on the ground who are there to access support for people, whether they are suffering from stress or financial problems, whether they have difficulties with where they are posted, whether they have family problems at home, or whether they are having a grievance issue or a concern with their line manager or with another peer. That network of about 170 highly regarded individuals right across Scotland is dedicated to ensuring that there is greater awareness of the support mechanisms and facilities and of our grievance process and other processes.

What we are doing is not rocket science; it is good police work and it is good peer and people support. Are there issues and concerns? Yes, there are. I know that, but we are taking active steps and we are committed to doing it with the support and involvement of the workforce. The

wellbeing champions are not senior officers. They are not people in a central department. They are the front-line men and women who do a good job on a daily basis.

Margaret Mitchell: With respect, though, despite everything that you have said about people with personal problems, we want to know where the structure is for day-to-day communication with Police Scotland and the messages that are going out today. They switch on the computer and there are pages and pages of things, and they are expected to know where to look. If they do not know, they are told that it was on their computer, whether they had time to do it or not. Where is the strategy? Where is the message from Police Scotland's corporate body coming down and engaging with somebody who might not say that they have a particular problem? It might not be a question of tapping into the wellbeing initiative; they might just want to feel consulted and part of the organisation, knowing what the priorities are, where they are going and that their views are going to be listened to.

Deputy Chief Constable Designate Livingstone: That involves core policing, team work and the role of the first-line manager. One really positive thing that emerged from the staff survey was the level of trust that people had in their managers and direct reporters. Our task at the centre is to ensure that people have the skills and information to do that face to face. I mentioned to Mr McArthur the need to develop leadership training to give people the skills and confidence to brief the men and women whom they are leading, so that they can bring them with them. We have many challenges, but I find that it is far easier to address them if we do it in a productive and positive manner.

That is where I am at the moment. I am not seeking to justify some of the approaches that we had at times of necessity or at times of oversight. What I am saying is that there is an absolute commitment to work to encourage and support the officers and staff of Police Scotland, because the challenges will be enormous as we go forward, as will be the level of scrutiny that they are under. My commitment is to give them as much support as possible and to listen to them, because they will know the answers to the challenges.

Margaret Mitchell: I want to ask Dr Marchant about the Scottish Police Authority's view on communication. It is such a basic thing. You represent the watchdog and it has not been a success story so far, so what input has the SPA had?

Dr Marchant: With respect to the policies that have recently been rolled out, there is a forward look from the people committee. We looked at the communication plan as it emerged following the

approval of the policies, and we will be revisiting it to see how it has been received right down at the grass roots. As I said earlier, we do that by inviting our staff associations to sit around the table with us for that conversation. The other thing that we focus on is ensuring that we are a listening and learning organisation, which also comes down to supporting what DCC Livingstone has said. It is about the support that is given to the first-line managers. They are the people who are at the front and are support the officers that are out there. In the past year, Police Scotland has rolled out the personal development conversation to reinforce the performance discussion that is had between a manager and an individual. Again, we will monitor how that was communicated and how it is working. That is done through listening to the staff associations, which closely support their members.

Margaret Mitchell: Has the SPA commented on the communications and engagement strategy 2014 to 2016 and how it has worked at any point in its existence?

Dr Marchant: I am afraid that I cannot answer that. I would have to find out and get back to you.

Margaret Mitchell: Has there been any dialogue with Police Scotland on communication?

Dr Marchant: Certainly, in my time on the SPA, there has been a lot of dialogue with regards to communicating the key messages in the policing 2026 programme and cascading them down. As I said, the dialogue that the people committee looks forward to is when we change guidance or policies and want to ensure that that is communicated effectively, which we do by listening to our staff associations when they join us at the table at our meetings.

Margaret Mitchell: With hindsight, do you think that that has been a gap in the work that the SPA has carried out so far?

Dr Marchant: There are always areas to improve on. As DCC Livingstone said, as we enter our next phase of change, we need to ensure that we bring our people with us and that we are listening. It is not just about diversity; it is about creating an inclusive work environment where everybody feels valued and their voices can be heard. That will be a focus for us.

Margaret Mitchell: You will understand that that sort of thing can come across as platitudes and that the test is how it plays out in practice.

Dr Marchant: I totally agree.

Stewart Stevenson: My interest is in communication flowing upwards. I will start by asking a broad question and then say a bit about why I am asking it. To what extent have you

looked at how upward communication works in other organisations where it matters?

I will point to two examples that you might care to look at. One is the aviation industry, where, having fixed almost all the technical problems with aircraft, it was found that it was the crew who were killing passengers, mainly because greybeard captains were unprepared to listen to junior first officers, who of course had come out of training more recently and knew some things that the captains did not. The industry dealt with that in a particular way. The other example is the Challenger space shuttle, where everybody at the bottom knew that there was a problem with the rubber ring, and nobody at the top had ever heard about it. If we get things wrong, the consequences can be serious.

My experience suggests that there is a triangle, with communication at the bottom, so you have lots of that and, if it works well, you do not move to the next level, which is challenge, although you need a bit of that. If that is working well, you do not move to the next level, which is complaint and, if that does not work, you are then into the territory of whistleblowing. That is a little diagram for people to think about. Do you have a functional equivalent diagram that every police officer could bring to their mind to say how you approach the issue?

How are you looking at other experiences? Safety-critical industries such as the nuclear industry or, for that matter, the health service are particularly relevant. I am really interested to know whether you have heads up and are looking elsewhere.

By the way, I do not use the word "never" with the frequency that Margaret Mitchell perhaps does. In the north-east of Scotland, the police are obviously much more content. There are gripes, but a lot of good things are being said about what has come through the reorganisation, such as the access to new resources.

Deputy Chief Constable Designate Livingstone: We do not have the sort of single schematic that you suggest, but I have scribbled a note and we will have a look at that.

I touched earlier on the fact that there has been a change in the police culture and there is now more debate and challenge in the organisation. We have done a number of things that are based on external industry best practice. There are risks attached to introducing processes. In the work that was done around 3C, we introduced a notifiable incidents process, the purpose of which was to allow call handlers to say that, although nothing went wrong in a certain instance, it might have done, because there was a breakdown in communications or a lack of resources. Rather

than suppress that because we were nervous that there would be political and media criticism of the control rooms, we said that we needed to be informed about it so that we could take steps to address it.

13:45

I hear Stewart Stevenson's point about the topicality of the aviation industry black-box thinking and people being prepared to say that there is a small issue, and I hear the point about the Challenger space shuttle. However, in policing, that is quite a radical change in approach. Traditionally, the approach would be to keep your head down, keep your mouth shut and get on with it. The 3C approach has been enormously helpful, but at times it can be interpreted as though there is one crisis after another, which is not the case.

Culturally, we need to say that we want people to put their hands up to let us know if there is a concern—even better, to let us know the remedy to that concern because, as you say, they are more likely to have the answer to it. Thereafter, the senior team can take action to address that concern. We have taken a broader view and we need to do more of that. As a single service, we need to look externally not only at other law enforcement examples but at other sectors to make sure that we are getting the best practice that you talk about.

Stewart Stevenson: Have you looked at a hotline? For example, in aviation, there is a thing called CHIRP—the aviation and maritime confidential incident reporting programme. It is a confidential hotline for the reporting of incidents with potential—in other words, things that did not happen, but might have done. I have contributed to that and, even as a private pilot, I get a quarterly report from CHIRP. In that way, everybody knows the things that are being said and can apply them on their own initiative, because everybody is responsible.

Deputy Chief Constable Designate Livingstone: I personally do not have knowledge of the programme that you allude to. However, I think that the theory behind such a programme lies beneath the notifiable incidents process and a part of it sits in our integrity matters system, which has an entirely anonymous and confidential reporting mechanism. The integrity of that anonymity and confidentiality is absolute. We have spent a lot of time on it and put in a lot of investment to make sure that there are proper fire walls so that people have confidence in it. I think that different elements of what you allude to are in what we are taking forward but I undertake to step back to see what we may be able to learn from other places.

Stewart Stevenson: Finally—this is not a question—I point out that the CHIRP hotline is outside the formal process and is used when there is not a requirement to report.

The Convener: Before I bring in Rona Mackay, I have a question for Dr Marchant. DCC Livingstone mentioned the integrity matters system. Can you tell us whether the SPA took up the offer of an overview and demonstration of the new system? If it did, are you confident that it now has the system right?

Dr Marchant: I personally did not take up that opportunity. I will do so—it is good practice for me to do that. I know that my integrity matters colleagues in the SPA looked at that.

Rona Mackay (Strathkelvin and Bearsden) (SNP): DCC Livingstone, you spoke about the HMICS report and its 39 recommendations. Can you elaborate a wee bit on the 35 recommendations that have been proposed for closure and the four outstanding recommendations? There is a bit of confusion over why they are outstanding—it is taking a long time for them to conclude. I would be grateful for any background that you have on that.

Deputy Chief Constable Designate Livingstone: Absolutely. The outstanding recommendations are quite specific investigative recommendations. I am happy to track them down. Recommendation 2 rings a bell—the recommendations certainly include recommendations 2, 3 and 39, which are quite specific and relate to actual investigation of the circumstances. They are not to do with the structure or practice of the CCU; they are to do with a specific case that it was investigating.

The chief constable asked Durham Constabulary to carry out an independent investigation into those elements and therefore they are part of the Durham Constabulary report. I have said to Mr Finnie that we will share that report. The second test was to assess from the Durham Constabulary report whether there were any prima facie conduct issues for individual officers. We assessed that there were, so there is now a conduct investigation that relates to some of those elements. That is being taken forward by the Police Service of Northern Ireland for a level of independence.

Northumbria Police is engaged in the review of the historical complaints against the CCU and the issues in that regard. The recommendations that have not been discharged do not relate to structure, practice or process; they relate to very specific elements of the investigation. Until all those elements of the process are concluded, we cannot discharge them, but I am satisfied that

there is an absolutely legitimate reason why we are where we are.

We have written to HMICS to give it an interim update. From discussions with colleagues at HMICS, we expect that they will revisit their inspection report. Obviously, that will be shared with the committee in the early part of next year. We have written to it to say that we think that the recommendations are discharged. It will come and inspect and confirm whether it agrees with that. The very specific investigative recommendations may be discharged at that time, as well.

Rona Mackay: This might be a difficult question but, given what you have said, what is your expected timescale for the investigations to be completed?

Deputy Chief Constable Designate Livingstone: I am not in charge of the investigations, so I am genuinely not able to give a timescale. I am always nervous about making commitments to timescales. Having led the work on the Justice for Megrahi investigations and other issues, I know that significant and complex issues often arise towards the end of investigations and that, if we want the investigation to be thorough, robust and professional, we need to go down those lines. However, that sometimes means that a fair bit of time passes. I would therefore be nervous about making commitments to timescales, but I think that, when HMICS comes back in in early 2018, we will get an independent assessment of where we are on anti-corruption.

Rona Mackay: Dr Marchant, is the SPA happy with the way that things are going with the report?

Dr Marchant: Yes.

Rona Mackay: And you understand the process that is going on.

Dr Marchant: Yes. A working group was established in which an SPA board member is involved. We are working very closely with it.

John Finnie: Mr Livingstone, you mentioned that there are live misconduct proceedings. Was a decision taken directly in-house that the circumstances constitute misconduct, was there a reference to the fiscal on any criminal allegation, which came back and was directed to be misconduct, or are any criminal allegations coming out of that?

Deputy Chief Constable Designate Livingstone: Criminal assertions were made by a complainer, which led to the Durham Constabulary inquiry, but the Crown had already taken a view that the matter should proceed by way of a complaint against the police and should not be taken forward as a criminal investigation. When Durham Constabulary concluded its investigation, an assessment had to be made again because, as

colleagues will be aware, if there is any suggestion or allegation or material that shows that a reasonable inference of criminality can be made, that must always go to the Crown. I stress that, in all elements of internal complaints or grievances in Police Scotland, if there is any suggestion of criminality, we always defer to the Crown, which is always the master of the instance when it comes to allegations of criminality.

There is always a distinction between a complaint against the police, when the allegations are looked at, and the need to look thereafter at other specific elements of the conduct of individual officers. Out of fairness to the officers, it is right and proper under the regulations that the people who carry out the conduct investigation are different from those who carry out the investigation into the complaint against the police. That is why we went to another outside force. We asked the PSNI to pick up that part. However, they are prima facie conduct issues that a number of officers face.

John Finnie: I have two questions that I hope you will be able to answer. Your first reference was to a decision that it was not criminality and was referred back; was that referred directly to the fiscal by a complainer, or did it come through internal police procedures?

Deputy Chief Constable Designate Livingstone: As you said earlier, I was not involved in the early stages, so I would have to check the specifics rather than commit here. I am happy to do that and come back to you and the committee.

John Finnie: If you could.

A supplementary question is whether all the complainers in the case are serving or former police officers?

Deputy Chief Constable Designate Livingstone: I think that they are; that is the work that the Durham Constabulary is carrying out. The complainers have all been written to by Police Scotland and had apologies for breaches that took place. That does not mean that the conduct process cannot progress as appropriate against particular officers.

John Finnie: I appreciate that I am asking things that are perhaps outwith your ken. Similarly, are all the live misconduct allegations from serving or former police officers, or are any of the allegations in relation to the operation of the CCU from members of the public?

Deputy Chief Constable Designate Livingstone: The misconduct allegations that officers face are all a product of the initial investigation that was carried out by Durham Constabulary into complaints against the police.

The issues that the subject officers now face are based on the allegations that were made by the officers that you spoke about, who are serving or retired officers.

John Finnie: They were not made by members of the public.

Deputy Chief Constable Designate Livingstone: No.

John Finnie: Thank you.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): My colleagues have mentioned the written evidence from the SPF. I would like to refer to the written evidence that the committee received from Unison Scotland, which refers to those who wished to raise grievances being “fobbed off” at the initial stage. That is concerning.

Does the low number of grievances raised, as illustrated in the recent survey, show a lack of confidence in the system for reporting grievances? A change of culture was mentioned earlier in reference to other matters. Is a wider cultural change required in order to foster change?

Deputy Chief Constable Designate Livingstone: It is always difficult to interpret whether a low number is good or bad. Theoretically, we would wish to have no grievances in Police Scotland because all matters were addressed at an early stage, people worked collectively and everybody conducted themselves—and treated their colleagues and peers—with fairness, integrity and respect. In the real world, we know that issues will arise; there will be rubs and there will be issues.

The assertion has been made that the low level of grievances shows that people are “scunnered”. I do not know whether that is right or wrong. What I do know—and where I agree with you—is that there needs to be greater awareness of what avenues are available to officers and staff and greater confidence and trust that if there are issues, they will be addressed appropriately. All the different elements that I have talked about are designed to make sure that people have that greater awareness of different avenues, whether visible publication of a whistleblowing policy, the introduction of personal development conversations, active initiatives such as “ask the dep”, which I kicked off a number of months ago, or—critically—the wellbeing work that we want to do. If that greater awareness necessitates a grievance, that is a good thing.

It is difficult to assess whether a low number of grievances shows a lack of confidence. That has been put forward, but my position is that we need to make sure that everybody knows what facilities and processes are available to support them, so that we can resolve any concerns that they have

and not lose them. We have invested a lot in our people and we need to keep them; we have an ethical duty to look after them and, as an organisation, we need to keep them because they are highly skilled and highly committed.

Ben Macpherson: In that spirit and with reference to what the convener raised earlier, are you confident that the integrity matters system will encourage reporting and dispel any notions among police officers across Scotland that they are being “fobbed off” in the way that Unison Scotland described?

14:00

Deputy Chief Constable Designate Livingstone: The integrity matters system is a key and quite iconic element of our approach to listening and giving officers or staff the opportunity to raise issues, but it is just one of many. Its value is its anonymity and confidentiality. In recent months, I have seen green shoots and have been more optimistic because more officers and staff have been writing in directly to professional standards or to me to say, for example, “I’ve got a concern. I’m Constable Livingstone and I work at Wester Hailes police office. I want to tell you about my concern so that you can do something about it.”

The integrity matters system is critical and we will always have it because of its anonymity, confidentiality and trust. However, there are myriad other avenues through which people will raise matters, not only through the wellbeing champions but directly. The integrity matters system is very important and we have improved its robustness, but I am not relying on that alone; I am also relying on lots of other different practices.

Ben Macpherson: How will you ensure that the effectiveness of the integrity matters system and the wider system as a whole—the myriad ways, as you put it—will be monitored and evaluated to ensure that you have an evaluation of the progress that is being made?

Deputy Chief Constable Designate Livingstone: We will build that in internally. I am looking for quarterly updates, and the head of professional standards and I will look at that. I talked earlier about the external validation, which means that the inspectorate will come back in the early part of next year to look at this whole area of business. We will take formal and informal soundings in the regular engagement that we have with the officers and staff through the associations or individually. However, we need to ensure that the system remains current and fit for purpose as we go forward.

The Convener: I have another couple of questions. When someone makes a complaint, will

they be informed of the names of the people who will investigate the complaint? We have been given information that the investigation process lacks transparency and independence, that there is a feeling that Police Scotland tries to minimise the complaint that is being made and that there is a degree of frustration and resentment around getting information about how a case is progressing. Can you give us some clarity on that?

Deputy Chief Constable Designate Livingstone: I can give you absolute clarity on that. I think that you are alluding to a complaint that might be made against a member or past member of the anti-corruption unit and what level of independence can be provided. The identity of the officer who is appointed to investigate a complaint will be confirmed and approved only when it comes to me. I will seek to ensure that if the officer who has raised a complaint works in, for example, Ayrshire or Renfrewshire, the investigation of the complaint will be allocated to somebody from, say, the north or north-east or from another functional part of the organisation.

I will also insist that the person making the complaint is told who the intended investigating officer will be because there could be a previous conflict or engagement between them that I have no knowledge of. If I think that that is a legitimate concern, I will allocate the investigation to somebody else. The person making the complaint is told who the investigating officer will be, but they do not have a veto. If necessary, I will change who the investigating officer is.

The Convener: That is very helpful. Finally, there are six on-going complaints that relate to largely historical matters. Is there a timeframe for completing those investigations?

Deputy Chief Constable Designate Livingstone: Again, I am sorry, but as I said to Ms Mackay, I think that those are the ones that Northumbria Police is reviewing. I hope that that will be completed sooner rather than later, but I cannot give a specific time.

The Convener: Dr Marchant, does the SPA have any authority to look at why it is taking so long to investigate the complaints? Does it have any input on that?

Dr Marchant: I would need to confirm that, as I do not have clarity about it. I know that we have oversight of complaints, but I do not know what authority we have.

Deputy Chief Constable Designate Livingstone: We have asked an independent force to look at it, so the authority's role is to make sure that the process is robust, legitimate and lawful. The specifics of an investigation have to be respected once we have asked for that level of independence. If there were concerns about the

pace or resourcing of the investigation, I would raise that, but its independence is so important that the specific detail must be left with the independent investigating force. Anything else would be inappropriate.

The Convener: As there are no further questions, I thank you both very much for attending and for your answers, which have been very helpful.

14:05

Meeting continued in private until 14:08.

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