



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Sub-Committee on Policing

Thursday 28 September 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 28 September 2017

CONTENTS

Col.

SCOTTISH POLICE AUTHORITY (GOVERNANCE)	1
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JUSTICE SUB-COMMITTEE ON POLICING
15th 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:

Michael Matheson (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Justice Sub-Committee on Policing

Thursday 28 September 2017

[The Convener opened the meeting at 13:00]

Scottish Police Authority (Governance)

The Convener (Mary Fee): Good afternoon, everyone, and welcome to the 15th meeting in 2017 of the Justice Sub-Committee on Policing. Our business today is an evidence session on the governance of the Scottish Police Authority. I welcome to the meeting Michael Matheson, Cabinet Secretary for Justice, and Don McGillivray, head of police division, Scottish Government.

I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

Before we move to questions, I declare an interest as a member of the selection panel for the next chair of the Scottish Police Authority. Cabinet secretary, I understand that, as a member of the selection panel, I am bound by the "Code of Practice for Ministerial Appointments to Public Bodies in Scotland" and that all the information that I am privy to is confidential. I would appreciate it if you could confirm that my role on the selection panel does not interfere with my role as convener of the Justice Sub-Committee on Policing and any future scrutiny of the SPA and the performance of its chair, and that you will keep Parliament up to date on the process and its outcome.

The Cabinet Secretary for Justice (Michael Matheson): Good afternoon, convener. As the committee will be aware, the Commissioner for Ethical Standards in Public Life in Scotland regulates the appointment of the SPA chair, and Scottish ministers and selection panel members are bound by the commissioner's code of practice. Applicants for public appointments are entitled to expect confidentiality, and all panel members must abide by that. As a consequence, panel members are not able to discuss the appointment process and the information that any panel member becomes privy to is confidential to that process.

As members will be aware, having received representations from the justice spokespersons for the parties in the Scottish Parliament, we made the offer for the convener, or a representative, to become a panel member, recognising that there are safeguards within the code to protect the integrity of the appointment process. For example,

all panel members must declare to their fellow panel members any conflicts of interest that they may have that are relevant to their participation as a panel member. In accepting the offer, convener, you agreed to accept the code and the confidentiality required. I am happy to rely on your judgment that being a member of the selection panel will not interfere with your role as convener of the Justice Sub-Committee on Policing and any future scrutiny of the SPA chair.

It is for the selection panel to identify appointable candidates, but the decision on the appointment of the chair is for Scottish ministers. Officers from the Commissioner for Ethical Standards in Public Life in Scotland would be happy to provide the Justice Sub-Committee on Policing with further information on the public appointments process, if members felt that that would be helpful.

On your final point, convener, in line with the commissioner's code, all appointment decisions are publicised by Scottish ministers. The appointment of the SPA chair will be announced on the Scottish Government's website and the appointed for Scotland website. The announcement will include the name of the appointee; a short description of the body; a brief summary of the skills, knowledge and experience that the individual brings to the role; the length of term of the appointment; remuneration; whether the individual holds other public appointments and, if so, what those are and the amount of remuneration for each; and the activity noted in the political activity form completed by the individual appointed. Therefore, the announcement of the appointment will be set out in line with the commissioner's code.

The Convener: I am grateful for that clarification, cabinet secretary.

Are you satisfied that the role and responsibilities of the SPA, as set out in the Police and Fire Reform (Scotland) Act 2012, are still fit for purpose?

Michael Matheson: Yes, I believe that they are. There might be issues about how some of that role has been taken forward, but the SPA's role in holding our police service to account and in scrutinising it as a key public body that delivers an important public service remains relevant, and the existing arrangement with the SPA holding that responsibility is still relevant and appropriate today.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good afternoon, cabinet secretary. Are you satisfied that the SPA has taken the necessary steps to raise awareness across the justice and political arena of its specific governance role? Have you been involved in any discussions as to

how successful the SPA has been in that endeavour?

Michael Matheson: A number of members of the SPA engage with a range of different stakeholders on an on-going basis. Some of them have particular lead responsibilities for key areas and they engage with various stakeholders, such as trade union representatives or local scrutiny committees, on those matters. There are already arrangements in place for how the SPA takes that forward.

You will be aware that a number of recommendations were made by Her Majesty's inspectorate of constabulary in Scotland in its review of governance and the openness of the processes that the SPA had in place. The SPA now has an action plan and a process in place with HMICS to ensure that the recommendations are taken forward to further strengthen the organisation and to satisfy HMICS that progress has been made on the issues. My recollection is that a number of the recommendations have already been completed and that progress has been made on the others.

There is a process for the SPA and its members to engage directly with a range of different stakeholders. I have no doubt that the SPA should continue to look at whether that process can be strengthened and that it should ensure that it seeks to strengthen that where that can be achieved. There will be times when issues arise and the SPA focuses on engaging with a particular group of stakeholders on a particular matter. For example, the decision that the SPA is making on the proposal for a contact centre in Inverness has involved its engagement with stakeholders in that area, and a board meeting to make a decision on the matter will take place there. There has been an extensive level of engagement with various stakeholders in the Inverness area prior to the board meeting, and I expect that type of approach to continue.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I have a supplementary question on the specific role of the SPA and the concept behind its creation under the 2012 act. The SPA was established to provide an arm's-length body to hold the chief constable to account, while also providing a clear separation between politics and policing. Concerns about the SPA have been heavily covered in the political arena so, going forward, how important is it to you and the Government that the SPA plays that role in providing separation between politics and policing?

Michael Matheson: Policing is now more political in Scotland than it has ever been in my experience, which is not just since I became justice secretary, as I spent an extensive period of

time on the Justice and Home Affairs Committee, the Justice 1 Committee and the Justice 2 Committee in previous parliamentary sessions. I have made the point on a number of occasions that our consideration of policing was extremely limited then. In fact, I cannot recall us looking into policing matters to any great extent, as they were largely seen as being for the local police boards to deal with.

The level of scrutiny of and political interest in policing now is greater than I have ever experienced in my whole time in the Parliament. As I said, that includes my time away from being the Cabinet Secretary for Justice. However, benefits come from the challenges in ensuring that our police service is operating as effectively as possible and is responding to concerns and issues that Parliament and parliamentarians have highlighted. Strengths and benefits come from that increased scrutiny and political accountability.

It would be fair to say that the SPA's scrutiny of policing and the changes that the police service has taken forward has improved in recent years. That is demonstrated in the reports from HMICS. A particular example relates to how Police Scotland took forward the C3 change. The report that I directed HMICS to make highlighted a number of issues relating to how Police Scotland took that forward. The scrutiny process that the SPA has now put in place has ensured that there is greater accountability and greater oversight of how such work is managed.

I am not naive enough to say that, from the outset, the approach has been perfect, or that it is perfect yet, but it is improving and I am confident that it will continue to improve. It is extremely important that there is appropriate accountability and scrutiny of how the police service, which is a significant public service, is managed and taken forward and of the decisions that the organisation makes in light of the trust that the public have in the role that it fulfils.

I expect that the review that is being taken forward by the deputy chair of the SPA, Nicola Marchant, and the chief executive of Western Isles Council, Malcolm Burr, will help us in looking at what further work can be put in place to strengthen the SPA's role in discharging that responsibility and ensuring that it gets the right support and the right information to allow it to undertake that role effectively.

John Finnie (Highlands and Islands) (Green): Good afternoon. I have a couple of questions about the current public appointments process for the SPA. I am not alluding to your letter. What are your views on that process?

Michael Matheson: Should I explain the process?

John Finnie: I would like your views on the process. Has it proved successful? Have you had representations about it?

Michael Matheson: The appointments process for the SPA, whether for the board's chair or for its members, is the same as the process for other public bodies. The appointments are agreed by ministers. Our health boards, for example, have the same process. People who think that there is a particular issue with the SPA appointments process have to be mindful that it reflects what happens in other public appointment rounds. I believe that the system is still appropriate. If there is a desire for Parliament to have a wider debate about public appointments, that is a separate issue.

We have another appointment route, of course: Parliament appoints individuals. Again, that is set in statute. There are different processes for different types of bodies that have different functions. The process works well.

I am conscious that people have issues with particular individuals in the SPA, but that in itself does not suggest that the appointments system is not fit for purpose.

John Finnie: My questions are without reference to individuals. Do you consider that the process has been effective? Have you had representations about it?

Michael Matheson: It is effective as an appointments process. The representation that I received was in the form of a letter from political parties, but I have not received representation beyond that about a desire to see changes to the public appointments process for the chair of the SPA or any public body to which I make appointments.

13:15

John Finnie: Without rehearsing some of the personnel challenges that there have been, do you think that any of the issues that have arisen have dissuaded any group of people from coming forward to seek appointment? I have asked you about that before, in the chamber. I am thinking particularly about the underrepresentation of women and people from ethnic minority groups.

Michael Matheson: That is a challenge in the wider public appointments process, and the Scottish Government has set out its desire to see greater diversity and a greater number of women on public bodies. We have set a date—2020—by when we want 50:50 representation.

It is fair to say that we have made significant progress across the areas that come under my justice portfolio responsibility. I can check the figure, but I think that it is about 45 per cent of

appointments, which reflects that move towards getting 50:50 representation on our public boards, so we are making progress. I wrote to the chair of the SPA earlier this year setting out the need for greater diversity on the SPA's board, and one of the options that I have asked him to look at is whether the SPA could co-opt individuals on to its board to address particular issues, and I know that consideration is being given to that.

There is an issue about the public appointments process in general and about people applying for appointments, and I know that work has been done to make it more accessible and to encourage more people, particularly individuals from ethnic minority groups, to apply for appointments. However, that is a wider public appointments issue, rather than one that is specific to the SPA.

Margaret Mitchell (Central Scotland) (Con):

This is the third SPA chair in four years, so you will be aware that there could be a perception that the selection process has not been altogether successful so far. To an extent, that was acknowledged in the First Minister's response in the chamber.

In your statement on 12 September, you said that you had spoken to the justice spokesmen. You also said:

"as the First Minister stated at First Minister's questions, the Scottish Government is not unsympathetic to the Parliament's wish to have a role in the appointment of the SPA chair."

You went on to say that you would be in touch with the justice spokesmen

"within the next few days".—[*Official Report*, 12 September 2017; c 64.]

There was a clear expectation that you would speak to each of those justice spokesmen. Did you do so?

Michael Matheson: No, I did not. I wrote to Claire Baker, who was the lead person who wrote to me, supported by the other justice spokespersons, and I responded directly to her on the matter. Given the time, that seemed the most appropriate way to expedite the process and ensure that there was an opportunity for feedback from the justice spokespersons. That seemed to be the quickest way to deal with it.

Margaret Mitchell: The letter merely said that each justice spokesperson agreed that the Parliament should have a greater role, but it did not stipulate how that should happen. I can tell you that some of the spokesmen had a real expectation that there would be a discussion, but it did not take place.

Michael Matheson: I responded with an offer to the justice spokespersons and I responded to Claire Baker, the MSP who wrote to me on the

issue with supporting signatures from the other party spokespersons, proposing what would be on offer to take the issue forward. I am not entirely clear what the issue is with doing it that way.

Margaret Mitchell: The point is that there was a clear expectation that the matter would be discussed—we can go on to talk about why there was some haste, given that it was time sensitive—but that was not done, which is an omission. With the benefit of hindsight, do you not think that that would have been a better way to approach it, with every single spokesman being contacted? That is what you seemed to indicate when you said that you would be in touch with them within a few days.

Michael Matheson: I am comfortable with how I dealt with the issue, given the timeframe that we had. It was a live process—it was already taking place. The closing date for applications was last week. There was a very limited amount of time to agree the change to the process, because those who were applying had to be notified of that change and it had to be agreed with the commissioner. I took forward the process in the way that I did because of the time pressures and members' desire to be involved. I am comfortable with the approach that I have taken on the matter.

Margaret Mitchell: Did you not set the timetable?

Michael Matheson: Do you mean the timetable for the appointment process?

Margaret Mitchell: Yes. When the date was set on 21 August—

Michael Matheson: The appointment process had already started by the time that I received the letter from Claire Baker, and the process had been approved by the ethical standards commissioner.

Margaret Mitchell: So when did the process start? I think that that is a fair question.

The Convener: Before I bring the cabinet secretary back in, I point out that we need to be mindful of the statement that he made at the beginning of the meeting. Questions about this particular process are not suitable.

Margaret Mitchell: I find it absolutely astounding that a simple question about when the process began cannot be answered. The issue is very important. The cabinet secretary may recall that, at a meeting of the sub-committee on 22 June with HMICS, I brought up the issue of the appointment and suggested that perhaps we should have a process that is similar to that for other public posts such as the Scottish Information Commissioner and the Scottish Public Services Ombudsman. In those cases, four members of the main parties are involved along with an independent assessor, and the panel is chaired by the Presiding Officer. The appointments made in

that way all seem to have been very successful. At the very least, I would have thought it reasonable to consider that and ensure that we are as transparent and as accountable as possible. In relation to the founding legislation and the statutory requirements, frankly, if the political will was there, that could have been amended when Parliament reconvened.

The Convener: Just before the cabinet secretary comes back in, I point out that he has outlined the process, which has been agreed. We have given a commitment that the specific details of the process will not be questioned today, and we have to respect that.

John Finnie: Margaret Mitchell's comments would be better directed at her party's representative who was a co-signatory of the letter along with me and others. I have to say that there is no mystery about the issue. I understand the process, and I accepted the offer that was made. Perhaps the cabinet secretary can say whether any of the party representatives has subsequently made representations to him, but I understood that the process had been agreed.

The Convener: That is a helpful intervention—thank you.

Margaret Mitchell: For clarification, I can confirm that I have spoken with my party's spokesman and that the views that I am reflecting are his views.

If I could perhaps move on—

The Convener: Cabinet secretary, do you want to come back in on that?

Michael Matheson: I simply want to say that I have not received any representation on the issue other than the letter from Claire Baker, and I have not had any informal approaches from any justice spokesperson on the matter since then.

Margaret Mitchell: I refer you to your statement that you would be in touch in the next few days—

The Convener: Can we move on from that issue?

Margaret Mitchell: The next issue that I want to raise relates to the fact that the convener felt it necessary at the beginning of this meeting to make a declaration of interests and to ask for the cabinet secretary's view, which was—correct me if I am wrong—that he was happy to rely on the convener's judgment that her participation in the process would not interfere with the role of sub-committee convener. What we heard fell short of an absolutely ringing endorsement. I see the cabinet secretary smiling and looking puzzled, but I remind him that this is the third appointment in four years and that the public, those in Police Scotland and all the people who regularly see the

kind of problems—to put it mildly—that the Scottish Police Authority and Police Scotland have had over the years, would want him to ensure that he puts in place the very best selection process that is fully accountable and transparent.

The Convener: The cabinet secretary has answered questions about the panel and the process. I think that we need to move on now.

Margaret Mitchell: That is your judgment, convener, and I will stick by it. However, I think that this line of questioning is important in relation to how far we have to go. I consider these to be legitimate, probing questions that the public deserve an answer to.

John Finnie: On a point of order, convener. This is not a party-political issue; it is about respecting a process and accepting in good faith information that is being shared. We have heard from the cabinet secretary that there have been no subsequent recommendations. I am trying to imagine a situation in which a senior Government minister receives representation from four parties and then is subsequently questioned by a member of one of those parties. Either we had a collective approach, or we did not; my understanding was that we had, and I put on record that I have no concerns about the process that is being followed.

There is a further and totally different issue about future arrangements, but it is important that the sub-committee sends a very clear signal that there is absolutely no question regarding the integrity of the present process.

Liam McArthur (Orkney Islands) (LD): I do not have a great deal to add to that. I think that John Finnie has captured my understanding of the process—I certainly agree with John's understanding of the issue. However, I will move on.

Whatever the situation in relation to previous and future recruitment processes, there can be little doubt that we have a board at the moment that has lost, and is about to lose, some senior members. What assurances or extra measures have been put in place to manage and safeguard continuity in the work of the SPA?

Michael Matheson: One of the things that we arranged back in June was the appointment of a deputy chair to help support some of the chair's work. That role was not in place previously, and it also means that if members have an issue about how the chair is dealing with something, they have an alternative person to take the matter up with. The role of deputy chair has been filled by Nicola Marchant, and since taking it on, she has been heavily involved in a range of different issues. The chair agreed to remain in post until his successor was appointed to give continuity to the work of the

board, particularly the significant work on the implementation plans for the 2026 strategy.

The other aspect that I assume you are referring to is the fact that the SPA's chief executive is taking early retirement. Again, the recruitment process for an interim chief executive has already started; indeed, it is at an advanced stage. The appointment is due to take place within the next couple of weeks to ensure that by the time the chief executive leaves, the interim chief executive will have been appointed and will be able to move into post quickly.

I have been keen to ensure that there is no gap in leadership and that we continue to have a chair and chief executive. The chair will remain in post until we recruit the new chair. Alongside that, there is the recruitment process for the chief executive, which is a matter for the SPA rather than the Scottish Government, and that process was started as quickly as possible to ensure that an interim appointment could be made. As I have said, the process is at an advanced stage, and the appointment should take place within the next couple of weeks. That will allow the organisation to move forward.

Something else that will assist the SPA along with the appointment of a new chair is the decision to appoint an interim chief executive, which will allow the incoming chair to assess the report from Nicola Marchant and Malcolm Burr on governance and support for the SPA board alongside phase 2 of the HMICS thematic review of the SPA, which is due to take place later this year and should report by next spring. The chair can look at those issues and then decide on the most appropriate structure for the board to ensure that it has the right type of support to inform its decision making. Having that continuity until the replacements are brought in, alongside the work that is being carried out, including the HMICS review, will give the incoming chair the opportunity to re-evaluate the situation and make decisions on what they believe to be the best structure.

13:30

Liam McArthur: You are entirely confident that there will be a smooth transition and handover.

Michael Matheson: Part of the reason for the chair staying on until a new chair is appointed is to allow that to happen and to support that. As you are aware, the appointment process for the chair is at an advanced stage, as is the work on appointing an interim chief executive. Whenever there is a transition, there will be some challenges. I am confident that we have done as much as we can to smooth the process and support the board, allowing it to continue to discharge its responsibilities, to take forward the extremely

important work around the policing 2026 strategy and to shape its agenda for the future.

Liam McArthur: Let us step aside from the process for a second. You will be aware of the concerns about transparency in the workings of the SPA that arose, at least in part, from concerns among the chair and other members about the media reaction. At the moment, the SPA is understandably very much in the spotlight. Are you satisfied that the reassurances that we have received that the SPA is now committed to working in a more transparent way will be upheld in the process, given that it finds itself again in the public eye?

Michael Matheson: I am satisfied, and I see it happening already. For example, most of the papers for today's board meeting were published on Monday.

Back in June, I asked HMICS to look at the openness and transparency of the operation of the SPA; it made 11 recommendations and the SPA has put an action plan in place. Before the HMICS recommendations can be discharged, HMICS needs to be satisfied that the SPA has made progress on those matters. The update report that I have seen shows that that progress has been made and that the SPA has a timeline for acting on the other recommendations. We have already seen the practical change that the SPA has made and, alongside that, the additional scrutiny that HMICS offers through its recommendations and the action plan that the SPA is taking forward. That process is being monitored by HMICS to ensure that matters are being progressed.

I have had discussions with members of the SPA. They have a strong desire to take these matters forward, and I am confident that they will. It will be for the incoming chair to ensure that the organisation continues to make that progress.

Liam McArthur: In evidence to the Justice Committee on 7 March, John Foley, the chief executive of the SPA, confirmed that he was a member of the joint programme board for the integration of railway policing into Police Scotland. He also made it clear that he was leading in a number of key areas including the implementation plan; the relationship with the railway organisations; pensions, terms and conditions; and the cost allocation model. A number of those things have been highly controversial. What confidence do you have that that work will continue, particularly against the backdrop of on-going concerns being raised by representatives of British Transport Police staff and officers?

Michael Matheson: Since the Parliament passed the bill on the integration of BTP into Police Scotland, the role of Police Scotland in taking forward the work of the joint programme

board has increased, and a significant amount of the work that was being considered at an earlier stage by the SPA is now being done by Police Scotland, because of the operational responsibilities that it has. That change has happened because Parliament has set out in the legislation that was passed the approach for integrating BTP, and that has allowed Police Scotland to take on a greater role and British Transport Police to take a much bigger role in the on-going development work. I am confident that the work that has already been done is allowing significant progress to be made on the issues that you raise. Will issues need to be addressed going forward? Of course they will, given the nature of the change.

I am conscious that a number of weeks ago the British Transport Police Federation recognised and welcomed the fact that progress has been made on issues around terms and conditions. The Scottish Government is continuing to work with the BTPF, among others, to ensure that it can update its members as regularly as possible. However, a greater part of that work is being taken forward by Police Scotland because the Scottish Parliament has now made clear its position on the matter. Police Scotland is playing a much greater part in the joint programme board work going forward.

Liam McArthur: Which, by extension, means a diminishing role for the SPA in its oversight of the process.

Michael Matheson: Some of the areas that the SPA was looking at have switched to Police Scotland for consideration now that Parliament's will is clear on the issue. Police Scotland is therefore leading on some issues that the SPA was previously considering.

The Convener: You will be aware that Calum Steele has given us quite substantial evidence about morale in the police force. I understand that a lot of change is happening in the police force. For example, Liam McArthur has referred to the BTP, on-going staffing issues and on-going issues around legacy arrangements from previous forces. Are you confident that all the steps that have been put in place will be sufficient to impact significantly on the low levels of morale in the police force?

Michael Matheson: Which steps are you referring to?

The Convener: A number of operational things are taking place and there are a number of workstreams. A variety of initiatives are taking place. I am probably referring less to a specific thing and more to the general picture of all the workstreams that are going on in the police force. Will that have a negative or a positive impact?

Michael Matheson: Those are operational matters for Police Scotland, as you will recognise.

The Convener: I understand that.

Michael Matheson: You have had evidence from Iain Livingstone in the past couple of weeks indicating his determination to take forward a range of measures and acknowledging that issues around morale have been a challenge for the organisation. If I recall correctly, he characterised it as Police Scotland not taking its people with it, to a large extent, as it moved forward. That probably is a reflection of what happened with that major change. Having said that, anyone who has looked at major change programmes in the past would say that that is a common occurrence in programmes of that nature. However, there clearly has been an impact on morale in the organisation.

The Scottish Police Federation has raised the issue of the welfare and wellbeing of its members and of what can be done to improve the way in which Police Scotland addresses those matters. Iain Livingstone has led on that workstream in the organisation, which has resulted in a new wellbeing policy being taken forward. If I recall correctly, it was piloted in Lanarkshire and Police Scotland is looking to roll it out to the rest of the country. A key part of that has been bringing together staff representatives, such as the Scottish Police Federation, to help shape policy.

Will that turn around the morale in the organisation tomorrow? That will take time. However, I am confident that those in the executive team in Police Scotland recognise the issues, want to turn the situation around and are determined to try to take forward measures that can assist in doing that. It is an operational matter for Police Scotland, but my impression is that the executive team sees it not as a low priority but as an important priority and will try to take forward measures that they believe can assist in addressing the issues.

However, the proof of the pudding will be in the eating. In time, we will see whether that work starts to have a positive impact on morale. In my experience, there is probably a range of smaller issues that can be addressed that would help to support some of that work. Having a positive impact can be down to the service addressing small practical issues. In the discussions that I have had with members of the executive team, I have often seen that they are actively considering how to address some of those issues in the coming months. However, the wellbeing policy work that the organisation has been taking forward also demonstrates the desire in the executive team to take forward some of the big measures that can really help to support officers day in, day out.

John Finnie: I know that we are here to talk about governance, but perhaps you will allow me a bit of latitude with this question, convener.

Cabinet secretary, when we talk about the SPA, generally we talk about its relationships with you and Police Scotland. However, there is another very important relationship that has a link to local policing, and that is the relationship with the local scrutiny committees. Has that been impacted by some of the changes? My understanding is that liaison people on the board are given a geographic remit, and I understand that there are different types of local scrutiny committees. That relationship is pivotal.

Michael Matheson: I agree. You might recall that I hosted an event to bring together all the scrutiny committee chairs to identify a range of measures that could be put in place to improve the linkage between the committees, Police Scotland and the SPA at the national level. A range of work is being undertaken to strengthen that.

The way in which Police Scotland and local commanders are engaging with scrutiny committees has improved, as has the way in which scrutiny committees in some parts of the country scrutinise local police plans. There has been a learning curve for members of local scrutiny committees in looking at the issues, and improvement has taken place. Scrutiny committee members in some areas have said to me that they are more comfortable with how things are working, such as the way in which local commanders are engaging with them when planning for matters and taking forward local policing plans. There is also a better understanding of the role that the local scrutiny committee has in that process.

There has also been a strengthening of the link between the local scrutiny committees and the SPA, but I think that potentially it could be strengthened yet further. The review is taking place and a new chair will be appointed, so there is an opportunity to give local scrutiny committees a more formal direct input into the SPA. I suspect that that would not involve all the divisional scrutiny committees having direct input, but a structure that supports a direct line to the SPA could be considered, and that could strengthen local accountability and that tie.

The relationship has improved, but there is scope to improve it further, and there are ways in which it could be strengthened. I do not want to pre-empt the new chair, as I want to give them the opportunity to look at the issues and the review, but there are opportunities to do that.

Liam McArthur: I understand why you do not want to pre-empt the new chair, but I do not feel quite so constrained in what I am prepared to say. I am certainly of the view that the relationship between local scrutiny committees and the SPA is not acting in the way that it should. I constantly hear complaints about the SPA's lack of responsiveness to local scrutiny committees. I

would welcome the incoming chair and their colleagues taking up the issue as a priority.

Concerns have also been raised that, because of the number of people acting in temporary roles, it can be difficult for local scrutiny committees to get firm responses to communications. I do not know whether that has been raised with you directly in relation to Police Scotland.

Michael Matheson: The issue of people acting in temporary roles has not been raised with me. A while back, as a constituency member, I heard a bit of frustration from local community councils that officers were changing frequently. I have noticed that that has settled down and that officers are spending longer in community roles.

The local scrutiny committees now have a national chair. One option could be for that national chair to be co-opted on to the SPA board. Giving the national chair a direct voice at the SPA board level could be explored. If particular scrutiny committees feel that they are not getting the feedback that they think they should, they would have someone who could raise that directly with the SPA board. As I said, that is just an example. I am not saying that it should happen, because I want to give the new chair an opportunity to look at the issue, but I think that it is worth exploring that area to see whether we can strengthen it further.

13:45

The Convener: I want to go back to the process that we talked about initially—the appointment of the new chair. If the Parliament were to be given a permanent role in the process of electing a new chair of the SPA, what impact would that have in terms of accountability?

Michael Matheson: We would need legislative change to alter the existing arrangement of ministerial appointment. That begs the question of why the SPA chair should be different from a health board chair or other public appointments. That issue would have to be explored and discussed. If there were a view that the SPA should be treated similarly to other bodies for which Parliament makes appointments, it would be worth keeping in mind that those bodies have a different role. They are often responsible for holding the Government to account and, if I recall correctly, their staff are employed by the Scottish Parliamentary Corporate Body. Parliament would therefore become responsible for the SPA's staff. The staff employed by the SPA—it is a service provider, too, so that would include the hundreds of forensic staff and the forensic services that they deliver—would become the responsibility of the Scottish Parliament. That would be quite a departure from any of the other public bodies for

which Parliament makes appointments at the moment, and that would all have to be explored and considered in the round. As I say, that is a wider issue around public appointments.

Why should the SPA chair be different from the chairs of other public bodies, given the nature of the organisation's role and responsibilities? It is there to hold to account a major public body. It has a very significant budget of taxpayers' money that it needs to be held to account for. That is why the existing structure is in place. The issue was explored when the legislation went through Parliament, and the structure that we have now was viewed as the most appropriate way to create the proper line of accountability.

The Convener: Have you had any discussions with Parliament officials about making an exception to the process specifically for the SPA chair?

Michael Matheson: Do you mean if we were to change the legislation?

The Convener: Yes.

Michael Matheson: No, I have not. I see the existing arrangement, in which you, convener, are on the interview panel, as an exception. That had to be agreed by the Commissioner for Ethical Standards in Public Life in Scotland. The reason why I have not had that discussion is that I am not at the point of saying that the process should change. There is a whole range of issues that have not been explored or considered, and those would need to be looked at alongside the issues to do with other public appointments.

Liam McArthur: Let me follow that up and turn it on its head. I welcomed your offer to make an exception in this instance. When a future chair needs to be appointed, there will be a process, and at that time parliamentarians and justice spokespeople may well ask, "If you did it on the previous occasion, why aren't you doing it on this occasion?" Has a precedent now been set? You see this as an exception, but it could, de facto, become the rule.

Michael Matheson: I made a genuine offer to try to recognise Parliament's interest in the issue, but it is an exception, because the existing arrangement for appointments to other public bodies is the same as it is for the SPA. I am containing the exception to the SPA appointment process. The decision to invite someone on to the interview panel on this occasion will inevitably lead to questions being raised about any future appointment—people will ask why that should not happen again. I have not yet considered that, largely on the basis that I hope that a new chair of the SPA will not need to be appointed for a while after this appointment process has been completed.

Liam McArthur: You know that, if the current process is successful, that will strengthen the argument for going down the same route next time.

Michael Matheson: I am very conscious of that, and it went through my mind when I made the offer. There is some legitimacy to the argument that it will be difficult to come back from this exception when it comes to the appointment of the SPA chair, but it is worth putting it out there that quite wide issues would have to be explored if there were a view that the appointment process should be similar to that for the Scottish Information Commissioner. The SPA employs hundreds of staff and delivers services, such as forensic services, for the police and the Crown, and Parliament would become responsible for those services. I am not aware that public bodies that are subject to parliamentary appointment process deliver such services; they are much more about accountability, part of which is about holding Parliament to account.

The Convener: As the committee has no further questions, I thank the cabinet secretary and Don McGillivray for attending.

The sub-committee will next meet on Thursday 26 October.

Meeting closed at 13:50.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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