



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Sub-Committee on Policing

Thursday 23 November 2017

Session 5



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Pàrlamaid na h-Alba

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JUSTICE SUB-COMMITTEE ON POLICING

18th 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:

John Foley (Scottish Police Authority)

Drew Livingstone (Unison Scotland)

Chief Superintendent Alan Speirs (Police Scotland)

Craig Suttie (Association of Scottish Police Superintendents)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament
Justice Sub-Committee on
Policing

Thursday 23 November 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 18th meeting in 2017 of the Justice Sub-Committee on Policing. Apologies have been received from Margaret Mitchell.

Agenda item 1 is a decision on taking business in private. Do committee members agree to take in private agenda item 3, which is consideration of our future work programme?

Members *indicated agreement.*

Counter-corruption Unit
(Independent Investigations)

13:01

The Convener: Our next agenda item is an evidence-taking session on the progress of the two independent investigations into Police Scotland's counter-corruption unit. I welcome Chief Superintendent Alan Speirs from Police Scotland; John Foley, chief executive of the Scottish Police Authority; Craig Suttie, general secretary of the Association of Scottish Police Superintendents; and Drew Livingstone, service conditions officer from Unison. I thank Police Scotland, the ASPS, Unison and the Scottish Police Federation, which have provided the committee with written evidence.

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

I ask Chief Superintendent Speirs to elaborate on the restructuring of the professional standards department. What does it mean in practical terms in relation to complaints or misconduct investigations?

Chief Superintendent Alan Speirs (Police Scotland): I came into post about 15 months ago, during a period of progressional change within the professional standards department. There is a long-standing perception that the department is punitive in nature, but my way is to take an open, transparent and more efficient approach to dealing with complaints—in fact, all professional standards matters—and look towards organisational learning.

To help with that approach, we created a national structure. Previously, we operated with a number of regional offices, where there were legacy approaches and, perhaps, a lack of consistency. We now have a functional operating model in which there is one strand that considers complaints, one that examines conduct and one that considers corruption, supported by policy units.

One of the key elements for me has been to consider how we resolve matters at the earliest opportunity and most swiftly. I have been helped in that regard by the introduction of a gateway—a national assessment unit. That carries out early assessment of any information that is brought into the professional standards department and considers the most appropriate way to address the matter. That could involve passing it back to the local policing division, or it could be handled in the PSD. It might be something that could be handled by way of explanation. In some instances, it might

be a much more serious matter, which our anti-corruption unit would consider.

Sitting underneath that, we have introduced a complaint resolution unit, which deals with about 55 per cent of the complaints that Police Scotland receives—on average, we receive in the region of 6,000 to 6,500 complaints. The resolution unit is designed to engage early with members of the public and look to resolve complaints. We resolve around 50 to 60 per cent of them very quickly for members of the public.

The Convener: That is helpful background. Are the new arrangements sufficient to address the deficiencies that have been identified? Some quite critical comments have been made about the way things were handled in the past. Are the new arrangements sufficient to deal with all of those?

Chief Superintendent Speirs: We are on a journey of change and, perhaps, a journey of persuasion to dispel some of the perceptions that exist. One of the opportunities that a national model presents is that, in every instance, I can look at who is investigating matters. Often, a matter in the west of Scotland would be investigated from the north of Scotland, or one in the east of Scotland would be investigated from the west. It is really important to me to bring a high level of independence to those inquiries, and we have been able to do that.

It will take a little bit of time, but I am hopeful that some of our colleagues and our staff associations are seeing the benefits of the changes that we have made and recognise that we look to resolve matters as early as we possibly can.

The Convener: I turn to Mr Livingstone, because Unison had specific concerns. My colleague Liam McArthur will ask detailed questions about those later, but has the change answered some of the concerns that Unison raised?

Drew Livingstone (Unison Scotland): Yes. Previously, we did not have particularly good engagement on some of the work and activities that the CCU undertook. That included policy development, for one. Now, we are in a far better place with the level of engagement that takes place. That relates to not only how the ACU and the PSD have been restructured but the suite of procedures and policies, on which we now have dialogue.

On whether there is now sufficient integrity to that process, we have raised issues about how grievances and complaints are dealt with internally. Our perception is that there is no truly independent body that can scrutinise complaints and grievances that relate to employment matters as opposed to criminal matters.

The Convener: That is helpful. We may explore that further later on.

Mr Suttie, I am interested in your view.

Craig Suttie (Association of Scottish Police Superintendents): We are fully supportive of the changes that are taking place.

There has been a lot of confusion over the piece as to what we are talking about. A lot of the discussion has been about corruption, but that is a very small part of the work that the professional standards department does. The anti-corruption unit is now far better placed to deal with that insidious crime as it takes place.

Mr Speirs mentioned learning and swift resolution. Those are at the centre of what we have been pushing for. Matters must be resolved earlier. It is frustrating to open newspapers and read headlines about things that happened years ago. That must impact on public confidence, and it impacts on the confidence of serving officers.

Setting up the assessment unit was a bold and brave move. We need to take some risks but I also agree that it is a journey of change. The culture of the whole organisation needs to change. I have seen a significant change in that culture under Deputy Chief Constable Designate Iain Livingstone and Chief Superintendent Speirs's leadership of the professional standards department. However, that change will never satisfy everybody. The nature of the work that the department carries out means that there will be people who feel aggrieved.

I saw the Scottish Police Federation's comment about the ACU being an "untrusted" organisation. I am not sure that trust is the right word, but if the PSD and the anti-corruption unit stand up for the values of Police Scotland—respect, integrity and fairness—they will go some distance towards starting to bring people along.

The Convener: That is helpful. Mr Foley, is there anything that you would like to add?

John Foley (Scottish Police Authority): We take these matters very seriously. We took on board the comments that Drew Livingstone's colleagues in Unison made about process and procedure. It was actually the SPA that requested that Her Majesty's inspectorate of constabulary in Scotland carry out its review. You are right to say that there were a number of significant issues. HMICS made 39 recommendations in total and, as far as I am aware, 35 of them have been discharged, with four remaining in process.

In addition, we set up a CCU steering group, which was chaired by a member of the Police Authority. It was set up to work collaboratively with Police Scotland colleagues and to scrutinise the processes that were being implemented. The

group also had representation from the staff associations, the trade unions and external stakeholders. The output from that is what Alan Speirs has put, and is putting, in place. We are supportive of that, but we know that we must continue to monitor it as we move through.

We have introduced some additional processes. For example, every time that somebody raises a complaint or an issue in relation to a member of the anti-corruption unit, the referral to Police Scotland is automatically notified to the SPA. The SPA then dip samples those, probably three or four times a year, depending on the volume.

To date, six referrals have been received, but they are not yet at a stage at which we can dip sample them. We have to leave them for three months, because that includes a period during which the people who are complaining can take what they consider to be an unsatisfactory outcome to the Police Investigations and Review Commissioner, and it would be inappropriate for us to intervene before then.

Those processes are in place and we will continue to review them. The policing committee that has recently been set up in the SPA will take a keen interest in the matter, so there will be regular reports; there will also be regular reports to the SPA's audit committee about how the procedure is performing, which will include statistics to measure and monitor that. Anything of significance will be discussed at the full board.

The Convener: Thank you. That is helpful.

John Finnie (Highlands and Islands) (Green): Good afternoon, panel. Mr Suttie made a valid point when he said that we must be clear about what we are talking about. For the avoidance of doubt, this agenda item is headed "Independent investigations into Police Scotland's Counter Corruption Unit".

I take reassurance from what Chief Superintendent Speirs said about openness and transparency. That is what we all want to see and it is what I would like to speak about just now. I welcome Mr Speirs; I do not think that the other participants have been here before, and it is good to have you here. Should the committee read anything into the fact that, hitherto, someone of chief officer rank has always come to the sub-committee to address these issues, but not on this occasion?

Chief Superintendent Speirs: I think not, Mr Finnie. I work very closely with the force executive and I lead on the on-going external inquiries. I am probably the subject expert in relation to those inquiries and the developments that we have made in professional standards.

John Finnie: Thank you—that is reassuring.

I think that it would be helpful, for the record, to outline the position that we are in. Six complaints were received by the Investigatory Powers Tribunal—two from former police officers, two from their spouses and two from serving officers. The complaints related to collateral interference with their privacy. The committee has had an interest in the matter for some time, and wants to understand it—I would not want anyone to think that the committee had not been thorough in trying to understand it, but the process seems to have become complicated and somewhat protracted.

This is important, because I am very keen that there should be public confidence in the police and that the police should have recourse to all methods of investigation that are legitimate and proportionate. In that respect, the issue was that there was serious interference—in one case, more than 30 days of communications data was obtained. I understand that seven serving officers are subject to investigation—is that correct?

Chief Superintendent Speirs: Yes. To give a little bit of background, the committee will be aware that in the summer of last year the chief constable invited Durham Constabulary to lead an inquiry into the complaints made by the individual officers and ex-officers to whom Mr Finnie alluded. That work was undertaken independently by Durham Constabulary and concluded when a final report was received by our force in May of this year.

That report contained an indication that there may be some misconduct matters in relation to the officers who were involved in the process. Complaints and conduct are two separate matters in Police Scotland, and the Police Service of Scotland (Conduct) Regulations 2014 stipulate that the officers who investigate cannot have any previous involvement in any complaint handling.

As a consequence of the information contained in the Durham report, we undertook to appoint the Police Service of Northern Ireland to carry out a conduct investigation. The Durham report became the pivotal report on which the PSNI conduct investigation was founded. As the sub-committee is aware, that very quickly led to an inquiry that currently involves seven officers. Having spoken to colleagues in the PSNI, I am led to believe that that inquiry is nearing its conclusion—I am hopeful that it will conclude by Christmas.

In the background, we have been engaging with the complainers, and we recently afforded them the opportunity to come in and read a redacted form of the Durham report. When the PSNI has concluded its investigation, it is Police Scotland's intention to publish a redacted version of the Durham report. Again, I am confident that that will be in the coming weeks.

13:15

John Finnie: You and I both know, but perhaps others do not, that there is a difference between misconduct and criminal allegations. Did the Durham inquiry unearth any allegations inferring criminality?

Chief Superintendent Speirs: There were no allegations inferring criminality. The matter was referred to the Crown Office prior to the Durham inquiry commencing. Through our engagement with Durham, it was fully aware that, should there be any inference of criminality during its inquiry, it would need to pause and report that through the Crown Office. That did not happen. Durham provided us with a very detailed and lengthy report that brought some organisational learning, some recommendations and some concerns regarding the conduct of a number of officers.

John Finnie: Are any of the seven officers under suspension?

Chief Superintendent Speirs: There are no officers under suspension. We have taken some protective measures in relation to restrictions. We do that frequently in such cases to protect the individual, the organisation and, really importantly, the public. The officers who are subject to the investigation are, at this time, subject to a number of duty restrictions.

John Finnie: What is the nature of their duties?

Chief Superintendent Speirs: It would probably be unfair for me to go into the finer details because that, in itself, would probably identify those officers.

John Finnie: I appreciate that the terminology is constantly changing, but are those seven officers connected with the professional standards, complaints and discipline or counter-corruption departments, or any derivatives thereof?

Chief Superintendent Speirs: The officers previously had roles in the counter-corruption unit. Their current roles are in a different area of the business.

John Finnie: We heard from the deputy chief constable designate that the information in the report would be made available to the committee. At that time there were discussions and I acknowledged—I cannot find my exact words at the moment—that perhaps the report that we would get would be redacted, or elements would be redacted, to protect the identity of individuals. The report was received by Police Scotland on 12 May. Why has the committee not received it by now?

Chief Superintendent Speirs: In really simple terms, that is because the report was used as the basis of our appointment of the PSNI to conduct a

misconduct investigation. The report becoming public would prejudice the investigation. For the benefit of the officers who are subject to the investigation, it is really important that the PSNI is allowed to conclude the investigation. I am confident that that conclusion will be in the coming weeks.

John Finnie: Will that report be made available?

Chief Superintendent Speirs: The redacted version of that report will be made available. We will receive a report from the PSNI. I anticipate that that will relate very specifically to conduct and broader organisational learning. I absolutely intend to take the Durham report, the PSNI report and, ultimately, the Northumbria Police report and create a single report that outlines all the organisational learning that we need to, and have, put in place. I am confident that a large proportion of that work has been done on the back of the significant work that was undertaken following the HMICS review.

John Finnie: I have found my words:

“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?”

The response from the deputy chief constable designate was:

“I give you an unqualified undertaking that I will do so.”—
[*Official Report, Justice Sub-Committee on Policing*, 14 September 2017; c 10.]

Are you able to provide a summary of that information or can you tell me now what the nature of the allegations is? There is continuing public interest in the matter. Rightly or wrongly, there is a perception that this is dragging on and that people are seeking to kick it into the long grass. As a committee, we have a duty to discharge our obligations and to understand what this is about and what mechanisms should be put in place to prevent a repetition. Are you able to talk, in general, about what those seven officers are facing?

Chief Superintendent Speirs: I am not. I think that that would prejudice the PSNI inquiry and would be incredibly unfair on the officers who are subject to the inquiry at this time—particularly as I am unaware of the findings of the PSNI investigation at this point. However, I can give you an absolute assurance that the redacted document has been prepared, produced and is ready for publication at the point at which we receive a report from the PSNI.

John Finnie: I have two final questions. Can you remind the committee what the Northumbria Police report relates to?

Chief Superintendent Speirs: Northumbria Police is part of the family of forces located next to Durham, as you will probably be aware. One of the actions that we passed initially to Durham was to conduct a review of complaints made against members of the CCU between 2009 and 2016. From a capability perspective, Durham passed that piece of work to Northumbria. Northumbria is doing a complaint-handling review relating to complaints made against members of the CCU between 2009 and 2016, which relates to about 23 or 24 complaints and 96 allegations.

John Finnie: There is just an endless number of questions. What stage is that review at? Can you say anything about the nature of the allegations? Does any of them relate to criminal allegations?

Chief Superintendent Speirs: A range of allegations were made. In the time that is available, I could not account for the nature of the 96 allegations. It is a range of complaints made against members of the CCU that are largely historical in nature and were made by officers and ex-officers who were subject to investigation by the CCU. I emphasise that Northumbria is not re-investigating the complaints but is conducting a complaint-handling review. From speaking with Northumbria officers this week—we have had a very close link with them—we are hopeful that the report is also in its final stages.

John Finnie: Given the sensitivity that the police attach to issues of data and surveillance, people might be surprised that all the allegations from all those complaints would be considered misconduct and that none of them would have inferred criminality. Again, you will be familiar with why the term “inferred criminality” is important.

Chief Superintendent Speirs: Absolutely. I am pretty certain that some of those complaints would have been referred to the Crown Office. I am also confident that all those complaints would present the individual with the opportunity to refer matters to the PIRC.

John Finnie: When can we get the reports, chief superintendent?

Chief Superintendent Speirs: I am hopeful that I will have the report from Northumbria by Christmas. The indication is that it is in its final stages and that we should receive it by Christmas. It is our intention to bring that report to the committee, too.

John Finnie: Would that be in a similar timeframe, given that we are now six months on from the other report being received? Finally, what will be redacted from the reports?

Chief Superintendent Speirs: The redaction will largely be in the Durham report and will relate

to very personal information. Having read the full report, I know that in places it provides pen pictures that relate specifically to personal details of the officers. The redaction is therefore largely around those personal details. It is a transparent document, because it will show specifically where the redactions are made. Quite simply, the details are blacked out and covered over, so it will be apparent where we have redacted personal information.

John Finnie: Thank you.

The Convener: Mr Suttie, I want to come back to you with a brief additional question following the answer that you gave when I asked about how successful the new arrangements will be and whether they will solve all the previous deficiencies that have been highlighted. You said that there were media issues from years ago that still had to be resolved. Why is that?

Craig Suttie: There are issues playing out in the media just now that relate to practices that took place years ago, and that is part of the crux of the matter and part of the Northumbria inquiry and the Durham inquiry. Those issues dragging on for so long has had a massive impact on public confidence and, importantly, on individual officers. We have officers who have now been under scrutiny for an extraordinary length of time. We have heard from Mr Speirs that they have been unable to progress their careers in certain ways because of certain restrictions or protections. We absolutely support those protections and restrictions. However, to me, it is unacceptable that in this day and age, given the impact on public confidence and individual officers, those matters have taken so long to resolve.

The Convener: Are you confident that the new arrangements will resolve complaints quickly?

Craig Suttie: I understand that far fewer complaints have come in over the past two years. Mr Speirs has said that one of his intentions is to have a swift response, and we will continue to push him on that. I understand some of the detail of why things have taken so long and why we have the Durham inquiry, but our position is that things are either a service delivery matter, a conduct matter or a criminal matter. I think that some of the inquiries that have taken place have potentially prolonged matters.

The Convener: When you say that you want matters to be dealt with swiftly, you clearly want them to be dealt with as quickly as possible for the benefit of the person who has made the complaint and the person who is being complained about.

Craig Suttie: Absolutely.

The Convener: It would make sense to me—please correct me if I am wrong—to set some kind

of timescale within the new guidelines and arrangements. For example, you could say that something must be dealt with by such and such a date or three months down the line. That would at least give people some confidence that there is a timeframe to what they are going into.

Craig Suttie: That would be helpful, even if we accept that there may be times when, for good reasons, those parameters could not be kept to.

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I will touch on similar themes to those that the convener raised. Mr Suttie, in your response to the convener's first question and the one that she just asked, you touched on the following statement in the SPF's written submission:

"We regret however that the apparent willingness to frustrate the remedy for officers who were wronged in the past will forever see the new ACU as an untrusted corner of the police service just like its predecessor—the CCU."

Do you recognise the concerns that the SPF raises about that lack of confidence?

Craig Suttie: Yes.

Ben Macpherson: Are they being exaggerated?

Craig Suttie: No—I recognise the concerns that the SPF raises. The federation accepts and welcomes many of the changes that have taken place—I think that it said that it broadly welcomes the change. My frustration is that we need to start to look forwards rather than backwards. It is absolutely necessary for the complainers, public confidence and the officers concerned that we come to a resolution on the matters so that we can say once and for all that they have been dealt with and the learning has been taken from them and we can move on.

Ben Macpherson: I share your ambition to look forwards as much as possible and be constructive. How do we get past the matter? As you said, public confidence and officers' trust in any system are paramount to anti-corruption measures.

Craig Suttie: I hope that we can do that through the solution that Mr Speirs mentioned. I hope that the Durham report, the Northumbria report and other matters that have been raised internally will all be addressed in one document, which will be given to the committee and others to give you some confidence that we are dealing with those matters seriously.

The proof of the pudding will be in the eating. We need to change the culture and ensure that, in future, matters are dealt with far more swiftly and robustly than they were in the past. Corruption is insidious. We have a duty to protect the service and the public from people who will corrupt officers

or will be corrupt. They need to be weeded out of the service quickly. That is everyone's ambition.

Ben Macpherson: You spoke about public confidence. The way that the media reports matters is rightly outwith our control but, once we get past the current challenges, will Police Scotland do all that it can through public relations or other mechanisms to ensure that public confidence is increased and preserved?

Craig Suttie: I hope so. I suggest that it is better for Mr Speirs to answer that question.

Chief Superintendent Speirs: I will offer a couple of comments. You will be aware, Mr Macpherson, that the HMICS review made 39 recommendations. The themes of them were about strategic oversight, governance, how we manage intelligence and processes.

I assure the committee that I meet the head of the anti-corruption unit three times a week and have a clear oversight of the work that the unit undertakes. I then report to the deputy chief constable weekly. The assessment unit that I spoke about sits under that. That is important, because there were instances in the past in which pieces of work that were not about corruption but were behavioural crept into the counter-corruption unit. The processes that we now have in place are about ensuring that the anti-corruption unit focuses on the business on which it should focus. I am confident that the changes that we have made will allow us to do that.

I completely agree with Mr Suttie about some of the historical cases and some of the reporting that continues in the media. Perhaps a bit of time is needed to grow confidence in the system. We have introduced the new online integrity matters reporting system, which is a very transparent system that allows me to see the demand of business that flows in every day. I have confidence that we have a real grip on anti-corruption business, and perhaps a far greater grip than we have ever had.

Ben Macpherson: I welcome that response. The integrity matters system and the word "integrity" are important. For the communities that I represent, organised crime has an unhelpful and negative effect on community cohesion and confidence in the criminal justice system. A robust anti-corruption measure in our police service would create a sense in the public domain that anti-corruption is an absolute priority for Police Scotland. If I can collaborate on that from a constituency perspective, I am keen to engage.

13:30

Chief Superintendent Speirs: It is important to recognise that it is a very small fraction of

professional standards business that sits within the anti-corruption unit. We consider a very small minority of matters each week or month.

Ben Macpherson: I note and recognise that information.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Why have the officers who are subject to the proceedings not been able to see a full version of the Durham report? Can you clarify whether they have seen a redacted version since it concluded in May?

Chief Superintendent Speirs: The officers and ex-officers who are complainers have been invited in recent weeks to see the redacted version of the report. It is redacted because there is a considerable level of personal detail in the Durham report that is inappropriate to show those officers.

As I said in answer to Mr Finnie, the document is very transparent in that the redacted version shows clearly where the redactions have been made. It is important to highlight that the complainers received letters that provided them with a detailed update about every allegation that was made. I looked at the letters before they were sent and they ran into 18, 19 and 20 pages, so the complainers have had a very detailed explanation about the complaints that they raised. They were also presented with the opportunity to refer matters to the PIRC if they were dissatisfied with the way in which the complaints have been handled.

Although six months have passed, a considerable number of opportunities have happened in the background. There have been opportunities to talk to the PIRC, to digest detailed and comprehensive letters and, recently, to see the redacted document.

Rona Mackay: Will they ever be able to see the full unredacted version of the report?

Chief Superintendent Speirs: It would be difficult to do that because of the level of personal detail that it contains.

Rona Mackay: I am sorry, but I am a bit confused. When you said "personal detail", did you mean details about other people?

Chief Superintendent Speirs: In simple terms, the report includes pen pictures of each of the seven officers who are subject to a misconduct inquiry. That information would be entirely inappropriate to share. It goes into fine detail about the officers—their ages, their postings and a whole raft of other details. I have reviewed the redacted version, and in no shape or form do I think that people are going to see a document that falls short of what they would expect to see. The document flows and provides significant answers to many questions that people have.

Rona Mackay: I am still a bit unclear as to why that amount of personal detail went into the report. Surely it should just have covered matters such as the nature of the complaints.

Chief Superintendent Speirs: That is a good question. I will be honest with you that the report is written in Durham's style. When we asked that force to do an investigation and provide a report, we accepted the report in the format that it provided. I gave the force guidance on the normal approach that Police Scotland anticipated, but I am working with the report that Durham submitted to us.

Rona Mackay: Thank you.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a very small question, as most things that I might have asked have been covered. Has the investigatory powers tribunal got any continuing role in this? Does it continue to work with the people who have been in contact with us?

Chief Superintendent Speirs: The IPT always sits in the background. We recently provided it with a comprehensive update. It wants to see the investigation drawn to a conclusion and the document published. We contact the IPT about the progress of the inquiry from time to time.

Stewart Stevenson: At the conclusion of the process, do you intend to cross-check that the IPT thinks that you have discharged all your responsibilities with regard to the investigation?

Chief Superintendent Speirs: Absolutely; we do that through our legal services team which engages directly to get absolute confidence that we have done all the things that the IPT expects of us.

Liam McArthur (Orkney Islands) (LD): Good afternoon. Mr Livingstone has pointed to a concern about the lack of independent scrutiny with the knowledge, powers and ability to adjudicate in a system that spans operational matters and employment law. Could you spell out the basis for those concerns in a little more detail? Do those concerns persist?

Drew Livingstone: Previously, some CCU activities did not acknowledge the employment rights to which members of the police staff were entitled. We have seen radical improvement in that area since then, but it would be remiss not to acknowledge where there is a focus on the behaviours of police staff. I bear in mind that the human rights implications of interference with those rights by a public body should be justified when it is in accordance with the law unnecessary for, among other things, public safety. The lines can sometimes be blurred between the behaviours

of an individual and how the force takes measures to intervene in those circumstances.

It is reassuring to hear Mr Speirs speak about a move away from punitive measures but, in the main, things are still oversimplified with a focus on behaviours. We have to bear in mind that there is enough integrity there. The organisation does not have sole responsibility for examining where those breaches have taken place. During the past four years, policing has had to contend with difficult challenges. Targets that have been imposed on policing leaders have brought about uncompromising situations with regard to the balance between wellbeing and how those leaders deal with the organisation's staff bodies and entities, and cuts to police staff and how the workload has been spread. The organisation has treated its people in ways that have led to compromising and ethical challenges.

Liam McArthur: Do you still believe that the underpinning legislation needs to provide a fully independent process for complaints that concern whistleblowing?

Drew Livingstone: In England and Wales, the provisions covering the role of the Independent Police Complaints Commission were redrafted in Home Office guidelines governing police regulations, in connection with a situation involving PC James Patrick and the Metropolitan Police. That situation forced a look at the provisions, to the extent that they actually go over and above what is provided by our legislation. When the code of conduct for police staff and officers was drafted, an attractive provision was its mention of whistleblowing—that offered reassurance, as the organisation had no whistleblowing policy at the time. The Scottish Government police sponsor team has since taken a step back from that; it feels that the law does not allow it to intervene because it is not an employer or named body under the provisions of PIDA—the Public Interest Disclosure Act 1998. There are inconsistencies there and north of the border that we would like to see addressed.

Liam McArthur: I am keen to bring in other witnesses, particularly Mr Speirs, but I have another question before I do that. Another concern that Unison has pointed to—perhaps it is an aggravating factor—is

“a dysfunction in the relationships between Police Scotland, SPA and the Scottish Government.”

It would be helpful to know whether that remains the case and what the basis of the concern was.

Drew Livingstone: That is work in progress. There is learning to be had in all that area of development, and all the bodies that are involved in policing in Scotland are certainly striving to achieve greater standards, but Dr Ali Malik's study

pointed to quite serious concerns about the SPA's ability to challenge Police Scotland on some things. There is a relationship, but the question is whether we have confidence in people to challenge where there is a perception of wrongdoing in the service.

Liam McArthur: The view is that whistleblowing did not take place because there was a lack of confidence in the system.

Drew Livingstone: I believe so.

Liam McArthur: It would be helpful to get Mr Speirs's thoughts on that.

Chief Superintendent Speirs: Mr Livingstone touched on potential proportionality and consistency, which are really important. In every instance, one of my early considerations is whether our response is proportionate and consistent. That is where the assessment unit is really helpful. A lot of matters go into that unit that can quite simply be pushed back to human resources colleagues or dealt with at a much lower level.

Our introduction of a whistleblowing policy for the force in June this year was a step forward and internal confidence in the organisation to report matters is improving significantly. I see fewer anonymous reports and more reports in which officers are prepared to speak out and put their name to their statements. Confidence is building in the organisation to report wrongdoing at every level, and we need more time to allow that to roll out.

It is important that the whistleblowing policy outlines a range of mechanisms that our officers and staff can use. Every week, I monitor whistleblowing and integrity issues and report to our executive, and I am confident that the picture is changing. However, I am also confident that we are adopting a much more proportionate and consistent approach to everything that we deal with.

Liam McArthur: On the point that Mr Livingstone made about independence, can experience elsewhere in the United Kingdom be captured in the current framework?

Chief Superintendent Speirs: I think that it can. I will be honest with you—I am challenged daily by colleagues from all the staff associations, and, at times, by force solicitors. As an organisation, and in the PSD environment in particular, we have become an awful lot stronger in how we deal with these issues. I am frequently challenged on independence. That is why, from a national perspective, I and the deputy chief constable frequently look at who is the most appropriate person to consider a matter. We often use individuals and groups of people from all parts

of the country, and that brings an element of independence.

Liam McArthur: On Mr Livingstone's point about challenge from the SPA, what has the SPA's role been? How has that evolved over the past months?

John Foley: That has improved significantly. Improvement was required, which was why we requested HMICS to carry out a review, which we have acted on.

The recent chairing of the CCU reference group for policies, processes and procedures to be tested, challenged and implemented, then the follow-through via the SPA policing committee, and the fact that complaints about officers in the anti-corruption unit, for example, are automatically referred to the SPA are good things that means that we can take action and constantly review. The SPA policing committee is fairly new, and I think that it will be a good vehicle.

We published the revised whistleblowing policy in May. That was also a collaborative product between Police Scotland and us, and the policy is very reflective of that collaboration. It gives us the opportunity to again have regular reports and challenge in that slightly different but associated area. I fully understand Drew Livingstone's position about matters being raised with the authority and not being dealt with promptly enough. The new policies and processes will assist with that.

13:45

We have also introduced more regular meetings with our colleagues in the trade unions and staff associations. Those meetings will be held quarterly, but twice a year we will have strategic meetings with everybody in the room. That will give the staff associations and trade unions another opportunity to apply scrutiny to the authority, so that scrutiny works the other way. That will bring to the surface any issues that we are not dealing with appropriately or as we have set out. If that is the case, I am sure that the staff associations and trade unions will make us aware of it at future meetings.

Liam McArthur: Is your experience of holding feet to the fire the same?

Craig Suttie: I do not know whether we hold feet to the fire, but I have been reassured by Mr Livingstone coming along and talking about the reporting to authority. There is a far better culture in the organisation now, with people willing to stand up and report upwards. That is good and, in matters concerning integrity, it is helpful.

I sat on one of the SPA groups. It looked at what measures should be put in place to resolve

matters. The reporting upwards of matters to the SPA is helpful, as are the meetings with it.

You began with the fundamental question about a change in legislation. If we go back to the Police, Public Order and Criminal Justice (Scotland) Act 2006, there is still an issue with the interpretation of what is an employment matter, what is a service matter and what can be reported to the PIRC. I would have thought that some of the big corruption issues would not be employment or service matters. Such concerns should be matters for the PIRC, and he should be in a position to pick up some of those concerns if he is not happy about things.

That is not a matter for us—it is a matter of process. With the processes that the services are putting in place, such issues should not arise—and I am far more confident that they will not arise in future. However, if they were to arise, there must be consideration about how people can resolve them. A lot of the measures that have been put in place probably preclude the need for legislation, but that is not a matter for me to push forward now.

Liam McArthur: Who is it a matter for then? Should Parliament satisfy itself that the legislation satisfies the intention? Has the matter been probed and rebuffed?

Craig Suttie: No. If we thought that there was a need for a change in the legislation, we would make that case but we do not see that as being the case. The measures that are being put in place give us far greater confidence than ever before that the need will not arise.

John Finnie: My question, which is for Mr Speirs and Mr Foley, is about "proportionality", which is a term that has been used a few times.

Mr Speirs, I have asked about suspension, particularly in relation to the illegitimate acquisition of 32 days of communications data. The victim of that interference, who was paid £10,000 in compensation, said that he had suffered an

"invasion of privacy, familial strife, personal stress and strain and loss of long-standing friendships".

There is a perception, which is reinforced by the situation in which the chief constable is subject to a number of complaints and is on gardening leave, that suspension is more rigorously applied to the federated ranks—to junior officers—than it is to senior officers. How would you address that?

Chief Superintendent Speirs: My priority is to look at officers from the rank of chief superintendent to constable. We take very seriously the application of suspension. The matter is carefully considered and balanced against the welfare of the officer in question and their families. We see the option to apply

restrictions on duties or to apply modified duties as an alternative to suspension. We will always give serious consideration to that option, particularly for serious matters.

The second part of your question is clearly a matter for Mr Foley, and I will leave him to answer it.

John Finnie: I will follow up your response. No one—least of all me—wants to see police officers doing anything other than being engaged in police work, and certainly not being suspended or unable to go to their work. Will any of the inquiries pick up Police Scotland's response to these serious accusations? Because we do not have the reports, the matter will simply trundle on. There are issues of public confidence here, and it is essential that that issue is dealt with.

I do not doubt the good work that has gone on, and I am sure that everyone is engaged in good faith. However, this investigation has happened and it is very public. Will any of the forces look at the proportionality of Police Scotland's response to the accusations?

Chief Superintendent Speirs: I am pretty confident that that issue is captured in the Durham report. I am also confident—

John Finnie: What does the Durham report say about suspension?

Chief Superintendent Speirs: As we have a number of officers restricted and subject to gross misconduct investigations, it would be entirely inappropriate for me to comment on the detailed content of the report. You have to recognise that Durham's work was incredibly complex, whereas suspension matters can often be incredibly straightforward. This series of events involved a range of officers and I suspect that organisational learning will come from it. It will be important to take that learning from the report, but we await the outcome of the PSNI investigation.

John Finnie: What is the difference in legislation between misconduct and gross misconduct?

Chief Superintendent Speirs: That information is contained in our conduct regulations from 2014.

John Finnie: What are those regulations called?

Chief Superintendent Speirs: They are called Police (Scotland) Conduct Regulations 2014. The simple difference is the severity of the officer's actions. For misconduct, the regulations allow us to refer the matter back to the local policing division for a misconduct meeting to consider the most appropriate course of disposal, up to the point of a final written warning. For gross

misconduct, dismissal from the police service is being considered as an option.

John Finnie: However, suspension is not being considered in this instance.

Chief Superintendent Speirs: Suspension is a consideration in every instance. My point about the Durham investigation is that it was incredibly complex and was not a black-and-white issue. Although it was deemed at the time that putting restrictions in place was a more appropriate outcome, you may recall that Durham's initial work was about a complaint inquiry rather than a misconduct investigation. When Durham's final report was received in May, we took measures with regard to the officers who were involved in that report and we are now allowing the PSNI to follow through with the misconduct investigation.

John Finnie: I am trying to understand, because it could be perceived—in layman's terms—that corrupt practices have been alleged. The fact that those practices were in a unit that was called the anti-corruption unit would compound the severity with which they are looked at, one would imagine. I accept your position on the suspension.

On the question of proportionality, what about the fact that junior officers have been suspended for what are perceived to be less serious issues but a chief constable who is the subject of a serious accusation is on gardening leave? That does not seem to be an option that is made available to the federated ranks.

John Foley: The Scottish Police Authority takes the decisions for senior officer ranks only. The board considers all the facts, including complaints, and determines whether they warrant any action. That could be to place an officer on leave—if they request that—and suspension is also considered. In the case of the chief constable, the decision on whether to continue a period of leave is reviewed every four weeks by the board.

John Finnie: How much annual leave does a chief constable get?

John Foley: From recollection, it is roughly 42 to 45 days.

John Finnie: Who made the decision about the chief constable's leave?

John Foley: The board has made the decision.

John Finnie: Thank you very much.

The Convener: What steps does the Scottish Police Authority take to ensure the independence of an officer who is appointed to carry out an inquiry?

John Foley: Do you mean for the inquiry by the Durham force?

The Convener: When an officer is appointed to carry out an inquiry into a complaint, how do you ensure that the officer is independent?

John Foley: If a complaint is against a senior officer, which is what we deal with, the process is that the complaint comes to our complaints section. The section is small, with three people whose sole job, all the time, is to assess complaints and reports. They would sit with me, a legal representative and a board member to take a decision on whether to refer the matter to the PIRC—if it is deemed to be misconduct or gross misconduct—or to take no further action, which is the other option.

The Convener: Okay.

John Foley: I would just like to comment on something. I am conscious that nobody has raised the fact that there is a second Durham report. The Durham report that we have been referring to and which was addressed by Mr Speirs clearly relates to the officers in the unit who were not senior officers. The overall allegations touched on some senior officers as well, and we have a report that relates to senior officers. There is no evidence or suggestion in it that any grounds exist for instituting misconduct actions or that there has been any criminality.

John Finnie: That is very interesting, Mr Foley. Will you make that report available to the committee, please?

John Foley: We will do the same thing with it at the same time that Mr Speirs does, Mr Finnie.

John Finnie: It would seem that we are going to have to wait several months. If you have that report already and you have already determined the outcome, could you make it available to the committee?

John Foley: We will make it available to the committee. It will have to go through the redaction process, but you will have it before Christmas.

John Finnie: Thank you very much.

The Convener: As no members have further questions, I have a couple of final questions for Chief Superintendent Speirs. Who made the decision to progress the conduct investigation? Did whoever that was take into account the time delay and the impact that that would have on the officers?

Chief Superintendent Speirs: The decision to progress that matter was taken by the deputy chief constable.

We always think about the wellbeing and welfare of officers, but we also recognised that, based on the information in the Durham report, it was very important that we progressed matters in this way.

We have always been very conscious that, when we ask an external force to conduct a piece of work for us, we will at times be dependent on the timescales in which it can do it. My priority is to make sure that it accesses as much information in as much detail and as efficiently as it can, in the hope that the inquiry can be concluded timeously.

I recognise the challenges. We continually look at the impact on the welfare of all officers. On a monthly basis I sit down with the deputy chief constable to review every suspension and to look at the restricted officers, in light of the timescales that are involved. We are very alive to the negative impact of those decisions.

The Convener: Were the officers involved kept up to date on every development as it took place? Specifically, have they been kept up to date and informed about the timescales and the delays?

Chief Superintendent Speirs: Do you mean the complainers?

The Convener: Yes.

Chief Superintendent Speirs: Yes. To be fair, Durham developed a very sound relationship with those officers. My team's role in the investigation was to facilitate the work that Durham was doing, but I was very conscious that Durham was engaging on a regular basis with the complainers on behalf of Police Scotland.

The Convener: That is helpful. Finally, when my colleague Rona Mackay asked you a question about the redacted reports, you said that they would not "fall short of" the detail that people wanted—whose opinion is that?

Chief Superintendent Speirs: I guess that it is the subjective opinion that we in the force would have. I was trying to convey the point that we are not taking the report and turning it into something else; we are simply taking out very personal details, such that anyone who picks up the report can read the sentence that might miss out the name "Alan Speirs". The redacted version is very realistic and very close to the report. In no shape or form does it bear any difference from the report that Durham produced. I was trying to point out to you that it is a really clear report with simple areas taken out of it, and it is very obvious where those redactions have taken place.

The Convener: As there are no further questions from members, I thank all our witnesses for coming today and providing us with some very useful information. It is a subject that I am sure we will return to.

13:59

Meeting continued in private until 14:08.

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

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