



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Committee

**Tuesday 18 September 2018**

**Session 5**



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**JUSTICE COMMITTEE**  
**23<sup>rd</sup> Meeting 2018, Session 5**

**CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*John Finnie (Highlands and Islands) (Green)  
Jenny Gilruth (Mid Fife and Glenrothes) (SNP)  
\*Daniel Johnson (Edinburgh Southern) (Lab)  
\*Liam Kerr (North East Scotland) (Con)  
\*Fulton MacGregor (Coatbridge and Chryston) (SNP)  
\*Liam McArthur (Orkney Islands) (LD)  
\*Shona Robison (Dundee City East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Donna Bell (Scottish Government)  
Sandy Brindley (Rape Crisis Scotland)  
Mike Callaghan (Convention of Scottish Local Authorities)  
Denise Christie (Fire Brigades Union Scotland)  
Professor Nick Fyfe (Scottish Institute for Policing Research)  
Chief Superintendent Ivor Marshall (Association of Scottish Police Superintendents)  
Councillor Elena Whitham (Convention of Scottish Local Authorities)  
Humza Yousaf (Cabinet Secretary for Justice)

**CLERK TO THE COMMITTEE**

Stephen Imrie

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament Justice Committee

*Tuesday 18 September 2018*

*[The Convener opened the meeting at 10:00]*

### Interests

**The Convener (Margaret Mitchell):** Good morning and welcome to the Justice Committee's 23rd meeting in 2018. We have apologies from Jenny Gilruth. Liam McArthur may have to leave the meeting at some point to consider stage 2 amendments at another committee.

Agenda item 1 is a declaration of interests from our new and returning member Fulton MacGregor, whom I welcome back to the committee. Do you have any interests to declare, Fulton?

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** Thanks, convener. I am very glad to be back on the Justice Committee. I declare an interest as a social worker registered with the Scottish Social Services Council.

## Police and Fire Reform (Scotland) Act 2012 (Post- legislative Scrutiny)

10:01

**The Convener:** Item 2 is our first evidence session on post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012. The committee will take evidence in a round-table format, which is a more informal way of taking evidence and exploring the key issues relating to the legislation. However, it is still a formal evidence session. Rather than there being set pieces of evidence, the format gives a better flow and is a good start to any post-legislative scrutiny. Although the session is informal, people still have to go through the chair so, if you want to catch my eye or the clerk's eye to indicate that you want to speak, that is fine. You do not have to press any buzzers or buttons; the microphones will come on as if by magic.

We will start by introducing ourselves around the table. I am the convener of the committee.

**Diane Barr (Clerk):** I am one of the Justice Committee clerks.

**Stephen Imrie (Clerk):** I am a Justice Committee clerk.

**Fulton MacGregor:** I am the MSP for Coatbridge and Chryston.

**Chief Superintendent Ivor Marshall (Association of Scottish Police Superintendents):** I am a Police Scotland chief superintendent and the president of the Association of Scottish Police Superintendents.

**John Finnie (Highlands and Islands) (Green):** I am a Highlands and Islands MSP.

**Councillor Elena Whitham (Convention of Scottish Local Authorities):** I am interim spokesperson for the Convention of Scottish Local Authorities wellbeing board and deputy leader of East Ayrshire Council.

**Mike Callaghan (Convention of Scottish Local Authorities):** Good morning. I am from the COSLA communities team.

**Liam McArthur (Orkney Islands) (LD):** I am the MSP for the Orkney Islands.

**Denise Christie (Fire Brigades Union Scotland):** I am the Scottish secretary of the Fire Brigades Union.

**Liam Kerr (North East Scotland) (Con):** I am an MSP for North East Scotland.

**Sandy Brindley (Rape Crisis Scotland):** I am the chief executive of Rape Crisis Scotland.

**Shona Robison (Dundee City East) (SNP):** I am the MSP for Dundee City East.

**Professor Nick Fyfe (Scottish Institute for Policing Research):** I am from the University of Dundee and the Scottish Institute for Policing Research.

**Daniel Johnson (Edinburgh Southern) (Lab):** I am the MSP for Edinburgh Southern.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am the deputy convener of the committee.

**The Convener:** I thank all the witnesses for giving us written submissions. It was very helpful to have the opportunity to look over those submissions before the formal session.

I refer members to paper 1, which is a private paper. We will now move to questions.

**Fulton MacGregor:** I was not an MSP when the Police and Fire Reform (Scotland) Act 2012 was passed, but there was a lot of talk then about financial reasons being the main reasons for reform. I do not know who to go to first, so whoever wants to answer the question should do so. Was the initial case for reform sound?

**The Convener:** We are looking at the very beginning of the process. One of the policy objectives was to protect services in light of financial threats. Was that a sound basis in retrospect?

**Denise Christie:** At the start, the FBU supported the creation of a single Scottish fire and rescue service. Unfortunately, however, that has amounted to the loss of more than 700 front-line firefighters and the closure of five operational fire control rooms. That impacts most on women, as those who work in operational fire control rooms are mostly women.

We now believe that the move has not supported the front line, what with the on-going budget cuts to the Scottish Fire and Rescue Service. On any day, between 60 and 100 fire appliances are unavailable to deal with fire calls, because we do not have enough crews to staff them all the time.

We supported the creation of a single service because we believed that the Scottish Government's intention was to protect the front line by ensuring that there was no duplication. That was the direction that we wanted to go in but, unfortunately, that has not been the case.

**The Convener:** Does anyone else have any comments on the financial aspects?

**Chief Superintendent Marshall:** I was around at the time and know that significant work was done on the outline business case. I cannot comment on the due diligence that was applied, but expectations were built in of on-going savings being made as a consequence of the amalgamation of the precursor organisations—the eight forces and the other two agencies.

The reality is that, as is widely known and as has been widely reported, the service has been running with a structural deficit in its budget for the past five years. It has been trying to narrow the gap; indeed, the money allocated to the service's transformation budget was, in some ways, used to fill it instead of being used for transformation. The scale and complexity of the challenge and the timescales in that respect were perhaps underestimated, the consequence of which is that we are still coming out of a phase of integration and consolidation rather than going through a phase of transformation.

The picture now is that we have a more stable budget platform, although we still face significant challenges with regard to information and communications technology development and transformation. Perhaps it was not only the scale and complexity that were underestimated but the need to invest and to create a bulge of resource to enable transformation before the situation could be stabilised and we could move forward with a national service. A challenge of such a size and scale had not been attempted before, and perhaps with the benefit of hindsight and the learning that has come from what happened, one might say that significant investment is needed to achieve this aim.

**Professor Fyfe:** The main driver for this structural change was financial. It is quite interesting to put this into an international context and look at what has been happening in Norway, Sweden and the Netherlands, where there has been a similar process of policing reform and the merging of what had been autonomous regional forces or divisions into a single structure. However, the driver in those cases has been not money but efficiency and effectiveness. The view is that, because of the changing nature of criminality, particularly with regard to terrorism and organised crime, a single, more centralised structure offers economies of scale and operational benefits such as the ability to mobilise specialist capacity to deal with more complex forms of criminality. The pattern of change is similar, but it is not all driven by money.

**The Convener:** Have the financial imperatives been realised?

**Professor Fyfe:** My sense, particularly from the work that Audit Scotland has done, is that there are still many financial challenges to face in

reaping the benefits of reform. There has certainly been a lot of progress on reducing duplication. However, one of the challenges in the first phases of reform was that Police Scotland was required to maintain the number of officers that it had at the outset. That is one of its biggest costs. As a result, it was quite constrained in what it could do to realise any financial benefits.

**Councillor Whitham:** Local government is very aware of and understands the need for transformation. We have seen benefits, including, as Nick Fyfe has suggested, a reduction in duplication, and we have also been able to pull specialised services together at a more local level, which has been really good. We are concerned at the difficulties that we are seeing on the front line as a result of budgets being cut but, in the round, a lot of positives have come out of the creation of a single police force.

**The Convener:** Ivor Marshall raised a point about the complexity of the change that was required. Some of the submissions raised that also. Would you comment on that, before we move on? Was the complexity of merging eight forces underestimated?

**Chief Superintendent Marshall:** It probably was. We did not have the time, experience and expertise to understand the scale of what was involved.

In the best traditions of the service, we got on with it and gradually learned from mistakes along the way. Five years in, the important thing is to recognise that the service has started to develop a 10-year strategy, which it did not have at the start. The ASPS supports that. There needs to be a sense of what the strategy looks like and for there to be a roadmap for the future.

The biggest challenge to do with complexity is that there has rightly been a focus on structures, process and practice to keep the wheels on the wagon and keep going to calls, but that has perhaps been at the expense of changes to the organisational culture—the vision and values. It has also been at the expense of harnessing the workforce and understanding that ultimately policing is a human endeavour that relies upon the women and men who deliver the service to the citizens and that it has to be delivered through them. It is about understanding, supporting and developing them through the structures and leadership.

**The Convener:** Are there any other comments on that? Nick Fyfe referred to it in his submission.

**Professor Fyfe:** The complexity of the changes required was underestimated. Scotland is not peculiar in that. There have been similar challenges in other parts of the world where similar integration has been tried.

As Ivor Marshall said, it is one thing to change the structures, but it is another to change the cultures that underpin them. In our evaluation, we saw a number of challenges around the vision for policing and how that has changed over time. In the early days of the reform, there was a strong focus on enforcement and performance management. There is a shift now, as greater emphasis is put on prevention, protection, localism and engagement. Those changes have taken time to play through.

People talk of reform as a journey with different phases. The first phases were focused on integration and consolidation, and we are coming to the end of those phases. The third phase is transformation. We are only just beginning to see the possibilities of transforming the way in which both the police and the fire and rescue services are delivered. Too many people saw reform as an event rather than a very complex process.

**Denise Christie:** We have recently harmonised uniform terms and conditions in the Scottish Fire and Rescue Service. It has taken five years to harmonise eight different legacy sets of procedures, policies and terms and conditions. It has been particularly challenging to unify the service as a national service, given the different resources, standards and terms and conditions in each area. It has been a long and hard process. Industrial relations have generally been good with the Scottish Fire and Rescue Service, and that has helped the process more recently.

We need to have the foundations settled first, before we look ahead to transformation. There is no point in building a house if the foundations are not solid at the start. We do not just harmonise. We need to make sure that all the policies and the detail are in place, and that the nuts and bolts are on the policies, if we are looking to move in another direction.

**The Convener:** That is helpful. We have supplementary questions from Rona Mackay, John Finnie and Liam McArthur.

**Rona Mackay:** I will pick up on what Denise Christie said at the beginning. On a visit to Montrose earlier this month, the committee spoke to a fire officer in charge who said that they had much more autonomy on the operational side, that they had to go through less bureaucracy to get things done and that there was more co-operation—they could just call on other forces for help, whereas that might have been a stumbling block before. That person was complimentary about the operational side—will you comment on that?

10:15

**Denise Christie:** Collaboration work has taken place with other agencies, some parts of which have been reasonably successful. Other areas go into different role maps of a firefighter. A firefighter's terms and conditions are based on their current role map as identified in our grey book, which sets out our terms and conditions. To open up a role map and ask firefighters take on other responsibilities, we must go through a negotiation process and ensure that the resources and training are there for firefighters to succeed in that.

Resilience is another aspect. Firefighters have 300 hours a year to maintain their core fire service skills. If a fire station takes on a specialist responsibility, such as water rescue or rope rescue, firefighters need to do another 80 hours of training. If we are to work with other agencies and open up the firefighter's role, we must have the proper numbers, resources and infrastructure.

**John Finnie:** Nick Fyfe touched on international comparators and changes that have taken place. For the Scottish Government, one of the main drivers for the mergers was the reduction in the block grant by £3.3 billion, which equated to 10 per cent, and meant a reduction of £50 million—12.8 per cent—in funding for fire and rescue services. Did that shape the legislation and has it shaped where we are now?

**Professor Fyfe:** The reform involved all sorts of changes not just to the structure of policing but to its governance, so it had lots of implications for local government's role in the new police service and for its influence locally. Taking away the financial contribution to policing from local authorities has changed how they influence local decisions and play a role in the appointment of local officers. The funding is intertwined with some of the governance changes, which have been important.

**John Finnie:** Back in 2011, before the reform, Her Majesty's inspectorate of constabulary in Scotland talked about

"weaknesses in police governance and accountability",

so that was an on-going issue.

**Professor Fyfe:** It has taken a long time to create a governance structure that properly balances the three elements—the Scottish Government, the Scottish Police Authority and the police service. In the early stages of reform, there was some asymmetry in the relationships—the chief constable and the Scottish Government were the more powerful partners and the Police Authority was a weaker partner. The authority is now becoming more assertive and has developed the capacity to call the police to account. All that

has taken time. How to engage local government more in the governance of policing is still an issue; that is a work in progress.

**The Convener:** We will certainly come on to local government's ability to scrutinise and affect matters, because the reform was not about just money.

I will give Liam McArthur a shot, but I really want to hear from more witnesses round the table. Sandy Brindley can come in when she wants.

**Liam McArthur:** I am interested in what Nick Fyfe said about the structure, but I will go back to the point that Ivor Marshall made about the transformation fund. I recall criticisms of the approach that was taken to college reorganisation and restructuring, because the perceived savings and efficiencies were banked and it was assumed that that would be able to fund the reform. I am interested in the views of Ivor Marshall and Nick Fyfe in particular on whether the same error was made again here. Were the efficiencies and the savings assumed, guaranteed and locked in, and then used as a justification for not putting in additional funding for the transformation fund through the early stages of the merger?

**Chief Superintendent Marshall:** A big chunk of the budget allocation is spent on wages and personnel, as Nick Fyfe alluded to. What was fixed was the magic number of 17,234 officers. The business case, as it was structured, indicated the savings that were to be accrued year on year. To achieve that, the only areas where savings could be squeezed out were the police support staff roles and the very small part of the budget that concerns running cars, fuel, buildings and so on. The squeeze was on those areas.

There were unintended consequences of losing police staff. For example, officers were taken away from their mainstream roles to fill support roles. As we went through the process of amalgamation and integration, all those factors militated against our ability to get to the transformation projects. The money that had been allocated by the Government to pump prime some of the transformation projects could not be used in that way.

**Liam McArthur:** The red line on police numbers was well known at the time of the reform and the bill being passed. You have talked about unintended consequences, but surely the consequences of greater efficiencies needing to be derived from police staff and other areas must have been known. Was the level of savings that was assumed exaggerated or wildly optimistic?

**Chief Superintendent Marshall:** There were known knowns at the time, but the issue was that, despite the due diligence that was done, the expectation in the outline business case was that the savings from amalgamation, stopping



duplication and so on would be realised quickly. Given the scale and complexity of merging eight police forces and two precursor organisations, and given the changes to governance, it was unrealistic that that could have been achieved within a timescale in which savings could start to be rendered down. We have run a structural deficit for five years because the transformation has not generated the income, so we have needed to take a patch-up-and-make-do approach to the budget in order to keep things stable.

We now have projects online for 2026, and I know that the service is looking at its ICT infrastructure, in particular, and working towards a business case that will say that we still need money to make the transformation on that scale.

It comes back to the fundamental question whether we knew the size, scale and complexity of the challenge, and the answer is that we probably did not.

**Professor Fyfe:** As a footnote to that, I think that the costs of transformation were underestimated. For example, the investment in ICT to reap the benefits of having a single organisation as opposed to having legacy ICT systems is significant—there is a whole history associated with the i6 project. Until that element is sorted, a lot of the other benefits are much more difficult to achieve.

I have been quite a close observer of the police reform in Norway, and it was interesting that the initial approach there was to invest hugely in the front line, particularly in technology. Norway's approach to reform involved giving officers new information technology equipment so that they could work more efficiently on the street, and then it started worrying about structural changes and back-office functions. It was a very different approach: they started with the front line, then looked at the wider structures; the approach here was to start with the structures, then deal with the front line at a later stage.

**Daniel Johnson:** I am afraid that you have opened the Pandora's box of ICT. I have two questions. To what extent is the challenge of integration about ICT, and to what extent is it about other things?

The second question is to both Nick Fyfe and Ivor Marshall. What have been the practical consequences of that? We hear stories of police officers having to input into multiple systems for a single incident. Can you bring the issue to life with practical consequences?

**Chief Superintendent Marshall:** ICT is not what it is all about. Policing is a human endeavour; it is about how women and men in the role of police officer interact with citizens and members of the public at times of crisis and need, and it is

about delivering a service. ICT is an enabler of that and, as Nick Fyfe alluded to, if we invest properly and give officers the right equipment—be that cars, radios, telephones, tablets or whatever—that might enable them to work more effectively and efficiently.

Particularly for policing in the 21st century, when information about victims, witnesses and so on is critical and across numerous systems, ICT is an essential element in how quickly we can access and share information with partners. However, it is just an enabler towards delivering the service, which is still anchored in understanding the fundamental basics of policing. It is about enabling, encouraging and training officers to go out and do their job, which might be on the front line on the streets. There is a lot of talk about what the "front line" means, however; it could be about working on cybercrime and so on.

We need to understand the scale of the complexity of 21st century policing. ICT is an ever-growing element of that in the technological world that we occupy, but it cannot be the be-all and end-all. If the ICT is good, it can make our job easier and we can be more effective and efficient. If it is bad, we can still deliver a service, but it might not be as effective and efficient.

**Fulton MacGregor:** We have moved on a wee bit, but I want to go back to the case for reform. I know that much of the driver for that was financial but, as Nick Fyfe mentioned, there were other reasons. Without going into areas of questioning on the benefits and negative consequences, which will come up later, does the panel think that the reasons for reform were generally sound and based on the Scottish people's needs for police and fire services?

**The Convener:** That is nothing to do with the timeline, which we thought that you were going to ask about.

**Fulton MacGregor:** I felt that Ivor Marshall covered the timeline, so I was going back to the original question on reform. I would have incorporated that in the initial question.

**The Convener:** We were going to look at whether there were barriers to reform that have hindered progress. Do witnesses feel that we have covered the barriers? Are you happy to move on, or is there something that you wish to say in reply to Fulton's question?

**Sandy Brindley:** I have things to say about the benefits that we have seen, but I do not know whether that will come up later in the meeting.

**The Convener:** We might well go into that, so let us move on to Liam Kerr's questions on governance. That was mentioned in Nick Fyfe's interesting contribution.

**Liam Kerr:** Professor Fyfe, you talked about the structure and, in particular, governance. We have seen some evidence that suggests that the Police Scotland-SPA structure, which you alluded to, might not be ideal or sufficiently clear. Do the witnesses have views on that structure and, in particular, on the role of the SPA as defined and as it has come to be?

**Professor Fyfe:** Again, there was an underestimation of how long it would take to establish new governance arrangements at the outset of reform. Although the preparations for the operational side of policing went on for some time, the establishment of the SPA happened very quickly and it has taken time to get the right mix of skills and knowledge in the organisation. My sense is that it is in a much better place now than it was.

10:30

A key issue that we have looked at is the relationship between local authorities—particularly their local scrutiny committees—and the SPA. We are trying to find effective ways to feed local concerns through to a national body.

A common theme throughout reform has been the balance between centralisation and localisation. In the early stages of reform, the focus of governance arrangements and of operational and strategic elements was much more on the national aspect and on centralising activity; now, the focus needs to be much more on addressing the balance that I mentioned and giving localism a stronger presence in discussions about policing. That can be seen in “Policing 2026”—the strategic document that Police Scotland and the SPA produced—which focuses much more on localism.

In governance, the question is how local scrutiny committees have a voice nationally. Many decisions that are taken nationally have all sorts of local implications but, in the early stages of reform, those committees did not have a particularly strong voice in the outcomes of such decisions.

**Liam Kerr:** I would be keen to come back on that, but I presume that Councillor Whitham wishes to speak.

**The Convener:** COSLA definitely wants to comment.

**Councillor Whitham:** I absolutely echo what Nick Fyfe said. Local government welcomed the creation of local scrutiny committees under the 2012 act, but there has been a disconnect that we are catching up with. COSLA, Police Scotland and the SPA have a joint officer group that is working to bridge that disconnect.

At the moment, decisions that have local implications are made at a national level without

local input. If local police and fire scrutiny forums are there to make decisions locally, it is imperative that they feed views up to COSLA level—COSLA has a police scrutiny forum—and that needs to feed views up to the national bodies that make decisions. If that does not happen, the feeling will be that decisions have been handed down to the local level for implementation. We are on a journey to address that. The joint officer group will make a big difference and that will build the bridge between the levels.

**Mike Callaghan:** Overall, local government has had quite a negative experience of the policing arrangements in the past five years. However, work has taken place more recently to improve arrangements, under the leadership of the SPA’s new chair and with our COSLA spokesperson, Councillor Whitham.

A number of controversial issues have emerged in relation to temporary traffic regulation orders—that was last October—as well as police station counter closures, closed-circuit television and armed policing, because national decisions have been taken without sufficient dialogue, communication and meaningful engagement with local elected members. That needs to be improved, and we are working with the SPA, Police Scotland and the Society of Local Authority Chief Executives and Senior Managers to address that. That has been a learning experience.

**The Convener:** Do you feel that, if there had been more local accountability and more local power, a better case could have been made for supporting or changing decisions locally?

**Councillor Whitham:** Absolutely. Involving the layer of governance that is closest to communities at the creation and ideation stage of policy making and decision making will mean that we have an influence and can produce a better outcome and a better case locally.

**The Convener:** That is also because one size does not fit all.

**Councillor Whitham:** Absolutely.

**John Finnie:** My question is for Nick Fyfe. Ivor Marshall touched on the fact that 10 organisations came together. If we compare present arrangements with the previous arrangements, can the same argument about the dearth of local accountability be made in relation to the Scottish Drug Enforcement Agency or other historical central services? I want to maximise local involvement, but is that a reasonable comparator? Local authorities had zero input into such bodies.

**Professor Fyfe:** Yes. That is a reasonable comparison. The governance arrangements for those bodies did not allow any local input into the

decisions and deliberations of those groups, so it is a fair comparison.

**Liam Kerr:** Professor Fyfe, based on what you said earlier, do you have a view on whether the SPA's recent challenges have been personality and/or culture driven, such that the recent changes in personnel will positively impact on the SPA's operations, or is there something endemic in the structure that mitigates against its efficient working?

**Professor Fyfe:** No, the structure can be made to work better as it is. The production of "Policing 2026" was a watershed, because it was a joint strategy between Police Scotland and the SPA. It showed that, working together, they could come to a joint vision of what policing in Scotland would be about, what its priorities would look like and so on. Evidence of good and effective working between those two organisations is beginning to emerge.

Part of the evolution of the SPA has involved making sure that it has the right skills and knowledge in the composition of the board and the wider organisation and, as has been mentioned, ensuring that the connection between the SPA and local government is strong. A lot of progress is being made. In the early days, there was a disconnect between the SPA and local communities, and between the SPA and Police Scotland. Police Scotland was forging ahead with rapid change and the SPA was struggling to keep up with some of what was emerging from that.

**Liam Kerr:** Is a single oversight body—the SPA—the best structure by which to hold Police Scotland to account, or is there a better way?

**Professor Fyfe:** That is a good question. I think that the structure can be made to work effectively. It is important to see it as part of a wider landscape of governance. It is not the SPA alone; there is also Her Majesty's inspectorate of constabulary in Scotland, Audit Scotland and other bodies that can call the police to account. At one level the SPA can do a very good job. One should not look back to the previous arrangements with rose-tinted glasses—previous police authorities had their own challenges and weaknesses. The key thing now is to address the issue of how to get a stronger local voice in the SPA's deliberations.

**Chief Superintendent Marshall:** I will throw in my tuppence-worth and answer the questions, but perhaps backwards. I have seen improvements in the relationships at strategic level—the police authority, the various other elements that Nick Fyfe alluded to, such as HMICS, and the force executive working together in a more collaborative and cohesive way, with a shared leadership responsibility rather than a fractured one.

If we are being candid, some of the personalities and leadership styles, the tensions in the early

days and the disputes about the interpretation of the legislation about who had responsibility for police staff were unhelpful. That festered for some time and took considerable time to be resolved. We still have not achieved harmonisation of pay for police support staff, and the genesis of that probably goes back to that time. However, it is on a better trajectory now, and it is incumbent on all of us who are involved to try to shape that.

There are still issues of centralists versus localists that are taking time to work through. As a commander in a division with four local authorities I had positive relationships with four scrutiny boards that were all very different and had different needs, and I know that colleagues in similar positions have similarly positive relationships. Those have continued over many years. The voice of local scrutiny boards in affecting national policies has not been heard as strongly as it could and should have been.

Other factors, including financial control and the centralist approach to cuts and budgets, have meant that local area commanders do not have autonomy or as much flexibility with budgets to enable them to commit to local initiatives, in partnership with local authorities. That, in essence, is stymieing community planning and community empowerment. I have been in the job for 29 years and I am yet to see real progress being made in proper community planning and community empowerment. That comes down to the fact that money cannot be shared across budgets at times. We should follow the money trail and trust the people who are in local management positions to provide local services. There is an egg to be cracked in terms of centralist, nationalist control through big entities vis-à-vis what is important for local communities.

**The Convener:** Does Denise Christie have a view from an FBU perspective?

**Denise Christie:** In relation to the governance of the fire service, we have the SFRS board, but we believe that there is insufficient knowledge of operational matters and insufficient operational experience. The board scrutinises the service, and it is given papers, policies and procedures from officers in the service. However, there is no independent scrutiny from a professional operational point of view on the fire board. We suggest that a mechanism should be identified so that the board has ready access to independent objective advice and information on operational matters, including known or projected impacts of proposals on operational matters. To scrutinise an organisation, there must be the knowledge, information and experience to do so. That is not happening within the current board structures.

**The Convener:** Could you give an example of how that situation plays out and where the fault line lies?

**Denise Christie:** For example, before we amalgamated into the single Scottish Fire and Rescue Service, a minimum number of firefighters was needed on an appliance in order to have a safe crewing model to go to a fire or an incident. Recently, that crewing model has gone from five firefighters on each fire appliance to five on the first appliance and four on the second. As operational firefighters and experienced members of the Fire Brigades Union, we know the impact that reducing the number of firefighters on a fire appliance can have. When such policies and procedures go to the SFRS board, we believe that the board needs independent knowledge and advice and to be given all the information, so that it can make an informed choice to scrutinise or to agree with the decision of the service. That is a specific example.

**The Convener:** That is very helpful.

**Daniel Johnson:** I am interested in the interplay between the centre and local scrutiny panels, particularly given what Ivor Marshall has said. To strengthen the local scrutiny panels, do we need to see the flow of money—

**The Convener:** Can I interrupt you? That is exactly the question that Rona Mackay is going to ask, but I will come back to you.

**Rona Mackay:** I will continue in the direction in which Daniel Johnson was going, on scrutiny. I listened to what the witnesses said about it having taken a long time to begin to reach the objective. Are we going in the right direction on local policing and local scrutiny? I know that there is a long way to go. In her submission, Councillor Whitham says:

“The model of local policing has allowed councils to retain a local relationship through local police commanders.”

That is positive, and I think we all agree that the model has eradicated some duplication of services, which is also positive. Are we going in the right direction? Will we get there soon? Can you think of any other benefits from the first five years?

**The Convener:** Daniel, would you like to add anything to that?

**Daniel Johnson:** Will the scrutiny panels need budgetary control and powers of appointment in order to have teeth and be heard?

**The Convener:** There is quite a lot in those questions.

10:45

**Councillor Whitham:** There is. We will get there with the scrutiny. We are making great strides, and if we continue on our current path, local government will have the influence that it needs at that level. We need to ensure that divisional commanders are adequately resourced and empowered to make decisions to help them and their community planning partners to deliver services on the ground at a local level. We have always felt that scrutiny committees should have some involvement in making local decisions when it comes to budgetary spend, appointments and so on. We would welcome a discussion on that.

Having the new chairs of the SPA and the fire board come to our meetings at COSLA has been well received by the representatives on the committee, who are from all 32 local authorities. We are on the right path, but we need to ensure that we empower the divisional commanders to do the good work that they do. Much good work is being done on community planning partner boards around Scotland; it is just about how we build on that, which is about devolving more power down the way.

**Mike Callaghan:** I broadly concur with Councillor Whitham. Improving governance arrangements with the SPA is a work in progress, but we have moved along positively so far. It is about being in a place where we, the SPA and Police Scotland are comfortable with one other's positions.

As Councillor Whitham said, it would be helpful at a local level if local police commanders could be empowered by being given more autonomy to deploy resources in line with local priorities, as articulated by the elected members. After all, they are closest to their communities on issues that relate to policing. It would also be helpful to have more scope locally, because a lot of Police Scotland systems and processes are fairly centralised. We need them to be more adaptable and flexible in order to meet local circumstances.

**Professor Fyfe:** I absolutely agree with what has been said. We need to re-engage with the policing principles that were set out in the Police and Fire Reform (Scotland) Act 2012, which said some good things. It is a progressive vision of policing that is about community wellbeing and working in partnership with localities, communities and so on. In a sense, we just need to re-engage with those principles, as they are a really good statement about how policing should be a partnership between different bodies. It should be focused on community wellbeing.

**The Convener:** On that point, is there something in your submission about reviewing and going back to the 2012 act? The aim is in the act,

but it has not been achieved, so we need to look at where to go now.

**Professor Fyfe:** Absolutely. For the first three or four years of reform, we lost sight of those policing principles, which was understandable because there were other pressures and demands. However, “Policing 2026” is a good step in that direction. A good statement about the purpose of policing in the 21st century is embedded in the legislation, and if we go back and make that a reality, it will be positive.

**The Convener:** Is that almost going back to what you said about where other countries started?

**Professor Fyfe:** Yes. Other countries look at our legislation and are really impressed by the statement about policing that is set out in it. Also, unlike in England and Wales, where the focus has been very much on crime reduction and where there is a crime-centred view of policing, the statement in the Scottish legislation is about wellbeing, harm reduction and a much more holistic vision of policing. That is much more in tune with the needs of vulnerable populations.

**Chief Superintendent Marshall:** Just to be absolutely clear, I add that relationships at local levels between divisional and local area commanders and communities, scrutiny boards and partners have always been and continue to be strong. That is one thing that has transcended all of this. In the early days, the service withdrew from some partnerships because it was so busy, but some of those have been re-established.

The commitment to collaborative working is still exceptionally strong. We can commit a certain amount of people resource to issues, but there may be no discretionary budget to enable us to run initiatives and match fund them, because money is so tight. Money has been drawn away from the local structure that was used prior to Police Scotland, because of the budget pressures. It is about empowering and enabling local managers to do some of that.

I will give you a tangible example of the frustrations around that. Some local authorities funded community officers for certain divisions, but if that funding was withdrawn, the officers were taken away from the divisions to the centre. That was part of the panoply of maintaining officer numbers, deciding who was paying for what and so on. In the division at that time there was frustration that officers were taken away from performing an important community role in order to make a political point about where the money came from. I think that that was wrong.

However, I reiterate that that is around the fringes of what is a very strong partnership in local policing. Its engagement and working relationships

with local communities are still exceptionally strong. I would add that wee bit of polish on top by giving local area and divisional commanders a discretionary budget to do that wee bit more.

**Rona Mackay:** Are we starting to move back that way? In my local authority, we still have community police officers, so I am not sure about your point that they are not there. Does that differ?

**Chief Superintendent Marshall:** In some places there were legacy arrangements under which local authorities funded police officers. Whichever council it was had committed money to the police budget that paid for certain officers—say, for 10 officers in a particular local authority area. They were generally community-based officers. If the council withdrew that money from Police Scotland because it felt it could no longer support that, those 10 officer posts were taken back into the overall 17,234 officers in Police Scotland, and at times they were taken away from the local division whether they were needed or not.

As I said, it is a small thing and the issue is probably now being expunged from the funding envelope for Police Scotland, because the vast majority of it comes from the central budget. I do not know whether there is a local authority or COSLA point of view on that.

**Councillor Whitham:** I was going to give another example of something that is happening at present with local resources for divisional commanders. A huge number of local initiatives may be happening in conjunction with the police and our community planning partners. In my area, the police have become trauma informed and completely aware of adverse childhood experiences, which are embedded throughout the strategic aims of our community planning partnership. Our divisional commander would love to run some initiatives but does not have the resources to do that or to match fund what the local authority is doing.

There are historical examples of local government funding police officers and current situations in which the police are looking at national priorities. ACEs are a national priority that we are all looking at. We want to figure out how we can deal with that at a local level—for community justice to work, we need to understand that—and here we have a divisional commander who really wants to do that but does not have a budget to do any work on it.

**The Convener:** Does Denise Christie have any comments on localism—the ability to set local priorities?

**Denise Christie:** I would say the same things that Ivor Marshall said in relation to the police. The frustration for senior managers in local authority

areas is that they do not have the budgets to look at local needs. For example, the north area of the Highlands of Scotland has a completely different demographic from the city centre of Glasgow or Edinburgh. The resources that are available and the ability to respond to different incidents and initiatives will be different, and they can be more complex. There needs to be more local autonomy but, in order to have that, people must have the budget responsibility and the freedom to use it.

**The Convener:** It is about having the autonomy and flexibility to deal with the issues.

**Denise Christie:** Absolutely.

**The Convener:** I apologise to Shona Robison and Sandy Brindley. I will come to them, but Daniel Johnson's question follows on from that issue. I know that Sandy has a good specific example to give, which Shona will ask about, but we will conclude the discussion on the current issue first.

**Daniel Johnson:** The questions about the resource that is available to local divisions are key. One of the drivers for the creation of a single police force was to do with specialist divisions. How much have they taken priority at a cost to local divisions, whether that is about local availability or just police numbers? I believe that, in the past five years, local divisions have lost 326 officers and regional forces have lost around 79. Where does the balance lie between the national specialist divisions and local divisions? Does the balance need to be redressed in terms of police numbers?

**Chief Superintendent Marshall:** Everyone is looking at me, so I will answer first. There is not an easy answer to that. As part of the 10-year 2026 strategy, the service has embarked on a demand and productivity analysis. That work needs to be accelerated as we need to properly understand the current demand for policing across Scotland in the 21st century, what we project it to be over the next few years and, as a consequence, the resources that will be required to address that demand. We will then be able to assess whether that is the current envelope of 17,234 officers plus the support staff and the budget that it takes to run that, or whether it is more or less than that. We will then understand the need for specialist resources at national level—whether those are specialist roles relating to national assets; support; firearms search; public order; chemical, biological, radiological and nuclear incidents; cyberfraud or whatever—and then, significantly for me, what is required for local policing and local divisions.

At the moment, there is probably a lack of clarity about where the resources need to be at the local level, whether those demands are being addressed appropriately, whether we have got that

right and whether the withdrawal of resources that used to be in local policing to support the centralist roles has been the right thing. The indications are certainly that there has been a removal of some resources into the centralist roles, but there may be a good business case for that.

Sometimes we are fighting against the acute challenges of, perhaps, a sex abuse inquiry that is time critical and needs to be resourced, or a need to uplift firearms resources because the terror threat has gone up. Commanders have to decide whether to put resources to the acute or the strategic. Those resources have to come from somewhere, and the most obvious place where they ultimately trickle down and come from is the front-line, operational, uniformed resources. We always tend to take people away from there.

The question is about what is happening at that level because of that chronic removal over time—it is drip, drip, drip—to address acute issues. I know from my Scottish Police Federation colleagues, who are more in tune with the front-line officers in uniform, that those officers feel that that chronic erosion is not being seen and that local policing is being stretched and is getting to a difficult point. Does that answer your question?

**Daniel Johnson:** I think so.

**Professor Fyfe:** I again echo what Ivor Marshall said. We looked at that issue in some detail as part of our evaluation and it was clear from our discussions with local officers that they can see the benefits of being able to access specialised resources, particularly with complex crimes such as murders or high-risk missing persons. The ability to draw on those resources is definitely seen as a benefit.

However, local officers have concerns. One is that officers are being redeployed from local policing teams into specialist services and are not being replaced, so there is a diminution in the local resource. Another concern is about how local officers access those resources—how they bid for them and how bureaucratic the process is. They are concerned about how quickly they can mobilise those resources if they need them locally.

A third theme is the interface between specialised, centralised resources and the local knowledge of officers. Local officers have a huge amount of rich local knowledge about what is happening in their communities. There needs to be an effective way to share that knowledge with more specialist teams that come from outwith the local area.

11:00

Finally, officers wanted to know what it means in terms of their careers. What does a career path

look like for a specialist officer as opposed to someone in a local policing team? There is a sense that those who work in specialised functions are being quite well supported in their skills and career development whereas those in the local policing teams are relatively neglected. That creates a two-tier system.

**The Convener:** Ivor, you make a point about careers in your submission. Would you like to add to that?

**Chief Superintendent Marshall:** I can corroborate that point. There is concern that there is a divergence between being a specialist in a national role and those who have a role in local policing. That issue came up during the reform process. We want to avoid the American model, where there are national teams—such as the Federal Bureau of Investigation—and local policing and never the twain shall meet. It is nowhere near as bad as that, but that is what we want to avoid. There is a sentiment that specialists are more visible and that it is the sexier part of policing when compared with local policing.

Members of ASPS are concerned that there has been a natural drawing of types of senior posts towards more central locations because that is where the demand is and where the specialist roles are based. As officers from the far north or south who were in national roles have retired, their roles have been engineered into the central belt. That reduces the opportunities for people who hold higher rank to remain in more rural parts of Scotland.

We need to be flexible and agile in our ability to enable officers to work in all parts of Scotland, perhaps by using technology. If we limit the opportunities because of geography, officers and staff may choose not to pursue certain promotions and so on. That would mean that we lose talent from across Scotland as people choose not to move, perhaps because of family commitments or whatever.

We need to be mindful of that and have meaningful conversations with staff to find out where they are, what their development needs are and what the potential is, so that we can maximise the entire workforce and not just those who happen to be geographically located in the right place.

**Daniel Johnson:** I have also been told about the flipside of that, which is that Police Scotland is developing overspecialised senior police officers and so losing a breadth of experience. Do you agree with that view?

**Chief Superintendent Marshall:** There is a balance to be struck. We invest in certain specialist roles, such as in counterterrorism, to build up a level of expertise, and it is important

that we do not lose that expertise. In the national service, you can see that people have a career path by ascending in certain specialisms. I understand that to a point, and we need to be mindful of that.

Nevertheless, there is a real benefit in cross-fertilisation, and we need to keep that as much as we can. Throughout my career—this is also true for others—whenever I have taken a more central role, I have then gone back to a more localised role for my next posting. If the service can accommodate and facilitate that because it knows its people well enough, we can share knowledge and expertise. If someone has been in a specialist role for several years, it is easy for them to forget how acute things are in a local policing context. When they go back out there, they realise that the specialist world is not everything and that it all comes back to what is happening in a local community and what is affecting local citizens. It is always good to have that touchstone.

**The Convener:** Nick Fyfe, you summed it quite nicely, I think, in the reference in your submission to

“the lack of clarity around career development and training opportunities for local officers in the new national organisation, contributing to low morale.”

**Professor Fyfe:** Yes. My sense is that that issue is now being addressed. However, certainly in the early stages of reform, that was not given a high priority and people felt that they did not really understand what their career paths would look like in the new organisation. It was a huge change for them.

It also raises a wider question that it is important to have a bigger conversation about: what size and shape of workforce does Scotland need? Again looking at international comparisons, we find that Scotland has a lot of police officers compared with countries such as Norway, Sweden and Finland, which have populations of a similar size. In those countries, they are having conversations about the skills that are needed, given the changing demand on police organisations.

One huge and increasingly important area of police activity is cybercrime. The skills that people need to tackle such crime are very different from the skills that have been focused on in traditional police training, and you might need to bring more civilians into the force to work in such areas. As a result, the balance between uniformed officers and civilian staff will need to be rethought.

**Councillor Whitham:** I will be brief, because I know that members want to ask other questions.

Local government and local councillors really welcome the shift back to locality policing. Indeed, we have seen that in community council meetings.

Specialist areas such as counterterrorism, cybercrime and so on are important, but the fact is that, given the time that they are being allowed to undertake community policing, local police officers' knowledge of the areas that they serve can only get wider. That will make a big difference for us in local government, and we really welcome that shift back.

**Denise Christie:** We have had the same experience in the fire service. It has been difficult to recruit and retain senior and middle managers in more rural areas. Previously, those going for promotion did so in their own local brigade—in other words, in one of the eight brigades—but firefighters and middle managers who are looking for promotion might now have to move from Edinburgh to Inverness or from Glasgow to Aberdeen. Moreover, those posts are expanding, and middle and senior managers are having to take on much more responsibility than they had in the eight legacy brigades, which is leading to stress and low morale. According to a freedom of information request that was made last year, there has been a fivefold increase in the number of people in the fire and rescue service who are going off work because of work-related stress and pressure.

As I have said, it has been difficult to recruit and retain those individuals. Indeed, the Auditor General recently published a report on succession planning in the senior elements of the Scottish Fire and Rescue Service, and the findings were quite worrying.

**John Finnie:** My question is for Nick Fyfe. To what extent do you believe that this discussion about growing specialism would have been happening anyway, whether or not reform had taken place? I am thinking in particular of the use of language. As a Green, I am very keen on using the word “local”—I think that it is terribly important—but it can be bandied about quite casually. For instance, locally in Forfar, we visited two highly significant national specialist units, but they would not be presented as such. Similarly, in the Highlands and Islands, where there have been challenges with regard to the fire service, there are two state-of-the-art training facilities that were not there before. Is the language that is being used sometimes adding to the confusion?

**Professor Fyfe:** That is a good point. Some of it goes back to the original legislation, which talked about local policing without defining what that actually is. Over the past five years, we have had a very important debate about what is “local” and the local implications of national decisions. That debate is happening all over Europe—it is not peculiar to Scotland—and the questions that are emerging from it are whether the issues are about local empowerment or about ensuring that policing

is sufficiently flexible to meet local needs and whether there are ways in which local communities can articulate what their needs are.

We should also recognise that a lot of the demands that are made on policing are national and international in their origins and character. We need to maintain national and international collaboration in order to tackle organised crime, terrorism, cybercrime and so on.

Language is important. Sometimes we do not unpack enough what we mean by “local” in an operational sense and in terms of wider strategic requirements.

**Shona Robison:** In the debate, we sometimes lose sight of what the reforms and the merger have meant for people who receive services and what the outcomes have been for victims of crime. I am struck by Sandy Brindley's evidence on behalf of Rape Crisis Scotland, which states that

“the move to a single police force has transformed the way rape and other sexual crimes are investigated in Scotland.”

It would be useful to hear from Sandy Brindley about the outcomes for women before and after the merger. Can you give some examples of what the merger has meant and how those outcomes have been achieved?

**Sandy Brindley:** Yes, of course. It is not for us to comment in any detail on the governance and finance aspects of a single force. However, given the direct feedback that we have received from people whom we work with and who report crime across Scotland, I would say that, in general, there has been a transformation since the advent of a single force. Prior to the establishment of the single force, progress had been under way through the Association of Chief Police Officers in Scotland, but having one structure has assisted in the move to specialism, and the move to specialism in the investigation of sexual crime has made a concrete difference for the people whom we work with.

We have a feedback protocol with Police Scotland whereby we proactively ask callers who are referred from Police Scotland a number of questions about their experience of reporting to the police. We then provide monthly reports to Police Scotland that summarise people's feedback, which is overwhelmingly positive. That is not to say that there are not still learnings to be taken from people who are unhappy with their experience, but such cases are very much the exception these days. Even 10 years ago, we frequently heard complaints about the police response to people reporting sexual crimes.

Our experience is that the merger has been very positive. The structure enables specialism and, when there are difficulties, Police Scotland is very



much open to working in partnership with organisations such as Rape Crisis Scotland. Police Scotland is also keen to proactively get feedback and learn from that. When we notify Police Scotland of difficulties, the structure of Police Scotland enables any learnings from complaints to be integrated into practice much more easily than would have been the case when there were distinct forces across Scotland. At that time, there were a number of challenges to improving the responses to sexual crime.

**The Convener:** Was one of the major game changers the fact that the Crown Office and Procurator Fiscal Service prioritised the prosecution of rape and sexual assault cases and set up a dedicated unit? That happened under Stephen House, who was the force commander of the new single police force. I completely take your point about communication; it was important that the message was able to cascade down through the single force. However, I want to tease out the extent to which the policy change in the Crown Office and Procurator Fiscal Service has contributed.

**Sandy Brindley:** My experience is that Police Scotland has led the way in transforming the response to sexual crime. However, without being overly critical, I think that there are still a number of difficulties in relation to the prosecution of crime, so that aspect has not matched the improvements in the policing side of the approach. It is very much the creation of a single force that has led to improvement. A number of individuals in Police Scotland have shown real leadership in driving forward the improvements, but the new structure has made a concrete difference for people who report sexual crime across Scotland.

11:15

**Shona Robison:** I am picking up that, previously, there may have been geographical variation in how the police responded to sexual crimes but that there is now consistency of approach so that, if a woman reports a sexual crime, it does not matter whether it is in Orkney, Inverness, Glasgow, or Edinburgh—the response will be the same. First, is that the case? Secondly, are there any remaining issues to be addressed to make sure there is consistency of approach across all geographical areas? At the heart of that, has it been about not just the use of specialist officers but the training of police officers more generally across the board, including those who work in the community?

**Sandy Brindley:** In our experience, when people have a negative experience in reporting a sexual crime to the police, the biggest issue is attitudinal. It is about shifting a culture within an organisation with a significant workforce, and

having a single force has assisted with that. Some cases from the previous forces are still coming through the Police Investigations and Review Commissioner. I hope that such cases will not arise under the single force, because the rape task force now has oversight, which was not the case in the previous system.

I do not want to make it sound as though things are perfect, as there are still issues with attitudes, training and culture. However, the situation is significantly better than it was in terms of the experiences that we are hearing about from people across Scotland.

**Shona Robison:** The role of the national rape task force in monitoring the situation and making sure that the improvement continues is critical.

**Sandy Brindley:** Yes, it is critical.

**Councillor Whitham:** Having a single police force has enabled us to look at tackling violence against women at a local level in our partnerships in local councils, and we have been able to embed that as a strategic priority within the strategic aims of our community planning partnerships. It is about the police force speaking with one voice and taking that right down to the local level so that we are seeing a good move in that direction as well.

**The Convener:** A strong message has been able to come out.

**Councillor Whitham:** Definitely.

**The Convener:** I want to ask about communication within the police force and within the day-to-day running of Police Scotland. I think that the point appears in Nick Fyfe's submission; I am not sure whether it comes up in Ivor Marshall's submission.

**Professor Fyfe:** We looked at elements of internal and external communication, and there was a strong sense—particularly among local policing teams—that internal communication is relatively poor. They felt that there is a lot of emphasis on what needs to change and how it needs to change but less emphasis on why that change is happening. Officers wanted to know a lot more about why particular changes are being introduced. There was a strong sense that communication could be better. It is a question of striking the right balance, though, because they sometimes felt that there is an information overload and that they are being overwhelmed with new procedures, new protocols and so on.

There was also an issue about the balance between face-to-face communication and electronic communication. Partly because of the restructuring, local officers sometimes felt more remote from their more senior colleagues and said that there is less day-to-day interaction with local commanders in some areas.

On external communication, there was a feeling that, in the early stages of reform, Police Scotland did not place enough priority on consultation and engagement when it embarked on a series of changes that would have implications for other organisations. However, that situation is beginning to change and there is a stronger movement towards consultation.

**The Convener:** Was communication an issue for the FBU?

**Denise Christie:** Because we amalgamated eight brigades into one and a vast amount of information on policies, procedures and new processes comes through internally, it is difficult for individuals in the organisation to take on board that information and learn from it before more information comes through. The issue is the speed at which that information comes through and the fact that it is almost constant.

**Chief Superintendent Marshall:** I think that Nick Fyfe covered the issue of the frustration about internal communication. It is a feast or a famine, regardless of how we do it. There have been issues for senior executives in getting messages out to a big organisation that are authentic and informative and that include people so that they understand why we are doing things. The messages can be quite complex, and there is a balance to be struck between posting messages on the intranet and having face-to-face conversations—the latter being the most effective way of communicating. There is something about using the chain of command and briefing appropriately all the way down the organisation so that people feel that they are still part of the police family rather than an employee being told what to do and how to do it through standard operating procedures and so on.

We have carried out two large-scale staff surveys and three surveys in the superintendents association, and more survey results are coming in. The service needs to pay attention to the results of such surveys and must be seen to be doing something quickly. If you ask a question of your workforce but do not respond or do not seem to respond, that is almost worse than not asking the question in the first place. It is imperative that the listening and learning organisation element of this gathers pace, so that the workforce see that they are being listened to. That is key to communication.

**The Convener:** A key theme in the Scottish Police Federation's evidence is the importance of communicating—and of listening and responding—to people who are out there daily on the front line.

**Mike Callaghan:** I touched on the need to maintain confidence in local policing throughout

local communities. In the past five years, we have learned that we should have a no-surprise agenda. Local authorities should genuinely engage at an early stage so that no potential national policy or priority emerges from Police Scotland that causes alarm or the controversies in local government that I mentioned earlier. It is about enhancing that approach, and we are working with partners to address that. It has been encouraging to hear newly appointed Chief Constable Iain Livingstone talk about the need to better engage local communities and to consider devolving policing.

**The Convener:** We have about five minutes left and have exhausted our questions. What one thing would you like to flag up to us as we continue our post-legislative scrutiny?

**Denise Christie:** It is important for us to flag up the need for response time targets and response standards. Previously, we had response time targets for a fire engine leaving a fire station to go to an incident, which helped to keep the infrastructure in place and to maintain the number of fire stations and firefighting personnel, but those targets have gone. We need to restore response standards in the Scottish Fire and Rescue Service to ensure that the public are being provided with a world-class service and to ensure public safety and firefighter safety. We go into more detail on that in our written submission.

**Sandy Brindley:** It might be helpful to raise the issue of forensic responses to sexual offences, which cuts across the single force, health and the Scottish Government. Progress in that area has been much slower than it should have been. People are still being examined in police stations, and some people wait for two days after rape to be examined, while others are being examined routinely by male doctors. The difficulty arises when an issue falls between different agencies such as the police, the health service and Scottish Government departments. There is an SPA responsibility, too. Progress is under way under the chief medical officer's task force. However, we need to put a marker down that we need urgent action on that issue, because the current approach is not acceptable.

**Professor Fyfe:** I reiterate a point that I made earlier: we need to go back to the principles of policing and make them the heart of policing. It must be about community wellbeing and working in partnership. In order to do that, we need to constantly review the relationship between centralism and localism. We did not get that right in the early stages of reform but we are moving in the right direction through greater empowerment of local commanders and having a stronger voice at local scrutiny committees. Continuing in that direction makes a lot of sense.

**Chief Superintendent Marshall:** We have a workforce of women and men who are vocationally driven, dedicated, professional and committed. They turn up to work and want to do a fantastic job day in, day out.

Over the past five years, we have dealt with many of the practices and processes. Now that we have done that, we need to change the organisational culture to show that we will listen to people, invest in them and give them training and development. We need to totally empower and unleash them to give of their best every day to serve the citizens of Scotland. If we can couple that vision and sense of police family with the technical excellence that we now have, our police service will be the envy of the world. That would be a key step forward.

**Councillor Whitham:** I echo what Nick Fyfe said. Keeping direct, open lines of communication with local government is key for us. If we can get that right with the police scrutiny forums and cascade up rather than down, we will be doing really well.

**Mike Callaghan:** It is also about genuine partnership working between the national and local levels and with SFRS and Police Scotland to ensure that national policy priorities do not override local priorities. We need to maintain police confidence locally, with an assurance from Police Scotland and SFRS that there will be effective performance reporting. There must also be effective information sharing at a local level between community planning partners as part of the wider community safety agenda.

**The Convener:** I thank everyone for attending the meeting. It has been a worthwhile opening session in our important post-legislative scrutiny. I also thank you all for your submissions.

11:27

*Meeting suspended.*

11:33

*On resuming—*

## **British Transport Police in Scotland (Proposed Integration into Police Scotland)**

**The Convener:** Agenda item 3 is an evidence session on the proposed integration of the British Transport Police in Scotland into Police Scotland. I welcome Humza Yousaf, Cabinet Secretary for Justice, and his official, Donna Bell, deputy director of the Scottish Government's police division.

I refer members to paper 2, which is a private paper.

Do you want to make a short opening statement, cabinet secretary?

**The Cabinet Secretary for Justice (Humza Yousaf):** Yes. Good morning, and thank you for inviting me to speak today. I again put on record my sincere thanks to the officers and staff of both police services for their on-going commitment.

Integration is a challenging and complex piece of work, and considerable work has been done to assess the risks, the opportunities and the challenges that full integration presents. The safety and security of the travelling public are paramount, and we cannot and will not allow that to be compromised in any way.

The Scotland Act 2016 devolved railway policing powers to Scotland. Our aim has always been to use the devolved powers to ensure that railway policing in Scotland is, through the chief constable of Police Scotland and the Scottish Police Authority, accountable to the people of Scotland.

The Government was clear that full integration was our aim for the devolution of railway policing, as it would deliver a single command structure for policing in Scotland, with the benefits that would be provided by having seamless policing operations across the railways and the wider community.

The purpose of the replanning exercise that was announced in February by my predecessor was to flush out issues and identify when a fully integrated high-quality service could be delivered. That has been a very important piece of work. Some of the evidence that has emerged has certainly deepened my understanding of the issues, and I must now give serious and appropriate consideration to them.

I have always listened to our stakeholders and that is why, on the recent advice from Police Scotland, I have decided to explore all options available for interim arrangements. There is a

pressing need to identify such arrangements that can more quickly give effect to the Smith commission's cross-party recommendation to devolve railway policing to the Scottish Parliament.

Crucial to that must be the relationship between railway policing and the railway industry. As both the funder and the recipient of railway policing services, the railway industry and its interests are, of course, central, and railway operators should be fully involved in setting railway policing priorities and objectives for Scotland.

I am clear that, before full integration may be realised, there are benefits to considering an interim solution that still meets the recommendations and, indeed, the spirit of the Smith commission. The due diligence report commissioned by Police Scotland identifies that the provisional cost of railway policing in Scotland in the financial year 2018 is £21.9 million, including approximately £9.5 million of indirect costs to the BTP-centralised functions to which Scotland directly contributes.

There is an opportunity to leverage that position for a fairer deal for Scotland in policing our railways and to consider a uniquely Scottish funding model. That could have a number of benefits, including providing greater certainty to the rail industry about on-going costs; a more transparent service agreement with greater input for Scottish stakeholders; and the potential for an enhanced productivity model.

Over the past few years, other options, including detailed proposals from the BTP and the British Transport Police Authority, have been considered. Given the need to look at interim arrangements, it is only right that we revisit those options—and, indeed, any others—give them due consideration, undertake rigorous scrutiny and test them with stakeholders and professionals. It is imperative that Police Scotland, the SPA, the BTP and the BTPA are part of that process, and I am delighted that all partners have committed to undertaking this work. I am keen to bring all stakeholders together to fully consider the options for interim arrangements, and my officials are organising that as a matter of urgency.

I fully recognise that this next phase of work still provides a degree of uncertainty for staff and officers. However, given the recent advice from Police Scotland and the new need to identify interim solutions for the devolution of railway policing, it is crucial that time and consideration are given to the options. It must be noted that, as things stand, there is no change to officers and staff, who will remain the responsibility of the BTPA.

I will, of course, keep the committee informed as the work progresses.

**The Convener:** Thank you. We move to questions.

**Rona Mackay:** Good morning, cabinet secretary. The Scottish Parliament passed the Railway Policing (Scotland) Act 2017 last June. What is the status of that legislation? If you are considering new options, will new legislation be needed to implement them?

**Humza Yousaf:** Clearly, we are not commencing the provisions in the 2017 act. The language that I have used in my answers to parliamentary questions and in my statement here this morning is that we will continue to keep the commencement date under review. As we begin to explore interim solutions, things will clearly depend on what those arrangements are. If they involve the need for legislation, we will have to come back to the Parliament, get the agreement of other political parties and—I hope—move things forward. That said, it might well be that we reach a solution—an interim arrangement—that does not require legislation.

In the meantime, it is important that whatever interim solution we and partners end up agreeing on is given time so that we can see whether it fulfils the ambitions that we all have in relation to railway policing vis-à-vis the Smith commission. As I said, we will keep the act under review.

**Rona Mackay:** I did not hear exactly what you said in your opening statement about the amount of money that the British Transport Police gets from Scotland.

**Humza Yousaf:** The amount that the railway industry pays for services for railway policing is £21.9 million, but it should be noted that £9.5 million of that directly contributes to centralised services. There is a view, which was expressed during the committee's various evidence sessions on the integration of the BTP, that it may be possible to revisit the funding and get a fairer deal.

**Rona Mackay:** Thank you.

**John Finnie:** Cabinet secretary, you have described the issue as “challenging and complex”, and you have highlighted the importance of public safety. Those were at the forefront of considerations when the committee put considerable time into looking at the Railway Policing (Scotland) Bill. Do you feel let down by Police Scotland?

**Humza Yousaf:** No. Police Scotland gave me and the committee the best advice that it could give at the time. We then began the deep dive into the work and the detail. I should say at the outset that Police Scotland always said that it would not commence that work until the will of Parliament was determined, and it was right not to presume to know the will of Parliament. We have done that

work and engaged with the various specialists and experts, and the issues have now come to the fore.

Police Scotland did the right thing by informing me and my officials of the fact that it was unable to give a date for integration. It was the right and prudent thing to do for me, as a Government minister, to update the Parliament and the committee to that effect and, as I said, to look at the other options that are available. I do not feel let down by Police Scotland.

**John Finnie:** You have clearly failed to deliver on the legislation. Are you confident that the Scottish Government has provided the committee with all the information that has led us to this point?

**Humza Yousaf:** Yes—without a shadow of a doubt. We were acting, of course, on the best advice that we were being given. That advice has changed, but it has changed based on the detailed work that Police Scotland has done—the detailed examination of a merger that would be done with almost any merger or integration. It is absolutely right that Police Scotland has come to us with that.

Am I disappointed that we are at this stage and are unable to push ahead with full integration? I see the benefits of full integration with seamless policing and a single command structure, so the answer is yes. I have said that in my answers to parliamentary questions. However, I have an absolute duty, first and foremost, to ensure that the public are kept safe and the travelling public are protected, and, secondly, to try to give effect to the Smith commission's recommendation as quickly as is practicably possible.

**John Finnie:** Yes, but that is the singular thing that you have failed to do. We all agreed that public safety is of paramount importance, along with the terms and conditions of the affected officers and staff. Again, you have failed to deliver the necessary assurances there, even though we are a considerable way into the process.

It has been clearly identified that there is a democratic deficit. In effect, we have a police service operating in Scotland that is not accountable to this Parliament and this committee. In recent times, we have seen significant police operations on disorder at stations, such as the incident involving significant disorder on the Ayrshire coast, and it was primarily Police Scotland that was involved in those operations. We can scrutinise Police Scotland, but we cannot scrutinise that force.

**Humza Yousaf:** I agree that the safety of the travelling public is of paramount importance, but the most pressing issue for me is the democratic deficit in relation to accountability to this Parliament. I have no doubt that, when

stakeholders gather round the table and explore all the other options, addressing the accountability deficit, which you articulate well, will be at the forefront of everybody's minds.

**John Finnie:** Thank you.

11:45

**Daniel Johnson:** One of the papers from the recent SPA board meeting states:

"In essence, the current BTP and Police Scotland systems are incompatible, and Police Scotland's wider ICT transformation which could increase compatibility is only at the planning stages with delivery of the improved system being several years away."

If that is one of the major points that is preventing the implementation of full integration, why was it a surprise that Police Scotland's information and communication technology transformation was at a stage that would prevent the integration of BTP systems?

**Humza Yousaf:** I think that anybody who has dealt with the integration of ICT systems—I do not presume to know whether the member has or not—knows that it is a complex matter. If we could have determined beforehand that BTP's systems and Police Scotland's systems were not compatible or that we would not be able to make them compatible in time for full integration, we would have arrived at that conclusion and Police Scotland's advice to me—and to this committee, in fact—would have been different.

However, it is right that Police Scotland did not presume to know the will of Parliament on this issue and did not start on detailed work before the decision was made. I can understand members' frustrations; please accept that I am also frustrated about where we are with this. Nonetheless, if that is the advice from Police Scotland, the prudent thing for me to do is to accept it and see what other interim arrangements can be made.

If it would be helpful to the member, we could give the committee a little bit more detail about some of those ICT integration issues. The issues are in some respects fairly complex, as members can imagine—ICT issues tend to be. Nonetheless, if the committee would find that insight interesting, we could provide some of that information.

**Daniel Johnson:** It strikes me that that sort of detail is pretty critical in developing a business case for any form of integration. In retrospect, do you feel that the business case should have been developed prior to the introduction of the legislation, rather than afterwards?

**Humza Yousaf:** We published the case to the United Kingdom Government on the integration of the BTP and Police Scotland. However, what if the police and the Government had presumed to know

the will of Parliament and had spent the time and the resource only for Parliament not to pass the Railway Policing (Scotland) Act 2017? The committee would have been the first to bring in Police Scotland and the Government to hold them to account for spending that resource and that time and presuming to know the will of Parliament.

I do not come to the committee feeling bullish in any sense; I come with a degree of humility. There is clearly a space between not presuming to know the will of Parliament and doing a deep dive and detailed analysis. That would have served us better than where we happen to be.

We would rather not be in this position. I do not speak for Police Scotland but I imagine that none of the stakeholders wants to be in this position. However, we are faced with the changing advice that we have been given by Police Scotland. I accept the reasons that Police Scotland has given me relating to the challenges, and therefore it is incumbent on me to find interim arrangements that can give assurance, especially on the issues around accountability.

**Daniel Johnson:** Given that statement in the SPA board meeting paper, do you agree with the conclusion that extends from it that full integration will not be possible for several years and that it can happen only once Police Scotland's ICT transformation has been fully implemented?

**Humza Yousaf:** Having spoken to Police Scotland and the SPA—and I look forward to talking to other partners very soon about this—I think that many people look at policing 2026 as being the natural dovetail point for full integration, which is being kept under review, so I would not disagree with that assessment.

My focus is not on full integration at the moment. Police Scotland has advised me that it cannot give a definitive date for full integration. Therefore, my attention and the Government's attention is on finding those interim solutions—I have suggested to stakeholders that all our attention should be on finding them—to deal with the accountability question that John Finnie rightly raised and to ensure that we continue to maintain safety for the travelling public on our railways.

**The Convener:** We should probably roll back a bit. As you know, cabinet secretary, this was the committee that looked at the legislation and, unusually, we divided on it. We were not all 100 per cent happy that the legislation had been got right. Will you give us more information about what changed in February 2018? You mentioned some reasons that were given by Police Scotland. IT has been highlighted—what were the other reasons?

**Humza Yousaf:** I hope that I have never given the impression that I thought that the course of action that we were taking was universally

popular. I understand that—I was at the committee sessions and the various debates that took place.

As I previously outlined to the committee, the MTT—mobilisation, transition and transformation—project was established in October 2017. The purpose of the project was to support the delivery of the operational aspects of the integration of the British Transport Police into Police Scotland, and it was led jointly by Police Scotland and the BTPA. The joint work that was carried out by those bodies reviewed progress on operational matters in February 2018 and, at that point, concluded that a number of significant issues remained to be resolved. That advice was fed into the joint programme board, which was advised that further time was needed to deliver integration effectively for the safety of railway passengers. The advice that, from an operational perspective, more time was needed came from the joint piece of work that was done by Police Scotland and the BTPA through the MTT project, which advised the joint programme board.

**The Convener:** I will delve a little bit further. Why were those developments not identified previously in the specialist integration due diligence analysis that was carried out by EY at a cost of £298,000, and why were they not acted on once they were identified?

**Humza Yousaf:** There are a couple of things to say. The obvious point is that it was Police Scotland that commissioned the due diligence analysis from EY, which is the £298,000 contract that you referred to, so I refer the committee to Police Scotland.

The second point refers to my previous answer. My understanding is that the due diligence work focused primarily on the costs of railway policing such as the assets, the liabilities, the fleet and the property, which would be relevant to full integration. The work did not focus on the operational issues. I emphasise the point that the operational aspects that the MTT project considered, which I talked about in my previous answer, would not have come out in the piece of work on due diligence, which focused on the assets and liabilities.

**The Convener:** We are now three years down the line. Why has it taken so long?

**Humza Yousaf:** Again, I go back to one of my previous answers. I completely agree with what Police Scotland's representative—I think that it was Assistant Chief Constable Higgins—said to the committee, which was that Police Scotland would not presume to know the will of Parliament. Clearly, it would have been presumptuous to do all that work—the work of the joint programme board and the detailed analysis for which specialists are needed and for which specialists have been

drafted in—and spend that resource and time until the act was passed by Parliament. As I said in my answer to Daniel Johnson, there are clearly lessons to be learned and a bit of reflection is needed about doing the detailed analysis that needed to be done without presuming to know the will of Parliament. I am reflecting on that and I hope that all our partners are reflecting on it, too.

**Liam Kerr:** I will stick with the issue of the consultants. In the work that EY produced at a cost of £298,000, did it miss something that came as a surprise to everyone in or around February, or was there a failure to sufficiently instruct EY on the scope of the work?

**Humza Yousaf:** I go back to my previous answer on not presuming to know the will of Parliament. If the question is whether that work could have been done before, I think that we all, and certainly Opposition members, would have questioned why Police Scotland was spending a fairly significant resource on a piece of work that had not been signed off or agreed by a majority in Parliament. There would have been a question about spending that money.

There are two contracts for work from EY, and they can sometimes be conflated. My answer to the convener was that some of the work was on the assets and liabilities—with any merger, the organisations' assets and liabilities will be looked at. That work was done and I am reflecting on whether there was a reflective space in which some of the detailed examination could have been done in advance.

**Liam Kerr:** To be absolutely clear, EY is undertaking two pieces of work with different scopes. One costs £298,000 and relates to assets and liabilities, and the other costs about £400,000; what does that piece of work relate to?

There is another consultant that comes through Harvey Nash recruitment. What work is that second consultant with a third work scope undertaking?

**Humza Yousaf:** Those are questions for Police Scotland, but I will give you my best understanding. In my answer to the convener, I referred to one EY contract, which is the one that relates to due diligence on all the things that would be considered with any merger—the assets and liabilities, the fleet and the property. The second contract looks at programme support, targeted operating models and so on.

The work that will be done by the Harvey Nash consultant very much relates to specialist programme support. We have given the cost of that work in answer to a parliamentary question. So far, the consultant has done 260 days of work, and approximately £60,000 has been spent.

I will ask Donna Bell to provide a little more detail on the second EY contract.

**Donna Bell (Scottish Government):** I am happy to do so. As Mr Yousaf said, EY was involved throughout the replanning. The programme is very complex and EY brought its specific programme management specialist skills to the Police Scotland part of the programme.

The consultant is, in effect, the Scottish Government's interim professional adviser, and that person has co-ordinated the programme, as well as working with partners to develop the target operating model. A range of workstreams has fallen out of that. The consultant has a co-ordination role in seeking to secure the detailed parts of the target operating model and the programme's timeline.

**Liam Kerr:** Will the scope and outputs of the consultants be made publicly available and, if so, when? On the remuneration of the consultants, is the contract with EY a fixed-fee contract in which it will take £298,000 for that piece of work, or is it a rolling contract in which EY will bill on a time-and-line basis, whereby the longer the work carries on, the more money will be paid from the public purse?

**Humza Yousaf:** On the second question, I will ask Donna Bell whether she has slightly more detail. We are talking about three contracts—two from Police Scotland and one from the Scottish Government—so some of the detail on the procurement system that is used might need to come from Police Scotland.

My understanding is that the Government's contract with the consultant from Harvey Nash operates on a rolling basis, but I will ask Donna Bell to confirm that in a second.

In reply to Liam Kerr's question about what can be made publicly available, I will say two things. First, whatever option we end up going with, the work that is being carried out in the interim will stand us in good stead and come in useful. Secondly, if the member does not mind, I will take away his request for what can be made publicly available and look at it with an open mind. The member will understand that there might well be sensitivities around the consultant's personal information, commercial sensitivities and other such things. However, where possible, we should make information on that work publicly available as widely and transparently as possible, and I have no issues with doing so.

**Liam Kerr:** We have talked a lot about the costs of the external consultants. Do you have any estimate on the total costs that have been spent to date on staff time, SPA time, Police Scotland time and other consultancies? Is there a global figure?

12:00

**Humza Yousaf:** That would be difficult to give, because you are asking me to somehow conjure up specifics around other stakeholders' staff time. I would not be able to give you that information. You would have to ask those individual organisations about their staff time.

Even from a Government point of view, when we give estimated figures for staff time—we have given them to the Justice Committee in a letter to the convener, which I think is publicly available—they are crude estimates. We base them on the officials who are involved, their salary levels and an approximation of how much time they are devoting to the project. Of course, they devote time to many other projects in the Government, too.

We can certainly give you crude estimates of staff figures from the Scottish Government. We have been able to get them from the Department for Transport as well, which, again, we have passed on to the convener, and we are able to give you consultancy costs. You can add all of that together, but would that give you a truly global figure? You would have to speak to other partners and stakeholders to gather from them figures on the staff costs that are involved in the project.

**The Convener:** The independent watchdog's report on the proposed integration of the BTP in Scotland states that the Scottish Government failed to set out a

"single, detailed and authoritative business case".

Are you in a position to do that now?

**Humza Yousaf:** As I said, we published the case for the UK Government initially, I think, in 2013. I have spoken at length in committee and in parliamentary debates about why we think that full integration has benefits. I have talked about and touched on some of that. Clearly, as the JPB partners and others are giving their detailed analysis and consideration, issues are being flushed out, and that is only right—that is the purpose of the joint programme board.

We have a case, and we have given much detail over the years on why we think that full integration is beneficial, but I say to the convener that that is not where my focus currently is. Currently, the advice from Police Scotland is that it cannot give me and cannot determine a date for full integration. My focus is very much on the interim arrangements.

**The Convener:** Presumably, then, the business case is constantly under review and it will be looked at again. We have already heard about the cost of consultants and other aspects.

**Humza Yousaf:** It is a very reasonable question to ask. My direction to my Government officials, and this has been shared with other partners, is that the work on full integration should be paused while we focus our attention on the interim arrangements. As I said in my answer to Daniel Johnson, full integration is a long-term goal that will be kept under review. The immediate focus must be on what the interim arrangements will be.

**The Convener:** Given that the report is by the independent watchdog, can I ask you about the other two major points that he raised? There was a total lack of thought regarding the fact that the proposals would lead to a dual command structure for railway policing across Great Britain.

**Humza Yousaf:** Again, I would say that the benefits very much outweigh that point. The single command structure in Scotland, which is what we would have had with full integration, would have been of great benefit, and I still believe it would be of great benefit. My belief is very much that the benefits that we would have seen in Scotland would have outweighed any of the negatives.

**The Convener:** What are the benefits, as you see them, given that presumably—it would be good if you confirmed this—the safety that has been maintained by the BTP is paramount in whatever arrangement we have?

**Humza Yousaf:** The benefits are well rehearsed from the Government's point of view. We have talked about seamless policing, the single command structure and the fact that, if the forces were integrated, Police Scotland could—if I remember the phrase correctly—routinely deploy Police Scotland officers, thereby using that pool of resource right across our rail network to enhance safety for the travelling public. Indeed, when ACC Higgins and other Police Scotland officers were here giving evidence, they often talked about the enhanced training that every Police Scotland officer would have in relation to Scotland's railways.

There are—and continue to be—many benefits to full integration but, once again, I press the point and emphasise that that is a long-term goal that is being kept under review. My immediate focus is very much on finding interim solutions and arrangements, and we will consult on and discuss that issue with stakeholders. I will be open to listening to good ideas, wherever they come from.

**The Convener:** I just want to press you on HMICS's very last point, which was that

"the specialist and distinct nature of BTP's work has been underestimated".

**Humza Yousaf:** I completely disagree. I have always said to the BTP directly and, indeed, to this committee that, certainly in my time as Minister for



Transport and the Islands, I have seen how expert BTP officers are. When there was a suicide on the line—which, unfortunately, happened too often—they were extremely sensitive and professional and cleared the situation in the best possible way and with minimal disruption of service. They had—and have—a very high reputation in the rail industry. I have seen that at first hand and in conversations that I had as transport minister. From a Government point of view, I have never underestimated their expertise, and I argue that that was never under threat or at risk with full integration.

However, as I keep saying, that is not our immediate focus. The immediate focus is very much on finding the interim arrangements.

**The Convener:** Evidence that we saw suggested that some of that experience was leaving BTP, because of all the other things that had not been resolved. I find it very encouraging that you recognise this specialism and have given examples of how essential it is, but surely any haemorrhaging in that respect because of what has happened indicates a problem here.

**Humza Yousaf:** Again, I think that the evidence that you are quoting was based on staff surveys. However, we want those officers to remain, because we see them as being vital to the efficient and safe running of the railway industry. I do not take away from any of that, and there has never been any underestimation of the very vital service that the BTP provides. The reason for going ahead with full integration was that we believed that it would be an enhancement of, not a detriment to, that service.

**Liam Kerr:** You have stated a few times that full integration remains the long-term goal, despite the various criticisms from across the spectrum. How do you respond to the suggestion that you are starting with full integration and then working backwards to find out what the benefits are and how to get them? I would have thought that, instead—and this brings us back to John Finnie's question—you should be taking what seems to me to be the sensible approach of saying, "What is the best product that will deliver public safety, above all, as well as deliver for the public purse? What model will deliver that?"

**Humza Yousaf:** I do not see the two approaches as mutually exclusive. I say that because we have passed the 2017 act, which sets out the legislative framework that is needed for full integration. As for the interim solutions that we come up with, we will continue to keep the committee apprised of the situation, but we could reach a position where the interim arrangements universally satisfy us—in other words, the political parties around this table and the stakeholders involved. If, after a few years of those

arrangements being in place, we were universally satisfied with regard to the accountability deficit and were satisfied that we had the best model in place not just to maintain but to enhance the travelling public's safety, we would have to look again at whether to commence the legislation.

That is one position. On the other hand, some interim arrangements could be put in place, but the Parliament and stakeholders might then recognise that full integration, on a timescale determined by the partners—Police Scotland, the BTPA and so on—could have enhanced benefits, and that it would be prudent to keep the legislative framework and not repeal the 2017 act or change that framework.

The prudent way to approach it will be to examine and explore the options for interim arrangements that would give best effect to the letter and the spirit of the Smith commission on railway policing, give those some time during which the matter can be open for discussion—I will be keen to hear from other political parties—and keep it under review. That is why I keep using the language that full integration is a long-term goal. I am keeping commencement of the act under review. I do not have a closed mind on it but, from a Scottish Government point of view, we still see benefits in full integration. I stress again that my immediate focus is on finding interim arrangements that I hope will give effect to Smith.

**Liam McArthur:** I start with an apology for being late, cabinet secretary; I was attending another committee to move amendments to a bill. You restated the rationale behind the decisions that you took on the integration of the BTP into Police Scotland, but you will recall that many of us questioned why other options are being explored now, rather than at the outset. Given that there is a pause in the commencement of legislation that has already been passed, that legislation that was passed in the previous session of Parliament has been repealed in this session and that there are other examples in which we appear to be legislating in haste and repenting at leisure, are there lessons that you will take from this experience and apply as you take forward other parts of the legislative programme for which you have responsibility?

**Humza Yousaf:** Certainly. It would be foolish of me to say that there are no lessons to be learned. There clearly are, not just for the Government but for all the partners that have been involved. We will all reflect on that. I do not know whether Liam McArthur was here at the time, but I said earlier that I do not come to this committee in a bullish manner. I understand that a degree of humility is needed in these matters and I come very much in that reflective spirit.

We took forward full integration on the best advice that we had at the time. I do not doubt Police Scotland's advice at the time—it was the best advice that it could provide—but the advice changed and we are in the position that we are in. I am undoubtedly reflective, but I also have a focus on giving effect to the spirit and letter of the Smith commission as best I can and, I hope, as quickly as possible.

**Liam McArthur:** I appreciate that and apologise again for not being present for your earlier comments. I take what you say in the spirit in which it is conveyed. My concern with this particular example is that the evidence that we took suggested that the advice that you received from Police Scotland had been given in response to a very clear steer from ministers—you in particular—about where you wanted to go. That is very different from saying: here is an open book; this is our direction of travel and where we want to go; what is your advice on the best way of achieving that? Instead of being open minded about how to achieve a result and saying that, although your preference was full integration, you were genuinely open to arguments about other ways of achieving the broad principles laid out by the Smith commission, which were accepted by all of us, it seems, from watching the process, as if all the evidence and advice that you took was with a view to substantiating and justifying full integration.

**Humza Yousaf:** I do not think that anybody was particularly surprised by our position on full integration—it has been our position for many years. What we did was base the date for full integration, which would have been April next year, on advice that we were given.

As I say, I think that the advice was the best advice it was possible to give at the time. Having been involved in the legislation from my perspective as the Minister for Transport and the Islands, I never once had any impression from the police that they were being leaned on at all in relation to the date of full integration—as Liam McArthur is perhaps insinuating, if nothing else.

12:15

The date came from advice that we received from Police Scotland through close collaboration and close working but, as I say, that advice changed based on further work that Police Scotland did, engaging with experts and of course being part of the joint programme board, where part of the job was to flush out some of these issues. I would therefore reject any suggestion—even if it is just an insinuation—that there was any leaning on any stakeholders to fit a timetable for Government.

**Rona Mackay:** On the general principle of integration, do you agree that there is an element of hypocrisy here? Last year's Conservative manifesto proposed to

“create a national infrastructure police force, bringing together the Civil Nuclear Constabulary, the Ministry of Defence Police and the British Transport Police to improve the protection of critical infrastructure such as nuclear sites, railways and the strategic road network”?

There seems to be a will from the Conservatives south of the border to merge forces in that respect but there is opposition up here to the general principle.

**Humza Yousaf:** I was doing my best to be as collegiate and collaborative as possible. However, it is a matter of note in debate and even at committee that we are not the only political party to have thought that the merging of police forces is a good idea. As I say, it is a matter of note that this was, I think, in the Conservative 2016 manifesto—

**Rona Mackay:** It was in the 2017 manifesto.

**Humza Yousaf:** —and in the 2017 general election manifesto as well. I do not know where the UK Government is on its plans on that. However, I concur that we are clearly not the only ones to believe that merging forces is a good idea.

**Shona Robison:** I want to pick up on the options in a minute. First, I have an observation on the ICT issue. From experience, I know how difficult and complex ICT projects can be, so I think that it would be helpful for the committee to take you up on your offer of sharing some of the detail of those issues, how they will be resolved, the proposed timeframe, and—quite importantly, from experience of such project management—how the project will be managed, because it has to be managed well in order to resolve those issues.

If I understood you correctly, you are saying that the Government will look at the options in order to put interim arrangements in place. The success or otherwise of the interim arrangements will colour the view of whether those arrangements stand the test of time and potentially become the arrangements going forward. However, you are saying that you will remain open minded on that, depending on how effective those arrangements are.

Presumably some of those options will be the ones identified back in January 2015, but you hinted in your opening statement that some of them may be new options. I want to understand how those new options in particular will be developed and who will be involved in developing them.

You have said that the options have to deliver on the Smith commission principles—we all understand that—but is there a preferred option at

this stage or are you completely open minded on that? Lastly, how will you ensure that Parliament and this committee are kept informed and involved, given that the parties represented here may have options to bring to the table in that regard?

**Humza Yousaf:** On the latter point, when we consulted on the matter, I do not think that any other political party came forward with detailed proposals on alternative arrangements. If other parties want to come forward with models that they back firmly, my door is very much open.

I thank Shona Robison for prefacing her comments with her remarks on ICT, because anyone who has been involved in ICT integration knows that it can be challenging and complex. I will certainly endeavour to get a note to the committee, via the convener, on some of the ICT challenges that exist. Police Scotland is building up its case on updating the digital infrastructure, and that process is on-going. I will give the committee as much information on that as possible.

In terms of the other options, Shona Robison's summing up of my position on the interim arrangements and on giving them time to bed in was absolutely correct. Virtually no options should be off the table at this stage. However, I am concerned that, with some options, there could be confusion about accountability. For example, I would be concerned if there was shared accountability between the UK and Scottish Governments, partly because of the confusion but also because that would not deliver on the spirit of the Smith commission. The spirit of Smith is to devolve to the Scottish Parliament and therefore be accountable to the Scottish Parliament. It would be hard for me to reconcile a position in which another Parliament or another Government is involved in that accountability. However, I do not rule out any options.

The BTP, the BTPA, the Scottish Police Federation and others have previously come forward with a number of options, and we should look at what has been suggested. For example, many people will be aware of the academic work that has been done by Dr Kath Murray and Dr Colin Atkinson. We should be open minded to suggestions from academic and stakeholders, and I will be open minded to suggestions from other political parties.

Shona Robison is right to reference timing and timescales. Work on that is on-going. I will endeavour to keep Parliament updated, and I hope to give the committee, if not a definitive answer, a steer in the direction in which the Government and partners are going before the Christmas recess. I am happy to provide that update to Parliament and to the committee.

**Shona Robison:** It would be good to get that update.

**The Convener:** I wonder whether I could pin down the cabinet secretary a bit further. The Scottish Government was very intransigent in just going with one option and ignoring all the others. Is the administrative devolution option that the BTPA and the BTP came up with on the table as an interim option? Is the statutory devolved model of governance and accountability, with the BTPA retaining responsibility for railway policing in Scotland, also on the table?

**Humza Yousaf:** I think that I have answered those questions in my previous answer. Although those options remain on the table, I have some concerns because of the shared accountability that would be involved. Those options do not go far enough and do not quite deliver on the spirit of the Smith commission. The Scottish Parliament should have powers over railway policing and accountability. I would be concerned with the UK-wide governance and accountability structures in the options that the convener mentioned, not just because they would go against the spirit of the Smith commission but because of the potential for confusion. Although nothing is off the table, I have some reservations about some options. However, I am open to being convinced and persuaded otherwise, because I am considering the options with as open a mind as possible.

**The Convener:** The difficulty with you being so open minded is that the committee has no clear idea of exactly what is on the table. If there are problems with some of the models, could you flush out what those are? You might like to reflect on the matter and write to the committee with more specific reasons why you cannot say that you will certainly consider the administrative devolution model or the statutory devolved model at this stage.

**Humza Yousaf:** Yes, indeed. If you do not mind, my preference is to get the stakeholders together to do some work and determine which path we are going to go down, without prejudging—I am doing my best not to prejudge. You asked me whether I have any reservations about those models. I have expressed where I have reservations, but I am not completely discounting those models. Of course, you have every right to ask me for further thoughts, and of course I will do that on the insistence of you and the committee, but I would be reluctant to do anything that would look like I was prejudging what will be an important discussion with the various stakeholders, including the BTPA, the BTP, the BTPF and others.

**The Convener:** I understand that there is a balance to be struck, but a bit more detail would be helpful. Can you tell the committee when the

consultation will start and how long you think it will take?

**Humza Yousaf:** The conversations are already beginning and I am looking to meet stakeholders very soon. As I said in my response to Shona Robison, we will come back to the committee and the Parliament on the timeline, certainly before the Christmas recess, to give you—I hope—a definitive answer on the option that has been agreed by all partners. We may not get to that point—of course, I will keep you updated on that—but I am trying to strike a balance between understanding that there is a time imperative on the matter and making sure that we get to the best possible interim arrangement.

**The Convener:** Okay. Daniel Johnson and Fulton MacGregor have supplementary questions.

**Daniel Johnson:** I wonder to what extent there is a time constraint in finding a solution, given that railway policing is delivered and funded in accordance with police services agreements between rail operators and the British Transport Police and there is a natural contract cycle. Does that provide a window of opportunity that requires to be met?

**Humza Yousaf:** It might well do so. The contracts are based on a four-year cycle. However, as I said in my answer to the convener, we are not wasting time and are getting on with the conversations that need to be had. I think that to settle on an option before the Christmas recess, if possible, is a challenging timescale. Daniel Johnson is right to raise the challenge and the pressure in relation to the timing; nonetheless, I have confidence that we will be able to give interim options by the Christmas recess, then pursue them apace.

**Daniel Johnson:** Are you aware of when the four-year cycle will be up and the PSAs will be due to be renewed?

**Humza Yousaf:** I am not entirely sure. Perhaps Donna Bell has that information.

**Donna Bell:** I do not have that information now, but we can supply it.

**Humza Yousaf:** I do not know that information off the top of my head, but we certainly have arrangements in place that have worked well between the railway industry and the BTP. If they need to come to agreements, they will be able to do that. However, as I said, I do not think that there is such a time imperative. If we get to an option on the direction of travel in which we want to go by the Christmas recess, that will stand us in good stead.

**Daniel Johnson:** However, if you miss the renewal point, you will need agreement from the operators in order to bring in new agreements.

**Donna Bell:** If we are creating new arrangements, we will have to negotiate with the railway operators anyway, and the break points for the arrangements are set up with the BTPA. If the arrangements are to be with another body, there will be a new arrangement anyway, and we will need to enter discussions about when it will start, the structure and the arrangements around that. The break points are a useful aspect of timing to consider, but they do not preclude our doing the work at another time. However, it would be a matter for negotiation with the railway operators at the time, if we were to do that.

**The Convener:** It would be helpful if you would write to the committee with the renewal dates, if that is possible.

**Donna Bell:** I am happy to do that.

**The Convener:** Thank you.

**Fulton MacGregor:** I share the cabinet secretary's disappointment about today's news and the process that we are now going through, but I also give him credit for taking Police Scotland's advice, which is what he and his predecessor always said they would do if concerns were raised.

12:30

As someone who sat on the committee and spoke in the debate, I was convinced—as was the majority of the Parliament—that full integration was the best move. However, an area that the cabinet secretary has mentioned and that stuck out is the ability of Police Scotland to train all officers in railway matters, which would then allow fast responses to various situations that might arise. Can you reassure me that that will not be scrapped or lost in the interim period? Does Police Scotland have plans to continue with that training facility?

**Humza Yousaf:** I do not know whether that is part of its plan. My understanding was that that would be done on full integration. However, again, I cannot, off the top of my head, pinpoint whether that was the case. If the committee will allow me, I might defer to Donna Bell on that.

However, the question speaks to my point about keeping full integration under review. Just because the Government has taken the advice of Police Scotland about not being able to give, at this stage, a definitive date for full integration does not mean that we no longer believe that it would have benefits. We do—and I have spoken about some of them, including seamless policing, single command structures and enhanced training. We still believe that that could be done, but it would be foolish of us not to heed Police Scotland's advice.

Donna Bell might have more information on the training aspect. Police recruits were going to have an additional couple of weeks bolted on to the end of their training, but I do not know whether that will be happening.

**Donna Bell:** That was one of the workstreams that were developed as part of the programme planning. Police Scotland did a fair bit of work on training needs assessment for officers. The committee would get more specific information on that from Police Scotland. A piece of work that sets out training needs for all Police Scotland officers and for officers who would transfer from the BTP to Police Scotland has been done, so Police Scotland might be prepared to share that.

**The Convener:** Finally, cabinet secretary, representatives of the BTPA are in the gallery today. What reassurances can you give them that their views will be fully listened to and acted upon?

**Humza Yousaf:** I have been heartened by the fact that the majority, if not all, of those whom you mention have welcomed the Government's getting to the position of pausing the work on full integration and keeping it under review, while focusing very much on the interim arrangements. I have also seen them welcome the tone that we have taken on bringing stakeholders together, so that reassures me that our message is getting out to those stakeholders, with whom I want to engage as soon as possible. I have meetings with a number of them already set in my diary, and I am sure that we will speak relatively soon to those for whom we have not yet done that.

I can give them an absolute assurance that, as we have said previously, we value the expertise that their members have and hold. We also understand that there is still an element of uncertainty, which will exist until we make the interim arrangements and, potentially, the long-term plan. I am cognisant of that and, where I can give comfort to them, I will do my best to do so. However, as things stand right now, the current arrangements for the BTP apply. If we decide on the options before the winter recess, which I hope to do, we will try to give officers and staff as much certainty and information as possible.

**The Convener:** I would like clarification. Part of the process of looking forward will be consultation of the SPA and Police Scotland. Will representatives of BTP officers and staff be involved at the same level, and as equal partners? Do you have a date for when you will actually meet them, given how germane their views are to the whole process?

**Humza Yousaf:** I was chatting to Nigel Goodband on my way to the committee, and we have a date in the diary for a meeting with the British Transport Police Federation, which will be a

personal meeting that I will conduct. Their voices will be equal to those of any other stakeholders in the process. I look forward to hearing from them. As I said, I know that stakeholders have come forward with other suggestions for potential models. I have reservations about some, but I am happy to talk to them about those options or any new options that might come from any other stakeholders.

**The Convener:** Is the meeting date before the Christmas recess?

**Humza Yousaf:** Yes. I hope to be able to give the committee options that the partners have agreed and settled on—I hope that we reach consensus—before the Christmas recess.

**The Convener:** Thank you. That is very reassuring. That concludes our questioning. We will suspend briefly to allow witnesses to leave.

12:35

*Meeting suspended.*

12:36

*On resuming—*

## Subordinate Legislation

### Sheriff Court Fees Amendment Order 2018 (SSI 2018/194)

**The Convener:** Agenda item 4 is consideration of the Sheriff Court Fees Amendment Order 2018, which is subject to negative procedure. I refer members to paper 3, which is a note by the clerk. The paper includes the Scottish Government's response to a concern that was raised by the committee about the original instrument containing an error that allowed certain exemptions for commissary fees.

Members have no comments. I note that it was good that we raised the issue and that we are satisfied with the explanation. Does the committee agree not to make any recommendation on the instrument?

**Members** indicated agreement.

## European Union Reporter

12:37

**The Convener:** Agenda item 5 is the appointment of a European Union reporter. The committee has to nominate a member to act as the European reporter. I refer members to paper 4, which is a note by the clerk. Paragraph 5 of that paper outlines the role of the EU reporter. Are there any nominations?

**John Finnie:** I nominate Liam McArthur.

**The Convener:** As there are no other nominations, I am delighted to tell Liam McArthur that he is the EU reporter for the Justice Committee.

**Liam McArthur:** Thank you very much.

## Justice Sub-Committee on Policing (Report Back)

12:38

**The Convener:** Agenda item 6 is a feedback report from the meeting of the Justice Sub-Committee on Policing on 13 September. Following the verbal report, there will be an opportunity for brief comments or questions. I refer members to paper 5, which is a note by the clerk, and ask John Finnie to provide the feedback.

**John Finnie:** As the convener rightly said, the sub-committee's meeting was last week on 13 September. We took evidence from Police Scotland regarding its proposed use of digital triage systems, which are more commonly referred to as cyberkiosks. As well as Police Scotland, evidence was provided by the Scottish Human Rights Commission and the Information Commissioner's Office. The evidence focused on the requirements and safeguards that are necessary prior to Police Scotland using the technology throughout Scotland to interrogate the mobile phones of witnesses and suspects. The committee had previously expressed concern that a trial of cyberkiosks had taken place without any such protections.

We welcome the fact that Police Scotland has established two groups to consider and agree human rights and equality impact assessments; data security, storage and retention policies; the public information that is to be provided prior to the introduction of cyberkiosks; and training of officers.

We heard the significant concerns of the Scottish Human Rights Commission about the draft versions of the human rights and equality impact assessments, and about trials having been undertaken that were not underpinned by any such impact assessments.

A pressing concern that was expressed by the Scottish Human Rights Commission and the Information Commissioner's Office was the legality of Police Scotland seizing and interrogating the mobile phones of people who have been accused of a crime or who have witnessed a crime. Police Scotland confirmed that the roll-out of cyberkiosks that is currently planned for later this year will not proceed if there is no legal basis for it to do so.

The sub-committee will return to the issue once the assessments, policies, procedures and guidelines are finalised and publicly available, because it falls into on-going scrutiny arrangements that we have with Her Majesty's inspectorate of constabulary in Scotland regarding related matters.

**The Convener:** Thank you for that comprehensive report. It was an excellent meeting at which issues arose that need to be picked up and addressed.

There are no other comments or questions, so that concludes our 23rd meeting of 2018. Our next meeting will be held on Tuesday 25 September, when we will continue taking evidence in our post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012.

*Meeting closed at 12:40.*





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