



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Sub-Committee on Policing

Tuesday 9 June 2020

Session 5



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Pàrlamaid na h-Alba

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JUSTICE SUB-COMMITTEE ON POLICING

6th Meeting 2020, Session 5

CONVENER

*John Finnie (Highlands and Islands) (Green)

DEPUTY CONVENER

*Margaret Mitchell (Central Scotland) (Con)

COMMITTEE MEMBERS

*James Kelly (Glasgow) (Lab)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Liam McArthur (Orkney Islands) (LD)

*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Chief Constable Iain Livingstone (Police Scotland)

John Scott QC

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

Virtual Meeting

Scottish Parliament
Justice Sub-Committee on
Policing

Tuesday 9 June 2020

[The Convener opened the meeting at 10:00]

Decision on Taking Business in
Private

The Convener (John Finnie): Madainn mhath, a h-uile duine, agus fáilte. Good morning, everyone, and welcome to the sixth meeting in 2020 of the Justice Sub-Committee on Policing. We have no apologies.

Under agenda item 1, the sub-committee will decide whether to take in private agenda item 3, under which we will review the evidence that we will hear today. The sub-committee will also decide whether future approaches or amendments to its work programme, approaches to all calls for evidence, evidence that has been taken and all draft reports should be considered in private during the Covid-19 public health emergency. Do members agree to take those items in private?

Members *indicated agreement.*

Policing During the Coronavirus
Pandemic

10:01

The Convener: Agenda item 2 is an evidence session on policing during the coronavirus pandemic. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

I welcome our first witness today. John Scott QC is chair of the independent advisory group on police use of temporary powers related to the coronavirus crisis. I invite Mr Scott to make some brief opening remarks.

John Scott QC: Thank you very much, convener.

The crisis led to exceptional demands on policing almost at the outset, with the unprecedented emergency powers. To take a step back, it is worth recording that Police Scotland has done an extraordinary job in a very short space of time in adjusting to, disseminating and communicating the new powers.

Our interim report does most of the talking for me at this stage. However, I will elaborate on it slightly.

I have been in contact with colleagues in the human rights field in other countries, and it appears that Scotland is ahead of the game in having human rights-based scrutiny of the emergency powers. I have spoken to colleagues in England and Northern Ireland, and I am now moving further afield. That the initiative for the advisory group came from within Police Scotland is an extremely healthy sign, and it is very well supported by the Scottish Police Authority. The key scrutiny bodies are involved in the advisory group, and that ensures that no one steps on anyone else's toes. The statutory human rights bodies are also involved, so everything is seen through a human rights prism.

In a significant number of ways, Police Scotland's success can be seen through public surveys. From our work, it appears that the idea of policing by consent has been given fresh life through the crisis and through the way that Police Scotland has managed to speak with a single voice when communication has been very important. At times, there have been mixed or confused messages from the United Kingdom Government to constabularies south of the border. Although I was not an advocate of Police Scotland beforehand, the fact that the chief constable and Police Scotland can speak with a single voice avoids some of the confusion that has been caused elsewhere.

Our public portal went live at the beginning of last week, so we have started to get feedback from the public. There is a range of views but, on balance, people are positive. For example, in a single day, someone said that they wanted martial law to be introduced, so they were not so happy with how things were, but someone else in the Western Isles—which of the isles was unspecified—said that the discretion that was taken there was entirely appropriate. It was recognised, for example, that people might have to travel 15 miles to go to a supermarket. Things are therefore very positive.

We are getting support from Police Scotland, and the operation talla information, assurance and liaison—OpTICAL—group has been set up to get us access to data. We hope to be able to make more meaningful statements on data within the next few weeks. The next Scottish Police Authority board meeting to which we will report is on 30 June. When you are thinking about further evidence sessions, a useful part of continuing work in this area might be to look at the data.

The Convener: Thank you for those opening remarks, and for providing the sub-committee with a copy of the advisory group's interim report, which is most useful.

We now move to questions. I remind everyone to allow broadcasting a few seconds to operate their microphones before they begin to ask a question or provide an answer.

I will start. The independent advisory group has a very wide membership. Could you briefly run through who is represented on the group and outline why such a wide membership is required?

John Scott: Of course. The initial call for the group to be set up came from the chief constable, and I was very quickly in contact with the acting chair of the Scottish Police Authority. We decided—as chair of the group, the call was mine—that we wanted to have representation that was as broad as possible, informed by the model of the independent advisory group on stop and search, which, as the sub-committee will recall, I chaired back in 2015. The new group has a similar composition but a wider membership.

We have on board representation from Police Scotland, the Scottish Police Authority and Her Majesty's Inspectorate of Constabulary in Scotland. It was very important to have all those bodies on the group. The deputy Crown Agent, John Logue, is involved, as are the statutory human rights bodies, including the Children and Young People's Commissioner Scotland, the Scottish Human Rights Commission and the Equality and Human Rights Commission. We have Susan McVie from the academic world, who did a lot of tremendous work on stop and search and is

helping us with the data requests to Police Scotland and analysing the data when we get it. Susan and I are members of the Police Scotland OpTICAL group, which is there to serve by providing data. OpTICAL is meeting today—it is meeting at the same time as the sub-committee.

The group includes renowned human rights campaigner Aamer Anwar, who probably needs no introduction to the sub-committee. It also includes Tressa Burke from the Glasgow Disability Alliance. The thinking there was that, in the very early stages, one of the potential issues related to those with hidden disabilities. Although the message was that people had to stay at home, some people with hidden disabilities might be out for longer or might need to rest more than others. Tressa has been helping to keep us right on that.

The group includes Dr Catriona Stewart from the Scottish Women's Autism Network for a similar reason: it was thought that autistic people might find themselves in situations of tension or conflict with the police simply as a result of their desire for more clarity than was necessarily available in the early stages. Catriona prepared a paper—as did Tressa Burke—to assist Police Scotland with awareness of what officers on the ground might encounter.

The situation is all driven by public health—it is public health policing, really—so we have Dr Elizabeth Kelly, who will be familiar to many of you. She continues to practise as a general practitioner in a rural area, but also has significant connections through work in Government over a large number of years. We also have Ephraim Borowski, who, again, is familiar to many of you. He is the chair of Police Scotland's national independent strategic advisory group. There is a meeting of that group this week, which I will attend.

I hope that I have not missed anyone out. The group also includes Naomi McAuliffe from Amnesty International Scotland, so the third sector is represented.

People send substitutes at times, and we have had guest speakers along to inform us. One example is Professor Steve Reicher, who I know has been engaged in regular discussions with Governments around the world on policing the pandemic.

The group has a wide membership, but it is co-ordinated in a way that means that those who have statutory responsibilities and those with other scrutiny roles come together at the table. They will deal with the things that they need to deal with, but we collaborate—it is an extremely collaborative process. People can see that there are clean and clear lines that avoid any unnecessary duplication.

The Convener: It is a wide and talented membership. Similarly, the terms of reference are very wide. You have mentioned data a couple of times. In your work so far, have you been able to identify any issues that should be prioritised for scrutiny?

John Scott: We are working on that. In particular, Professor Susan McVie of the University of Edinburgh, who is on the group, is doing that. I am reluctant to make any statements about data, because she is still doing that work, but the expectation is that we will be able to say something meaningful on the issue by the end of the month.

It is important to acknowledge that Police Scotland has set up what is called the coronavirus intervention system, so a lot of the data is more up to date than that in other parts of the United Kingdom. However, with engagement, which is what happens in by far the majority of the contacts that the police have, a light touch is taken. When the police are engaging with or dispersing people, they do not gather the same information as is gathered when a person is arrested.

At the moment, Police Scotland is working manually across data sets to check whether those who have received aspects of police attention have previous convictions and to check against the vulnerable persons database. That work is ongoing. It will be discussed again at the OpTICAL group today and we hope to submit a paper on data for the Scottish Police Authority meeting on 30 June, which is in a couple of weeks.

As I said, I am happy to come back to the sub-committee with my colleague Susan McVie, or for her to come on her own to talk through the data. The issue is not just about geography; it is about geography plus context. We have information through the public portal, the networks into communities that we have on the group and the interviews of police officers that Her Majesty's Inspectorate of Constabulary in Scotland is carrying out on our behalf—about 60 interviews were carried out last week, and we should get the report on that next week. Pulling all that together will give us a clearer idea. However, it is important to acknowledge that the vast majority of contact with the public involves the first of the four Es, which is engagement, and that a small number of people receive fixed-penalty notices.

The pattern appears to be much more consistent now. That is understandable because, in the early stages when the public did not quite understand the implications and when officers were perhaps coming to terms with the situation, it was easy for mistakes to be made, but things now appear to be settling down into a pattern. I hope that, within the next few weeks, the questions that

are prompted by the data will be accompanied by answers, or possible answers.

The Convener: The next question is from the deputy convener, Margaret Mitchell.

Margaret Mitchell (Central Scotland) (Con): That IAG's interim report states that enforcement powers have been used proportionately and only when necessary as a last resort. The new emergency regulations give police constables the power to issue fixed-penalty notices if, for example, they consider that the new offence of leaving a place where a person lives without reasonable excuse is being committed. Clearly, there is an element of discretion in that regard. Are you satisfied that the discretion has been used appropriately?

We know that there have been errors in the issuing of fixed-penalty notices. Can you tell us how many notices have been issued in error, for which offences and how those errors were identified?

John Scott: On the basis of the information that we have had so far, it appears that, most of the time, discretion is being used appropriately. There is a useful comparison with the situation in England, where some of the constabularies were a bit more prescriptive about the dos and don'ts, no doubt in an attempt to make it clear for the public. We then had a chief constable saying, "We're not going to search your shopping trolleys or have roadblocks yet, but if you carry on behaving the way that some of you have been behaving, we will do that." Clarification was then required afterwards.

In Scotland, the chief constable's repeated and clear messages about courtesy and common sense, which leave space for discretion, seem to have worked well. However, I recognise that one size does not fit all. As Catriona Stewart of the Scottish Women's Autism Network has said, autistic people would prefer to have far greater clarity—they would prefer to have a detailed list of dos and don'ts. It does not work for everyone, but on the whole, leaving people to exercise their discretion and common sense has been working.

10:15

On the fixed-penalty notices that have been issued in error, that is part of the data that we hope to be able to discuss within the next few weeks. I do not have the figures on that at the moment.

The procedures for challenging fixed-penalty notices are internal Police Scotland procedures. When inappropriate fixed-penalty notices have come to our attention, that has been because fixed-penalty notices have been getting checked in

the different divisions. Where they have appeared to have been issued inappropriately, they have been dealt with at that level. The chief constable mentioned that mistakes have been made, but they have been caught by internal procedures, as opposed to external appeals or anything that goes as far as the Crown Office or the court. It is not happening at that level.

I am not able to say much more about the numbers at this stage, but I hope that that will be part of the discussion on data in the next two to three weeks.

The Convener: Thank you, Mr Scott. The next questions are from Rona Mackay.

Margaret Mitchell: I have another question, convener.

The Convener: I beg your pardon. Please ask your second question.

Margaret Mitchell: Thank you.

That was a helpful response, Mr Scott.

The IAG has stated that it

“will continue to ensure appropriate signposting”

for complaints. Have any complaints been made regarding Police Scotland’s enforcement of the regulations, or for any other reason?

The IAG also states that its enhanced human rights-based scrutiny will

“allow for the identification of questions, issues, problems and misunderstandings, and allow these to be raised and hopefully resolved, with inevitable mistakes being identified, acknowledged and not repeated.”

Do you consider the established procedures for complaints involving Police Scotland to be fit for purpose in that context? Do the procedures involve issuing of an apology, such as that set out in the Apologies (Scotland) Act 2016, which, crucially, involves an undertaking to review the issues that have been complained about to see whether lessons can be learned?

John Scott: I am aware of the important work that led to the 2016 act. I am not sure whether the procedures regarding inappropriate fixed-penalty notices or complaints have been tied into steps under that act.

There have been complaints, and my understanding is that the majority of them have been resolved within about 72 hours through contact between a supervising officer and the person who made the complaint. They have been dealt with on the basis of an acknowledgement of a mistake—perhaps not through any formal procedures but through an apology.

The majority of members of the public who have been in touch with us—even those who have said

that they are not happy about aspects of what has been happening—have usually prefaced their comments by saying that they realise that the police have a hard job to do.

I think that this is part of what you were getting at, and it underpins the 2016 act: sometimes an acknowledgement is what people are looking for. An apology is very often enough. It appears that that is the basis on which the procedure has been operating.

That approach has been fit for purpose for the present situation. The police have been dealing with things quickly, without the usual lead-in time for training, dissemination and raising public awareness. The public have managed extraordinary levels of compliance, despite the fact that they have had only a short time to adjust to the situation. Mistakes will be made all round. As long as they are acknowledged and, preferably, accompanied by an apology, that will be sufficient at the moment.

The detail of the number of complaints is also data that can be made available. I think that I heard one of the chief constable’s colleagues speak about that at a recent Police Authority board meeting.

The position seemed to be that the majority of issues have been dealt with very quickly, which is important, with an acknowledgement that something was not quite right but that we are learning, and people are being asked to accept it on that basis.

The Convener: Thank you, Mr Scott. I apologise again to Margaret Mitchell. The next questions are from Rona Mackay.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning, Mr Scott. In your interim report, you acknowledge that the temporary powers that have been given to Police Scotland are “extraordinary”. I appreciate that we have moved on but, at the time, did you have concerns that the powers might be excessive, and will you confirm that you are now satisfied that they are a proportionate response to the circumstances that we find ourselves in?

John Scott: At the time, I did not have any frame of reference in which to work out whether they were excessive. They seemed extreme; I had never seen anything like it—even from wartime parallels. That was one of the problems that the wider human rights community faced. None of us had seen anything like it, except perhaps in some parts of the world where there were different sorts of regimes—not always democracies—so we did not have any frame of reference.

The powers seemed appropriate at the time, particularly in the fact that there was a gap

between the guidance and powers. The Government had not sought to put everything into regulations, so not everything was a criminal offence. Although that gap caused some confusion, it was also appropriate, because the alternative would have been to criminalise everything. That would not have been appropriate, because people—members of the public and the police—were doing their best but made genuine mistakes.

I have a question in my mind about whether things had to be done quite so quickly at the end. It was clearly a situation of some urgency, but it had been developing over a period of months. I mention that because it has come up again.

The quarantine regulations are a mess. I do not understand them. They appear to be unenforceable, and it looks as though the UK Government is trying to find a way within the next few weeks to get rid of them, to forget that they are there, or to pretend that they were never there. They do not make any sense.

The human rights community is interested in the procedure of parliamentary scrutiny. Because of the crisis, Parliaments are not able to function in the ways that they would like. I think sometimes that Government has got too caught up in getting on with things because we are in an urgent situation and has not appreciated that there was time to do things a little more slowly. The extent of the urgency is not the same.

The quarantine regulations for England, which came into force yesterday, were published last Wednesday. Since that day, I have been trying to find the Scottish regulations, which came into force at a minute past midnight on Sunday night. They were published only on Sunday. I have not checked them word for word, but they appear to be the same as the English regulations. I do not know why the Scottish regulations were not published sooner, because Police Scotland—which may have had sight of them slightly earlier—has got to be able to work out what the implications are for it, even if it is very much a backstop. One cannot introduce new powers without giving the organisation that is supposed to be enforcing them—even as a backstop—enough time to work out what it should be doing, and then to disseminate as much training as it can in a short period.

It is not fair on the public either. At the weekend, I read things on social media that said, “Well, we’ve got these quarantine regulations in England, but there won’t be any quarantine in Scotland.” That was because we had not published the regulations here.

That is a question for the Scottish Government, and only indirectly for us, because, through our

terms of reference, we are looking at the exercise of what powers there are. Where there is time to give people more opportunity to digest requirements, train and disseminate, that time should be given. Otherwise, it can cause unnecessary confusion.

The quarantine regulations are a good example. I should not have had to wait—nor should anyone—until Sunday, when they were going live at a minute past midnight, not having been laid before Parliament because of the urgency. I do not accept that that level of urgency applied.

I see potential knock-on implications, not only for Police Scotland, us in our job, and anyone else who is involved in the scrutiny of Police Scotland, but for the public, when communication is so key to what is happening.

In Scotland, we have done it better than in England, but here is an example of us not doing it as well. It was barely adequate in England, but it was inadequate here.

Rona Mackay: Further questions on quarantine—certainly for the chief constable—will come up later. With regard to the fast-moving pace of events and to guidance that changes rapidly as lockdown eases, will you seek to ensure that the powers continue to be used proportionately and necessarily, and how will you do that?

John Scott: We will ensure that through a number of methods. Partly, we will look at the data to understand what it says, with the assistance of colleagues such as Susan McVie. We will also need wider information about the context of that data. The public portal gives us direct access to what people’s experience has been, although only 25 per cent of respondents have had direct experience and a lot of them simply express their views.

We also interview police officers and others who work for Police Scotland as well as our own networks—many members will be familiar with Tressa Burke, for example, from the Glasgow Disability Alliance. The GDA has more than 5,000 members and is hooked into disability networks across the country. Tressa lives in the south side of Glasgow and one of the early rubbing points was around people who had stopped to rest in Queen’s park—the *Daily Record* highlighted a case, and someone spoke to me about it separately from any publicity. The *Daily Record* case was about a woman with hidden disabilities.

We explored the matter and the GDA helped us with a bit more information and awareness raising for officers. It is the question of reasonable excuse: if someone was out for their messages and stopped because they had a hidden disability, the starting point should then be to ask whether they are okay—that is generally a useful first

question. The more familiar people have been with those issues, the more that behaviour has been happening.

What comes back to us through our networks is that people see that the situation is horrible. Many people are more concerned about their own living situation, finances, family situation, or being at increased risk of domestic abuse, than they are bothered about general enforcement.

The police have to try and find a balance when engaging with enforcement generally, because a small hard core of people will always want more enforcement—although they really mean that they want it against other people—while others say that it is too much and that this is a police state. Police Scotland has done a good job of navigating through that issue. It probably—entirely appropriately—ignored the intolerant voices more and recognised that the public are doing a brilliant job in difficult circumstances.

Every time you see someone, you do not know what their story is and how they have suffered through the crisis. We get glimpses of that through the GDA. Things such as emergency powers are not much of an issue for people who struggle with food at the moment.

What happened this past weekend with the Black Lives Matter protest is a good example. Police Scotland had to wrestle with, or balance, the public health message of social distancing and rules on gatherings against the right to protest—a clear human right that is set out in article 10 of the Human Rights Act 1998. In Scotland, that balancing was done well. Things that have happened elsewhere have attracted more publicity than the good aspects of the work. Strictly speaking, the police could have shut down the demonstrations, but that would not have sat right.

In that situation, one set of regulations and one set of rights are perhaps in conflict with each other, so one has to try and find a way through. The past weekend was a good example of a human rights-informed policing approach.

Rona Mackay: Thank you. That was very helpful.

10:30

James Kelly (Glasgow) (Lab): Good morning, Mr Scott. The Scottish Police Federation has raised the concern that public compliance with the lockdown measures might be starting to dissipate. On 30 May alone, 797 dispersal orders were issued. Has your group done any work to assess the effectiveness of public compliance with the lockdown measures?

John Scott: The group is wired into networks through members such as Tressa Burke at the

Glasgow Disability Alliance and Aamer Anwar. We also have the public portal. Over the period of the review, people have been getting in touch. My work email address is easily found, and people have got in contact with me to discuss the issue.

There is undoubtedly a weariness that everyone has been experiencing but, although there has been confusion and there have been challenges—the Dominic Cummings situation, for example, represented a challenge—people have been able to rise above that. Rather than people saying, “If he can do it, we’ll do it,” they have said, “He was disregarding at least the guidance and maybe the regulations, but we’re not going to do that, because we can see the bigger picture.” The message, “It’s not about you; it’s about your mum,” or “It’s not about you; it’s about your gran,” has been very effective.

Just because the situation has been going on for a long time and some of the restrictions have been eased, that does not necessarily mean that people have got to the stage of feeling that they have had enough of it, but people do not necessarily understand where the restrictions have been eased, despite the fact that serious efforts have been made to be clear about that. That is where a difference between the easing of restrictions south of the border and the situation north of the border can cause complications and confusion.

Yesterday, we spoke to a divisional commander in Dumfries, who told us that some people who were travelling up from England thought that everything had changed. Through engagement—the first stage of the four Es approach—they were told that that had not happened in Scotland. I can understand how the public can get that wrong, because the easing process is taking place at different paces in different places. There is good reason for that. The announcement was made about all the schools in England going back, but that seems to be breaking down and, in fact, the approach in England will not be that far off what will happen in Scotland, with the teachers coming back this month and pupils coming back on a phased basis, and having blended schooling, from August.

A number of things came together on the first weekend of the easing of the lockdown measures. Last weekend, the regulations and the guidance were tested as a result of the Black Lives Matter protests. However, my general sense from the various methods of feedback that we have is that public compliance remains good and that, in particular, people can see that the easing of restrictions is being done in a way that respects the need to maintain distance to stop the spread of the infection.

In Scotland, we are looking at what has happened in England. Obviously, the virus has spread at different rates and continues at different rates in different parts of the country, and it is sensible for us to monitor the English experiment to ease the restrictions more quickly than many of the experts suggested should happen. We are in touch with the policing folk south of the border to find out how that is being handled. If they get things wrong in England, we can take a step back from that approach, and I hope that we will continue to monitor that.

James Kelly: It is key that we have a clear and concise message for the public and for the police about what is legally enforceable. You have touched on the fact that there is a gap between the guidelines and the law. Have you identified any areas where improvement is needed in the guidelines, or in getting the message across to the public or helping the police to put the message across about what is legally enforceable and what is in the guidelines?

John Scott: Oddly, the whole Dominic Cummings debacle may have helped with that, because the UK Government's decision to back him meant that it had to unpick the difference between regulations and guidance. When it said that that he had acted entirely lawfully, it was not saying that he had completely abided by the guidelines and the guidance, which he obviously had not.

In Scotland, there may have been teething problems to do with the need of people with hidden disabilities or autistic people to be out and about more. The question of what is a reasonable excuse was perhaps not fully understood. There may have been more engagement involving police officers in situations in which they could simply have smiled and walked past, and there were situations when the public stayed in when, for health reasons, they could have gone out.

Through a number of means, including work by members such as Catriona Stuart of the Scottish Women's Autism Network and Tressa Burke, police awareness about why people need to be out more often was improved. With regard to having a reasonable excuse, the chief constable repeated a clear message about courtesy and common sense—if I were to distil the policing approach to a few short words, those would be the words. The initiative is all about public health, and that should inform what is done. It is not just enforcement for the sake of it, which is why engagement and encouragement are part of the initiative as well.

On the whole, we have got to a pretty healthy situation very quickly, which is a tribute to the officers who have understood that discretion means that they should not do things as often as

they could. It is also a great tribute to the public that they have got to grips with it. The public generally know if what they are doing is trying it on or if they are out with a reasonable excuse. When people are out and about, the majority of times they will not be challenged.

Later on, members will discuss the return to normal levels of activity for the police, when their presence simply will not be what it had to be to make sure that people observed the regulations. As Scotland moves to phase 2, we will need to recognise that the demands on policing have pretty much returned to normal and the police should be more of a backstop. The police role has been about public health, but local authorities, health and safety, environmental health officers and others will probably have a role that replaces policing—in at least some of the things that police have been doing—so that Police Scotland can get back to what it needs to do. It has messaged the importance of issues such as domestic abuse and domestic violence, which members of this sub-committee will be particularly aware of—you have had representations from victims groups as well.

The approach has come together quite well, with the caveat that the direction of travel of easing restrictions is not necessarily one way. If the restrictions have to be tightened up again, the situation will be complicated, which will be a real test of public compliance and of messaging. That is important. Contrary to the UK Government's position of saying "We do not want to look at this now and understand what we are doing wrong; we will have an inquiry later," which is nonsense and madness, we need to understand now what has worked well and worked badly. In a few months, we might have to do some of the same things again.

I have probably answered about more than Mr Kelly asked, but I hope that I have answered his question.

Liam McArthur (Orkney Islands) (LD): Good morning, Mr Scott. You have talked a couple of times about the use of discretion by police officers and the way in which officers are enforcing advice and restrictions. You have also talked about the differences in infection rates across the country. What are your views, from a human rights perspective, on the idea that there should be a tailoring of advice and guidance for different geographical areas? Are there benefits or could there be challenges in respect of public trust and confidence in the policing in our communities?

John Scott: Every point contained in your question is correct: there are challenges, but if geographical guidance were communicated properly, it might work better. One of the things that we are looking at and which informs the notion of policing by consent, which has been

given fresh life by the current awful situation, is the sense of legitimacy, the sense of procedural fairness and the feeling that we are all in it together. The Dominic Cummings situation created a risk because there was a sense that the rules were not the same for everyone. However, in general, people see that the rules apply to everyone. For example, for Scottish purposes, what happened with the chief medical officer for Scotland illustrated that point perfectly.

Shetland has responded brilliantly to the crisis and the health picture there is completely different from the picture in many other parts of the country. I was speaking to the divisional commander for Dumfries and Galloway yesterday and the picture there is different, too. My sense is that the public would understand and accept that there was a justification for geographical variations in restrictions and therefore in communications—although they might not be happy about it. However, it would be tricky to do that. We have seen the difficulties in trying to get a clear message across when, every day, different messages are coming from south of the border and they do not always remember to caveat those messages by saying that they only apply south of the border.

Such communication would have to be done very clearly and using local communities to help people to understand it. My general sense is that, in Scotland, people remain worried—rightly so—and would be prepared to accept restrictions for a further period of time if that meant that things did not go back to where they were. The greater risk is that there is an increase in restrictions, which would no doubt be informed by infection rates—it is all about public health.

Having different advice for different areas could be done, but it would have to be done very carefully. If there were a risk of confusion, which meant that people started to behave in the wrong way in places where that was absolutely the worst thing that could happen, it would be better to stick to a single clear message, rather than to have a nuanced message that would make the situation worse. There is a lot of complexity as your question suggests. The situation would have to be monitored.

Liam McArthur: As the MSP for Orkney, I would dearly love to explore that further. However, my second question is rather different and relates to Police Scotland's responsibility to its officers, staff and their families. Have officers, staff and their families been able to access testing as and when they have needed it over the past couple of months?

John Scott: Our terms of reference make it clear that that is not part of what we are looking at. The OptICAL group that I mentioned earlier,

which provides data to the independent advisory group, is looking at that separately. Professor Liz Aston from the Scottish institute of policing research—*[Interruption.]*

I apologise; the dog is barking at the postman. I cannot mute him; he is as far away as possible in the house, but we can still hear him—that is west Highland terriers for you.

10:45

Work is being done on the matter; at a future committee meeting you might hear from someone from the Scottish Police Authority—Mr Crichton is the acting chair—about the SPA's separate workstream in that regard, which is important.

We are aware that we might get some feedback on testing when we get the report on the police interviews that were conducted last week by Gill Imery and her staff at Her Majesty's Inspectorate of Constabulary in Scotland. We have not specifically looked at the issue, because it is outwith our terms of reference—and we were satisfied that it was not falling through any cracks and was being considered by the authority, assisted by Liz Aston.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning, Mr Scott. I want to ask you a wee bit about—*[Inaudible]*—impact on particular groups. You have already spoken about some of those, such as—*[Inaudible.]* Is the group able to assess the available data and determine whether that is the case?

John Scott: I am sorry, Mr MacGregor, your screen froze—for me, anyway; I do not know whether that happened for anyone else—so I did not catch the whole of your question. I got bits but not enough of a gist of what you said to be able to answer you. If anyone else heard what you said—

Fulton MacGregor: I am happy to repeat the question. Can you hear me now?

John Scott: I can hear you a bit better. Thank you.

Fulton MacGregor: I am sorry. I do not have a great internet connection today.

The Scottish Human Rights Commission said that new police powers

“are more likely to impact particular groups, including those living in poverty, disabled people, homeless people, ethnic and religious minorities”.

You have spoken a wee bit about the impact on disabled people. Is the group able to assess the data that is available and determine whether what the Scottish Human Rights Commission says is the case?

John Scott: Work is being done on that at the moment. The coronavirus intervention system, which was set up very quickly, gives us a lot of the enforcement data that has been published by the Scottish Police Authority and Police Scotland, but it does not give the level of detail that you are asking about. In Police Scotland, work is being done to cross-refer to other databases to try to give us more information in that regard.

We had an interesting presentation by Professor Roger Halliday, the chief statistician in the Scottish Government. He is involved in the research data group, which has all sorts of other data. He and his group are in discussion with Police Scotland at the moment about joining up the different datasets, which could give us the disaggregated breakdown in relation to the groups that you mentioned. There is, for example, a strong impression that poverty has been a serious factor in how people have been impacted by the virus in all sorts of ways, including policing.

We might be able to give more answers when we get information back from Police Scotland through the OptICAL group. Some answers might come from the work to correlate the Police Scotland database with the work of the research data Scotland group under Professor Halliday; that will take a bit longer.

We are aware that there is potentially an issue. At the moment, when evidence comes in, it does so in fairly small numbers. We certainly want to understand the issue better—it has come up and it is actively being looked at.

Fulton MacGregor: With regard to ethnic and religious minorities, the Coalition for Racial Equality and Rights, in its written submission to the committee, states that:

“Robust evidence on the ... implications of policing during the crisis in Scotland”

for the groups of people that the organisation represents

“has not yet become available”.

Is the advisory group aware of, and considering, that issue? I assume that your answer might be similar to what you have just said in relation to other groups.

John Scott: Yes, my answer is the same. The issue has come up in our group discussions and we want to understand it by looking at the data, but we cannot do so with the data as it currently exists. The additional work that is needed in that respect is being done and I hope that, within a fairly short period of time, we will, through analysis and cross-referral, have a better understanding of the situation. The bigger picture will then be developed through work between Police Scotland

and Professor Halliday’s group to link that data with health and other databases.

Shona Robison (Dundee City East) (SNP): Good morning. As you may be aware, it has been highlighted that the imposition of restrictions may have had an impact specifically on those who have additional or particular needs, such as people who have learning disabilities or those who are victims of domestic abuse. Have you been able to assess how Police Scotland has tailored its approach to deal with people in those circumstances?

John Scott: With regard to those who are victims of domestic abuse or similar offences, the restrictions have arguably made it easier for certain types of abuse to happen and for certain abusers to operate. That aspect is outwith the group’s terms of reference, but we have been very aware of it, and it is highlighted in the report as a part of policing that has had to continue.

Again, as far as we can see, the message has been clear that people should continue to report such abuse and that they are not required to stay in a particular place if they are not safe. However, some of the evidence that the committee has received from victims’ groups suggests that the number of referrals has gone down quite a bit and that more work may be needed on that message.

I am satisfied that the issues around people with additional needs have featured in awareness training for officers—for example, in relation to autistic people or those with hidden disabilities or the like, for whom the restrictions are an additional burden and who might require to be out and about more often. I am satisfied that, after some hiccups in the early stages—such as the Queen’s park situation that I spoke about, which involved a woman with hidden disabilities who sat down to rest while she was taking heavy shopping home with her partner—those issues are being dealt with.

Tressa Burke at the Glasgow Disability Alliance has surveyed her members on those issues. I should highlight that we are very much aware of the digital gap, which means that online surveys or portals will not work for everyone. The IAG now has a phone line so that people can provide evidence or information on their experience via a phone call; they can leave a message for up to five minutes, which we are able to access. The Glasgow Disability Alliance survey involved phone calls to more than 1,000 people who were not all able to take part by using computers, tablets or the like. The feedback that we are getting suggests that there are no concerns about how police officers are handling those issues now, and that there seems to be a good level of awareness. It seems that people in that situation are more

concerned about other impacts of the virus in areas such as food, benefits, work and so forth.

Shona Robison: Thank you. Finally, on the advisory group's communication, does it have a website or are the minutes of the meetings available for people to see?

John Scott: The answer is yes to both questions. We have a page on the Scottish Police Authority website. The home page has five sections that change every few seconds. We are the second section, and if someone clicks on that, it takes them to the public portal. People are immediately directed to the facility for letting us have their experience and views. It also has an interim report, the recording of the evidence that I gave to the Scottish Police Authority board meeting, and our minutes. We have been trying to disseminate that information through our networks, and I would be happy to send the link to the sub-committee clerks so that it is available to members.

Transparency in our work is very important. Our lines of reporting are to and through the Scottish Police Authority, and one of the very positive decisions that we made early on was that we did not want to add confusing noise in a situation in which communications are so important. We have been very keen to make sure that we have been reporting through the Scottish Police Authority or, on an occasion such as this, entirely appropriately, to the Scottish Parliament Justice Sub-Committee on Policing. We will continue doing that so that any reports and our minutes will continue to be made available on the website.

The advisory group meets twice a week; that was first thought to be appropriate because we needed to get a handle on the situation, and because changes can happen quickly—too quickly—at times. We are trying to offer real-time assistance to Police Scotland during the transition stage, which is probably even harder than the initial lockdown was. We will continue to do that.

The advisory group is not like the others that I have been involved in that have almost been almost retrospective exercises. In this situation, when things have been done so quickly because they could not have been done in any other way, the intention is to recognise that mistakes would be made. It is about addressing that early on rather than waiting until afterwards and then wagging a finger.

We hope that we have been able to help Police Scotland in this dynamic situation; the sub-committee will be able to hear about that from the chief constable. The group has deep links in different communities, and it is informed throughout by human rights work. The paper that the Scottish Human Rights Commission submitted

was a version of a paper that was initially prepared for us.

As you can see from the people who are on the group, we are also available as an expert panel and, to an extent, as an ethics advisory group. It will be a different sort of review, which I hope will allow for all those functions, and it will be a learning process as opposed to any sort of process of recrimination.

The Convener: That completes our questions for our first witness. Thank you, Mr Scott, for the comprehensive nature of your engagement with the sub-committee. It has been very helpful in shaping our future considerations. We wish you continued success in your work with the advisory group.

After a short suspension, we will hear from the chief constable.

10:59

Meeting suspended.

11:06

On resuming—

The Convener: Welcome back, everyone, and welcome to our next witness, who is Iain Livingstone, the chief constable of Police Scotland. I invite you to make a short opening statement.

Chief Constable Iain Livingstone (Police Scotland): Good morning, and thank you. The sub-committee has received our written submission on the command structure and objectives of operation talla, and the activity of Police Scotland under it.

I will offer some opening comments, although I do not normally do so, because I think that it is important to do so today.

Policing has played, and continues to play, an important role nationally in the effort to combat coronavirus in Scotland. Officers and staff have been and continue to be visible to communities as a preventative presence, and they provide advice and guidance in order to reduce the spread of the virus, which, crucially, helps to save lives. Where necessary, officers are enforcing the law and are taking on the public health duties that Parliament has asked them to take on.

The emergency measures were brought in very quickly, as John Scott QC mentioned earlier, and are restrictive of personal freedom of movement and association. The word “unprecedented” has often been used about them; it is true that they are.

At the beginning of the emergency I, as chief constable, undertook a rapid assessment of the deployment model of the service, and I gave clear direction on the operational approach that was to be taken. I was determined that the approach would be based on the history of community policing in Scotland, which is based on respect for our fellow citizens, common sense and good judgment. Policing by consent, underpinned by the strong bond of trust that has been forged between the police and the public in Scotland, has existed for many years. We have supported that approach with high levels of engagement at personal, community, local and national levels. I hope that, as members of the Scottish Parliament and of the sub-committee, you have all had such contact from your local commanders.

As you heard this morning, in recognition of the significant restrictions on freedoms, and of the speed with which the legislation was brought in that asked policing to take on the additional duties, I asked Mr Scott to lead on external independent expert assurance to assist our understanding of the effect of the emergency legislation in our communities. That was to help the service to discharge our duties consistently and fairly. I thank Mr Scott and the members of his group for their commitment and insight, and for the vigour with which they have approached their work.

As many organisations have, we have, both at the outset and as we have gone through the emergency period, faced challenges, including staff and officer absences, procurement and supply of personal protective equipment, and changes to working practices, all of which were needed to support physical distancing.

The commitment to public service that our officers and staff have shown during the period has been exceptional; it has been outstanding. I take this opportunity to thank them for their continued effort and dedication. As always, their safety and welfare, and the safety and welfare of their families, are absolute priorities for me. I take that personal, legal and moral duty extremely seriously—not only as chief constable, but as the holder of the office of constable.

We have a dedicated team that is sourcing and supplying personal protective equipment to officers and training them how to use it. Our training regime is in place 24 hours a day, and more than 14,000 officers and staff have access to full PPE.

We have engaged constructively with Health Protection Scotland, the Health and Safety Executive and the National Police Chiefs Council, which operates across the United Kingdom. We have applied a risk assessment in order to develop guidance for officers and staff in discharging their duties. It has been challenging

work, but in my view Police Scotland is meeting, and often exceeding, what is asked in the relevant guidance.

Throughout all that, policing continues to respond to crime and other demands for help and assistance. We have taken steps to identify those who are at risk and the people who need our help—for example, vulnerable children and victims of domestic abuse. Sadly, for some people, the “Stay at home” guidance exposes them to greater risk of abuse, harm and neglect. We are also aware that private and, indeed, virtual spaces are, unfortunately, not always safe places for everyone. That remains a significant concern, and is a priority for us.

From the quick response to legislation, which has required rapid deployment, to the need to take a clear and consistent operational approach that is underpinned by policing by consent, to developing plans to support vulnerable people, to co-ordinating procurement supply and training, it is my judgment that policing in Scotland has, against all those complex and diverse challenges—and many other issues—been greatly assisted by the structure of having a single national police service.

Ultimately, Police Scotland’s response will be assessed against three things. First, it will be assessed against how the work of our officers and staff to support physical distancing contributes in some way to reducing the mortality rate—that is, to whether it will be lower than it otherwise would have been. Secondly, it will be assessed against whether, through our actions as a service, we can maintain and possibly even enhance the strong relationship of trust that policing has with the public. Thirdly, it will be assessed against whether, in doing all that, we protect the health, welfare and safety of all our officers and staff and their families.

During the coronavirus emergency we have also, thus far, seen and experienced people in communities collectively and as individuals stepping forward to work with their police to help each other.

Policing serves the public, from whom we take our authority and legitimacy. My view is that policing has, during the coronavirus emergency, faced many challenges and demands, but we have approached our work based on our foundation of policing by consent. Policing has maintained, and will maintain, its core function and focus on public service.

The Convener: Thank you very much for that opening statement. I also thank you for the helpful written statement to which you alluded, and which you supplied to the sub-committee. I echo your comments about the response from officers and

staff being exceptional; their efforts are appreciated.

Chief Constable Livingstone: Thank you.

The Convener: Given the urgency of the situation with Covid-19, how difficult was it for Police Scotland to hit the ground running once the new powers were in place? Did you have contingency plans in place for such a situation?

Chief Constable Livingstone: We have held a series of exercises and have had emergency and contingency plans in place for many years. One of the exercises, which we carried out with partners, related to a flu pandemic. That provided a basis on which to progress our work.

We always knew that there would be an immediate impact on staff and officer availability. In the early days, when I first wrote to the sub-committee, I think that I said that our absence rate was between 13 and 14 per cent in the early weeks of the emergency, when people were, understandably, self-isolating. There was considerable anxiety at that time. As I said in my written and oral remarks, we knew that the emergency would place a demand on policing and that we would have higher levels of absence.

11:15

Before I answer members' questions, I can say that the absence rate is now about 3.5 per cent. It is remarkable that that is as low as the rate has been since Police Scotland came into being. That shows the level of commitment of officers and staff, and it shows that a lot of the personal anxiety has, thankfully, now dissipated. The commitment that we see from officers and staff is quite remarkable.

We had a number of contingency plans in place. We based our plans for the emergency measures on them, but we have also benefited from having been together as a single service for the past seven years. From experience of the Commonwealth games to our contingency planning for mass mobilisation for environmental protests and other such events, our ability to deploy has been far easier as a single service than it would have been under the eight-forces model. We have used contingency plans that were already in place and we have used our experience from the past seven years.

We also sought to maximise visibility in our communities: we put as many officers as possible in front-facing roles. An illustration of that is what I did with new recruits at Tulliallan. They started in the week beginning 23 March, when the measures were put in place. A lot of young men and women—it was also quite a diverse group—had just joined the service, and we asked a great deal

of them. The group was split in two, so that physical distancing could continue at Tulliallan.

We gave 170 of them three weeks of core basic training, then we deployed them. They were buddied with experienced officers, and we got as many vehicles, pushbikes and foot patrols as we could into our communities. We redeployed all the policing capability that we could redeploy, in order to have as much visibility and focus as possible on providing the preventative function and the required support. At the same time, much of our corporate capability in terms of procurement, fleet and finance was mobilised very quickly.

There have been a lot of unseen and unsung heroes behind the scenes, as well as those who are at the front end of the organisation. Everybody in the service—police officers and members of police staff—have really pulled together.

We had the bases of experience and contingency plans, attached to strong discipline and rigour around deployments, and we had focus on maximising our visibility to the public in public spaces and on providing the reassurance, advice and guidance that I hope people across Scotland have seen in the past 12 weeks.

The Convener: Thank you, chief constable.

The police have been granted extraordinary powers; I know that they were granted rather than requested. Are you satisfied that your officers have the necessary training and expertise for effective operation of those powers? Will you comment in particular on the power to exercise discretion, which I consider to be the strongest power, and which has continued throughout the period?

Chief Constable Livingstone: I will make a couple of observations, if I may. John Scott discussed the speed with which the legislation was introduced and the challenges of that. As members will know better than anyone, legislation is normally subject to debate and review, with input from expert committees such as this. That allows the service to assess costs, finances, community impacts, human rights impacts and equalities impacts, and it allows us to have a training programme. None of those could happen in this case. The legislation came in really quickly, and there was a real focus on public health.

The fact that Police Scotland is a single police service that has combined all the capability, knowledge and experience of policing of many years in a single agency and structure has allowed us to get operational guidance out to police officers and police staff very quickly.

I made it very clear from the outset that I did not wish that guidance to be overly prescriptive, which is consistent with the tone and approach that I

have tried to establish since I became chief constable, which was about three years ago, on an interim basis, and has been permanent for the past two years. I have tried to allow and empower police officers and staff to act according to their training and values, and to know that, if they act in good faith and do the right thing, they will be supported not only by the organisation, but by the public.

In the current situation, in which people have been told that they should not go out unless they have a reasonable excuse to do so—there have been illustrations of what a reasonable excuse might be—it is really important, as I said at the outset, not only that all police officers and staff rely on common sense and communicate clearly when they speak to members of the public, but that members of the public also apply common sense and understand the spirit and purpose of the legislation, as well as the written words.

That approach has stood us in good stead. It is based on policing by consent and on a relationship of trust. As I have said from the outset and will repeat now, I know that in such situations, police officers will not always get things right. However, when we do not get things right, we immediately recognise that, rectify the matter by speaking to the public, and learn from what happened.

Operational guidance has been issued to support officers and staff. I feel that it is permissive rather than prescriptive. We stressed that they should rely on our core values and that they should exercise common sense. As you said, convener, exercise of discretion by officers and constables when working with our fellow citizens is central to our approach.

The Convener: Thank you, chief constable, that is very reassuring.

Margaret Mitchell: I want to follow up on the police power to exercise discretion. Operation talla, Police Scotland's response to Covid-19, was set up in February 2020, in recognition of the importance of accessing data. The strategy for the policing of the Covid-19 pandemic has eight specific objectives, one of which is to

"Maintain officer, staff and public trust and confidence through effective, proactive internal and external communications."

Chief constable, can you tell the sub-committee when you were first made aware that there were cases of coronavirus in Scotland? In response, what action was taken to meet the objective? Was Police Scotland involved in identifying and tracing those who had or might have come into contact with the first individuals in Scotland who were known to have coronavirus?

Chief Constable Livingstone: Thank you for those questions—there is a lot of depth and

complexity in there. I will work my way backwards. We were not involved in that or asked to trace and locate anyone who had early signs of the coronavirus. We were not made aware—*[Inaudible.]*—of any instances of Covid-19 in Scotland before the information was in the public domain. It was clearly public health-led and we co-ordinated through health officials in the Scottish Government and other health agencies.

Like every other organisation and every other citizen, we were aware of what was happening in China and around the world and how that was starting to play out in Europe. Much of our early action and structures were self-initiated. It is my responsibility as chief constable to take a view on such things and keep a broad perspective on an international basis. Therefore, we quickly started to develop our plans, structure and intent. As I said to the convener earlier, we drew on contingency plans that we had exercised in the past and on past experiences to ensure that we identified things that worked and that we did not repeat errors made in the past.

As you will be aware, there were unique facts and circumstances—that is shown even by the way that we are conducting this meeting. That was an element that I had never anticipated fully. Policing is a people-based business, internally and externally. Command, briefings and our interactions with the public are all done in a proximate manner. However, it was clear that one of the key elements in preventing the spread of the virus was to keep social distance. How do we do that in policing?

One element, which you alluded to, was internal communications. Inevitably, a lot of staff and officers were feeling anxiety—they are citizens and they have elderly parents and children, and they were operating in the uncertain world that we all faced. I sought to provide them with as much support as we could and to underline the fact that the police service has a public duty and has to focus on public service. The way in which we have been able to do that has been remarkable.

It was important that we communicated externally, too. I hope that you have had correspondence from your local commanders and local networks and contacts. That level of trust exists across Scotland. Our ability to communicate internally and externally on what was asked of us was crucial.

I will stress one point that the convener touched on in his introductory remarks. What has been asked of the police service is in addition to our core business and core function and role, but it fits with the essence of policing. It is about working with the community for a public health benefit. The enforcement element is but one element, and we

will always look to maintain the safety and wellbeing of the people of Scotland.

That is why I am the chief constable of the Police Service of Scotland rather than the law enforcement service of Scotland. Law enforcement is a core part of policing. As an ex-senior detective, I of course accept that law enforcement and the coercive powers that we hold on behalf of our fellow citizens are a crucial part of the police's role. However, policing is much greater than that; it is about wellbeing, policing by consent and looking after the welfare of citizens and communities. That is why I think that we were well placed to take on the challenge and the responsibility in what was asked of us.

Margaret Mitchell: The police bulletin for 21 to 27 May provides a summary of all enforcement action relating to the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. Of the 4,366 enforcement actions in the period covered, how many fixed-penalty notices were issued in relation to the new emergency regulation offences and how many were issued under normal policing of the commission of crime during lockdown? Is it possible to get a breakdown of the number of FPNs that were issued for violent and abusive relationships and for various forms of cybercrime targeted at children and young people?

Chief Constable Livingstone: The information that we have shared on fixed penalties relates to those issued under the emergency legislation. Other notices will have been issued under antisocial behaviour and other legislation. I will ensure that we write to the sub-committee with that breakdown.

From the enforcement data that we have on the dispersal of groups—in the public space but also, crucially, in the private space, where there are high levels of risk from house parties and whatnot—you will see that the overwhelming number of dispersals are done through consent. People are told that such gatherings should not be happening and that they are breaching the regulations and, more importantly, putting their fellow citizens at risk. Mostly, the people then disperse, but at times we need to order that to happen and, where they refuse, we will issue fixed penalties. If people continue to be obstructive and do not do the right thing, we will arrest them. There is that continuum of engagement. Crucially, however, the vast majority of interactions between police officers and members of the public do not involve dispersal or any level of enforcement, even by encouragement or voluntary consent.

11:30

Police officers will still be speaking to their community and to key workers to provide a level of reassurance. Although we rightly report on enforcement figures—I will ensure that the committee is provided with the breakdown for which it asked—it is important to reiterate that enforcement is just one element of the engagement and contact, which includes reassurance, that the police have had with the public over the past 12 or 13 weeks.

Rona Mackay: The Scottish Government's consistent message has been "Stay home, save lives, protect the NHS." However, some of the restrictions that were put in place at the start of lockdown have recently been eased, and over the past few weeks we have seen examples of crowds gathering at beauty spots, beaches and so on; you have spoken about dispersal.

What impact has easing the lockdown had on levels of compliance? Do you think that the changes to legislation with regard to what the police and the public are able to do—indeed, whether the public is able to do anything—have been communicated effectively? Many constituents have contacted me with concerns about large groups forming in a nearby park as they do not really know what else they can do about such behaviour. Could we have some clarity on that, please?

Chief Constable Livingstone: I understand the need for clarity. Given John Scott's earlier comments, and the experience and observations of us all over the past few weeks, I would say that there have been difficulties in messaging. I say that without any judgment—it is just the truth. We have had a four-nations approach wherever possible, but there has at times—understandably and rightly—been some divergence in that regard. In the early weeks and months, the "Stay at home" message and the general content was, in general, consistent—[*Inaudible.*]

As the lockdown has eased—as the committee will know as well as I do, just as everybody in the country knows—a different approach has been taken in different parts of the United Kingdom. That has happened for completely legitimate reasons to do with health and the democratic process, but it has meant that people have been able to do different things at different times. There are differences in the movements that have been permitted, and in the number of people who have been allowed to meet in a group outside—it is currently six in England and eight in Scotland, as long as people are from only two households. That is only guidance and not something that the police service has enforced, although it agreed to the number.

Nevertheless, the fundamental duty on people not to go out without reasonable excuse still exists. With regard to clarity, political leaders and the country as a whole recognise that we face a complex challenge, which will continue as differentials emerge. There is even the potential for differentials within Scotland on a geographic or sectoral basis, or even at an individual level depending on personal characteristics such as one's occupation or whatever else; I do not know.

The issue at the heart of Rona Mackay's question is that the messaging has been challenging, which is why we have tried to reinforce to people what actually lies behind it. It is not a matter of reading the regulations and looking for an exemption or interpreting them in a way that best suits your own circumstances. We must remember what the Government and political leaders have made clear: the regulations are about public health and preventing the spread of a deadly virus, and the best way to do that is to keep as socially distant as we can and still go about our lives, while trying to maintain family connections and relationships.

The messaging has been challenging, and that is why I have taken every opportunity to speak very clearly on a national basis. I genuinely think that it has helped that there is one police service in Scotland. I also think that there has been clarity of message, as far as there could be, from the Scottish Government and Public Health Scotland and high visibility from individuals such as Professor Jason Leitch and others.

However, it has been difficult, as it was going to be whenever the lockdown started to ease and there was a divergence from what the UK Government was saying. At times it has not been made clear that when the UK Government spoke, it was speaking only about health matters in England. I am making no value judgment about that; it is just a statement of fact. People had to interpret that and there had to be immediate further clarification to say, "What the Prime Minister has said applies only to England; here is the position in Wales and in Scotland." The messaging has been a challenge; it has been difficult. We have tried to support that and participate in that for the public health good. I think that that challenge will continue as we move through the phases.

Rona Mackay: Can you comment on the role that Police Scotland is expected to play in relation to people being required to quarantine upon entering the country? You will have heard John Scott's earlier comments in which he was quite outspoken about that.

Also, what role, if any, will Police Scotland have in relation to testing and tracing?

Chief Constable Livingstone: As chief constable, I recognise the sensitive and controversial issues to an extent—*[Inaudible.]*

—public commentary from—*[Inaudible.]*

—and other commentators, and the fact that the United Kingdom Government has taken the view that it wishes to introduce quarantining now. Here we are, 12 or 13 weeks in, and we in the different jurisdictions across the United Kingdom are moving towards a form of easement, and people are arriving in the United Kingdom, arguably from areas and countries where the transmission of the virus is lower than it is the United Kingdom.

Nevertheless, that parliamentary decision has been taken. I understand from the Scottish Government that matters around entry at border points in the United Kingdom are reserved, and therefore there is a recognition that that sat with the UK Government. However, the enforcement of that, including compliance mechanisms to maintain that quarantine, are a matter for devolved Governments.

That in itself has been difficult and challenging. We have been heavily involved with Scottish Government officials, because of the role of the Lord Advocate and the independence of the Crown, on issues related to fixed-penalty levels and the approach that the Lord Advocate takes to fixed-penalty issuing by both the police and the Crown. The penalty levels are different, as you will have gleaned from the cabinet secretary's announcement on Sunday.

I have reservations about the demands that that could put on policing. I also have reservations related to the relationship of trust that I have been stressing, both today and over the past few months, if police are knocking on the doors of people who in essence are not committing any level of offence or harm. It is a balance that needs to be struck because of the public health benefit.

It has been difficult for the legislation to be implemented. The speed of it has been a challenge. With regard to awareness and understanding, we are still working on it. This morning I was speaking to some of my senior colleagues who are in the process of providing guidance for our officers and staff with regard to the regulations, albeit that they came into force yesterday. We are working hard to make sure that we provide as much information as we can to our own people.

On the role of the police, I have been using the term "backstop" over the past week. In general terms, the process is that when somebody arrives at an international port in Scotland, they are met by Border Force—which, as you know, is a UK agency—and asked to provide information such as contact details and where they are going to go;

then they will be asked to go into quarantine for 14 days. Border Force will thereafter link with Public Health Scotland, which will have a responsibility to track at some level the individuals who have arrived, and monitor their compliance with that 14-day quarantine. It has to be a relatively light-touch approach, with regard to the capability and the powers of Public Health Scotland, which will seek to encourage people to comply with that quarantine as best it can. If it should arise that somebody has not complied, Public Health Scotland will not contact Police Scotland; we will not be tasked from a public health perspective to carry out inquiries with a view to enforcement.

Police Scotland will come into play when we are contacted by members of the public, or some other third-party group, saying that they know that an individual has just arrived back from, for example, Germany or the United States; that they do not seem to be adhering to the 14-day quarantine; and that that is causing concern. We will take a note of that and may thereafter make some inquiry; we may try to contact them ourselves, or to visit them.

That takes us back to our approach throughout this 12-week period. We will explain, and will encourage the individuals to comply with, the quarantine arrangements; we might not necessarily take enforcement action. However, if we are aware of absolute obduracy around that, we will take enforcement action.

I see us very much as a backstop. It is about Border Force getting detail about voluntary compliance with the 14 days from people who arrive, and then it is about Public Health Scotland tracking and monitoring. We will be there if a member of the public brings to our attention an overt breach of the quarantine requirement.

Rona Mackay: Convener, may I have a very quick supplementary question?

The Convener: Yes, if it is quick.

Rona Mackay: Chief constable, will there be any involvement for Police Scotland on testing and tracing?

Chief Constable Livingstone: No. That is a public health-led capability. I have always said that Police Scotland will do what Parliament, as representatives of the people, asks us to do. How we do it is a matter for me, as chief constable, in making sure that we do it with courtesy and with the consent of the public. At this stage, we have not been asked to contribute to that.

Rona Mackay: Thank you very much.

James Kelly: Good morning, chief constable.

On public compliance with the lockdown, a clear and concise message is essential. As you

acknowledged in your conversation with Rona Mackay, part of the issue has been that some elements are in guidance, and others are part of the law, which has to be enforced. As we move through the phases towards getting out of lockdown, what lessons need to be learned about getting that balance right between what is in guidance and what is in law, to ensure a clear and concise message?

Chief Constable Livingstone: Thank you Mr Kelly, and good morning.

That is a very good question, and a challenging one. I come back to the fundamental principles that I have tried to outline this morning. There is clearly the potential for a criminal justice sanction for not complying with public health requirements, and the very fact of that underlines the gravity of the public health emergency that we face, because the police would not normally seek to impose such sanctions on citizens.

11:45

The police role is not just the enforcement element, as I said to the deputy convener. Although there is rightly a focus on that element, I have always regarded the police role as being about prevention. Under the Police and Fire Reform (Scotland) Act 2012, which established the Police Service of Scotland, we have a duty

“to improve the safety and well-being of persons, localities and communities in Scotland”.

It could be argued that a public health responsibility has always fallen on the police and on the chief constable. Our approaches to violence reduction and the horrible scourge of drug addiction and drug deaths require a focus on public health duties as well as law enforcement.

Let me step back and give you a response to your pertinent question. Communication is the issue; there is a need for absolute clarity and an understanding across all agencies and particularly among members of the public of what is being asked and required of them.

Internal communications with our officers and staff are clear. From the outset, I have acknowledged that, in the early days, there were a couple of instances of officers being a bit confused and thinking someone was in breach of the regulations rather than the guidance. We have worked hard to clarify the situation and we have said, “If you’re in doubt, ask your supervisor, and take time to distinguish one from the other.” It is about making very clear what is in regulations and what is in the guidance, while taking the two as a whole, not because there is a need for sanctions but because there is a public health imperative that people need to pursue.

By definition, any legislation, particularly emergency legislation, which uses the phrase “without a reasonable excuse”, contains an element of subjectivity. What is a reasonable excuse? It depends on the circumstances. Is the individual visiting their elderly mother, for example? It is about engagement and speaking to one another. Therefore, communication—internal and external—is my main learning point as we go into the next phase.

You are right that, as we go into the next phase and there is more easing, it is inevitable that the police enforcement role will diminish. For a start, we will have to go back to business-as-usual policing, if I may use that shorthand. We will continue to support the public health requirements, but I do not think that the enforcement element will be as up front as it was in the initial weeks.

Communication is the big learning point, not just for the police but for the whole country and all Governments across the United Kingdom.

James Kelly: Thank you. As the police go about their jobs, they must approach people and potentially arrest and detain them and move them from one location to another. How confident are you that you can ensure the safety of police officers and the public, given the concerns about the pandemic?

Chief Constable Livingstone: The issue was being considered before the restrictions were introduced—I guess it was Friday 21 March, when pubs and restaurants closed and we needed to get involved and start to mobilise quickly. Even in advance of that, the criticality of safety and of making sure that we had the right level of equipment was at the forefront of the minds of me and my colleagues.

As a service, we have done well in that regard. We have worked extremely closely with the trade unions. Unite and Unison, in particular, have been integrally involved in all our work on safety equipment and health and safety issues, and have worked closely with the Association of Scottish Police Superintendents and the Scottish Police Federation. At times, as Mr Kelly will know, they have challenged us, and that is right—it is their role to give us alternative perspectives and to make sure that we are thorough in our approach. I think that we are. We have listened closely to the Health and Safety Executive and Health Protection Scotland. If new advice or guidance comes in, we respond to that. We have been able to access and issue, and provide training in the use of, full PPE for 14,000 officers and staff who work in crucial roles. They have the confidence of knowing that they are entitled and empowered to utilise that equipment—which is personal issue—any time they suspect or fear someone has Covid-19, or there is any inference that that is the case.

At the same time, we have issued enormous quantities of core personal hygiene resources, such as hand-washing products, hand sanitisers, gloves and surgical face masks, as opposed to full FFP3 face masks. We have encouraged officers and staff to use those as much as they can, for their own safety and the safety of the citizens they serve.

There was a high level of anxiety. As an individual and as chief constable, I was anxious about the impact that Covid-19 would have on the service and on communities. We have maintained our focus and our discipline, and have tried to provide as much equipment, and as much reassurance, as we have been able to. It is positive that our level of staff absence is at such a low level. It is very low in comparison with other sectors, with other police services in the UK and with our experience over the past six or seven years, and I think that that is an indicator of the phenomenal focus on public service that the people who are involved in policing in Scotland have. It also reflects the fact that those people are comfortable about coming to work in the knowledge that the right social distancing measures are in place and the protective equipment is there.

It is an entirely legitimate area of concern across the whole of public life, and it is entirely legitimate for me, as chief constable, to be asked to give an assurance that we have made full provision of equipment to protect the health and safety of our officers and staff. I genuinely take the issue extremely seriously; for me, it is not just a legal but a personal responsibility. I am a police officer, and I do not want any of my colleagues to feel vulnerable or exposed. That goes to the core of how I see my role as chief constable and of how I act as a constable and as a man.

It has been a big and important issue, but I think that, as a service, we have responded well to the demands with regard to safety and personal protective equipment.

The Convener: Liam McArthur will ask the next set of questions.

Liam McArthur: Good morning, chief constable. I want to follow up on the point that James Kelly raised. It is encouraging that the level of absence among officers and staff has dropped in the way that it has.

However, I do not think that you were referring to the procedures in relation to testing of officers, staff and their families. Could you advise us of the position as regards the availability of testing?

Chief Constable Livingstone: Good morning, Mr McArthur. That is another issue that policing, along with all core public-facing services, had to deal with. There were challenges with the

availability of testing in the early weeks and months of the outbreak. If anybody had signs or symptoms, immediate access to testing was always sought through the public health network.

In the early weeks—March and early April—I know for a fact that a number of police officers who had taken leave and been in Italy to watch Scotland play rugby came back and felt unwell. They got immediate access to testing and, thankfully, the vast majority of them were clear. As the testing regime in the country grew, people who had symptoms—[*Inaudible.*]

It was less clear for people who were asymptomatic. For example, if an officer or a member of support staff in a custody or other setting had contact with an individual who had Covid, or asserted that they had it or were suspected of having it, they might have no observable symptoms but be understandably concerned. In the early weeks, we could not access testing for asymptomatic people. We worked really hard with the Scottish Government and public health colleagues to have that level of access, and a number of people have now been tested. We have access through our HR department and at a wider national level through Health Protection Scotland.

I can provide specific figures. Approximately 1,500 officers and staff have been tested and about 200 were positive for Covid. Testing is now available, but it has taken time. The police have not been alone in that regard. It is now well co-ordinated and benefits from the national co-operation that Police Scotland brings.

Liam McArthur: Thank you. I move on to an issue that I raised with Mr Scott. Both of you have talked about the discretion that has been, appropriately, deployed by officers. There is also a recognition that infection rates differ across the country. Therefore, not surprisingly, there has been a debate about whether to localise or regionalise advice and restrictions. What is your view on the benefits and potential pitfalls of doing that, particularly for public trust and confidence in policing in our communities?

Chief Constable Livingstone: That is a complex but important issue. I will reiterate what I said earlier and then focus on the question. Whenever there are differences in a clear message, whether that is done by jurisdiction or between England and Scotland, it makes difficulties for our dealings with citizens. We are asking people to take action and comply and we explain what is required of them, but inevitably they will speculate and say, “That’s not what I heard here”, “I saw this” or “I saw that”, and they might talk about some of the high-profile issues or instances that Mr Scott alluded to earlier. It will be more challenging.

I come back to the fundamental principles of policing by consent and of local officers knowing their local communities. You and I have had discussions on a number of issues, Mr McArthur, and you know of my commitment to creating a less centralised policing system in Scotland. I want local commanders to be empowered to work locally for the needs of their communities. They know those communities and their needs. We would get the benefit of the single service for key capabilities, training and operating within a common framework, but local officers with locally accountable commanders and senior leaders would work in different communities.

Specifically in relation to the community in the Orkney Islands, if the public health guidance was such that there was felt to be a need for a differential for a specific island or territorial community, we in Police Scotland would be better able to deal with that localised difference now. That is a principle that I have been trying to introduce and underline since I became chief constable. I think that that principle is widely welcomed in the service, as local commanders and officers feel that they have the trust of the chief constable, and they can then go and work with their local communities.

12:00

Adopting that approach would be challenging, however, because so much of our information is taken through the national networks and different forms of media, but I think it would be achievable, because there is now a more localised approach to policing in the Police Service of Scotland, and the police will therefore be able to support that—if public health advice and the political decisions are such as to reflect differences across Scotland. It would be difficult to do that, but we are better placed to do it now than we might otherwise have been.

The Convener: There will now be a slight change of plan, as we have been having some difficulties with the line.

Shona Robison: Good morning, chief constable. You referred to this issue in your opening remarks. It has been highlighted that the imposition of restrictions may have had a significant impact on those who have additional or particular needs. You have mentioned victims of domestic abuse, and there is also an impact on people with learning difficulties, for example. In addition to what you have said already, what steps have been taken to ensure that a reasonable approach—and, in some cases, a tailored approach—has been taken when dealing with and helping individuals in those circumstances?

Chief Constable Livingstone: Good afternoon, Ms Robison, and thank you for the question.

This is an area that I was concerned about right at the outset. In general terms, in the normal course of events, when the summer holidays end and kids start to come back to school, all public professionals—schoolteachers, social workers, police officers and others—see an increase in child concerns and child vulnerability. If a child shows signs of neglect or malnutrition, or if they display atypical behavioural problems, that often gives an indication of a level of concern, so some support mechanism is required, or some intervention needs to be made for child welfare. Traditionally, that need increases after people return from the summer holidays. In this instance, with the countrywide lockdown, our judgment and our experience from having worked with partners across the public and voluntary sectors suggest that there will be an increased level of vulnerability. Home is not always a safe place to be.

We have been working very closely with local authorities. An element that I think will come out of the very challenging emergency that the country has had to face is a renewed and reinforced relationship—it has always been strong—between the police and the 32 local authorities, which are charged with providing child protection and education services, along with health and social care, which also comes from that framework. We have been contributing to that, too.

A one-size-fits-all approach has not been taken. We can consider some of the work that has been done regarding people who are required to undertake shielding. In some of the more remote communities, we have been able to support that work because of local resilience partnerships, which are tailored to local needs. We would not necessarily do that in large urban areas, where we have other demands that we have to focus on and where there is perhaps greater capability and resilience among other agencies. There has been a close working relationship at strategic and operational levels. There have been high levels of commitment and engagement in seeking to cooperate to identify people who have needs. Where the police service can make a contribution to that, we have been doing so. The third sector and the voluntary sector have been right in the middle of that. There has been remarkable work and dedication across all the agencies.

That has been another difficult issue but, right from the outset, we worked with all the partners to ensure—[Inaudible.]

The Convener: Thank you, chief constable.

Fulton MacGregor: Chief constable, you have touched on the issue of PPE. I had to go offline for

a wee bit to reconnect and get a better connection, so I apologise if you have said more about the issue. Do all officers now have access to the appropriate PPE that is necessary for specific situations? Is the issue with PPE now resolved and under control?

Chief Constable Livingstone: I covered that issue a little. However, it is important so, with the convener's agreement, I will summarise what I said.

In essence, we have the issue of PPE under control. The police service was not alone in finding the situation with PPE to be challenging. Our professional colleagues in health and social care and all the elements of public service need PPE; indeed, there is now a worldwide need for it. However, we have now trained more than 14,000 officers and staff and they have individual allocations of full PPE equipment that they can use if there is any suggestion or evidence that they will have to deal with someone who is suffering from Covid. In a Covid-related incident or response, we have that capability and we have trained our officers. We have worked hard on that, and sometimes through the night. It is not just about the front-line officers—there are many unsung heroes working in areas such as procurement and contracts who have been working all hours to provide support.

We have high levels of hand sanitiser, gloves and surgical masks and those have been issued. There is understandable anxiety and entirely legitimate questions and concerns have been raised but, as chief constable, I can give you and your colleagues on the sub-committee the assurance that we now have the right level of PPE in place for officers and staff.

Fulton MacGregor: Will you say a wee bit more about how the police force is learning from the Covid crisis and how you are getting information directly from officers and staff on the ways in which they are engaging with the public through the crisis?

Chief Constable Livingstone: That is an extremely pertinent question. The experience has been one that the service, much like the country as a whole, never thought that it would have to face. There have been numerous elements where, of necessity and because of the crisis and the police service's shared purpose and mission right across the organisation to keep people safe and to serve the public and protect public health, we have moved very quickly. I will give two specific examples of the many that we have captured.

The first one has a cultural element. I touched on it in my response to the deputy convener earlier, but I perhaps did not expand on it as fully as I should have done, so I might do that now. It is

to do with the exact aspects that have enabled us to hold this meeting: remote access, home working and flexibility, which are particularly relevant to people who have caring responsibilities. People do not necessarily need to sit in different offices across Scotland, when they will often have left the house at a ridiculous hour and commuted through traffic to get there. We can find a better work-life balance and improve the quality of work while still getting it done remotely. We have issued a significant number of devices to allow remote and home working to take place.

Policing is always going to have to take place on the ground, and the police will always look to protect people in the physical space—both private and virtual—but the new approach works. It has been a piece of learning for us, which shows that we need to be more flexible in our approach to allow key departments to work in that regard.

There is also a cultural element, which was picked up on earlier. The older generation still think that people need to be physically in one room for briefings and communication. Of course, we still need that intimacy and personal contact, but we can do an awful lot of business without meeting in that way. That will improve the environment and make us more flexible, and it will improve work-life balance. Moving to remote and home working is not only about changing our practice but about changing the culture that goes with it. That is part of the learning that we want to capture.

Another element concerns a broader point about the wider criminal justice process, in which the committee might be interested. We have seen more remote courts being conducted, with the ability to accept electronic signatures and validation, which is another move away from the physical aspect, whether that is to do with production or physical presence. We have managed to do court hearings with different jurisdictions—for example, an offender was wanted in Northern Ireland for serious offending, and we managed to set up a court in Scotland and get the required levels of closeness and justice with the right and proper safeguards in place.

There is a piece of work for the national criminal justice board, which is chaired by the Scottish Government, and the key agencies. I understand that the judiciary is looking at flexibility—there are a lot of traditional practices in the criminal justice process but, as a result of the current emergency, there is more flexibility and innovation being brought in. That will be better for victims and witnesses, and for the administration of justice, as long as all the right safeguards are in place. In those key areas, there is real learning that we need to capture.

We are, in a sense, learning about what has always been there. Given some of the difficulties that we had in the early years of establishing the single police service—[*Inaudible.*] I was there—I was part of it, and we did not always get everything right. In the current situation, we see the value and utility of the single service, with the more localised and disaggregated service delivery model that we have been working to introduce for the past number of years.

The creation of a single service was also about ensuring that we keep our core value of policing by consent. John Scott said that policing by consent has been reinforced by the current process; that is a great asset and a valuable change that we should all work to take forward.

There is an element of modernisation, but we should also remind ourselves of the core elements: the legitimacy of policing and where that comes from, and the fact that we must always focus on courtesy and dealing with people fairly. If we do that, we will continue to have the consent of the public that we serve.

Margaret Mitchell: Would it have been helpful if Police Scotland had been made aware that cases of coronavirus were identified in February, in order to give officers a heightened sense of awareness and to maintain public and police safety in Edinburgh and elsewhere?

Has Police Scotland undertaken a survey of officers and staff?

12:15

Chief Constable Livingstone: As much situational awareness as possible always helps—it helps not only the police service but all public agencies. However, I had no awareness of those early cases at all until matters developed over the past weeks.

For all agencies, as much information sharing as possible is always of value; we have known that for many years. I recognise that that has to be balanced against privacy, patient confidentiality and so on. It is a complex matter. My only comment is that, as ever, any awareness that the police service has allows us to assess what our contribution could be.

Forgive me, but could you please repeat your second question?

Margaret Mitchell: Has any survey of police officers and staff been carried out?

Chief Constable Livingstone: Not during this period. Our focus has been on mobilising officers and staff and on providing a public service. However, I intend to do a further staff survey. I do not know whether that survey will be about the

experience of the coronavirus in particular, or whether it will ask more generally about where things are now in Police Scotland.

John Scott's group has held a number of workshops to take some feedback from officers and staff about their issues and concerns, and I have spent a significant amount of time sending personal messages to all officers and staff using a variety of means, including e-mail and video messaging. In essence, I have been thanking them for their service. I have been monumentally impressed with the focus on public service, and I take great reassurance from it.

I have said a number of times that there are many challenges ahead for policing. For example, there are financial challenges; the climate conference that is coming to Glasgow at the end of next year; and the potential economic uncertainty that might come from the coronavirus, not to mention what might come from Brexit negotiations. Members know that those challenges also include supporting the vulnerable and the demands on policing that come from mental health pressures in society and from policing in ways that are beyond responding to crime, as well as the challenges involved in providing a high standard of criminal investigation and responding to crime. However, when I face those challenges, my greatest confidence is in the people in the service. I genuinely think that the people of Scotland should have a lot of confidence in the men and women in Scotland's police service—police officers and police staff. They are very committed and dedicated, and they have high levels of personal integrity. Of course, we do not get everything right, but when we get things wrong I would like to think that we have humility as an organisation to acknowledge that and then move forward.

The relationships between us, as a service, police officers and police staff are crucial. Again, I would like to take this opportunity to thank them for being phenomenal. The police service has stood up to this remarkable challenge, and that shows that the core values of public service sit at the heart of policing.

The Convener: I do not see members intimating that they have further questions, but I have a final question to put to you, chief constable.

As you know, we received a number of submissions, and my question relates to the submission from the Scottish Police Federation. I will quote what it says, to put it on the record.

"Without question, the most high-profile challenge facing officers was the emergence of the Covid-19 assaults. Our members are exceptionally angry that neither the police service nor the crown office took a deliberate and unambiguous position that those who committed such

assaults should be kept in custody pending court appearance."

First and foremost, will you outline who is responsible for that decision? Was it a joint decision between the police service and the Lord Advocate, who I know issued guidelines? More important, will you undertake to review the decision in the light of the strength of comments from staff?

Chief Constable Livingstone: I share complete outrage and disgust when a police officer, a member of police staff or any emergency worker—or, indeed, any person going about their work—is assaulted in the course of their duties. That is utterly unacceptable. It is not part of being a police officer and it should not be acceptable.

I have enormous concern about assaults and attacks on police officers, and I utterly reject any sense that they come with the job. In that regard, I have written to the Lord Advocate and the Lord Justice Clerk a number of times over the past year to outline the level of concern that I have, as the chief constable. I recognise the utter independence of the Crown and the judiciary, but I have sought to underline to them my concerns, as chief constable, and those of officers and staff and their representative groups.

With regard to the need for an individual to be kept in custody, or the expectation that that will happen, the primary responsibility is the law. Section 50 of the Criminal Justice (Scotland) Act 2016, which is based on human rights law, says that there is always a presumption of liberty. I know that decisions that are taken in that regard are taken by a custody sergeant, so they are taken by members of the Scottish Police Federation, by and large—they are taken by operational policing officers, who will also share a level of disgust about attacks—and every case is assessed individually.

I do not think that there has been any ambiguity on my part about how categorically I condemn such attacks, but we need to be absolutely clear that a blanket instruction to keep people in custody does not comply with the law. The Lord Advocate's guidelines, under which we operate, are based on the provisions of the Criminal Justice (Scotland) Act 2016, which Parliament passed. I understand the strength of feeling and I share it. I reject and am disgusted by attacks on police officers. We work extremely hard with the Scottish Police Federation and others to focus on safety. I intend to take the issue forward in the next weeks and months, but it is not possible, in law, to have a blanket instruction to detain people in custody.

I have real concerns about alleged offenders in other horrendous areas where victims are left vulnerable, such as domestic violence and

domestic abuse. There can be, in law, no blanket direction that those individuals should be kept in custody. The submissions from Scottish Women's Aid and the advocacy, support, safety, information services together service talk about our work with those organisations to ensure that, when people are released on an undertaking to appear in court on a subsequent date, sufficient support is put in place for victims and sufficient monitoring of potential offenders is carried out.

That also applies with regard to attacks on police officers and other emergency workers: we need to provide them with support and make sure that we are absolutely unambiguous about our condemnation of such attacks. I am completely unambiguous about that, and I welcome the opportunity to underline my condemnation of those attacks. However, it is not possible, in law, to have a blanket instruction to detain people in custody. Cases must be assessed individually, and we will then put place in protective factors if an individual is released on an undertaking and we will comply with the Lord Advocate's guidelines.

The Convener: Thank you, chief constable. I thank all police staff and officers for their work during the crisis, and I thank you for taking time out of what I am sure is a busy schedule. People might not be aware that we have significantly overrun this session, but it was important that we looked at all the issues. Thank you for your comprehensive responses; they are much appreciated.

That concludes the public part of today's meeting. The next sub-committee meeting will be scheduled at an appropriate date, which will be notified in the *Business Bulletin* and via the sub-committee's social media. In the meantime, any follow-up scrutiny issues will be dealt with by correspondence, which will be published on our website.

As previously agreed, we now move into private session.

12:24

Meeting continued in private until 12:39.

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

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