



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Sub-Committee on Policing

Monday 15 March 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Monday 15 March 2021

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
SCOTTISH POLICE AUTHORITY.....	2

JUSTICE SUB-COMMITTEE ON POLICING

4th Meeting 2021, Session 5

CONVENER

*John Finnie (Highlands and Islands) (Green)

DEPUTY CONVENER

Margaret Mitchell (Central Scotland) (Con)

COMMITTEE MEMBERS

*Rhoda Grant (Highlands and Islands) (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:

Lynn Brown (Scottish Police Authority)

Martyn Evans (Scottish Police Authority)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

Virtual Meeting

Scottish Parliament

Justice Sub-Committee on Policing

Monday 15 March 2021

[The Convener opened the meeting at 11:00]

Decision on Taking Business in Private

The Convener (John Finnie): Madainn mhath, a h-uile duine, agus fàilte. Good morning, everyone, and welcome to the Justice Sub-Committee on Policing's fourth meeting in 2021. We have received apologies from Margaret Mitchell and Rona Mackay.

Under agenda item 1, the committee is invited to decide whether to take item 3, a review of the evidence that will be taken under item 2, and item 4, our consideration of a draft legacy report, in private. Is that agreed?

Members *indicated agreement.*

The Convener: It is agreed that we will take items 3 and 4 in private.

Scottish Police Authority

11:00

The Convener: Agenda item 2, our main item of business, is an evidence session with the newly appointed chair of the Scottish Police Authority and the newly confirmed chief executive. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper.

I welcome our witnesses: Mr Martyn Evans, who is chair of the Scottish Police Authority, and Ms Lynn Brown, who is chief executive of the authority. I invite Mr Evans to make some brief opening remarks.

Martyn Evans (Scottish Police Authority): Thank you for the invitation to appear before the sub-committee.

I took up my post on 1 February, and, on 1 March, as you said, I appointed Lynn Brown as the authority's chief executive and accountable officer. Ms Brown is an outstanding public servant who had financial responsibility for the budget of Glasgow City Council, which is £1 billion greater than the SPA's £1.3 billion budget for policing. As well as her very substantial financial experience, she has considerable experience of stakeholder and public engagement.

In your letter of invitation, you asked me about my vision for policing. I led the authority's restatement of the strategy for policing, and I worked hard with Police Scotland's senior leadership to ensure that it was a shared strategy with a shared vision. The strategy was approved by the board and became the "Joint Strategy for Policing". The authority and Police Scotland now have shared purpose, values and vision, as well as the five outcomes of policing. I and the board own and are fully committed to that vision and those outcomes.

You also asked about my priorities. I will outline four attitudes that I bring to the role of chair of the authority, which have been shaped in part by my career in civil society in Scotland and in part by my two-and-a-half-year apprenticeship for the role of chair as an ordinary board member of the authority.

My first attitude is localism. The single Police Service of Scotland is at its very best when it combines national standards with local, responsible and responsive delivery. Local government is therefore the critical partner. Together, Police Scotland and the Convention of Scottish Local Authorities have created a step-change improvement in that partnership over the past year or so. In the coming year, I will focus on matching that. As chair, I have already met, or will

meet before the end of March, the president and vice-president of COSLA, the 32 scrutiny conveners through their forum, the chief executive of COSLA and the chair of the Society of Local Authority Chief Executives and Senior Managers. I have outlined my engagement plan to the scrutiny conveners, and delivering that plan will be my priority in my first year.

My second attitude is around social justice, which has been a personal and long-standing focus. Over the past six weeks, I have met key colleagues in civil society to discuss how best to improve social justice in policing. Public confidence in policing is high and has remained so even over the Covid pandemic. However, public confidence in policing in our areas of multiple deprivation is consistently 15 points lower than the Scottish average. I will lead with a key civil society partner, and with the already promised full co-operation of Police Scotland, in exploring how we might reduce significantly that gap in public confidence. Once we have had conversations with local communities about what they think and want, we will all have a thoughtful and agreed plan of action. I will make that a priority for my second year.

My third attitude is around technology. I am concerned that Police Scotland is at risk of falling behind its peers in the United Kingdom and more widely in adopting technology and deployments that can keep us all safe and protect our individual and community wellbeing. To change that, Police Scotland and the authority must improve our conversations with the public about the potential for innovation.

I emphasise that it is conversation and not broadcasting. Openness and respectful, active listening are key to gaining public trust for change. The authority also has to improve the velocity, openness and focus of its decision making in this area, once the chief constable has identified the technology or deployments that he considers are required to fulfil his obligation to keep Scotland safe. I and the chief constable have initiated the development of a joint memorandum of understanding between us to start to achieve those objectives.

My final attitude is on evidence, and it cuts across all that I have said on localism, social justice and technology. Evidence rarely makes any decision simpler; indeed, it can often make decisions more complex. However, evidence leads to far better and far more sustainable decisions. By evidence, I do not mean academic research alone; I mean the professional experience of police officers and leaders in civil society and local government and the lived experience of citizens. Last year, I established a joint research and evidence forum to accelerate the use of evidence

in policing and to improve listening and learning, and I intend to continue to co-chair it with the deputy chief constable designate of Police Scotland.

Once again, I thank you very much for the invitation and for listening.

The Convener: Thank you for that comprehensive opening statement. We have quite a number of questions. Before we move to them, I remind members to indicate who their questions are for, and I remind all attendees to wait just a moment for your microphone to be activated before you speak.

The first questions are from Liam McArthur.

Liam McArthur (Orkney Islands) (LD): I offer belated congratulations to Mr Evans and Ms Brown on their appointments. As the convener said, Mr Evans has provided a comprehensive opening statement on priorities and visions, which was really where I wanted to start my questioning. So, unless Mr Evans or Ms Brown wants to say anything more on that, I will move on to my next couple of questions.

You will be aware of the concerns that existed about confusion and differences in interpretation of the roles of the SPA, Police Scotland and others who are involved in policing in Scotland. What assurances can you offer the committee that that confusion and those differences in interpretation have been addressed? How do you see the relationships developing in the future? I will start with Mr Evans, but I am keen to hear from Lynn Brown as well.

Martyn Evans: There is a complex landscape around policing oversight—that is not to be denied. There have been issues in the past, and they are best addressed by three things, the first of which is partnership. It is important to have respectful and clear partnerships, and I believe that we are working towards that. I have met the partners already. They are Her Majesty's Inspectorate of Constabulary in Scotland, the Police Investigations and Review Commissioner, the Scottish Government and, of course, the chief constable, whom I meet regularly and talk to at least once a week.

Addressing the issue is about alignment of interest. Misalignment is where the problems occur, and alignment is how we resolve them. It is about trying to find where we can add value as the Scottish Police Authority, in partnership with the other bodies that are involved in this complex relationship. I, myself, do not think that it is confusing; I have found it useful to have audits through Audit Scotland, inspections through HMICS and regulatory oversight by independent regulatory bodies such as the Health and Safety

Executive and the Information Commissioner's Office.

For me, the key is to add value, and the key to that is having a clear and proportionate way of addressing issues that are of public interest. I hope that we can achieve that. There have, of course, been improvements over the past year or two, and I hope that we can accelerate those improvements.

Liam McArthur: Does Lynn Brown want to add anything?

Lynn Brown (Scottish Police Authority): I am happy to add some comments. I will first give a bit of context. The role of the chief executive officer of the SPA is twofold: as the accountable officer and as the principal adviser to the authority. I have the benefit of having been able to carry out the role for the past 18 months, since I was taken on in September 2019 on an interim basis.

I want to address briefly the accountable officer role. As you are aware, and as you have indicated, there are debates about roles and responsibilities, and that is absolutely appropriate. The role is really important and has to sit—[*Inaudible.*]—better can be delivered. While that debate has been on-going, I have been focused on delivering that for the SPA and for the Parliament in terms of the best use of resources at the SPA.

I am mindful that there were real improvements in that before I arrived. For example, there is much more transparency around governance. From taking that issue forward last year, we have strong governance around the use of resources through the authority, the resources committee and the audit risk and assurance committee. The role of the corporate centre in Police Scotland underpins that and takes forward roles and responsibilities. I work very closely with Deputy Chief Officer Page and the chief financial officer, James Gray, to deliver to Parliament the assurance that it needs on resources.

Finally, we have the benefit of external agencies such as Audit Scotland and HMICS, which look at our resources, how we are delivering and the role of the chief executive, and make recommendations. I welcome that scrutiny.

Going forward, my role is to support the new chair, who has set out really clearly what he wants to do. My role is to ensure that he can deliver that with the board for the Parliament.

Liam McArthur: That is very helpful, Ms Brown. Thank you very much.

Obviously, we are coming to the end of a parliamentary session—it will end in the next couple of weeks—and it is fair to say that some of the tension within the SPA has been to do with the scrutiny role that this committee has performed. It

will not surprise you at all to learn that I believe that the committee has absolutely fulfilled its responsibilities in scrutinising the work of Police Scotland, the SPA and the wider make-up of policing in Scotland.

There are a number of examples of the committee having perhaps been in the lead in exposing issues that it would have been more reassuring to know had been given more robust scrutiny by the SPA. The obvious example is cyberkiosks. If incoming members chose to go down the route of retaining such a committee, would Ms Brown or Mr Evans see its role as duplicating the role of the SPA or as providing a welcome added degree of scrutiny of policing?

Martyn Evans: I wrote to the convener to say how helpful and essential it is to have the intense scrutiny of policing that the committee provides. Any police service is given extraordinary powers over citizens, and it is right that there is complex scrutiny, including audit inspection.

The committee's value has been really high, and I have never had any issue with how it has scrutinised the Scottish Police Authority and held it to account. I think that it has improved our ability to act effectively as an oversight and scrutiny body—I have never had any doubt at all about that.

If there is an issue for the future, it is that it is for us and for any incoming members of Parliament to look at policing with a future focus. I emphasise that we should all welcome the intense scrutiny that is given to policing, given the extraordinary power that it has over us as individual citizens. If we did not have that scrutiny, we would be poorer as a society and there would be less confidence in policing.

Liam McArthur: Thank you, Mr Evans. That is very helpful and encouraging. I do not know whether Ms Brown wants to add anything to that.

Lynn Brown: I would like to add something, if I may. The context is that my whole career has been spent working in democratically scrutinised organisations. I was depute director of finance at the City of Edinburgh Council and then director of finance at Glasgow City Council, so I completely respect and appreciate the scrutiny role of representatives of the electorate.

11:15

I welcome the scrutiny that we have had. Last year, I took through the board a structure that I have put in place to recognise the areas where we had difficulty in assuring the committee. Mr Evans touched on them in his introduction—they include the use of technology and adherence to looking at human rights issues.

Having the capacity and capability to give the committee assurance was an issue for the SPA, and we are moving forward on that. I welcome the committee's scrutiny. What committees to establish is a matter for Parliament, but I fully respect this committee's role, and we intend to be better placed to give it the assurance that it looks for.

Liam McArthur: In its 2019 thematic inspection, HMICS outlined challenges for the SPA in fulfilling its statutory role. Responses to earlier questions have picked up on some of this, but what assurance can you offer that the concerns that that inspection highlighted have been resolved or are well on the way to being resolved? I ask Ms Brown to respond first.

Lynn Brown: [*Inaudible.*]

The Convener: Ms Brown's microphone is muted. Can broadcasting staff help, please?

Lynn Brown: Can I be heard now?

The Convener: Yes.

Lynn Brown: I will repeat my initial remarks. I will talk about the detail; Mr Evans might want to give the authority's strategic view. HMICS made 14 recommendations in its thematic review, which was published on the day I was appointed as the interim chief executive. I was committed to taking forward the recommendations.

Of the 14 recommendations, three have been delivered and HMICS has discharged them. HMICS has a rigorous threshold for discharging recommendations. The three that we have covered are on our approach to change, our corporate plan and our corporate structure and business planning.

I agreed recently with the HMICS inspector that the remaining 11 recommendations would be categorised in a certain way. I am committed to delivering what we, as the SPA, need to deliver. Of the remaining 11 recommendations, six sit very much in the SPA's remit, and I am making progress on them. Four recommendations will be dealt with in partnership with the Scottish Government and other agencies. The Scottish Government will articulate the response to the recommendation about considering how the SPA differs from other public bodies.

We are committed to taking forward the recommendations—particularly those for which the response is in our gift. I meet HMICS regularly and it is confident that we are approaching the recommendations robustly.

Martyn Evans: Every month, I meet Gill Imery, who is the chief inspector of constabulary. She wrote in October that she was pleased with the focus on addressing the issues that she raised in

the report that Liam McArthur mentioned, which was fairly critical of the SPA. She thinks that the combination of stability in the organisation and the focus that the chief executive just described will put the SPA in a far better place.

I am confident that we are on top of the recommendations, although we have not completed the response yet. I will regularly discuss progress with Gill Imery. We hope that HMICS will discharge as quickly as possible the recommendations that are within our power. I am pleased that HMICS has recognised the progress that we have made, which I hope assures the committee.

Rhoda Grant (Highlands and Islands) (Lab): I will press you a little on the SPA's conflicting roles. On the one hand, you support Police Scotland, provide it with equipment and work alongside it; on the other hand, your job is to hold Police Scotland to account. Do you see difficulties in successfully fulfilling those two roles simultaneously?

Martyn Evans: The dilemma that you describe goes to the heart of what a board is supposed to do; I think that all boards face the same dilemma. The degree to which a board can both hold to account and support the executive—in this case, the chief constable—is critical and relies on two issues: clarity of purpose and integrity of the players.

I have absolutely no doubt that the integrity of the chief constable and his staff and senior officers allows us to hold them to account while supporting them as well. Clarity of purpose is set out in the agreed strategic police plan, where we have agreed five outcomes and measures to achieve them. When we are holding the chief constable and his senior officers to account, we have an agreed objective about what they are expected to achieve and an open process of metrics and measurement that allows us to say what progress has been made.

I recognise that public confidence in policing is at the heart of what you are saying. If we can be seen to hold the chief constable to account clearly and fairly, it will improve public confidence. There is a challenge in that regard, and it will never end. It is a constant issue for the board and for me that we must be as open as possible with the board about the accountability of policing and as clear as possible about where we support policing and, equally important, where we require the police to provide us with greater assurance or to carry out a recommendation that we have made. I hope that that will be seen to be a clear and proportionate response.

If we ever intervene, we should be measured, proportionate and transparent about what we require of Police Scotland. As I am the board

chair, it will be my duty, in public, to make that quite clear to the chief constable and, in private, to support him to achieve the board's recommendations.

Rhoda Grant: Ms Brown, do you want to add anything?

Lynn Brown: I acknowledge that there can be tensions at times at my level—at officer level. We can address that issue by being really clear about our roles and responsibilities and by being clear that we are all working towards one goal, which is the best police service that we can have. Since I arrived, I have been keen for my staff to focus on that. I always say that we are not there to mark Police Scotland's homework but to add value to the authority in its support and scrutiny of Police Scotland. I recognise the tensions, and my whole approach is to ensure that we can be professional and disciplined in our role.

Rhoda Grant: You must add value and support, but you also need to be robust in holding Police Scotland to account. How do you drop one role and come into another? That must be quite difficult in that you are supporting people but also holding them to account. Are the roles transparent enough?

Lynn Brown: The transparency is at the board level. Mr Evans has said clearly that he expects it to be much clearer and more transparent that the authority is holding the chief constable to account in a fair and proportionate manner. For me, that is the focus at authority meetings, and my job is to ensure that, when those meetings are held, the authority has everything that it needs to support the chief constable or to ask the more robust questions.

Rhoda Grant: Thank you.

The Convener: I have a couple of questions. The first is on scrutiny and engagement again, and I direct it to you, Mr Evans, given that you have been around a bit longer. A recurring theme of the HMICS inspection was the SPA board's limited ability to recognise issues of significant public interest and effectively to hold Police Scotland to account for its decisions. I will not go into detail, but I am thinking about stop and search and cyberkiosks. You touched on your awareness of the issue. What steps have been taken to address it? Are you satisfied that the board is in a better place in that regard?

Martyn Evans: Yes. It is a real challenge for any oversight body to have early enough sight of plans or proposals on changing technology or deployment. To have that at the stage when there is an understanding of the intent for the public, and of the process of assurance for the balance between the harms that that deployment or technology might cause and the benefits that

might be applied in a public area, is clearly the challenge.

In my opening remarks, I mentioned the development of a memorandum of understanding between me and the chief constable, to flag as early as possible any identifiable new technology or novel deployment that might benefit the people of Scotland, in the view of the chief constable, but which might also result in a degree of harm in terms of reduced privacy or other forms of intrusion into our private lives. If we can get that memorandum of understanding set out early enough and have the issues flagged early enough within our systems of governance and the chief constable's system of management, we will be in a far better place, as I said in my opening remarks, to have a conversation with the public and to get the evidence that is needed for the chief constable's internal management and our governance systems. That will allow a decision to be made about the introduction of novel deployments or technologies.

It is also clear that we cannot just say yes or no. For example, as for the introduction of naloxone, we have to have a test deployment and an evaluation. Even if the chief constable agrees to deployment, it must be done under limited test conditions and properly evaluated. In that way, we build the case for full introduction of a technology or for deciding that something is not appropriate, because a technology, although it might increase safety, might introduce more harm than good. The complexity of such decisions is that we sometimes do not know with 100 per cent certainty what harms or protections might result from a technology.

Sometimes, people want us to apply the precautionary principle, through which nothing happens unless it can be proved that there will be no harm. We should apply the proportionate principle: we have to balance considerations and come to a reasonable public conclusion about the balance of harm and benefit for a new technology or deployment. That is not always easy. I go back to the examples of naloxone, which we are currently testing, and drones, which I am sure we will come on to, for which we have to balance those issues.

The Convener: I suspect that I could ask you questions about that all morning, but time precludes it.

Ms Brown, to follow on from the chair's comments, has consideration been given to assessing public confidence in the board's ability to acknowledge and deal with issues of concern? Is there such a mechanism?

Lynn Brown: I mentioned earlier that that is an area in which we need to develop our capacity and

capability. A lot of that is done in response to the challenge that we get from the committee. We have done some work on that over the past year. We did public surveys on, for example, the—*[Inaudible.]*—the work that the independent advisory group was doing on the pandemic. That was to provide an independent view to the SPA, which we published on our website. We want to do more of that. Mr Evans is very clear that our role is to champion the public interest in policing and that, to do that, we need to understand what the public think. We need to improve on that, and we are committed to doing so.

The Convener: Mr Evans, the operational independence of the chief constable is readily understood. The public would expect a question to be asked about last week's unprecedented scenes in George Square and elsewhere in Glasgow. Police Scotland was required to police unauthorised gatherings of large crowds of people who were flouting public health regulations. As the new chair of the SPA, do you have any concerns about the way that that it was handled, especially given the strong statement by Deputy Chief Constable Malcolm Graham?

What input will the SPA have to Police Scotland's planning with regard to crowd control for upcoming major football match fixtures, such as the old firm games, that might involve public order issues, and COP26—the 26th United Nations climate change conference of the parties? Are there lessons to be learned from what happened? What role do you see yourself having in what are clearly operational decisions?

11:30

Martyn Evans: You have asked me a question that is at the heart of the current discussion on policing during the Covid crisis, and one that goes back to the balance of harms. I had a great deal of conversation with John Scott, the chair of the independent advisory group, with the Scottish Government and with the chief constable about Rangers fans' celebrations on winning the league. We can never tell what the outcome would have been if a different policing decision had been made.

When I was considering such gatherings with the chief constable and John Scott—he will write to me about the IAG's considerations, which I asked him to do—I wrote a letter to everyone on the board and offered my congratulations to the chief constable on the decisions that had been made locally by the gold and silver commanders, in that case. In my view—this is the public-interest view—we did not understand what the consequences would be of that unlawful and unfortunate gathering, which we had to contain and not make worse. I look at what has happened

down south and I see what might have been the consequences of a more robust intervention.

As the convener rightly said, it is an operational decision, but I have asked the chief constable—in fact, he willingly offered—when he comes to the board at the end of March, to make himself accountable to the board for the decisions of his officers over that weekend. The board can then quiz him on what the decisions were and whether he thought that they were right, and we can say what we think. I have given you my personal view; I wrote to the board about my personal view and offered my personal congratulations to the officers who were making extraordinarily difficult decisions on the ground.

When I wrote to the chief constable, I was taken by the issues of risk and risk analysis that were published by the College of Policing. As many people know, police officers are trained and retrained at every level to take decisions on risk. We should take great comfort from the risk analysis. The College of Policing's risk analysis was, "Don't make a situation worse if you can avoid it," but you have to take it on the chin when your reputation is being questioned because there are people who would like you to take more robust decisions.

I will finish on this. When we were doing our waves of surveys about Covid, we found that a significant minority of people—about one third—wanted far more robust interventions by the police. They wanted road blocks and similar interventions. We know, however, that that kind of intervention would probably exacerbate problems and reduce confidence in policing. What people might say and what might be a reasonable result do not always coincide.

I trust the integrity of our chief constable and his senior staff, and that trust goes all the way down through Police Scotland. Without that, Scotland would be a far worse place. We rely on the integrity, professionalism and judgment of the police.

The Convener: For the avoidance of doubt, I say that I was not trying to get you to be critical. I support absolutely the autonomy of police officers and I know that the police service varies under the cold analysis of events when on-the-spot decisions have to be made urgently. There has to be an understanding that not everything can be the result of many months of meetings.

What results from many months of meetings planning for other matters that I alluded to, such as COP26 and football events. What role will the SPA have in consultation on operational matters that might take place on those events? Again, I stress that no one is expecting any interference with the operational independence of the chief

constable. I just want to understand what that relationship will be.

Martyn Evans: I am conscious that policing of gatherings and protests is currently an issue of serious public debate, and that it will become an even greater issue, and will reach a crescendo, in November with COP26. The United Nations is inviting people to protest and demonstrate in Glasgow.

I have agreed with the chief constable that in September we will have a webinar that will be open to everybody on how the police will go about policing protests at COP26—on what the police will do and the police view about promoting the human right to protest, which the chief constable has clearly stated is his intention—while maintaining public order, safety and, if they are still in force, public health regulations about gatherings. Our role is to do two things. We must be clear about the procedures and policies for policing protests—as we are; we are sighted on those through the independent advisory group and the authority—and we must make them public.

I am very grateful to the chief constable for agreeing to co-produce the webinar, and to former deputy chief constable Tom Halpin, who is the convener of our COP26 oversight group and will hold the reins on that public event.

The webinar will be the vehicle by which we make that public. The best that we can do is to have a public conversation about policing, and not just to seek the assurance of the board, although that is important. It will definitely not be easy to police COP26. That is more the case than it was for Euro 2020, because Police Scotland has a huge amount of experience of policing football crowds. We must have a really big public debate about the extraordinary crowds that we might expect at COP26. The webinar will be the initial vehicle for that.

The Convener: Thank you, Mr Evans. I am conscious of the time. Briefly, different policing approaches have been adopted and many of the attendees at COP26 will be from outwith Scotland. The policing model is very positive, if it is about facilitating the human right to peaceful protest. How will that message be relayed more widely?

Martyn Evans: Responsibility for any force that is invited to Scotland by the chief constable is his. He will maintain control over the police services that are invited to assist and the gold commander of the event in Glasgow will have more direct control. There is a clear operational understanding. Police from elsewhere do not come and act independently; they come and act completely under the control of our chief constable. We are clear about that assurance. It is the absolute conviction of the chief constable that

that is the only appropriate way to police that huge event.

As we all know, it will be the largest public event in this generation. It will be enormous. I do not think that any of us quite grasps the scale of the event and its potential for policing except Police Scotland, which has put an enormous amount of energy into planning. As I suggested, we have to make that planning publicly visible so that we all know the difficult decisions that the police will have to make. As I understand it, the intention is to promote the human right to protest while protecting all of our interests in safety and public health.

The Convener: Thank you. That is very reassuring.

Shona Robison (Dundee City East) (SNP): Good morning. On the issue of public confidence more generally, we are in very challenging times with the pandemic, and Police Scotland has been tasked with giving effect to what can only be described as extraordinary emergency powers. Will Mr Evans update the committee with details of work that the SPA has undertaken in scrutinising how the emergency powers are being used and how Police Scotland is engaging with the public to provide reassurance on, and confidence in, its approach?

Martyn Evans: The single Police Service of Scotland has been crucial in supporting us all during the public health crisis. It has come into its own over the period. I say that because I have had a closer view than anyone who is not a police officer during that period.

I have been on the independent advisory group, which has been meeting twice a week. I have also been on Police Scotland's operation Talla information, collation, assurance and liaison—OpTICAL—group, which examines data on policing the pandemic. In addition, I have had daily written briefings on operation Talla and, as a board member, I have attended weekly meetings on its progress. The SPA has polled 12,000 people, using four methods of polling. I have therefore had unusual and pretty close engagement with the issues. Although there have clearly been difficulties, with concepts having been applied differently in different areas at the beginning—that is in the nature of discretion—overall, Police Scotland has policed the situation by using its extraordinary powers to great effect.

So far there have been two phases of policing: the early phase was about our individual actions and gatherings and the second was about indoor gatherings such as house parties. Each of those has presented its own challenges. However, Police Scotland's resilience and engagement with the public have been huge. There have been more

than 100,000 engagements under the first of the four Es—engaging, explaining, encouraging and enforcing—but relatively few fixed-penalty notices have been issued.

From the contact, command and control—C3—strategy I pick out contact and engagement. The core service part of Police Scotland, who are often the unsung heroes of the whole process of protecting our public health, have, despite receiving a call every 12 seconds, maintained their high level of service, and have come in to work under high-pressure conditions in which we are all supposed to observe social distancing. C3 has been the core mechanism through which Police Scotland has been able to be reliable and responsive to calls for its service, while maintaining the public health of its own staff and of all of us in Scotland.

Looking at the picture from my special and privileged position over the past year or more, my summary is that we have been extraordinarily well served by Police Scotland. The single service has delivered something that I do not think can confidently be said would have been delivered by eight police forces. Down south, we have seen differential delivery, which has sometimes led to serious confusion of messages. Here, we have had clear application of a consistent message, at speed, from Police Scotland. I commend it for that and for its resilience.

Shona Robison: Thank you for that answer. I was going to bring in Lynn Brown, but I will first go back to your interesting point about the polling of 12,000 people. How are those people selected for polling? Is it done by a polling company?

Martyn Evans: That is done by an independent polling company. People are randomly selected in four different ways, over four different time periods. Their views are then weighed against those of the average population. That produces the clearest indication that we have, within a confidence level of 3 per cent to 4 per cent, that the issues that are raised with us are those that the public consistently raise. The poll is undertaken independently by Diffley Associates.

Shona Robison: That is interesting. Does Lynn Brown want to add anything on public confidence or on the issue of emergency powers more generally?

Lynn Brown: If I may, I will add what I see as being the role of the staff of the SPA in that process. It had three aspects. The first was to support Mr Evans when he was on the IAG. The SPA provided the secretariat for those meetings, which involved intensive work during a period when people were working remotely.

Another aspect was to ensure that there was a wider understanding, across all 40 members, of

the detailed information to which Mr Evans and others were privy, so that they could all form their own independent views on it. My role involved ensuring that that happened.

Finally, we had to ensure that issues that were coming through could be aired publicly, through authority meetings with my board services staff. There was the opportunity for Mr Scott's report to go directly to authority members so that they could consider it, and that was all done openly and transparently.

I assure you that when Mr Evans and other board members are involved in such meetings there is support behind them to ensure that they can do their jobs properly and that we can share knowledge of such issues across the wider public.

Shona Robison: That is all from me, on that set of questions.

11:45

The Convener: I have a question about cyberkiosks. The roll-out of the technology was a lesson in how not to do things, and there was a disregard for human rights impacts. The sub-committee has been clear that we want Police Scotland to have the necessary equipment to fulfil its function of keeping our communities safe. Police Scotland and the SPA have said that they learned lessons from the sub-committee's work on cyberkiosks, yet our most recent inquiry into the use of drones and body-worn video cameras suggests that Police Scotland, at least, has not.

Mr Evans, you touched earlier on the format for safeguards that you want to follow. Will you insist that the police carry out proper transparent due diligence and consultation with statutory bodies and privacy groups before they take decisions to seek to procure new technologies?

Martyn Evans: I would insist, but I do not have to force the police. They tell me that they would not feel that they are maintaining public confidence without that.

The lesson of cyberkiosks has been well learned. There was an assumption on the part of the police that, if they thought that something was of benefit to the public, that should be sufficient. They would be honest and say that they made mistakes and that they have to learn to openly and transparently explain what is happening. They know that they must give the assurance that you seek that there is legitimacy both in law and regarding human rights. They also know that they must balance any harms that may be caused with the potential increase in safety.

Police Scotland does not need that lesson from me, because it learned it and repeats it back to me. The weakness is in how we raise issues

clearly and do so early. Mr Finnie touched on drones. The initial evaluation of drones was sent to the policing performance committee, which I chaired at that time. That was an evaluation of a test deployment, and it was not an adequate evaluation. I escalated that to the senior deputy chief constable and we agreed to reset that conversation.

The issue came back to the policing performance committee last week. The committee still requires some actions of Police Scotland. We do not want the police to stop the test deployment, but we do not want the deployment to be rolled out more widely. That will allow us to address the issue that Mr Finnie raised and the others that the committee wants to be addressed.

The Convener: For those who are not familiar with the correspondence between the sub-committee and Police Scotland, I point out that there were fundamental issues. The sub-committee understood that there were three drones, but it turned out that there were seven, and they were employed more widely than we were told.

That takes me on to the issue of the procurement threshold. Is that a sufficient safeguard for scrutiny? I was sceptical when the cost of the cyberkiosks came in conveniently just under £500,000, which meant that there was no trigger for additional procurement scrutiny from the SPA. Surely it is the implications of any piece of equipment that matter, rather than the cost? What can you tell us about that?

Lynn Brown: We have a system of thresholds for delegation around procurement and purchasing. Behind that is a system of contract awards, so that we can move properly to deliver a service.

Mr Finnie has raised areas that touch on reputation and that are not picked up in any system of cost thresholds. Martyn Evans referred to a memorandum of understanding that we are working on with Police Scotland. That is where we can address the reputational impact of new technologies, rather than look only at the thresholds.

We have a procurement improvement plan that is being taken forward and making progress. For me as CEO, the memorandum of understanding is more for where there are reputational aspects around technology. We will deal with those rather than start to change the thresholds that work for most items of expenditure, but not certain ones that are sensitive in relation to the public interest.

The Convener: I wonder, Mr Evans, whether this is more about flagging up a piece of equipment with no regard to the cost and saying, "This is what this piece of equipment can do?" Do

you feel that the memorandum of understanding that you have put in place would preclude that?

You will be sighted on the extensive to-ing and fro-ing in correspondence to establish simple facts in relation to the drones. I certainly do not want a legacy of the sub-committee's work in examining the issue to be a sudden escalation in the use of drones, as one of the risk assessments tends to infer with regard to use for the securing of evidence that is way beyond the initial intention of the trial that you referred to.

Martyn Evans: I fully agree that it does not matter what the capital cost of equipment is, because capital cost for some quite intrusive equipment is relatively low these days; what matters is the intent. Although, as the chief executive says, those procurement levels will remain because they have a serious use value, in relation to the novel and new technologies and deployment, those levels are not the relevant issue in the draft memorandum—the memorandum remains a draft, as we have not finally agreed it. The relevant issue is to do with the benefit and the harms that may be caused.

We need to know about such issues as early as possible and, frankly, so do the internal management systems in Police Scotland, as we have some devolved budgets to policing in local areas. I therefore agree that the capital thresholds are irrelevant so far as the memorandum of understanding is concerned. What matters is to flag the intention early and publicly, and then to go through a proportionate and open process of evaluation, assessment, test deployment, re-evaluation and then a decision, all of which should be in the public domain. That is what we have learned from cyberkiosks: to do it as though it is just a professional decision is not to take the public with you, and that is fatal to public confidence in policing.

The Convener: There is a principle, applied not just in this case, of the stamp of "draft" across documents providing public bodies with wriggle room such that, when it suits, they say that it is the policy and, when it does not suit, they say that it is a draft policy. Just to provide some reassurance, can you say when that will be policy for the Scottish Police Authority?

Martyn Evans: Do you mean the memorandum of understanding?

The Convener: Yes.

Martyn Evans: As soon as I am able to sign it with the chief constable, it will be the memorandum of understanding that we have between us, and then it will be given effect. I definitely see no reason why it should not be published. I am keen on it being an open and transparent process, and I see no reason why it

should not be published. Then we will have to give effect to it—as you know, translating that memorandum into actions will be more difficult. I see no reason why all that should not be clear and in the public domain.

The Convener: I add that it is about attitudes as well as action, as it is important that attitudes are shaped.

Shona Robison: You will be aware that Parliament recently nominated Dr Brian Plastow for appointment as the first Scottish biometrics commissioner; in fact, that was confirmed last week. Would you expect to engage with Dr Plastow at an early stage, given Police Scotland's on-going involvement in pursuing new technologies? I will go to Mr Evans first.

Martyn Evans: When the appointment was announced, which I read about in the media, I asked my office to make an urgent request for a meeting with the new biometrics commissioner; that was done—I think—last week. The answer to your question is therefore yes, I would expect that. I very much want to have a meeting to understand how we can work together and how the Scottish Police Authority can add value to any work that he is undertaking. I very much welcome that appointment.

Shona Robison: It is good to hear that you are taking swift action to discuss how you will work together, which will be important. Does Lynn Brown have anything to add?

Lynn Brown: When the debate was happening on the biometrics commissioner, Tom Nelson, who is our director of forensics, was part of the working group that considered the issue, and he was supportive of the proposal, as was the SPA.

Shona Robison: Maybe Mr Evans would be kind enough to keep us apprised of how the discussions on the working relationship are going, and of any protocols that are put in place. He might want to come back to the sub-committee to update us at some point.

Martyn Evans: I will, of course.

Rhoda Grant: Martyn Evans, in your opening statement, you mentioned that you are looking to improve conversations with the public and stakeholders. You will be aware that there was concern that the SPA did not take full advantage of the knowledge and expertise of organisations that would probably have been able to comment on policing matters and provide an insight that the SPA did not have. Do you agree that there is room for improvement in the engagement with such bodies? If so, will you seek to ensure that stakeholders' views are heard more often, and in a way that supports the board's effective scrutiny of Police Scotland's decision making?

Martyn Evans: I fully agree that we have to improve the stakeholder engagement—that is part of my role and why I set up the joint forum on evidence and research. We have had a range of widespread round tables, to which I have sought to invite people to discuss and share policing issues with Police Scotland. Just recently, we had a webinar on artificial intelligence. However, we have to do more than that. Part of my early discussions with the chief executive was about how we structure our board meetings such that they have a place for wider conversations and interventions, and for the views of interested parties to be heard in public. As you probably know, our board meeting agendas are long, and in some people's view—including mine—the board meets too frequently. However, we have to create that space, and we are discussing how best to do so.

My final point is that our engagement with stakeholders on policing is done primarily, although not solely, through Police Scotland. It has good engagement processes locally and nationally, because it holds the operational responsibility. As the authority, part of what we have to do is ensure that Police Scotland undertakes the appropriate engagement and that the results are properly taken into account. Otherwise, we duplicate the role of a much larger organisation in the stakeholder engagement, which would not be adding value.

Therefore, there are three areas of engagement: independent engagement, process engagement by the board and the assurance from Police Scotland that, when it reports issues to the authority, it has engaged with and taken into account public views, although I am not always in the same place with regard to those views.

Rhoda Grant: I am not necessarily talking about public views; I am talking about the SPA or Police Scotland engaging with organisations such as the Scottish Human Rights Commission, particularly on the use of drones. Would the SPA do that, or would you ensure that Police Scotland has already done so before looking at new equipment and technology?

Martyn Evans: Yes. Given our capacity, when Police Scotland reports to us on novel and new technologies, we would expect it to have taken into account the wider stakeholder views by showing us how it has undertaken engagement, with whom it has engaged and what responses it has received. Police Scotland cannot engage with every organisation, but engagement must be done in a proportionate and clear way.

We know that the issues that the convener raised have come about through a lack of transparency. Improving transparency improves trust, and improving trust improves confidence.

That is the key message that I have as chair of the authority.

We are very lucky to have high levels of public confidence in policing, and they are thoroughly deserved. Maybe I should not have said “lucky”; it is the hard work and professionalism of our police service that delivers that public confidence. We have a duty to add to that confidence and not to take it away.

12:00

Fulton MacGregor (Coatbridge and Chryston) (SNP): My questions follow Rhoda Grant’s ones about stakeholder engagement. Will you talk specifically about engagement with local authorities? You mentioned that in your opening remarks, but will you say a bit more about it in the light of the inspection carried out by HMICS that showed that local authorities were concerned about a lack of effective engagement? Have steps been taken to improve that and involve local authorities in police decision making?

Martyn Evans: Yes. As I said, that is one of my priorities for this year. I was lucky enough to have Councillor Kelly Parry on the committee that I chaired on policing performance and, before I became chair, she and I had already engaged in more detailed discussion with SOLACE and the assistant chief constables who are responsible for each area about engagement and the ways in which local scrutiny bodies engage. I met with the scrutiny conveners forum, which is chaired by Kelly Parry, and I intend to carry on with that to understand better how we can add value to that process.

Local scrutiny is a key part of the scrutiny landscape. When I had conversations on drones, for example, I was pleased with the positive reaction from members of that forum to drone deployment in local areas. Councillor Tom Cook, from East Ayrshire Council, mentioned the benefit of drones. However, the members were also clear that there have to be public protections.

My commitment—I made this to the scrutiny conveners forum and Kelly Parry—is to have a step change in the relationship that we have with local scrutiny committees and to find ways to ensure that the authority’s engagement does not duplicate the work of Police Scotland. Police Scotland has significantly improved its engagement during the past year, through DCC William Kerr. It is for us to add value when we can be there, to listen hard to what the issues are and to find ways to support that process.

One of those is through the Angiolini review, which asked for more data on local complaints and metrics of performance. We will discuss that with

Police Scotland and the local scrutiny conveners forum.

Fulton MacGregor: Thanks for taking the opportunity to put that on the record and to note your commitment.

The independent review that was carried out by Bob Black suggests that accountability to Parliament could be improved by regular meetings between this sub-committee, or the Justice Committee, and SPA members along with Police Scotland senior staff. Do you support that?

Martyn Evans: I will go further than supporting it; I welcome it. If we are invited, we will come and discuss matters with you. I would like to get your views on our current ability to do the work that we do, and I would also like to discuss policing in the future and the challenges to that.

That would be a significant forum. It attracts a lot of attention through Parliament, and it would allow public scrutiny about the challenges of policing in future to be aired and the evidence that is given by professional police officers, scrutiny bodies and parliamentarians to be in the public domain. Therefore, I actively welcome that.

Fulton MacGregor: I will comment that, for the whole time that I have been a member of the Justice Sub-Committee on Policing, which is since it started, the witnesses that we have had from Police Scotland and the various associated organisations have been excellent. There has never been any issue with attendance and getting the right people round the table. It is good to hear that commitment to some sort of annual event.

The Convener: Thank you for those comments.

I want to ask about a very topical issue. We have touched on policing arrangements and mutual aid for COP26. The Police, Crime, Sentencing and Courts Bill, which is presently generating a lot of interest and disquiet south of the border, will not apply to Scotland, but I understand that a legislative consent motion for it might be lodged in session 6. I seek an assurance that the Scottish Police Authority is aware of the provisions on static gatherings and noise and that the matter will feature in the SPA’s deliberations on how operations during important events follow the Scottish policing model.

Martyn Evans: I will say two things on that. First, I rely greatly on HMICS for technical and professional policing advice. It will have a view, and I have had discussions with Gill Imery about potential Scottish legislation. I do not think that she had any remit in that regard, but she can tell me about UK legislation in that area. That is the technical side of the issue.

We have a cross-organisation oversight group, which is chaired by Tom Halpin, as I said. The

chief constable will remain in control of policing in Scotland, whoever is invited to assist through mutual aid agreements. There is a topical issue about how complaints are dealt with against police officers who have been invited to Scotland under mutual aid agreements and who are operating under the chief constable's control. That is a subject of active discussion with the new oversight group and with our colleagues in other organisations.

The Convener: That completes our questioning. It falls on me to thank Mr Evans and Ms Brown for the detailed and often reassuring evidence that they have given today. I wish them the very best in their posts during these challenging times. I thank them for their work to date and for taking on the bulk of work on their future agendas. As ever, any follow-up issues—I am not aware that there necessarily will be any—will be dealt with by correspondence, which will be published on our website.

As this is the final meeting of the sub-committee in session 5, I take this opportunity before I conclude the public session to put on the record my thanks to all members, past and present, who have served on the sub-committee. The sub-committee has worked hard to provide the public and the Parliament with the confidence that the oversight structures for policing in Scotland are robust and effective.

As ever, I thank our wonderful sub-committee staff and the other parliamentary staff, especially the research staff in the Scottish Parliament information centre, who have provided the sub-committee with excellent support throughout the session. As ever, the official report staff have provided a first-class service in the face of the huge parliamentary workload that has been caused by the pandemic.

I give a special word of thanks, particularly given the potential challenges that were faced today, to staff in the Parliament's broadcasting and information technology departments, who have met the Herculean challenge of keeping Scotland's Parliament fully functioning in virtual and hybrid forms in the face of the pandemic, even with the pressures that that has placed on the Parliament, MSPs and our staff, and given the expectations of the media and the Scottish public.

I also thank all the witnesses and external organisations that have taken the time to provide oral and written evidence to the sub-committee over the past five years. Their engagement with the sub-committee has greatly increased the effectiveness of our scrutiny function and shows that the Parliament continues to be an effective tool in holding those in power to account.

I put on record our thanks to the women and men of Police Scotland and their staff associations and trade unions, and to the men and women of the Scottish Police Authority. During session 5, our policing service has been required to respond to some of the most challenging and difficult circumstances in our lifetime, including the task of bedding down Police Scotland as a modernised single national police service, responding to the challenging budgetary landscape and dealing with the huge problems that have been presented by Brexit and the global coronavirus pandemic. Our front-line police officers have been at the sharp end of those challenges and have risen to each challenge by delivering a first-class service to the people of Scotland.

Finally, I thank the senior force management in Police Scotland and the leadership of the Scottish Police Authority. Although our scrutiny of both organisations has meant that the relationship has sometimes been challenging, no one doubts the commitment of those in the leadership of Police Scotland and the Scottish Police Authority to serve the people of Scotland to the best of their ability.

That concludes the public part of today's meeting.

12:10

Meeting continued in private until 12:23.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba