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Justice Sub-Committee on Policing Fo-chomataidh a' Cheartais air Obair a' Phoilis

Police Scotland's use of remote piloted aircraft systems and body worn video cameras



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Justice Sub-Committee on Policing

To consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing.



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Introduction

1. The Justice Sub-Committee on Policing carried out a short inquiry into Police Scotland's current use, and future plans for the use of, remote piloted aircraft systems and body worn video cameras (BWVCs). Remote piloted aircraft systems are also referred to as remotely piloted aircraft systems, RPAS, unmanned aerial vehicles, UAVs and drones throughout this report.
2. The Sub-Committee issued a call for written evidence on 15 December 2020 and received a number of written submissions from organisations and individuals. It held an oral evidence session with representatives from Police Scotland and the Scottish Police Authority (SPA), on 18 January 2021.
3. The Sub-Committee would like to thank all those who provided written and oral evidence. It has been invaluable in informing its scrutiny of these two issues.

Background

Policing 2026

4. In June 2017 Police Scotland published [Policing 2026](#), its 10-year strategy for policing. The strategy was jointly and collaboratively developed with the SPA, who have responsibility to maintain the police service and to hold the Chief Constable to account.
5. The strategy outlines the vision for Police Scotland over the next 10 years. That vision includes the introduction of a number of new technologies for use by police officers, such as embedded body-worn video cameras, smart devices which can access and download images from a local authority app, mobile devices, and the use of facial recognition technology.
6. During this parliamentary session, the Sub-Committee has undertaken inquiries into Police Scotland's plans to introduce two of these technologies. The first was an inquiry into Police Scotland's plans to deploy the use of digital device triage systems ¹ (known colloquially as cyber kiosks), from September 2018 to front-line police officers across Scotland to search mobile devices.
7. The Sub-Committee found ² that the devices had been purchased and trialed prior to necessary human rights and data protection impact assessments being undertaken, without consultation with relevant stakeholders, and without the legal basis of their use being established.
8. In response to these concerns Police Scotland postponed deployment of the devices until January 2020.
9. The second inquiry was held into Police Scotland's plans to introduce the use of live facial recognition technology. In its [report](#), the Sub-Committee raised ethical, privacy, legal and data protection concerns. The Sub-Committee also found that live facial recognition software is known to discriminate against females, and those from black, Asian and ethnic minority communities. The Sub-Committee concluded that there is no justifiable basis for Police Scotland to invest in this technology, and that the Policing 2026 strategy should be updated to reflect these concerns.
10. Police Scotland confirmed during the inquiry that it has no intention to introduce the use of live facial recognition at this time. The SPA also confirmed that lessons had been learned, with Lynn Brown, Chief Executive of the SPA, stating that the experience of the live facial recognition inquiry: "had set out areas that needed to be considered by the police service prior to introducing new technology, such as human rights and data impact assessments". ³
11. The Joint Strategy for Policing, which was published in 2020, outlines an ambition for policing to embrace new and innovative technologies. The strategy acknowledges that introducing new technologies to policing brings both challenges and opportunities. One of the challenges is the impact on policing by consent. It states that:



“Future developments in technology will require ongoing dialogue with the public about how to strike the right balance between privacy and protection”.⁴

Conclusion

12. **The previous inquiries undertaken by the Sub-Committee into Police Scotland's plans to introduce digital device triage systems and facial recognition technology, demonstrates the risks involved in introducing new technologies to policing. It confirmed the need for necessary assessments to be undertaken, the legal basis for the use of such technologies to be confirmed, and relevant stakeholders to be consulted prior to a decision being made.**

Remote piloted aircraft systems (drones)

Police Scotland officers demonstrate the operation of a remote piloted aircraft system (drone)



Source: Police Scotland

13. The Sub-Committee considered Police Scotland's current use of drones and its plans to expand the use of this technology.

Background

14. The Sub-Committee first became aware that Police Scotland had purchased two drones and planned to use them in Aberdeen and Inverness to search for missing people, via a media report on 23 April 2019.⁵ The media reported that Police Scotland would deploy two drones operationally from 1 May 2019. Media reports stated that Police Scotland's primary purpose for the use of drones was to enable "searching for vulnerable or missing people, particularly in the remote areas that we have in the north of Scotland". The media reports also referred to trials that Police Scotland had previously undertaken in Aberdeen and Inverness.
15. The Sub-Committee wrote to Police Scotland on [26 April 2019](#) to request details of the:
 - data protection, community impact and equalities and human rights impact assessments undertaken;
 - communication and engagement strategy undertaken, prior to introducing the use of this new technology; and
 - for confirmation of the parameters of use of the drones.

16. In its [response](#), Police Scotland confirmed that three drones had been purchased. Two were to be deployed operationally in the North of Scotland, and the third was to be retained at Glasgow and “utilised for training, research and development”. The drones were to “primarily be deployed to support missing person investigations, however their use will also be considered for other policing operations and incidents such as major events, public order and firearms incidents”.

Scrutiny and oversight

17. The Sub-Committee considered the SPA's scrutiny and oversight of Police Scotland's proposal to introduce the use of drones to policing, and their operational deployment.

Proposal to introduce the use of drones

18. On 19 December 2017, the SPA Board considered a [paper](#) by Police Scotland on its plans to purchase and deploy two drones. The paper was tabled “for noting”. It indicated that an invitation to tender for two drones had been published and the responses were currently being evaluated by Police Scotland. The paper confirmed that the drones were to be based at Aberdeen and Inverness, and that the aim was for them to be deployed operationally from March 2018.
19. A [media report](#) on 17 December 2017 confirms Police Scotland's intention to trial the use of two drones in Aberdeen and Inverness in March 2018. However, the paper considered by the SPA Board did not contain any information on the proposed trials. The Sub-Committee wrote to Police Scotland to seek clarification on whether it undertook any trialled use of the drones.
20. Police Scotland [confirmed](#) that the three DJI Phantom 4 drones were purchased initially” to commence crucial flight training for officers prior to attending a national training course”. This was to enable officers to gain experience to operate the drones competently and safely
21. Following its consideration of Police Scotland's plans, the [SPA Board Meeting Action Log](#) indicates that the Board agreed that three drones would be purchased. They would be based in Aberdeen, Inverness and Glasgow.
22. A [paper](#) considered by the SPA's Strategy, Police and Performance Committee on 8 May 2019, confirms that: “Invitations to tender had been issued on the Public Contracts Scotland website with a deadline of 4 December 2017 and an award was subsequently made to Martek Drones Ltd on 26 February 2018”.
23. Following its oral evidence session with witnesses from Police Scotland and the SPA on 18 January 2021, the Sub-Committee became aware of a recent Police Scotland [response](#) to a freedom of information request which indicated that it possessed the use of the following seven drones:
- ” “DJI M210 - there are three with one being located in Inverness, Aberdeen and Glasgow respectively. DJI Phantom 4 - there are four with one in Inverness and Aberdeen respectively and two in Glasgow”.

24. In its written evidence, the Scottish Police Federation, indicates that it “remains of the view that a properly evidenced position for the purchase of RPAS was never made”.⁶
25. The Sub-Committee [wrote](#) to the SPA to request details of its scrutiny and approval process for a third drone to be purchased and for the additional four DJI Phantom 4s, and to seek confirmation of whether it considered a business case prior to issuing the invitation to tender.
26. In its [response](#), the SPA states that its approval of the purchase of the drones was not required as the purchase did not exceed £500,000, saying that:
 - ” “Regarding the Scottish Police Authority’s (SPA) oversight of the procurement of RPAS, I can confirm that the Authority’s approval was not required. Approved financial delegations in place allow Police Scotland to proceed with procurement for purchases not exceeding £500,000. As the purchases of RPAS and associated ancillaries was below this limit, the purchases did not require to come through the Authority’s formal governance processes. This is the case with the purchase of the DJI Phantom 4 and DJI M210 RPAS”.
27. The Sub-Committee also [wrote](#) to Police Scotland to seek confirmation of the number of drones it has, and to request details of the four additional drones, whether they have been used for operational policing and, if so, whether that use was subject to any evaluation.
28. In its [response](#), Police Scotland confirmed that it had purchased three DJI Phantom 4 platforms prior to the purchase of the three DJI M210 drones, and that the DJI Phantom 4 platforms have been deployed operationally to obtain aerial imagery. Police Scotland also confirmed that the fourth DJI Phantom 4, which is used for research purposes, was “obtained from [the] Crown Office who had released the machine to Police Scotland following the conclusion of a criminal case in which this machine was a key production.”
29. The Sub-Committee wrote to Police Scotland to seek clarification on why there was a discrepancy in their evidence on the number of drones Police Scotland has. The Sub-Committee also asked for confirmation of the additional drones and what they have been used for.
30. In his follow up letter of [4 March 2021](#)⁷, Assistant Chief Constable Mark Williams (“ACC Williams”) confirmed that Police Scotland owns seven drones. He acknowledged the importance of the Sub-Committee’s legitimate scrutiny interest in this issue and apologised for any confusion that had arisen around the number of drones actually owned by Police Scotland. He stated:

“In my evidence to the Justice Sub-Committee on Policing, I referred to Police Scotland operating with three drones. My response was given based on these being the main operational drones used for missing person searches and other major incidents. They are the only drones fully equipped with thermal imaging and other applicable technology. However, Police Scotland does have access to seven drones in total. [...] In relation to the discrepancy, this was in no way intended to mislead the Sub-committee. My response was given based on the main operational drones used for missing person searches and other major incidents. However, I accept it would have been clearer to provide

details of the additional drones used for training and aerial imagery.”

31. ACC Williams set out the type and location of these sever drones, saying-

“In order to comply with Civil Aviation Authority (CAA) regulations to train all drone pilots to a suitable standard prior to their attendance on a National course, three DJI Phantom 4 platforms were purchased. These are primarily training machines. Subsequently three operational platforms (M210) were purchased. A fourth DJI Phantom 4 was given to Police Scotland by the Crown Office. This machine had been seized as a production and on conclusion of the criminal case was to be destroyed. Drones are located at Aberdeen (two), Inverness (two) and Glasgow (three).”⁸

32. Referring to the potential total scope of the planned use of these drones by Police Scotland to be outlined in its revised Drone Evaluation Report to be presented at the SPA Performance Committee on 9 March 2021, ACC Williams continued-

“Police Scotland only deploys drones for a legitimate policing purpose, where it is considered necessary and proportionate to do so. [...] Drones are deployed for missing person searches, however can also be considered for deployment for a variety of policing incidents. [...] There are clear benefits in expanding the use of drones to deliver further operational and community benefits with a primary focus on public safety and protecting vulnerable people. Police Scotland will consider the deployment of drones (where it is considered both necessary and proportionate) to a variety of incidents and the report to the SPA will further explore these.”

33. In its report for its cyber kiosks inquiry, the Sub-Committee recommended that the SPA should have a governance process for the introduction of any new technology to policing, no matter the contract value of the technology in question, particularly when the prospective use of those technologies may raise significant human rights, equalities or data protection issues. The Sub-Committee recommended that where such technologies have far-reaching impacts in these areas, “the SPA must scrutinise the policy impact of such devices irrespective of the financial size of any contract.”

Conclusion and recommendations

34. **As was the case with the roll-out of cyber kiosks, the Sub-Committee has had to expend a significant amount of time trying to obtain a simple and clear answer from Police Scotland on the actual number of drones it possesses, what those drones have been , and will be, used for, and what work the service has done to ensure it has consulted about the potential impacts of the use of the drones. From our point of view, this experience has been protracted and frustrating.**
35. **It is not immediately obvious to the Sub-Committee that Police Scotland has learned the lessons from our cyber kiosks inquiry. Irrespective of the budget for purchase and whether this is above or below its discretionary spend limit of £500,000 (where by it would need the approval of the SPA), Police Scotland must accept that proper due diligence and prior consultation with human rights, privacy, data protection and other ethics groups is needed before**

these technologies are used, even in pilot form. This process should be open and transparent and not require a parliamentary committee to have to expend significant effort obtaining basic information on technologies as controversial as drones.

36. The Sub-Committee believes that the SPA's lack of a governance process for purchases by Police Scotland below £500,000 provides an insufficient level of scrutiny. The Sub-Committee asks the SPA to confirm whether it remains its policy to apply no formal governance process to Police Scotland purchases which do not exceed £500,000.

37. The Sub-Committee recommends that where technologies have far-reaching human rights, equalities and data protection impacts, the SPA must scrutinise the policy impact of such devices irrespective of the financial size of any contract and do so prior to any use by Police Scotland is authorised.

38. The Sub-Committee recommends that any proposal by Police Scotland to expand the number or use of drones for wider operational purposes, or to purchase drones with additional functionality such as the inclusion of facial recognition technology, must be subject to robust and transparent oversight and scrutiny. This must involve the SPA before decisions are taken and the relevant parliamentary committee must also be informed.

39. The current calendar year will see Police Scotland being called upon to police important and high-profile public events such as COP26 in Glasgow and the Euro2020 football tournament. No use of drones for these events should be permitted without a clear case being made to, and agreed by, the SPA with the relevant parliamentary committee being informed.

Financial scrutiny

40. The Sub-Committee considered the SPA's financial scrutiny and oversight of Police Scotland's purchase of six drones, and acquisition of a seventh drone.

41. The [paper](#) considered by the SPA Board in December 2017 provided the following details of the estimated costs associated with the purchase of two drones. The total cost was estimated as £180,848.63:

Equipment	Cost (£)
2 x Unmanned systems, cameras and ancillaries (estimate)	100,000
3 x Training unmanned systems and ancillaries (actual cost)	4,867.63
Training courses (estimate)	8,640
Police vehicles including adaptations (estimate)	66,000
CAA Permissions (estimate)	1,211
CAA permissions renewal (annually)	130
Total	180,848.63

42. In the [invitation to tender](#) (ITT) document, which was issued by the SPA, the value of the procurement for “the supply and delivery of two Unmanned Aerial Vehicles for the Air Support Unit”, was £106,000. The contract was awarded to Martek Drones Ltd T/A Coptrz, at a value of £105,890.
43. At the SPA's [Policing Performance Committee meeting](#) of 17 November 2020, Police Scotland confirmed that the purchase cost for each drone was about £7,000.
44. In [response](#) to a request for an explanation of the discrepancy in these costs, Police Scotland confirmed that the £105,890 covered the purchase of three DJI Wind 8 platforms and associated equipment from Martek Drones Ltd (COPTRZ). This included “cameras, controllers, screens, cables, batteries, chargers and spare parts”. Police Scotland also stated that at the time of the tender the DJI M210 was not available for purchase and these were provided at a later date as replacements, due to issues with the DJI Wind 8 platforms. Police Scotland also confirmed that it purchased three drones in one invitation to tender.

Conclusions and recommendations

45. **From the conflicting financial information available it is unclear what Police Scotland purchased for £105,890. There is a lack of detail in the financial information made available to the Sub-Committee, and a lack of transparency in the financial scrutiny process.**
46. **The Sub-Committee recommends that the SPA improves its financial scrutiny processes to ensure that there is a transparent audit trail of the money it allocates to Police Scotland for purchases, and that it carries out more robust scrutiny of estimates provided by Police Scotland for the purchase of new technology.**

Prior to operational deployment

47. The Sub-Committee considered whether necessary human rights, privacy and data impact assessments were carried out prior to the deployment of drones by Police Scotland.

Impact assessments

48. ACC Williams told the Sub-Committee that equality and human rights (EqHRIA) and data protection impact (DPIA) assessments were in place prior to operational deployment of the drones and confirmed that they were not carried out until the drones had been received. ACC Williams explained that the reason for the delay was that:

“We wanted to see, understand and utilise the equipment first, so that we could incorporate its likely use in the assessments.”⁹

49. Mr Barry Sillers Deputy Chief Executive (Strategy and Performance) of the SPA confirmed that the SPA was given sight of a privacy impact assessment, an EqHRIA and a data protection impact assessment, ahead of the meeting of the Policing

Performance Committee of 8 May 2019.¹⁰

50. Compliance with human rights and data protection requirements and the use of community impact assessments for deployments is covered in more detail later in this report.
51. In his letter of [4 March 2021](#), ACC Williams confirmed that an “internal consultation” was carried out on the 2019 DPIA which included consulting the “Air Support Unit who engaged with a number of other forces in England - Cumbria Constabulary, Devon & Cornwall Police and Sussex Police”, as:

“These three forces have well established RPAS units with all the necessary data protection requirements in place, which had been approved at Force Executive and Police & Crime Commissioner level. As such Police Scotland sought to benchmark with these forces in terms of DPIA requirements and the use of drones”.
52. Referring to any plans for consultation on the upcoming 2021 DPIA on the use of drones, ACC Williams told us that “there is no mandated requirement to consult externally this was not specifically done.” He continued: “However, to ensure a level of consistency and in light of feedback, the 2021 DPIA will include revised internal consultation.”
53. ACC Williams also added that; “whilst not detailed in the DPIA during April 2019, in advance of the media launch for drones, Police Scotland engaged with internal and external stakeholders, which included the Scottish Police Authority, Local Authorities, National Health Service, National Missing Persons Helpline, Scottish Mountain Rescue, Scottish Society for the Prevention of Cruelty to Animals and the Royal Society for the Protection of Birds.”

Conclusion and recommendation

54. **The Sub-Committee notes that human rights, privacy and data protection assessments were not carried out prior to the purchase of the drones. The decision to use drones first to understand their impact, prior to the identification and mitigation of risks, is inappropriate.**
55. **The Sub-Committee is also concerned to note that the 2021 DPIA will only be subject to a “revised internal consultation”, similar to the one undertaken for the 2019 DPIA, which only involved Police Scotland engaging with other UK police forces using drones. It might be expected given the experience to date that any revised consultation on the 2021 DPIA would now include external stakeholders specifically representing human right and data protection issues.**

Communication, engagement and consultation

56. The Sub-Committee considered Police Scotland's consultation, engagement and communication prior to its purchase and operational deployment of drones.

57. The [paper](#) considered by the SPA Board in December 2017 indicated that prior to any operational deployment, Police Scotland would “develop a robust internal and external communications strategy”. The paper acknowledged that there were “risks around public perceptions surrounding privacy”. It stated that a privacy impact assessment and positive media engagement would be undertaken to alleviate public concerns about Police Scotland’s use of drones.
58. On 23 April 2019, BBC Scotland [reported](#) that Police Scotland was to use two drones in Aberdeen and Inverness from 1 May. The drones would allow for faster searches of large areas when searching for missing people. The media report also indicated that they would also be used in support of “local policing incidents and pre-planned operations and events”.
59. In its [letter](#) to the Sub-Committee of 7 May 2019, Police Scotland reiterated the message that operational deployment would be in the North of Scotland primarily to search for missing persons. The letter also indicated that “their use will also be considered for other policing operations and incidents such as major events, public order and firearms incidents”. The letter also confirmed that a third drone was based in Glasgow for training, research and development purposes only.
60. ACC Williams told the Sub-Committee that much of Police Scotland’s engagement prior to the purchase of the drones was technical in nature. For example, working with the Civil Aviation Authority. Once the drones were received, Police Scotland notified some stakeholders, such as local authorities, of the intended use. When the drones were used for deployments, Police Scotland communicated this via the media and social media. ¹¹
61. Some of the written evidence received indicates that there was a lack of awareness amongst some stakeholders of Police Scotland’s use of drones.
62. In its evidence, Inverclyde Council Local Police & Fire Scrutiny Committee states that it was unaware that Police Scotland had used drones within its authority area, until the SPA’s consideration of Police Scotland’s evaluation report. The Council’s Committee stated that it was keen to understand the engagement, consultation and transparency of the previous, and any future intended use, of drones in Inverclyde. It is seeking confirmation of how Police Scotland intends to engage and consult with communities within Inverclyde and throughout Scotland. The Council’s Committee asks that Police Scotland and the SPA “considers the next steps in conjunction with the COSLA Police Scrutiny Convenors Forum in order that members can consider the deployment of RPAS within a local policing context”. ¹²
63. In its submission, the Scottish Community Safety Network states that engagement, consultation and transparency on the use and deployment of drones and body worn cameras “has been lacking, particularly from ‘critical friends’.” It states that:
- "An open and ongoing dialogue between stakeholders is important in order that a balance between ethical considerations, operational independence and the clear benefits of the technology is essential". ¹³
64. Mr Sillers told the Sub-Committee that engagement lessons needed to be learned. He agreed that future engagement on the introduction of new technologies should include local communities and authorities, as well as from academia. He confirmed that:

"Certainly, the SPA's initial approach would be collection of wider evidence and views to help us and Police Scotland to make judgment calls on use of new technologies".¹⁴

Conclusion and recommendations

65. **The communication by Police Scotland prior to the deployment of drones gave a clear impression that two drones would be deployed in remote and rural areas in Aberdeen and Inverness to search for missing persons. Despite risks around public perceptions and surrounding privacy being identified, these were not addressed in the information provided by Police Scotland to the media, the SPA and the Sub-Committee.**

66. **The Sub-Committee recommends that where risks around public perceptions surrounding privacy are identified, Police Scotland's communications and engagement strategy should detail how those concerns are to be addressed.**

67. **The Sub-Committee supports the SPA's proposal that future engagement should include a wide-ranging consultation on the proposed use of drones and recommends that the SPA leads on this work.**

68. **In our examination on the possible use of drones for covert surveillance [Paragraphs 100- 111], we comment further on our concerns surrounding what we see as the ongoing difficulty which Police Scotland has in formulating and communicating its technological needs to key scrutiny bodies, external stakeholders and the wider public.**

Commitments given by Police Scotland to the Scottish Police Authority

69. Prior to operational deployment, Police Scotland committed to limiting the use of drones to search for missing persons, and to provide the SPA with an evaluation of best value, privacy, human rights and ethical assessments.

70. On 22 May 2019, the SPA's Strategy Policy and Performance Committee provided a [report to the SPA Board](#) on its consideration of Police Scotland's purchase and proposed use of drones. The report confirmed that the drones were only to be used to search for missing persons and that an evaluation of this limited use which covered best value, privacy, human rights and ethical assessments would be brought back to the Committee. The report stated that:

"The Committee considered a report on Police Scotland's deployment of Remotely Piloted Aircraft Systems (RPAS) as a contribution to the air support capability, in particular the deployment in support of searches for missing persons. It was stressed that the RPAS would not be used for operational tasking other than searching for missing persons without further authority".

71. Following the SPA Board meeting, the SPA's Policing Performance Committee¹⁵ agreed amended terms of reference with Police Scotland for the evaluation. The new terms of reference were for an evaluation of: the suitability of aircraft and equipment; resourcing of trained pilots; demand analysis; and operational effectiveness.
72. The SPA's scrutiny and oversight of deployment of the drones is covered throughout this report in the relevant sections.

Conclusion and recommendation

73. **The reasons for the change to the terms of reference for the evaluation report, and whether the SPA Board was informed of this change, are unclear.**

74. **The Sub-Committee asks the SPA to clarify how the terms of reference for the evaluation agreed by the SPA Board were changed and whether any processes have been changed to avoid a similar situation occurring in future.**

Police Scotland's evaluation report

75. The Sub-Committee considered the content of Police Scotland's evaluation report and whether it met its commitments on the limited operational deployment of drones.

Terms of reference

76. On 17 November 2020, the SPA's Policing Performance Committee^[1] considered Police Scotland's [Remotely Piloted Aircraft System \(RPAS\) Evaluation Report](#).¹⁶ The evaluation report covered the period from 1 May 2019 to 30 April 2020. The report contained an evaluation based on the amended terms of reference. It therefore did not include an evaluation of best value, privacy, human rights and ethical assessments.
77. In its written evidence, the SPA confirmed that after considering the report, the Chair of the Policing Performance Committee (PPC) escalated concerns about its content to Deputy Chief Constable Malcolm Graham, and Police Scotland and the SPA agreed that:

“Police Scotland would submit a revised evaluation report to the Authority's PPC in March 2021. This revised evaluation would detail the wider operational deployment over the evaluation period, and cover issues in regard to privacy, human rights and other ethical issues, a consideration of the delivery of best value and any other emergent and relevant issues. It was also agreed that the revised evaluation make clear whether the use of RPAS complies with Civil Aviation Authority guidance and regulations and with any surveillance camera code of conduct or similar”.¹⁷

Parameters of use

78. The evaluation report indicated that Police Scotland had deployed all three drones for policing operations. The drones, based in Glasgow, Inverness and Aberdeen had been deployed operationally to 352 incidents, during the evaluation period.
79. The report contained some details of the operational deployments, which were wide ranging in nature and in both urban and rural areas, and outwith the agreed use of searching for missing persons without seeking authority.
80. The drones had taken aerial images for both proactive and reactive policing purposes. These included: pre-planned operations ahead of major events; in anticipation of anti-social behaviour at an annual event at Troon Beach; in support of a large-scale drugs operation in Greenock; for a murder investigation; for fatal road traffic collisions; and during a Greenpeace protest aboard an oil rig in the Cromarty Firth.
81. During its [meeting](#) of 17 November, some of members of the SPA's Policing Performance Committee raised concerns about the drones being used for operational tasking, other than searching for missing persons, without further authority. They indicated that they had understood that public concern issues about deployment were to be addressed, prior to any extension of the use of the drones.
82. In its written evidence to the Sub-Committee, the SPA stated that the Policing Performance Committee members: "were not satisfied with the extent of the evaluation report and were concerned by the reported wider use of RPAS within it", and that following the meeting, Police Scotland and the SPA agreed that:

"Police Scotland would immediately limit the use of RPAS to searching for missing persons, unless a deployment was identified as operationally critical and authorised by a Police Scotland senior officer".¹⁸
83. This approach has remained in place throughout the Sub-Committee's inquiry.
84. In its call for views, the Sub-Committee sought views on the parameters of use of drones for policing purposes. In particular, whether they should be used for more than searching for missing persons in remote and rural areas, and whether they should be used for surveillance purposes.
85. The responses received suggests that there is broad support for Police Scotland's use of drones to search for missing people in remote and rural areas. However, there is much less support for drones to be used for wider operational policing deployments or in urban areas.
86. In its written evidence, Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) describes the operational benefits of using a drone as "considerable". The Chief Inspector states that to achieve the maximum benefit, "the operational decision of the Chief Constable to deploy [drones] should not be fettered".¹⁹
87. In its evidence, the Scottish Partnership Against Rural Crime (SPARC) supports the use of drones as a "visible deterrent" for preventing and reducing rural crimes. It fully supports the wider use of drones by police officers, as well as body worn video cameras.²⁰

88. In its submission, the Association of Scottish Police Superintendents (ASPS) supports drones being deployed to a wide variety of policing operations. For example, photographing crime scenes and road and air crash sites, photography to assist in planning for major public events and gatherings, policing of wildlife crime, and for use in Scotland's inhabited islands.²¹
89. In its evidence, Inverclyde Council Local Police & Fire Scrutiny Committee notes that the use of drones could be more cost effective than using the police helicopter or deploying officers in large numbers in the searching of remote and rural terrain for vulnerable missing persons. However, it does not support deployments at public order incidents, including deployment within its local authority area. It also does not support use of drones at 'events', as this goes beyond the scope of the intended use. With regards to Police Scotland's deployment of a drone in Greenock, the Council's Committee seeks clarity "over its use in this particular incident against other similar operations when RPAS was not deployed."²²
90. The Law Society of Scotland expresses a concern in its evidence about 'mission creep', stating that: "The concern is the creep towards more concerning use of the RPAS - for surveillance, following and apprehending suspects and recording in public spaces."²³
91. The Scottish Police Federation (SPF), in its written evidence, indicates that drones have been used for activities for which they were not originally envisaged. It views this as an "attempt to justify the outlay and demonstrate value for money". The SPF states that drones have been used for crowd surveillance, without consideration of privacy and human rights concerns.²⁴
92. In its evidence, the Scottish Community Safety Network (SCSN) recommends that the primary purpose of drones should remain searching for missing persons in remote and rural terrain. The SCSN identifies some possible appropriate exceptions, such as use at fatal road traffic collision investigations and the investigation at the Stonehaven derailment. However, it cautions against over use, given the ethical issues that arise, stating that-
- "However, given the comparative ease at which RPAS deployment is enabled compared to the ease at which the helicopter can be deployed (particularly in terms of cost) we believe there is a risk of mission creep. We are of the opinion that the deployment of RPAS to a 'youth disorder' incident on Troon beach is a disproportionate response, for example; and would query the use of such a technology on non-critical tasking such as post-investigation and crime scene imagery."²⁵
93. In its submission, the Scottish Human Rights Commission (SHRC) cautions against the use of drones for those engaged in peaceful assembly, stating that it: "would not only stifle legitimate freedoms, but potentially engage Article 5 as it is characteristically arbitrary. It also undermines the basic principle of policing by consent."²⁶
94. In its evidence, the Scottish Institute for Policing Research (SIPR) highlights the lack of research available on the effectiveness of drones for "crime reduction, public safety, community support, and privacy rights". SIPR indicates that research suggests that public support for drones is mixed, with more support for their use for

reactive, rather than proactive policing. It stresses the importance of assessing public support for the use of drones for policing purposes, in order to identify the areas of greatest public concern.²⁷

95. Glasgow City Council indicates in its written evidence that it has not had the opportunity to consider the parameters of Police Scotland's use of drones, However, it has an expectation of local scrutiny to ensure oversight and transparency within local authority boundaries for the use of drones and body worn video cameras, including dialogue with Police Scotland and the SPA. It recommends that any use of drones must be within formal and transparent guidelines which are subject to both national and local review and scrutiny processes.²⁸

Conclusion and recommendations

96. **The evidence that the Sub-Committee received during its short inquiry indicates that there is support for Police Scotland's use of drones to search for missing people in remote and rural areas. It also indicates much less support, as well as a number of concerns, about drones being used by Police Scotland for wider operational purposes.**

97. **The Sub-Committee recommends that the current restricted use of drones by Police Scotland remains in place, until a public consultation on wider deployment has been completed and the results published.**

98. **The Sub-Committee recommends that any public consultation seeks views on whether drones should be used by Police Scotland and, if so, the parameters of that use. Views should be sought on whether drones should be used for: policing purposes beyond searching for missing persons; proactive policing purposes such as surveillance, crowd control, and anti-social behaviour; and whether drones should be deployed in urban areas. The results of the consultation should inform the future strategy.**

99. **The Sub-Committee notes that Police Scotland deployed drones operationally for almost 18 months, with no oversight by the SPA to ensure that they were deployed for the agreed purpose. The Sub-Committee recommends that the SPA amends its procedures to ensure it carries out regular scrutiny and oversight of Police Scotland's introduction of the use of any new technology.**

Covert surveillance

100. The Sub-Committee considered whether Police Scotland currently use its drones for covert operations, and if not, whether it has any future plans to do so.
101. The evaluation report states that Police Scotland does not deploy its drones

covertly, and it has no plans to do so. It indicates that due to the limitations of the equipment and aviation law, covert operations would not be possible.

102. In response to a question about a concern raised by the Law Society of Scotland in its written evidence that drones could be used covertly for a “fishing exercise”, ACC Williams told the Sub-Committee that Police Scotland had not used the drones covertly and does not intend to do so. He explained that using the drones covertly would not be possible due to “the noise that they make, which is not insignificant; the fact that they more routinely fly at a relatively low level”.²⁹
103. Following the evidence session, Police Scotland provided the Sub-Committee with a copy of its [data protection impact assessment](#) for the use of drones. The assessment indicates that drones are to be used covertly. It states that “Whilst the majority of deployments will be overt, there may on occasion when the RPAS is used covertly when Section 6(10), Sect 26(9)(a) and Sect 71 RIP(S)A 2000 will apply.”
104. In response to the Sub-Committee’s request for clarity on whether Police Scotland is to use drones covertly, Police Scotland [responded](#) that the content of its DPIA is “contingency based”, and that it is prudent to include all possibilities within it.
105. During an oral evidence session with Deputy Chief Constable Will Kerr on 1 March 2021, the Sub-Committee requested that ACC Williams provide further clarity on the confusion raised by the seemingly conflicting nature of the information provided to the Sub-Committee on the possible use of drones for covert surveillance.
106. In response, in a letter on [4 March 2021](#) ACC Williams reiterated that Police Scotland do not intend to use drones for this purpose. He stated-

“If there is an operational requirement to deploy drones at a pre-planned event, then the requirement for an assessment of the deployment in terms of RIPSAs is considered as part of the planning process. If necessary, an application would be made for a “directed” surveillance authority. However, this would not result in the RPAS deployment being covert with the necessary public engagement undertaken to ensure awareness of the use of drones.”

“I apologise if my oral evidence was not clear, however for absolute clarity I can confirm that drones are not deployed by Police Scotland to undertake covert surveillance. [...] Police Scotland considers drones as unsuitable for covert work due to their close proximity to the pilot (a uniformed Police Officer) and proximity to the area of operation.”

“It remains the case, and it is reflected in the DPIA, that Police Scotland may have to consider whether the use of drones is necessary, proportionate and justifiable for national security or terrorist incidents.”

107. While the Sub-Committee notes that Police Scotland have not, to date, used drones for covert surveillance, this position may change, in particular as technology develops. Therefore, the Sub-Committee will keep this issue under review.

Conclusions

108. **The Sub-Committee believes the conflicting evidence provided by Police Scotland on whether it plans to use drones for covert operations or not,**

highlights the pressing need for Police Scotland to be clear with scrutiny bodies and external stakeholders on the expectations they have for the operational use of new technology. This, in turn, needs to be accompanied by the correct sequence of actions in terms of the operational assessment of the technology needed by the police; the assessment of any implication for equality, human rights and data protection issues presented by that technology – which has to involve key external partners outside of the wider police community, such as civil liberty, human rights and data protection groups, legal experts and appropriate public consultation.

109. **This approach would then allow the police to make a transparent, coherent, evidence-based case to the SPA and Ministers for the technology it requires and the resources to procure and operate it**
110. **The inadvertent confusion which has arisen on this occasion between a senior member of Police Scotland force management and the Sub-Committee given us pause for thought. It is illustrative of the vital need for the police to take the right approach to the acquisition and use of technology like drones. Otherwise, there must be a high risk that even greater confusion could be raised in the minds of policy makers, the media and the public which may undermine public confidence in the police's use of such technology.**
111. **Embedding a culture of a human-rights based assessment approach as the default mechanism for all decisions on the operational need for new technology by the police would, in our view, minimise this risk in the future.**

Community impact assessments

112. The [paper](#) considered by the SPA Board at its meeting of 19 December 2017 indicates that: “A full privacy and community impact assessment will take place prior to operational deployment” of the drones”.
113. The [evaluation report](#) states that community impact is considered by Police Scotland during the pre-flight planning phase.
114. At the SPA's Policing Performance Committee meeting of 17 November 2020, Police Scotland confirmed that two community impact assessments had been carried out during the evaluation period. During that time the drones attended 130 operational incidents and were deployed 222 times for training purposes.

Recommendation

115. **The Sub-Committee recommends that the SPA amends the terms of reference for the second evaluation report to include an evaluation of Police Scotland's use of community impact assessments, and whether different assessments are required for the use of drones in urban and rural areas.**

Safety issues

116. One of the benefits identified by Police Scotland in [correspondence](#) to the Sub-Committee of using drones was their ability to be deployed instead of the police helicopter. This was because “there are occasions when the helicopter cannot safely deploy to the North of Scotland due to inclement weather conditions which fall below the mandatory limits”.
117. The [evaluation report](#) identified two specific safety issues with the DJI M210 drones. The first related to: “battery performance which was attributed to several aircraft losses throughout the UK”. The report indicated that this issue had been resolved. The second safety issues related to: “a number of failures of the M210 (not in Scotland) due to water ingress” into the drone. The report indicated that this issue remained unresolved, and that Police Scotland took the decision “to cease all operational deployments during wet weather.
118. The Sub-Committee considered whether the safety issues have been resolved, whether the drones are able to be deployed in wet weather conditions, and if not, whether the cost of the drones can be refunded.
119. ACC Williams told the Sub-Committee that Police Scotland was unaware that the drones were not waterproof prior to purchase, saying that: “Clearly, the equipment would not have been purchased had we known that—it was never part of the manufacturer’s offering at the time that that was the case”. He added that the manufacturer had resolved the water ingress issue, stating-
- “I highlight that that has since been remedied, and the manufacturer has made a number of improvements to the device to enable it to fly in more inclement weather”.³⁰
120. In [supplementary evidence](#) Police Scotland stated that the drones have an IP rating of 43, which was known at the time of purchase. Police Scotland also confirmed that the DJI M210 drones cannot fly in snow or fog.
121. The manufacturer indicates on its [website](#) that this rating means that the drones can be used in light rain only, stating that: “the IP43 protection rating allows the Matrice 200 series to maintain stable flight in light rain weather conditions (less than 10mm/h rainfall)”. It also indicates that the drone’s cameras are not covered by the protection rating.
122. In January 2020, the Air Accidents Investigation Branch of the UK Department for Transport (AAIB) [published](#) details of its investigation into the DJI Matrice 210. It found that-
- “Failures of the Matrice 200 series aircraft resulted in a loss of power and control, with the aircraft typically falling vertically to the ground. This poses a risk of injury to people on the ground which is not mitigated by the current UK regulations or published guidance material applicable to operating an unmanned aircraft system”.
123. The AAIB made the following two safety recommendations to the UK Civil Aviation Authority-

"Firstly, it is recommended that the Civil Aviation Authority notify users of the DJI Matrice 200 series of the possibility of moisture entering the aircraft when operating in rain and that this could result in a sudden loss of control of the aircraft.

Secondly, it is recommended that the Civil Aviation Authority specify the conditions that must be met for an unmanned aircraft to be flown safely over people."

124. Following the evidence session, the Sub-Committee [wrote](#) to Police Scotland to seek confirmation that the safety issues identified by the AAIB had been resolved. Police Scotland confirmed in its [response](#) that "The safety issues have been resolved in relation to the M210 as all systems operated by the police across the UK were recalled for remedial upgrades". Police Scotland also confirmed that: "RPAS officers have never and will never knowingly fly overhead members of the public".

125. The Sub-Committee also [wrote](#) to the SPA to seek clarification as to whether a refund could be requested if the specification for the drones indicates that they are not suitable to be deployed in wet weather, and to seek confirmation that it was satisfied that the safety issues had been resolved. In its [response](#) the SPA states that-

"Police Scotland report to the Authority that they are satisfied that the recall and repair carried out by DJI on the three DJI M210 allows the continued use by Police Scotland without any need to return the systems seeking a refund. Police Scotland have also reported that they take a risk-based approach to considering the operation of RPAS in variable weather conditions in a similar way to that when operating the police helicopter, taking into account the capabilities of the aircraft in the prevailing weather conditions".

Conclusions and recommendations

126. **It seems that the drones purchased by Police Scotland are only able to fly in fair weather or light rain and are, therefore, not a viable alternative to be deployed in circumstances when a police helicopter cannot due to inclement weather conditions. It is unclear whether the water ingress issue experienced by some DJI M210 drones has been resolved or is being managed.**

127. **The Sub-Committee recommends that the SPA seeks clarification from Police Scotland on the specification provided for the DJI M210 drones at the time of purchase, whether a refund can be requested, and whether the drones can only be deployed in fair weather.**

128. **The Sub-Committee recommends that the SPA seeks further information from Police Scotland on whether the water ingress safety issue has been resolved. In particular, how Police Scotland satisfies itself that its operational deployments in urban and rural areas do not fly over the heads of the public.**

Public support

129. Police Scotland's evaluation report states that: "Feedback received from internal stakeholders and the public has been overwhelmingly positive with significant support for use of the technology".
130. The Sub-Committee considered whether there is public support for Police Scotland's use of drones. In particular, for policing operations beyond searching for missing and vulnerable people.
131. ACC Williams explained to the Sub-Committee that the basis of the claim was the positive feedback Police Scotland had received from internal stakeholders, such as local divisional police commanders, on how the drones might be employed. The positive feedback was similar to that received from HMICS.³¹
132. In its written evidence, the SPF states that there are operational benefits from the use of drones, but that these will be limited until the law is changed. The SPF highlights some of the practical limitations that it had raised about the use of drones, such as line of sight usage and landowner permission, which it says "have now been found to be accurate."³²
133. In its submission, the Scottish Community Safety Network says that it would welcome Police Scotland "publishing this feedback and would seek reassurance that these stakeholders are representative of some of the specific issues being raised."³³
134. ACC Williams acknowledged that Police Scotland needs to "articulate and evidence the purpose of drones and how they are used" and agreed that there should be a consultation in advance of any changes in how the drones are used. He confirmed that Police Scotland is considering a more structured and regular process for consultation and engagement, which would include regular updates and feedback to the SPA on how the use of drones has developed and how they have been deployed operationally.
135. Mr Sillers agreed that "any future decision making will be informed by a far wider view". He confirmed that the SPA welcomed Police Scotland's approach to listening to a wider group of opinions and to gathering evidence to develop knowledge of the operational use of drones in Scotland.³⁴
136. ACC Williams suggested that a code of practice might assist in providing the public with confidence about the legitimacy of Police Scotland's intentions. In [supplementary evidence](#), ACC Williams confirmed that Police Scotland is currently developing a code of practice, but it is unlikely to be statutory. He indicated that any role for a Scottish Biometrics Commissioner, once appointed, is unclear at this stage.³⁵

Conclusions and recommendations

137. **Police Scotland's consultation prior to the purchase of drones was mostly internal in nature and did not seek the views of external stakeholders.**

138. **The Sub-Committee agrees with Police Scotland that there should be a consultation prior to any decision to extend how drones are used by the force. The Sub-Committee recommends that there should also be a consultation on any future proposals to introduce the use of drones with additional functionality.**

139. **We recommend the development of a statutory code of practice for the police use of drones.**

Future plans

140. The evaluation report states that due to the continued high demand for the air support unit around Scotland “there are tasking opportunities for RPAS which could be exploited”. The operational deployments already undertaken provide examples of how the drones might be used.
141. The report also states that the benefits of using drones cannot be fully assessed due to the limitations of the current drone and will not be realised until a more suitable model is identified.
142. The report makes three recommendations. These are to develop the use of drones as part of the future air support unit strategy, to progress procurement of downlink system for use at major incidents and events, and to progress activity to identify options for the procurement of additional drones which are fully weatherproof, to increase operational effectiveness.
143. The evaluation report was tabled “for discussion” and it is, therefore, unclear whether the SPA’s Policing Performance Committee agreed, or was being asked to agree to these recommendations.
144. The report indicates that a procurement process is underway for downlink equipment for the drones, and that this will “increase operational effectiveness and widen the scope of deployment opportunities”. The downlink system will enable the drones to beam live footage from their cameras to a Police Scotland control room.
145. The evidence from the SPF suggests that there are also practical limitations which impact on operational effectiveness. Such as line of sight usage and landowner permission.
146. In his letter of [4 March 2021](#), ACC Williams also highlighted a number of recent and ongoing collaborative research projects currently being undertaken by Police Scotland Air Support Unit with University of Glasgow Aerospace Sciences Research Division, University of the West of Scotland/THALES/Centre for Excellence for Sensing, Imaging and Internet of Things technologies. Amongst these projects is work “with a long term aim of designing and constructing a bespoke RPAS platform for Police use and ongoing university research.”

Recommendations

147. **The Sub-Committee asks the SPA to confirm whether it has approved Police Scotland's proposals to develop the use of drones as part of the future air support unit strategy, progress activity to procure additional drones, and to purchase a downlink system. The Sub-Committee also asks the SPA to confirm if it is aware and scrutinising all of Police Scotland's plans to enhance its aerial surveillance capabilities, such as the development of bespoke RPAS/drone systems for Police Scotland with partners from academia and the aerospace/defence sector.**

148. **The Sub-Committee recommends that the SPA evaluates the operational effectiveness of the drones being used by Police Scotland, to inform its view on whether they represent best value for money.**

Ethical considerations

149. In its [written evidence](#), Police Scotland refers to its establishment of an Ethics Advisory Committee, and indicates that it met for the first time on 12 January 2021 to discuss and offer feedback on Police Scotland's use of drones. This is a forum to engage with external stakeholders. ACC Williams confirmed that Police Scotland established the ethics advisory panel in autumn 2020, after the drones had been deployed.³⁶
150. In its written submission, the Scottish Institute for Policing Research (SIPR) recommends there should be informed public debate with key stakeholders prior to the introduction of new technologies. It welcomes Police Scotland's establishment of an ethics advisory panel. However, it states that this work should have been undertaken sooner as these panels, in their earliest form, were introduced in Police Scotland in August 2019.³⁷
151. The membership of the panelⁱ was provided by Police Scotland provided in its written evidence. In [supplementary evidence](#) Police Scotland confirmed that it had "reached out to around 100 different organisations who represent academia, the Public and Private sectors and 3rd Sector agencies" to join the panel and hoped to achieve representation from over 50 organisations. Police Scotland clarified that no minutes will be recorded, and no comments attributed to individuals. However, a final report could be publicised, at Police Scotland's discretion, once the subject matter has come to a conclusion.

ⁱ Membership: Sheriff Alistair Duff Judicial Institute for Scotland (Co-Chair); DCC Fiona Taylor Police Scotland (Co-Chair); Alan Russell, Supporters Direct Scotland; Andrew McCornick, National Farmers Union Scotland; Tom Clements, National Outdoor Events Association; Alasdair Anderson, SEPA; Sir Geoff Palmer, Edinburgh & Lothians Regional Equality Council; Robert Cowie, ENABLE Scotland; Nick Ward, The National Autistic Society Scotland; Charles Raab, University of Edinburgh; Nancy Loucks, Families Outside; Leslie Young, Epilepsy Scotland; Ben McKendrick, Scottish Youth Parliament; Robert

Conclusions and recommendations

152. **The Sub-Committee welcomes Police Scotland's establishment of an ethics advisory panel to engage with external stakeholders on its use of drones. The Sub-Committee notes that the lack of transparency in how the ethics panel is to conduct its business may not achieve the required reassurance for the public.**

153. **The Sub-Committee recommends that for the introduction of new technologies to policing, or an expansion of the use of existing technology, that ethics panels be established prior to these changes being introduced.**

154. **The Sub-Committee recommends that the Scottish Biometrics Commissioner, once appointed, should consider Police Scotland's use of drones and appoint relevant stakeholders to their independent advisory group to inform that consideration.**

Compliance with human rights legislation

155. The Sub-Committee considered what work had been done by Police Scotland and the SPA to assess the impact of the use of drones by front-line police officers on human rights, and whether their use was compliant with European Convention of Human Rights (ECHR) requirements.

156. The SHRC's written evidence includes its human rights analysis paper for the Independent Advisory Group on the use of Biometrics, as well as its submission to the Scottish Government on its consultation on the Digital Strategy for Scotland. It indicates that the use of biometric technology and data, such as drones and body worn cameras, can infringe ECHR human rights protections. Specifically, the Article 8 right to respect for private and family life, Article 5 right to liberty and security, and Article 6 right to a fair trial. Their use also has the potential for an unintended impact on the democratic freedoms in Articles 9, 10 and 11. ³⁸

157. In its submission, the SHRC states that "Article 8 of the ECHR is a qualified right, which requires the State to justify any interference by reference to its legality and necessity". Therefore, any restrictions should be in accordance with law, in pursuit of a legitimate aim, necessary and proportionate. ³⁹

158. In its written evidence, the SPA states that: "The Authority expects any deployment of new technology within policing now, or in the future, to comply with the rights and protections of all citizens, improve safety and wellbeing and reflect these values". ⁴⁰

159. ACC Williams confirmed to the Sub-Committee that prior to the deployment of drones Police Scotland assesses whether its use is proportionate, justifiable and

appropriate, saying-

“There are only a certain number of lawful exemptions that allow us to use the drones where there may be collateral intrusion. Public safety is one, along with national security and prevention of disorder and crime. Of course, each and every deployment is assessed across those various elements to ensure that it is proportionate, justifiable and appropriate in the circumstances”.⁴¹

160. In its submission, the SHRC recommends a human rights-based approach to the use of biometric data. It highlights that accountability is central to the protection of human rights, and that it requires both effective monitoring and effective remedies.⁴²
161. In evidence to the Sub-Committee, both ACC Williams and Mr Sillers of the SPA agreed with this proposal for a human rights framework. Mr Sillers said that the SHRC submission shows how to balance human rights with proportionality and a justification of the decisions to use drones for a legitimate and legal purpose. He added that he believes that the current arrangements achieve that balance.⁴³
162. In response to a question about whether there are any criteria for not using drones, should someone object, ACC Williams said that “We do not have any criteria per se”. ACC Williams added that if there were objections, the police officer in charge would use their judgement as to whether the use of a drone was justifiable and proportionate in the circumstances.⁴⁴

Police Scotland/SPA Equality and Human Rights Impact Assessment

163. In response to the Sub-Committee's request on [26 April 2019](#) for details of the data protection, community impact and equalities and human rights impact assessments undertaken, Police Scotland provided a copy of the Police Scotland / SPA Equality and Human Rights Impact Assessment (EqHRIA). An [updated EqHRIA](#) was provided to the Sub-Committee during its inquiry.
164. The updated assessment indicates that the use of drones infringes ECHR Article 8 rights, as drones are “capable of obtaining personal information and of flying in areas where people could have high expectations of maintaining their privacy. In addition, individuals may not necessarily be aware that they are being recorded”. The assessment also finds that Articles 9 and 10 can be infringed, and that there may be a likelihood of a negative impact in the age, disability, pregnancy and maternity, and race protected groups.
165. The updated assessment includes consideration of whether the use of a drone is in accordance with law, in pursuit of a legitimate aim, and necessary. These assessments are in addition to the assessment of whether drone use is proportionate, justifiable and appropriate, previously outlined by ACC Williams.

Recommendations

166. **The use of drones by Police Scotland can infringe human rights. An equalities and human rights assessment and a community impact assessment should be carried out prior to the use of a drone. These assessments must include**

consideration of whether the deployment is necessary, and if so, identify measures to mitigate the risks to the public.

167. **The Sub-Committee notes that consultation with external stakeholders for the EqHRIA and the DPIA for digital device triage systems was a transparent and informed process that provided confidence to the public. The assessments were published. The Sub-Committee recommends that Police Scotland adopts this approach as 'best practice' for any future EqHRIA or DPIA for a new technology.**
168. **The Sub-Committee supports the SPA and Police Scotland's proposal to adopt a human rights framework for its use of biometric data and recommends that this work be progressed for the use of drones and body worn video cameras.**
169. **The Sub-Committee recommends that the SPA assesses whether Police Scotland's deployment of drones to date is in accordance with law, in pursuit of a legitimate aim, and necessary.**
170. **The Sub-Committee recommends that the SPA carries out periodic audits as part of its oversight function, to ensure that Police Scotland's use of drones complies with human rights requirements.**

Compliance with data protection legislation

171. The Sub-Committee considered what work had been done by Police Scotland and the SPA to ensure that the use of drones by front-line police officers was compliant with data protection legislation.
172. In its submission, the Law Society of Scotland recommends that, if Police Scotland is to increase its use of drones and body worn video cameras, to ensure there is necessary monitoring evaluation and accountability to the public, there needs to be clear framework in place-

“... setting the hierarchy out from the individual police officer utilizing the equipment, the authorization to be obtained within Police Scotland, the relationship with scrutiny and powers of the PIRC and the role of the Scottish Biometric Commissioner, once appointed and in post and ensuring the necessary monitoring evaluation and accountability to the public”.⁴⁵
173. The Law Society states that the Scottish Biometrics Commissioner Act 2020 specifies a clear oversight role for the Commissioner of the use of biometric data by the police, which may include “a photograph or other recording of an individual's body or any part of an individual's body”. The Biometric Commissioner's functions include supporting and promoting “the adoption of lawful, effective and ethical practices in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes.”⁴⁶
174. The Law Society of Scotland also seeks clarification on a number of data protection issues. These include: whether a data protection impact assessment has been completed; how is data minimisation, retention and security to be covered; how is

the data obtained to be stored; what rights exist in relation to Article 17 of the GDPR with regard to the right to erasure?”.

175. In its written evidence, the SHRC states that the collection and retention of biometric data “is by its nature intrusive”, and therefore there is a need for greater clarity about when the police or law enforcement agencies can collect it without consent. The SHRC also raises a concern about the length of time that data is stored and refers to guidance found in the case of [S and Marper v the United Kingdom](#), which advises that a blanket policy on the retention of biometric data does not strike a fair balance between private and public interests. It advises that “personal data kept for police purposes should be deleted if it is no longer necessary for the purposes for which it was stored”.⁴⁷
176. In its written evidence, Police Scotland confirms that the camera sensors on the drones are not capable of facial recognition. It also confirms that it has established a Biometrics Oversight Board, which will work closely with the Scottish Biometrics Commissioner in their role to support and promote the adoption of lawful, effective and ethical practices in relation to biometric data in a policing and criminal justice context.⁴⁸
177. ACC Williams told the Sub-Committee that Police Scotland adheres to a “robust data retention policy”, that takes account of human rights and any collateral intrusion. He explained that for serious crimes the retention period for an image is up to 12 years and for less serious crimes the retention period is up to six years, after which it is destroyed.⁴⁹

Police Scotland data protection impact assessment

178. In response to the Sub-Committee’s request on [26 April 2019](#), Police Scotland provided a copy of its Data Protection Impact Assessment (DPIA). An [updated DPIA](#) was provided to the Sub-Committee during its inquiry.
179. The DPIA refers to the use of drones for policing purposes which significantly exceed the limited scope agreed by the SPA and Police Scotland. It indicates that drones are to be used for “large scale disorder outside football stadium involving 100s of people. Imagery used to identify those involved and subsequent criminal proceedings”. It also refers to the use of drones at other sporting events, festivals, and “supporting major policing operations such as demonstrations”, and for the detection of criminal offences.
180. The Sub-Committee wrote to Police Scotland to seek clarification of whether the use of drones for these proactive policing purposes constitutes surveillance, what their “supporting” role would be at demonstrations, and whether the extension of scope has been agreed with the SPA.
181. ACC Williams confirmed in his [response](#) that the inclusion of football matches, other sporting events and festivals are typical examples of a policing incident or operation. He explained that this use of drones is not surveillance. It is “intended to provide situational awareness for the Police Incident Officer or Police Commander in order that they can make informed decisions”.
182. The assessment indicates that drones will be used without public consent and finds that there is no infringement of human rights. The Sub-Committee sought

clarification, as Police Scotland's equalities and human rights impact assessment identifies that the use of drones infringes ECHR Articles 8, 9 and 10, and the evidence it has received indicates that the drones collect and share photographs and videos of people who are not the subject without their consent or knowledge.

183. ACC Williams confirmed in his [response](#) that the DPIA addresses data viewed or captured by a drone and the potential impact on individuals in terms of that data, and that the EqHRIA covers the overall impact in respect of the operational deployment of drones.
184. The DPIA also states that there are no public concerns in the area of the proposed processing. The evidence received by the Sub-Committee during its inquiry includes concerns about data sharing, as well as the minimisation, retention and destruction of data. The Sub-Committee wrote to Police Scotland to seek clarification of the basis of its conclusion.
185. ACC Williams indicated in his [response](#) that Police Scotland was unaware of these concerns when the DPIA was drafted in March 2020 and confirmed that they will be included in the revised DPIA, which is due in March 2021.

Conclusions and recommendations

186. **The Sub-Committee agrees with the Law Society of Scotland's proposal that, if Police Scotland is to increase its use of drones and body worn video cameras, there needs to be a clear framework in place that sets out the hierarchy of use, the authorisation process, as well as the necessary monitoring, evaluation and accountability to the public. This framework should be informed by information gathered from the evaluations of both technologies.**

187. **The Sub-Committee recommends that Police Scotland adopts as 'best practice', the disposal of data that is no longer required as quickly as possible.**

188. **The Sub-Committee recommends that the SPA amends the terms of reference for the second evaluation report to include an evaluation of Police Scotland's data protection impact assessment.**

189. **The Sub-Committee recommends that the SPA carries out periodic audits as part of its oversight function, to ensure that Police Scotland's use of the data provided by drones complies with data protection requirements.**

Legal basis

190. The Sub-Committee considered the legal basis for Police Scotland's use of drones.

191. ACC Williams confirmed that Police Scotland's use of drones is legislated by the Civil Aviation Authority (CAA), and that it has worked closely with the CAA to ensure compliance with the appropriate air navigation legislation.⁵⁰
192. The submission from the SPA indicates that it has agreed that the second evaluation report should make clear whether the use of drones complies with the CAA guidance and regulations and with any surveillance camera code of conduct or similar.⁵¹
193. In its written evidence, the Inverclyde Council Local Police and Fire Scrutiny Committee recommends that, as the use of Police Scotland's use of its drones has been broader than the intended use, "consideration has to be given to its future use and the legal and regulatory basis that Police Scotland rely upon".⁵²
194. In its submission, the Scottish Community Safety Network suggests seeking advice from the CAA on whether different legal and regulatory approaches are required for the use of drones by the police service in urban and rural areas.⁵³
195. The Law Society of Scotland, in its evidence, questioned whether the information the drone produces would be admissible as criminal evidence. The Society indicated that, as people may be unaware that they are being filmed, the information may not meet the "standard test of consideration as to fairness in what has been obtained".⁵⁴

Recommendations

196. The Sub-Committee recommends that the SPA seeks confirmation from the Civil Aviation Authority as to whether there are different legal and regulatory implications for a police service using drones in urban and rural areas.

197. The Sub-Committee recommends that the SPA seeks clarification of whether the information provided by the drones would be admissible as criminal evidence and considers whether obtaining personal data without the consent or knowledge of the person infringes the ECHR Article 6 right to a fair trial.

Body worn video cameras

Background

Police Scotland officer wearing a body worn video camera



Source: Police Scotland

198. Prior to the inception of Police Scotland, the use of body worn video cameras (“BWVCs”) had been piloted in the legacy Grampian and Strathclyde police forces during 2010 and 2011 respectively. Grampian police force initially trialled the use of 39 cameras in Aberdeen, and Strathclyde police force trialled the use of 38 cameras within Renfrewshire. In 2013, Grampian police force purchased and deployed 330 cameras across the North East of Scotland. Police officers in the North East Division of Scotland have continued to use body worn video cameras.
199. The cameras are small, visible devices attached to an officer’s uniform, usually on the chest. They are used to capture both video and audio evidence when officers are attending all types of incidents. The position of the camera means that those watching the footage will see the situation from an officer’s perspective. The camera records the footage onto an internal storage device which can then be uploaded to a secure location, so that it can be used as evidence at court or other legal proceedings.
200. Police Scotland’s ambition to expand its use of body-worn video cameras is included in its 10-year strategy, Policing 2026. It would like to roll-out cameras nationally for use by all front-line police officers. It has not progressed this ambition due to financial and structural constraints.
201. In its evidence to the Sub-Committee, Police Scotland outlined its plans for an initial roll-out of cameras to armed response officers, to be followed by a national roll-out

to all officers across the force.⁵⁵

Current use

202. Police Scotland confirmed in its evidence that body worn video cameras are available to “every front-line uniformed officer on a daily basis at all operational stations throughout the North East”, where they are used routinely during interactions with the public.
203. Police Scotland also confirmed that cameras are used by police officers at football matches. These cameras were previously used by the now disbanded former football co-ordination unit for Scotland (FoCUS). The cameras used by FoCUS have now been redistributed for use in the Greater Glasgow, Fife and Highlands & Islands Divisions for use by local police officers at football matches. Police Scotland has plans for further distribution in Edinburgh and Tayside. Body worn video cameras are also used in Argyll and West Dunbartonshire.⁵⁶
204. The Sub-Committee considered Police Scotland's current approach to the use of body worn video cameras by police officers, the Scottish Police Authority's (SPA) oversight and scrutiny procedures for the use of such cameras, and whether necessary impact assessments and evaluations have been undertaken.

Scrutiny and oversight

205. The Sub-Committee considered the SPA's scrutiny and oversight of Police Scotland's current use of body worn video cameras, and it plans to extend that use.
206. Police Scotland's use of body worn cameras has developed over time. Its current use is a combination of a continuation of legacy force arrangements that were in place in the former Grampian Police, and the use of body worn cameras which had been based in the former Strathclyde Police's football co-ordination unit for Scotland. In evidence to the Sub-Committee, Chief Superintendent Matthew Richards of the Digitally Enabled Policing Project at Police Scotland, described Police Scotland's approach as “pockets of small initiatives”.⁵⁷
207. ACC Williams told the Sub-Committee that ahead of a national solution for the use of body worn video cameras, “There need to be protocols, parameters and a code of practice, and training needs to be rolled out to ensure that things are done in an appropriate and proportionate way on each and every occasion”. Police Scotland indicated in its written evidence that it will complete a code of practice ahead of any national roll-out of cameras. In its evidence, the SPA refers to the completion of a “revised” code of practice.⁵⁸
208. In [supplementary evidence](#), ACC Williams confirmed that “Police Scotland do not have a Standard Operating Procedure for the use of BWV”. Instead Police Scotland provides local training, guidance, parameters and operating procedures for the local deployment of cameras within North East Division, and a one-day training course is provided for officers deployed at football matches. Police Scotland confirms that formalised standard operating procedures will be developed as part of any future extended roll-out.

209. In its evidence, the SPA referred to its request for Police Scotland to include in its second evaluation report on the use of Remotely Piloted Aircraft Systems ("drones"), an indication of whether drone use complies with any surveillance camera code of conduct. The Sub-Committee notes that there is no reference to a similar request for the use of body worn video cameras in the SPA's written evidence.⁵⁹
210. Police Scotland indicated in its written submission that, "The [North-East] Division have a BWV Data Protection Impact Assessment (DPIA), a BWV Equalities and Human Rights Impact Assessment (EqHRIA), [and] guidance/policy documents and training criteria in place".
211. In its evidence, the SPA stated that it has requested that Police Scotland provide a best value assessment of the drones that it deploys. The Sub-Committee notes that there is no reference to a similar request for the use of body worn video cameras in the SPA's written evidence.⁶⁰

Conclusions and recommendations

212. **Police Scotland do not have a standard operating procedure, and it is unclear whether it has a code of practice for its use of body worn video cameras. Both of these are essential to enable the public to understand the parameters of use; to ensure police officers use the cameras in a consistent way; and to enable the SPA and the Police Investigations and Review Commissioner (PIRC) to scrutinise whether the use of cameras conforms to agreed standards.**

213. **The Sub-Committee recommends that Police Scotland and the SPA produce a standard operating procedure and a code of practice, if one does not exist, for the use of body worn video cameras as a matter of priority. Such a procedure and code should be informed by the use of such cameras in the North-East Division and provide details of the parameters of use and the the complaints mechanism. They should also be available to the public.**

214. **The Sub-Committee recommends that the SPA considers whether Police Scotland's current use of body worn video cameras complies with current international best practice.**

215. **The Sub-Committee has not received evidence that any necessary impact assessments have been undertaken for the use of body worn video cameras by any police officers located outwith the North East Division of Police Scotland. The Sub-Committee asks the SPA to seek confirmation from Police Scotland that such assessments have been undertaken.**

216. **The Sub-Committee recommends that the SPA assesses any future proposal by Police Scotland to purchase body worn video cameras to**

ensure that it provides best value for money, and against the other identified ICT priorities in the digital data and ICT strategy.

Possible role for the Scottish Biometrics Commissioner

217. In its call for evidence, the Sub-Committee sought views on any possible oversight role for the incoming Scottish Biometrics Commissioner of Police Scotland's use of body worn video cameras and drones.
218. In its written submission, the SPA indicates that it will encourage Police Scotland's use of ethics panels. It has also highlighted to the Scottish Government's Independent Advisory Group on Emerging Technologies in Policing that it may wish to explore any limitations to the current legal and ethical frameworks in place for body worn videos cameras.⁶¹
219. ACC Williams told the Sub-Committee that Police Scotland envisages early engagement with the Scottish Biometrics Commissioner, as new technologies "represent a developmental area that requires clear governance, oversight and reassurance".⁶²
220. In its written evidence, the Law Society of Scotland stated that there is a clear role for the incoming Scottish Biometrics Commissioner to ensure necessary monitoring, evaluation and accountability to the public, as well as a role for the Police Investigations and Review Commissioner (PIRC) in dealing with complaints. The Law Society indicated that much of Police Scotland's approach will require to be embedded in its non-statutory Code of Ethics, and it supports the recommendation by Dame Elish Angiolini in her final report on her independent review of Police Complaints Handling, Investigations and Misconduct Issues, that the code be fully encapsulated in statute.⁶³
221. In its written submission, the Association of Scottish Police Superintendent (ASPS) indicated that it does not see a role for the Commissioner to have oversight of still and digital photography products as, "there is already comprehensive governance in place through other legislation and inspectorate functions, e.g. Office of Surveillance Commissioners and the Information Commissioner".

Conclusion and recommendation

222. **The Sub-Committee welcomes the police service and the Scottish Government's increased prominence and consideration of the implications for the introduction or expansion of technologies into policing. This valuable work will help to inform the Scottish Biometrics Commissioner's future statutory code of practice for the use of technologies in policing which collect biometric data.**

223. **The Sub-Committee recommends that the Scottish Biometrics Commissioner, once appointed, should consider Police Scotland's use of**

body worn video cameras and appoint relevant stakeholders to their independent advisory group to inform that consideration.

Evaluation

Use in the North East of Scotland

224. In their evidence to the Sub-Committee, the SPA and Police Scotland both refer to the evaluation of body-worn video cameras used in North-East Division. Police Scotland indicates that “an external evaluation was commissioned by the Scottish Government’s Community Safety Unit” in 2011, and that HMICS had carried out an Effective Practice Assessment in 2012. The SPA stated that the limited use of cameras has “previously been positively evaluated”.⁶⁴
225. ACC Williams told the Sub-Committee that the 2011 evaluation considered the effectiveness of the use of the cameras. This included the impact on the number of assaults on officers; the number of police complaints; how those complaints were concluded and whether the cameras helped with the timeline; and the number of early guilty pleas in the criminal justice system as a result of footage recorded by the cameras.⁶⁵
226. Ch. Super Richards explained that the evaluation results showed that there had been clear benefits to officers using body worn video cameras. This included some crime reduction, a decrease in the number of assaults on officers, and that there had been minimal complaints about the police and their use of cameras.⁶⁶
227. In its written submission, the SPA recommended two further evaluations be carried out. These are an “Updated evaluation of the use of BWV by Police Scotland in the North [East] Region”, as well as an “evaluation of any wider deployment.”⁶⁷
228. In evidence to the Sub-Committee, Mr Sillers of the SPA explained that the SPA has recommended an updated evaluation of body worn camera use in the North-East Division, as the initial evaluation is almost a decade old. Mr Sillers stated that the evaluation should seek views from external stakeholders, academics, the public, those from the wider justice system, and consider experiences from elsewhere. Mr Sillers explained that-
- “The evaluation that we want to see on body-worn video would take all those different voices and make a proportionate and judged recommendation to the authority on whether we should move forward with a body-worn video solution”.⁶⁸
229. Ch. Super Richards confirmed that Police Scotland has commissioned an evaluation into the use of cameras in the North-East Division which will include key stakeholders in that area, police staff and officers, and local partners.⁶⁹

Conclusion

230. **As it has been about 10 years since the evaluation of the use of body worn video cameras by police officers in the North-East Division, the Sub-Committee welcomes the commissioning of an updated evaluation, which will seek views from a wide range of stakeholders, to inform the future strategy.**

Use by the former football co-ordination unit for Scotland (FoCUS)

231. In its written evidence, Police Scotland confirmed that following the 2019 *'Independent Review of Football Policing in Scotland'*, it carried out a consultation as part of the review's recommendations. It issued a [survey](#) seeking views on all types of engagement with Police Scotland, including the use of body worn video cameras at football matches. The purpose was to help Police Scotland to write a new engagement strategy. The survey generated 6,817 responses. The survey website indicates that the results were to be analysed and published in early 2020, but that publication has been postponed due to the demands of policing during the coronavirus pandemic.
232. As a result of the review, Police Scotland disbanded its football co-ordination unit (renamed the National Football Information Point – Scotland), and redistributed the unit's cameras to local policing divisions for use at football matches.
233. The Sub-Committee considered whether Police Scotland should carry out an evaluation of its use of body worn video cameras at football matches, and by police officers outwith the North-East Division.
234. During previous [evidence](#) to the Sub-Committee, ACC Williams confirmed that there had not been any evaluation undertaken of the use of cameras by the football co-ordination unit.⁷⁰
235. Police Scotland confirmed in its written evidence for this inquiry that it has no plans to carry out "a singular evaluation" but confirmed that it will assess "all Police Scotland's current use of BWV", as part of preparation for any national roll-out of cameras.⁷¹
236. The Scottish Institute for Policing Research (SIPR) stated in its written evidence that it is unclear whether the public would support officers wearing cameras at football games and sporting events, as this has not been examined. It suggests that any evaluation should include a cost-benefit analysis, and that the SPA accesses the "well-established body of research to assess public and police attitudes toward the widespread use of BWVCs". This research would also help to identify concerns around privacy, accountability, and transparency.⁷²
237. In its evidence, the Law Society of Scotland referred to published research⁷³ on the use of cameras by police officers at football matches, which found that some of those attending viewed their use as "provoking and intimidating", and "counterproductive". The Law Society states that it is "crucial" that there is an evaluation of the use of such cameras by the former football co-ordination unit.⁷⁴

238. In its submission, Inverclyde Council Local Police and Fire Scrutiny Committee also referred to this research, stating that “the publication of the academic article ‘Lights, camera, provocation? Exploring experiences of surveillance in the policing of Scottish football’ indicates that consideration should be given in evaluating the use and scope of use of BWVCs by Police Scotland”.⁷⁵
239. Ch. Super. Richards told the Sub-Committee that Police Scotland is currently extracting data on the use of cameras by FoCUS, which will be analysed and which could be used to provide an evidence base for continued use.⁷⁶
240. Following the evidence session, the Sub-Committee [wrote](#) to Police Scotland to seek confirmation of whether guidance has been provided to officers in local policing divisions on using the cameras at football matches and, if so, whether it has been informed by lessons learned from the use of body worn cameras by FoCUS.
241. Police Scotland confirmed in its [response](#) that “Officers must complete a one day training course before becoming eligible to form part of an Evidence Gathering Team (EGT) at football matches”, and that the use of body worn video cameras is covered in this training.

Recommendations

242. The Sub-Committee recommends that Police Scotland undertakes an evaluation of the use of body worn video cameras by its former football co-ordination unit, and by all other police officers who have experience of using this technology, to inform its future strategy.

243. The Sub-Committee recommends that Police Scotland analyses and publishes the responses to its survey on a football policing engagement strategy, and that these responses are used to inform its future strategy.

244. The Sub-Committee’s notes that the evidence it has received indicates that it is Police Scotland’s intention to use of Remotely Piloted Aircraft Systems (drones) and body worn video cameras at football matches. The Sub-Committee asks Police Scotland and the SPA to assess whether this would be a proportionate approach to policing football matches.

Future plans

Providing cameras to armed response officers

245. Police Scotland indicated in its written evidence that there is “a strong case” for further consideration of a body worn video solution for armed officers, as it is the only UK police force whose armed response officers do not have access to these cameras.⁷⁷

246. Mr Sillers of the SPA told the Sub-Committee that due to the “critical and prioritised risk with armed policing”, the SPA expected to consider a Police Scotland proposal on the roll-out of body worn cameras in February 2021. This proposal might include an “armed policing solution for body-worn video cameras, which would be a much smaller capital outlay than that associated with a full roll-out for all front-line officers”.⁷⁸
247. Ch. Super. Richards confirmed that Police Scotland estimates that the capital costs of providing cameras to about 540 armed police officers would be £500,000 for the first year.⁷⁹
248. The Scottish Police Federation (SPF) indicated in its evidence that it fully supports the use of body worn video cameras by police officers. However, it cautions that all costs need to be considered, as despite the costs for technology licences and using the equipment increasingly fall on the revenue side, these are often not given enough consideration. The SPF stated that this is necessary as “revenue funding in the police service is already beyond precarious”.⁸⁰
249. The ASPS also support the roll-out of cameras for use by front-line police officers. The Association expresses regret that this was not prioritised sooner. However, it also acknowledges that “there are considerable 'back-office' costs associated with running and maintaining BWVCs”.⁸¹
250. Ch. Super. Richards told the Sub-Committee that Police Scotland wants to have the option to provide cameras to armed response officers “as soon as possible over the next six to nine months”. In particular, in time for the United Nations climate change conference which is scheduled to take place in Glasgow in November. If funding is made available, Police Scotland intends to undertake a “targeted and concise” consultation.⁸²
251. In supplementary evidence, Police Scotland [confirmed](#) that its estimates suggest a “projected first year revenue budget of £190,000 to cover any warranty/ licensing/ data storage charges”.
252. Given the ongoing risks identified to armed police officers of not having access to body worn video cameras, the Sub-Committee [wrote](#) to Police Scotland following the evidence session to inquire whether any consideration had been given to the redistribution of cameras located in the North East of Scotland to armed response officers.
253. In its [response](#), Police Scotland stated that this was not a favoured option, as the “user and technical requirements for armed policing officers are in the process of being developed and these will have to be assessed before making any decision on the BWV solution to be provided to them”.
254. On 28 January 2021, the Scottish Government published its [2021-22 budget](#). The budget settlement included one-off capital funding of £0.5m to the police service to support the use of body worn video in a limited capacity.
255. On 1 February 2021, Police Scotland launched a three week [consultation](#), seeking views on the use of body worn video cameras by armed response officers.

256. In supplementary evidence, ACC Williams confirmed that members of the public can request a copy of footage, with the process for doing so available on the Police Scotland website. ACC Williams also confirmed that this is an area that will be monitored by the body worn video project team “to ensure the relevant policies and guidance are in place to support the introduction of new systems and equipment”.

Conclusions and recommendations

257. **The Sub-Committee notes that Police Scotland is the only force in the United Kingdom that deploys armed response officers without body worn video cameras and that Police Scotland and the SPA has identified this as a particular risk.**
258. **The Sub-Committee appreciates that the deployment of Police Scotland's assets is a decision for the Chief Constable, but questions why maintaining legacy force arrangements would be given priority over mitigating identified risks for armed response officers.**
259. **The Sub-Committee does not take a view on the merits of a roll out of body worn video cameras to armed policing. However, both the SPA and Police Scotland should commit not to take any decision on the purchase and roll out of such cameras for armed response officers until the conclusion of the consultation and the implementation of a mitigation plan to address the identified risks.**
260. **Given that Police Scotland's armed officers deal with the most severe situations, they ought to be provided with BWVCs as soon as is possible. Therefore, if the conclusion of the aforementioned consultation and the implementation of a mitigation plan is likely to cause considerable delay to the deployment of cameras for armed officers, this would need to be addressed to ensure that BWVCs are deployed in a safe, appropriate, and consistent manner.**
261. **The Sub-Committee noted there have already been delays in introducing the use of BWVCs. This is despite positive feedback from the use of previous pilots and the fact that Police Scotland has been in support of BWVCs since 2017.**
262. **The Sub-Committee notes the evidence, including that from officers currently using cameras, indicates that the use of BWVCs is positive, and indicates an increase in public confidence and a reduction in officer assaults and therefore, police officers want to realise these benefits as soon as it is feasible.**
263. **The Sub-Committee notes that the cost of body worn video cameras for armed policing is estimated at £500,000, which is the limit of Police Scotland's delegated authority.**

264. **The Sub-Committee recommends that the SPA's scrutiny of a proposal by Police Scotland to introduce the use of body worn video cameras to armed**

policing includes an assessment of the estimated capital costs, the annual revenue costs, and the proposed parameters of use.

265. **The Sub-Committee recommends that, should body worn video cameras be provided to armed response officers, the SPA regularly monitors and evaluates their use, including whether there are transparent and robust processes in place for the public to access footage.**

Providing cameras to all police officers

266. Ch. Super. Richards told the Sub-Committee that Police Scotland believes that it is imperative to provide body worn video cameras to all police officers and staff in front-line roles. He indicated that it would take approximately 24 to 27 months to do so. This is to allow time for a public consultation.⁸³
267. Following the evidence session, Police Scotland [confirmed](#) that the capital costs of purchasing cameras for all 17,324 police officers is estimated as £3.4m, and the revenue and reform costs for staff and cloud storage is estimated as £3.2m. On the annual costs for the cameras currently used, Police Scotland indicated that there is no specific annual budget allocated but confirmed that the cost of replacement camera equipment and fault resolution is approximately £12,000 each year.
268. In response to a request for further details of the costs for cloud storage, Police Scotland indicated that detailed expenditure will be confirmed as requirements and the specification are considered as part of the business case process.
269. In its submission, Inverclyde Council Local Police and Fire Scrutiny Committee describes the benefits of its investment in body worn video cameras, “in relation to the capture of antisocial behaviour incidents or when enforcement officers have locus in addition to supporting the welfare and safety of our staff”. The Council’s Committee supports Police Scotland’s use of cameras, and “would welcome updates via the Scottish Police Authority in respect of budgeting and the impact it may have on other business areas within Police Scotland particularly within a context of local policing”.⁸⁴
270. In its written evidence, SIPR refers to research which indicates that some “police agencies have expressed major concerns about the cost of using cameras, particularly in terms of storing video camera footage over time”.⁸⁵
271. HM Inspector of Constabulary in Scotland (HMICS) stated in its submission that consideration needs to be given to the impact of an expanded roll-out of body worn video on criminal justice partners and their ability to “... accept what would be a considerable increase in digital evidence”, as well as the level of investment required.⁸⁶
272. Police Scotland indicated in its evidence that this interdependency is “crucial to implementation”. It highlights that ongoing multi-agency work by the Digital

Evidence Sharing Capability (DESC) Project provides, "an increasing confidence this will be deliverable within the projected timescales".⁸⁷

273. Mr Sillers of the SPA told the Sub-Committee that, prior to a national roll-out, the SPA would need a reassurance that the infrastructure issues raised by Dame Elish Angiolini in her final report, which impact on the ability to share data across the wider justice sector, were resolved. Mr Sillers added that the SPA has not received a proposal for a national roll-out of cameras, and therefore has not yet undertaken a full economic costing.⁸⁸
274. In her [final report](#) of the review into *Complaints handling, investigations, and misconduct issues in relation to policing*, Dame Elish Angiolini recommends that Police Scotland accelerates its plan to expand the use of body worn video cameras, as their use can assist in capturing the best evidence and can contribute to a reduction in the number of complaints about police officers. Dame Elish identified in her report that the "insufficient capacity of IT systems to store and transmit footage" is a risk that needs to be mitigated.
275. Another risk identified is that the use of cameras includes the, "violation of the privacy of third parties who are not the subject of interaction". Dame Elish recommends that, to mitigate these risks, "clear and consistent guidelines and Codes of Practice would be necessary to govern operational practice and manage the data in accordance with the relevant legislation".
276. In its evidence, the Law Society of Scotland highlights that published research on the use of body worn video cameras by police officers at football matches "runs counter to" Dame Elish Angiolini's finding that the use of cameras can, "de-escalate aggression and create a safer environment for everyone". The Law Society urges a cautious approach, as the research suggests the use of cameras can be "counter-productive", if it "treats innocent fans like criminals and damages common-sense police tactics."⁸⁹

Conclusions and recommendations

277. **The Sub-Committee notes the lack of progress made by Police Scotland and the SPA in mitigating the risks identified by Dame Elish Angiolini in her interim report in June 2019. This could impact on plans to accelerate the timescale for the roll-out of body worn video cameras to armed response officers.**

278. **The Sub-Committee recommends that Police Scotland and the SPA consider as a matter of urgency how these risks are to be mitigated. The Sub-Committee asks for confirmation that cameras will not be deployed prior to the consultation concluding and the mitigation of any identified issues addressed, necessary impact assessments being concluded, and parameters of use agreed.**

279. **The Sub-Committee recommends that the SPA considers a Police Scotland business case for any proposal to introduce the use of body worn video**

cameras by all police officers. The business case should include estimated capital and ongoing revenue costs, a cost-benefit analysis, and details of the specification required for cameras for armed policing and all police officers.

Covert surveillance

280. The Sub-Committee considered whether Police Scotland currently uses body worn video cameras for covert surveillance and, if not, whether it has any plans to do so.
281. Ch. Super. Richards told the Sub-Committee that as the cameras are an overt technology they would not be used for covert deployment. He stated that, “at this stage, it would not be incumbent on us to consider the Regulation of Investigatory Powers (Scotland) Act 2000 (RIPSA)”.⁹⁰
282. The Sub-Committee was not provided with copies of Police Scotland’s equalities and human rights and data protection impact assessments for the use of body worn video cameras. However, we note that despite similar assurances given by Police Scotland regarding drone use, the assessments detailed plans for them to be used covertly.

Recommendation

- 283. The Sub-Committee asks that the SPA ascertains whether Police Scotland plans to use body worn video cameras covertly and, if so, seeks confirmation of how it will mitigate human rights and privacy risks.**

Consultation

284. In their written evidence, both the SPA and Police Scotland state that full internal and external stakeholder engagement is necessary to understand and mitigate potential privacy and third-party concerns surrounding any national introduction of body worn video cameras.⁹¹
285. Ch. Super. Richards confirmed to the Sub-Committee that in advance of a national roll-out there would be, “broad stakeholder assessments and engagement as well as public consultation”. Police Scotland plans to also establish an ethics panel over the next few months.⁹²
286. ACC Williams added that Police Scotland will respond to the consultation feedback and consider how to address concerns and issues raised “in a way that will reassure people”.⁹³
287. In its written evidence, the Law Society of Scotland states that the introduction or expanded use of body worn video cameras and drones, “involves important and far-

reaching issues of privacy and public interest to which regard must be had now". It highlights the need for an effective public consultation, followed by robust scrutiny and evaluation processes. This will "allow for the development of a legal and regulatory framework to capture all authorized use of RPAS and BWVC".⁹⁴

288. SIPR recommends in its written submission that when considering the introduction of technologies like body worn video cameras, "Appropriate stakeholder and public engagement, research and oversight must be embedded at an early stage. The business case should include a budget to undertake research and evaluation".⁹⁵
289. In response to the Sub-Committee's call for evidence on its inquiry into Police Scotland's plans for the use of facial recognition technology, Dr Diana Miranda from Northumbria University provided details of her [research](#) into the use of body-worn video cameras by UK police officers. She found that some officers had concerns about the prospect of constant filming, as this was viewed as not being in the spirit of the use of body worn video cameras. They also expressed concerns that the use of cameras could potentially harm the relationship between the police service and the public.

Conclusions and recommendations

290. **The Sub-Committee welcomes the commitment by Police Scotland and the SPA to undertake internal and external stakeholder engagement to inform its future strategy on the use of body worn video cameras by police officers.**

291. **The Sub-Committee recommends that this consultation should also seek views on the ethical impacts and the impact on equalities, human and privacy rights, as well as the impact on communities.**

292. **The Sub-Committee recommends that Police Scotland should establish an ethics advisory panel to consider the ethical considerations of body worn video cameras as a matter of urgency, given the planned accelerated timescale for the introduction of such cameras for use by armed response officers.**

Compliance with human rights legislation

293. The Sub-Committee considered whether Police Scotland's use of body worn video cameras is compliant with European Convention of Human Rights (ECHR) requirements.
294. In its submission, Police Scotland confirms that an EqHRIA is in place within the North East Division for the use of body worn video cameras. The Sub-Committee did not receive any evidence of an EqHRIA for the use of cameras by police officers elsewhere in Scotland.⁹⁶
295. In its written evidence, Police Scotland acknowledges that there may be potential

privacy and third-party concerns surrounding any national roll-out of body worn video cameras. To understand and mitigate those risks, Police Scotland proposes to undertake various measures, such as completing an EqHRIA and a privacy impact assessment and engaging with internal and external stakeholders.⁹⁷

296. The SPA states in its written submission that ahead of any further roll-out of cameras, it would expect Police Scotland to address privacy and third-party concerns. Its evidence includes an identical list of actions to be taken as that provided by Police Scotland, with the inclusion of an updated evaluation of use in the North East Division and an evaluation of wider deployment.⁹⁸
297. ACC Williams told the Sub-Committee that Police Scotland does not have a standard approach to the use of body worn video cameras, and that it has still to put in place protocols, parameters and a code of practice. He confirmed that these are necessary to ensure an appropriate and proportionate use, saying that-
- “There is also a need for officers to articulate, warn and speak to the public when they put on their video. There need to be protocols, parameters and a code of practice, and training needs to be rolled out to ensure that things are done in an appropriate and proportionate way on each and every occasion”.⁹⁹
298. ACC Williams explained that there are different camera options for Police Scotland to consider, including cameras that turn on automatically when a weapon is unholstered.¹⁰⁰
299. Ch. Super. Richards confirmed that it is Police Scotland's intention to, “have a camera system that is activated by the officer after a prior warning, where possible, to the member of the public who is involved in the filming that the officer will commence filming”. Ch. Super. Richards clarified that this approach may not be possible for spontaneous incidents.¹⁰¹

Conclusions and recommendations

300. **The Sub-Committee welcomes the commitments by Police Scotland and the SPA to undertake assessments of the impact of police officers using body worn video cameras on equalities, human and privacy rights, to understand and mitigate any risks. It is unclear whether the privacy, ethical and third-party concerns that have been identified are to be addressed prior to the roll-out of cameras to armed response officers.**
301. **The Sub-Committee agrees with the proposed approach of police officers warning the public, where possible, prior to filming.**
302. **The Sub-Committee asks the SPA to determine whether Police Scotland has equalities and human rights impact assessments in place for the use of body worn video cameras by police officers in all locations and whether their use complies with human rights legislation.**

303. **The Sub-Committee asks Police Scotland and the SPA to confirm whether privacy, ethical and third-party concerns are to be addressed prior to the roll-out of cameras to armed response officers.**

304. **The Sub-Committee recommends that impact assessments are published, so that the public can have confidence in Police Scotland's use of body worn video cameras.**

Compliance with data protection legislation

305. The Sub-Committee considered whether Police Scotland's use of body worn video cameras is compliant with data protection legislation requirements.

306. In their written evidence, both the SPA and Police Scotland confirm that a DPIA will be completed prior to a national roll-out of cameras.¹⁰²

307. Police Scotland confirmed in its written evidence that a DPIA is in place within the North East Division. The Sub-Committee did not receive any evidence that there is a DPIA in place for cameras used by police officers located elsewhere in Scotland.¹⁰³

Data retention and security

308. In [supplementary evidence](#), Police Scotland confirmed that data from body worn video cameras is automatically weeded after 31 days if it is not required for a criminal prosecution. Data required for a policing purpose, such as being utilised as evidence in criminal proceedings or to investigate a complaint about the police can be kept for a longer period. However, it is only kept until no longer required for legal or otherwise justified proceedings.

309. Police Scotland also confirmed that, where data has been submitted to the Crown Office and Procurator Fiscal Service, the Crown Office will adhere to the Criminal Justice and Licensing (Scotland) Act 2010 to meet its statutory requirement to disclose material evidence to the defence.

310. ACC Williams explained to the Sub-Committee that, as body worn video cameras are to be rolled out for use by all police officers, the retention of images and records will be more complex than data collected by drones. This is because the public will come into contact with cameras in more situations. ACC Williams confirmed that it is important for the public to understand the policies and legislation that underpins Police Scotland's retention of data, as well as the safeguards that are in place. He added that Police Scotland will, "seek to learn lessons from the exposure to the technology that other organisations, including police forces, have had".¹⁰⁴

311. In [supplementary evidence](#), Police Scotland confirmed that the data on a body worn video camera is "automatically deleted" when it is docked at a local station, and that once it is docked the data is then downloaded onto the Police Scotland

server where it remains until it is automatically weeded after 31 days.

Recommendation

312. **The Sub-Committee recommends that the SPA carries out regular audits of Police Scotland's retention, use, storage and sharing of the data provided by body worn video cameras, to ensure its processes comply with data protection requirements.**

- 1 Digital device triage systems, known colloquially as cyber kiosks, enable front-line police officers to search mobile devices of suspects, witnesses and victims of crimes.
- 2 [Report on Police Scotland's proposal to introduce the use of digital device triage systems \(cyber kiosks\)](#)
- 3 Justice Sub-Committee on Policing, Official Report, 18 January 2021, Col 9: <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=13063>
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- 5 [BBC News Scotland: Police to use drones in Aberdeen and Inverness](#) , 23 April 2019.
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- 7 Letter from ACC Mark Williams, 4 March 2021: https://www.parliament.scot/S5_JusticeCommittee/Inquiries/20210304_Police_Scotland_Response.pdf
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