

Meeting	Authority Meeting
Date	19 February 2020
Location	The Barracks, Stirling
Title of Paper	Vice Chair's Report
Presented By	David Crichton, Vice Chair
Recommendation to Members	For Discussion
Appendix Attached:	Yes

PURPOSE

To update Authority Members on activities carried out by the Vice Chair and to offer comment on significant areas of development since the previous Board meeting on 17 January 2020.

Stakeholder Engagement

Since my last report I have met with the Cabinet Secretary for Justice, the Chief Constable and his leadership team, Scottish Government officials, HMICS and Audit Scotland, with the latter two focussing on the progress we are making in following up recommendations made by both bodies. I have spoken to representatives of the Staff Associations and Trade Unions about how we might improve our collective approach to partnership working. I also had the pleasure of meeting with Mr. Ephraim Borowski MBE, who chairs the National Independent Strategic Advisory Group which advises Police Scotland on diversity issues, including hate crime. I plan to attend the next meeting of the Group.

Draft Budget

The draft budget settlement was announced on 6 February. The interim Chief Executive will comment further on this but, having focused on the budget challenge at our last Authority meeting, I do want to acknowledge a settlement that is better than might have been expected. However we still have a responsibility to report that the policing budget remains in deficit and that this is unsustainable going forward. Neither the reduction in officer numbers nor the increased funding required to eliminate the deficit will be acceptable or practicable in the short to medium term.

The Authority will therefore continue to pursue and advocate for changes that enable the deficit to be reduced. Within the police service, we need to see faster and more effective transformational change, more robust demand and productivity analysis and detailed workforce planning. Police Scotland has already achieved a great deal in delivering savings and efficiencies but it will be a constant process.

The anticipated capital allocation, while welcome, will not support the full scope of new investment required to achieve greater efficiencies and improved services. And across the wider public service system the level of failure demand which ultimately falls on police officers to resolve, for example in supporting individuals in mental health distress, will continue to draw on resources unless more creative approaches to funding and partnership working across all services are developed. These challenges will continue to drive much of the Authority's priorities.

Undercover Policing

I reported at the last meeting on the review undertaken by Authority Member Tom Halpin and me of the Metropolitan Police Service's peer review related to legacy issues from the Scottish Crime and Drug Enforcement Agency. I noted then that the Authority had asked HMICS to confirm

whether the recommendations made in its "*Strategic Review of Undercover Policing in Scotland*" were still relevant. HMICS has now confirmed that this is the case and their letter of assurance is attached to this report as an appendix. Progress towards discharge of the 3 outstanding recommendations is being reported to and actively monitored by the Authority's Audit Committee.

Justice Sub-Committee on Policing

The Sub-Committee's report on facial recognition technology was published on 11 February. Police Scotland have no imminent plans to introduce this technology, and the Authority would insist upon applying legal, ethical and human rights tests to any such proposals. Police Scotland has also acknowledged this requirement. We therefore welcome the Sub-Committee's report and will respond to its recommendations in due course.

The Sub-Committee is planning a session on COP26 next month. The Authority will submit evidence describing how we are exercising the appropriate level of governance and scrutiny through our COP26 Oversight Group.

Member Development and Activity

On 16 January, we had our first Board Seminar of 2020. The Cabinet Secretary for Justice was able to join Authority Members at that session, which provided an opportunity to take stock of the main challenges facing the Authority and policing in general.

We held an additional Board Seminar on 5 February, during which Members were briefed on the Police Scotland's International Strategy by ACC Gary Ritchie. Members were able to offer a number of suggestions on the oversight of international work and the Authority remains very supportive of its role and contribution. Members were briefed on the Authority's risk and excellence frameworks, both of which are on today's agenda for approval.

Members also discussed a draft Corporate Plan for the Authority, a document which will clarify and reinforce the Authority's distinct role and responsibilities within the overall scrutiny system for policing. This will provide important context for the forthcoming roundtable on the scrutiny framework, which is being convened by the Cabinet Secretary for Justice. Finally, Members met with Authority staff to discuss the organisational development work under way, to which staff have contributed in depth.

During the past month, our Resources, Audit, Forensic Services and Legal Actions, Claims and Appeals Committees have all met. Our COP26 working group and the Scottish Railways Policing Committee have also met, and our second roundtable on policing research took place. I mention these not just

to acknowledge the large amount of Member and staff commitment to all of these meetings but also to reinforce that, as in any effective organisation, much of the detailed governance and scrutiny work is carried out at Committee level rather than at full Board. All of these Committees and working groups are held in public except where matters of commercial, security or personal confidentiality have to be discussed, demonstrating our commitment to transparency in our work.

Member recruitment

Gordon Dewar tendered his resignation from the Board on 30 January. In Edinburgh Airport, Gordon runs one of Scotland's most important economic infrastructure investment and it continues to grow at great pace. I fully appreciate how difficult this has made it for Gordon to devote the time he would have liked to Authority business. I thank him for his contribution to our work and wish him continued success at the Airport.

Gordon's departure reinforces the urgent requirement for the next phase of recruitment to the Authority. The full complement of Authority membership is 15, including the Chair, and we currently have 11 Members. I have therefore recommended to Scottish Government that a recruitment programme should begin immediately. This will enable the Authority to bring in additional skills and experience as well as to operate its Committees and Oversight Groups with sufficient numbers.

Committee appointments

I have a number of recommendations to make to Members on the composition of current Committees and on undertaking other responsibilities.

1. I recommend Martyn Evans as Chair of the Policing Performance Committee, with Michelle Miller and Robert Hayes continuing as the other members.
2. I recommend Tom Halpin as Chair of the COP26 Working Group, supported by Martyn Evans, Mary Pitcaithly and Jane Ryder as additional members.
3. I recommend that Michelle Miller be appointed as the Authority's whistleblowing champion.
4. The terms of reference for the Succession Planning and Appointments Committee state that the Chair of the Authority should chair that particular Committee, and I recommend that as Vice-Chair currently fulfilling the role of Chair I take on that role. I also recommend that

Tom Halpin continues as a member and that Matt Smith joins the Committee as a new member.

RECOMMENDATIONS

Members are requested to:

- Discuss and note the information contained within it.

Mrs Gillian Imery QPM
HM Chief Inspector of Constabulary

28 January 2020

Lynn Brown OBE
Interim Chief Executive
Scottish Police Authority
1 Pacific Quay
GLASGOW
G5 1DZ

Dear Lynn,

STRATEGIC REVIEW OF UNDERCOVER POLICING IN SCOTLAND

I refer to your letter dated 11 December 2019 following the meeting of the Scottish Police Authority on 27 November 2019, where following a related discussion it was requested that HMICS provide an update to the SPA Board on the action plan for implementing the recommendations contained within the previously published HMICS Strategic Review of Undercover Policing in Scotland and to consider if its recommendations are still relevant.

As you will be aware our report was presented to the Cabinet Secretary on 2 November 2017 and published on 7 February 2018.

In response to this report Police Scotland established a Steering Group to oversee delivery of the 19 recommendations. This Steering Group has met regularly and reached a position now where 16 of the 19 recommendations are now closed with only three remaining outstanding. HMICS was represented at the steering group as an observer and, where required, provided context in relation to the recommendations. The Steering Group has now reached the stage where its remit has merged into the wider work of the Covert Compliance Group which now oversees a variety of covert compliance matters and is chaired by ACC McLaren. HMICS have an open invite to attend this group and have undertaken to attend at suitable junctures.

The three outstanding recommendations are the more complex pieces of work with a number of interdependencies which has always meant that their completion would be longer term pieces of work. Notwithstanding this, the updates for each of the recommendations are demonstrating signs of progress and it is anticipated that further steps towards discharging these recommendations will be made in the forthcoming months. The status of the three outstanding recommendations are as follows;

Recommendation 1

Police Scotland in partnership with key stakeholders should develop a strategy and supporting implementation plan for covert policing, which provides for a sustainable model of undercover policing and contributes towards the delivery of Policing 2026.



An overarching covert strategy is currently being compiled through the auspices of a short term working group chaired by Detective Chief Superintendent Pat Campbell. This group reports through the Covert Compliance Group and will set out and establish a strategy for the use of all covert policing tactics and how they align to Policing 2026.

There is evidence of progress in this area and the senior management team are demonstrating that they are committed to finalising a strategic intention and overall plan for the unit that supports policing and the overarching 2026 strategy. Further progress in this regard should be feasible over the forthcoming months and this will be subject to further review and support from my team.

Recommendation 13

Police Scotland should introduce a welfare based policy for substance misuse testing of active undercover officers. This should provide clear guidance and support those officers to self-disclose alcohol or drug related problems or issues.

The National Undercover Working Group have been attempting to establish a consistent UK policy and process to cover this sensitive area of policing for a number of years but reported during May 2019 that they had reached a position where they were unable to develop a process which meets the requirements of all parties, This is regarded as a particularly complex issue with a number of interdependencies and at the time of publishing the HMICS report, Police Scotland attempted to work with the Scottish Police Federation in order to develop a bespoke solution for Scotland. Due to a number of legitimate concerns expressed during the consultation exercise this has to date been unsuccessful, however the Special Operations Unit (SOU) are committed towards developing a solution and will engage with all parties again in order to determine a finalised position.

In the interim, all undercover officers are subject to the same provisions that apply to firearms officers and self-declare themselves fit or otherwise for duty. This process is applied throughout and at the conclusion of undercover deployments and has a strong emphasis on welfare as well as protecting the reputation of the service.

In summary an interim solution is in place which provides a welfare based process to look after the welfare needs and requirements of undercover officers. This will be enhanced by means of defining a force position in this regard which will be formalised now that the attempt to achieve a national policy has been unsuccessful.

Recommendation 16

Police Scotland should introduce an integrated record management solution for the management and supervision of undercover policing.

An electronic management system is currently in place which covers large areas of covert policing. Police Scotland has procured a series of modifications to this existing system which will allow undercover policing records to be managed more effectively in line with the recommendation. These modifications have been developed together with the software provider and the first version of these modifications were tested by Specialist Crime Division with a series of critical improvements identified during 2018. The improvements were developed in conjunction with the UK National Undercover User Group to ensure consistency and further versions have been tested in the intervening period. It is anticipated that a new version will be ready for testing in the forthcoming months however no specific dates have been identified.



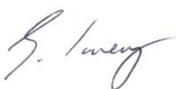
In the interim, an internal review of operational security and working practices has introduced a series of interim control measures that meet all the operational and security requirements and which is subject to regular review and audit. These are a series of interim control measures which will be superseded by the new system when it is assessed as being suitable for operational deployment.

A bespoke system did not exist previously and since the recommendation was made to Police Scotland a significant investment in time has resulted in the development of a record management solution which will, in the fullness of time, meet the requirements of the recommendation. Whilst this is a protracted process, it is important that such a sensitive system is implemented in a considered manner and risk assessed manner and I will continue to monitor progress in this regard.

Our Scrutiny Plan outlines our priorities and scrutiny activities for the current fiscal year which was developed through an extensive engagement process and consultation with stakeholders. HMICS did not undertake any additional work on Undercover Policing in Scotland during this year and we are currently consulting on our plan for 2020/21. A significant amount of progress has been made during the last 18 months in delivering against the recommendations contained within our report and whilst the issues continue to be topical they are exclusively based on circumstances which preceded this inspection and Police Scotland. I am content that given the regular independent scrutiny applied to this very specialised and niche area of policing, the report published in February 2018 remains relevant and that the oversight in place provides sufficient reassurance that Police Scotland are committed towards continuous improvement.

I note that there has been some considerable progress within the outstanding recommendations and that all three of these should be in position to move towards completion over the next few months. I will continue to work with Police Scotland Specialised Crime Division and Audit and Assurance to ensure continued progress and will update you in due course as to progress.

Yours Sincerely



Gill Imery
HM Chief Inspector of Constabulary

