



Inquiry into the public impact of Police Scotland's Firearms Standing Authority

Scrutiny Inquiry Report – January 2015

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Introduction

1. This report contains the findings and recommendations of a Scrutiny Inquiry ('the Inquiry') undertaken by the Scottish Police Authority ('SPA') into the decision made by the Police Service of Scotland ('Police Scotland') to allow a limited number of trained police officers carrying sidearms and Tasers to deploy to some routine incidents in support of local policing under a Firearms Standing Authority. The Inquiry was carried out as part of the SPA's scrutiny role and supports the aim of driving continuous improvement in policing.
2. The SPA Inquiry was established to assess four key issues:
 - the level and nature of public concerns over the Police Scotland policy in relation to the deployment of a limited number of firearms officers to routine calls and incidents;
 - how effectively Police Scotland engaged with the public and considered the impact on communities in implementing their approach;
 - how Police Scotland can best address any public concerns and provide necessary reassurance to communities; and
 - lessons, if any, that might be learned around how operational decisions with wider strategic or community impact are communicated to national and local oversight bodies and other key interested parties.
3. In considering its remit, the Scrutiny Inquiry has looked at what lessons both Police Scotland and the SPA might learn about how such matters should be approached.
4. While this report contains a number of findings and recommendations addressing Police Scotland practice in relation to the development and implementation of firearms policy, the Inquiry has also reflected on how SPA and Police Scotland should work together to improve practice in relation to wider policing decisions which have the potential to impact significantly on communities across Scotland.
5. Among the SPA's core functions are to hold the Chief Constable to account for the policing of Scotland and to promote the policing principles. The Police and Fire Reform (Scotland) Act 2012 sets out the Policing Principles as:
 - the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland; and

- that the Police Service, working in collaboration with others where appropriate, should seek to achieve its main purpose by policing in a way which is accessible to, and engaged with, local communities and promotes measures to prevent crime, harm and disorder.
6. The issues raised around firearms policy have generated public questions about effective governance and the Chief Constable's accountability to the SPA. The Inquiry has therefore taken the opportunity to examine the accountability framework of policing in Scotland to provide clarity about the SPA scrutiny role.
 7. In conducting the Inquiry, regard was given to the Scottish Government's three objectives for police reform, namely: (i) to protect and improve local services despite financial cuts by stopping duplication of support services and maintaining frontline services (ii) to create more equal access to specialist support and national capacity where and when they are needed and (iii) to strengthen the connection between police services and communities by creating new formal relationships with each of the 32 local authorities, involving many more local councillors, and better integrating with community planning partnerships.
 8. The principles of policing and the objectives for police reform place localism, collaboration and engagement at the heart of the new policing landscape and highlight the benefits in providing more equal access to specialist support and national capacity. These are of particular relevance to the Inquiry.
 9. The Inquiry sought to understand the public feelings that had been generated by the armed policing issues and how deep and widespread those feelings were. This report has been informed by an independent, professional survey of over 1,000 people¹. This sets out what the Inquiry considers to be the clearest picture yet gathered of public views on the role of armed police in Scotland. This survey work was balanced with representations from an engaged and vocal cross section of citizens. Scotland is a diverse country and must be policed in an accessible and engaged way. To do this Police Scotland and the SPA must consider the diversity of views, experiences and perspectives which exist within its geography and demography.

¹ Research conducted by market research and information company TNS UK amongst a representative sample of the adult population of Scotland – by sex, age, employment status and socio economic group - between 17 October and 23 November 2014, using the Scottish Opinion Survey as the means of data collection with interviews conducted face-to-face and in-home

10. This report, and its recommendations and findings, provide an opportunity to reflect on experiences to date and to sharpen and enhance respective and joint approaches to communication and engagement.
11. There is an opportunity to recognise that policing should engage with all communities and be sensitive to all shades of opinion. That requires careful consideration of the balance to be struck between consistency of professional approach with the objective of a service accessible to all of the people it serves.
12. There is an opportunity for the SPA to fulfil its role in ensuring a strong and informed public voice in policing to meet increasing expectations from the public that they will influence services.
13. There is an opportunity for policing in Scotland to demonstrate that it is more open and accountable than at any time in its history and for the SPA and Police Scotland to work together to build on the existing high levels of public confidence in policing.
14. And, there is an opportunity for policing to take a lead in developing more mature local and national conversations about the risks faced in society.
15. Finally, this report and the recommendations within it provide an opportunity to bring policing and the public closer together on a shared journey towards a safer Scotland.

Background

16. Shortly before April 2013, the Chief Constable authorised Police Scotland's complement of trained Armed Response Vehicle (ARV) police officers² to operate under a 'Standing Authority for the Issue and Carriage of Firearms'³ which enabled the overt carriage of sidearms and Tasers. In determining the need for this standing authority, Police Scotland fully complied with all relevant United Kingdom armed policing guidance and the decision was informed by the composite assessment of national threat, risk and intelligence.⁴
17. Between April 2013 and October 2014, Police Scotland allowed this same complement of trained ARV police officers to undertake policing duties which were not limited to those for which a specialist firearms response was required⁵. For the purposes of this report, this is referred to as 'being sent to routine calls and incidents'.
18. In response to the public debate around ARV officers operating under the standing authority and being sent to routine calls and incidents, the SPA and Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) agreed to conduct a complementary programme of review and inquiry.
19. On 1 October 2014, Police Scotland announced that although the standing authority would remain in place, it would no longer send ARV police officers carrying sidearms and Tasers to routine calls or incidents. In addition, Police Scotland set up a working group (which delivered an interim update in January 2015) which outlined the further work required on how handguns and Tasers are carried as well as how ARV officers are used when not sent to incidents potentially requiring a firearms response.

² As at 31 October 2014, there were 274 trained ARV police officers in Scotland, accounting for 1.6% of the police officer establishment

³ A standing authority for the issue of firearms may be provided by a chief officer to police officers engaged on specific duties where a threat and risk assessment deems this appropriate. Examples of duties which might fall under this heading include officers crewing Armed Response Vehicles (ARV); officers undertaking protection duties; those involved in specific escort duties; officers involved in prolonged operations for which the issue and carriage of firearms is an integral part of those duties. The continuing need for the standing authority should be reviewed on a regular basis, at least annually in line with the force's Strategic Firearms Threat and Risk Assessment. Police Scotland reviews the firearms standing authority every quarter.

⁴ HMICS - [Review of Firearms Standing Authority for Armed Response Vehicle Crews within Police Scotland](#) - October 2014

⁵ ARV police officers were permitted to attend calls or incidents where there were no firearms involved or a threat to life

20. HMICS conducted an Assurance Review⁶ independently of the SPA, between August and October 2014, to assess the professional aspects of Police Scotland practice in relation to the standing authority, checking compliance with the relevant guidance, procedures and recognised best practice. The report of this review was published on 27 October 2014⁷ and contains a timeline of key events and a brief analysis of how the current debate on armed policing in Scotland developed. It also highlights meetings, events and documents that are relevant to the engagement between Police Scotland and the SPA.

21. HMICS findings are included at Annex 1 of this report. HMICS also made a number of recommendations for improvement to both Police Scotland and the SPA. SPA actions completed and underway are reported against each within the Annex. The SPA will oversee the implementation of recommendations made to Police Scotland as part of its ongoing audit and risk function.

⁶ Although reviewing areas such as consultation and engagement, the primary aim of the HMICS Assurance Review was to assess whether the current practices by Police Scotland in relation to the Standing Authority for the Issue and Carriage of Firearms was compliant with guidance, procedures and recognised best practice

⁷ HMICS - [Review of Firearms Standing Authority for Armed Response Vehicle Crews within Police Scotland](#) - October 2014

Key findings

Issue 1

The level and nature of public concerns over the Police Scotland policy in relation to the deployment of a limited number of firearms officers to routine calls and incidents

Summary of findings

22. The deployment across the country of armed police officers to routine calls and incidents has had a mixed and divergent effect on levels of confidence and trust in Police Scotland.
23. There has been a considerable level of public misunderstanding about both the decision to implement a national Firearms Standing Authority providing for the overt carriage of sidearms and Tasers by ARV officers and the subsequent sending of ARV officers to routine calls and incidents.
24. The absence of a clear communications and engagement strategy for armed policing from Police Scotland ahead of 1 April 2013 contributed to inconsistent and at times inaccurate characterisation of issues in media reporting, which appears to have contributed to public misunderstanding. Although Police Scotland made efforts to communicate the rationale and reality of their approach over 2014, it was difficult to communicate these messages successfully when public perceptions had been formed over an earlier period.
25. Public confidence in policing has remained consistently high overall during the current year⁸ and throughout the period when the armed policing issue was receiving significant media coverage. The public attitudes survey, undertaken by TNS UK on behalf of the SPA, suggests that overall there may have been less widespread concern and loss of confidence in Police Scotland than might be deduced from a consideration of the media coverage during 2014. Nearly one in three respondents expressed an increase in confidence in Police Scotland. However, some were concerned about Police Scotland's initial ARV deployment

⁸ Police Scotland 'confidence in the police' survey results (survey of people who have recently received police services as a result of an incident) indicate steady and slightly increasing public confidence levels in the year to date 2014/15: 78.8% had high confidence at end of Quarter One; 78.8% at end of Quarter Two; 78.9% at end of Quarter Three

policy, which had a negative impact on one in five respondents' level of trust and confidence in Police Scotland.

26. Compliance with the principle of 'policing by consent'⁹ requires, in the Inquiry's view, ongoing and consistent efforts to take account of a broad spectrum of viewpoints. Policing policy should, in the Inquiry's view, be informed by both Community Impact Assessments¹⁰ and Equality Impact Assessments¹¹. This will rely on maintaining an open approach to broad and meaningful dialogue and engagement. As part of its scrutiny role, SPA should seek assurances from Police Scotland that these assessments have been undertaken and used to inform the decision-making process.

Issue 2

How effectively Police Scotland engaged with the public and considered the impact on communities in implementing their approach

Summary of findings

27. While Police Scotland communicated high-level updates to the SPA before 1 April 2013, HMICS identified that Police Scotland's initial approach to communicating to the SPA as its governance body on the introduction of (1) the national firearms standing authority and (2) the decision to send ARV officers to routine calls and incidents did not provide sufficient depth or context. HMICS attributed much of this to the significant competing demands faced by both the SPA and Police Scotland at that time in managing the transition from the legacy police organisations. The Scrutiny Inquiry concurs with that view.

28. While the lack of adverse comment from the public over the first year of the firearms standing authority will have been an influencing factor in their approach, once public concern started to emerge in the summer of 2014 Police Scotland should have made listening and acknowledging issues – as well as communicating and clarifying information – a stronger part of their engagement approach. This should have included more fully acknowledging concerns raised by local authorities and those raised at the SPA public Board meeting in June. Likewise, it

⁹ See 'Peelian Principles' <https://www.gov.uk/government/publications/policing-by-consent>

¹⁰ HMICS has also recommended that Community Impact Assessments are undertaken as a matter of course - Recommendation 8

¹¹ Equality Impact Assessments will assess impact of policy changes on groups protected by the Equalities Act 2010. This will help to ensure that policing does not deepen any sense of geographical isolation or social marginalisation and is accessible to all.

is the Inquiry's conclusion that the SPA should have moved more quickly to assess and address the level and nature of concerns.

29. While maximising the use of available resources is an important principle that will help to achieve best value in policing, the Inquiry agrees with HMICS that Police Scotland underestimated the community impact of armed police officers being sent to routine calls and incidents. In many parts of the country this represented a significant change in policing style and required a clear and early explanation of the rationale for the change.
30. The HMICS Assurance Review stressed the importance of mainstreaming community impact assessment within a comprehensive stakeholder management process for major policy changes, and that there should be a joint agreement between SPA and Police Scotland on how significant policy changes are communicated in advance¹². This should be built into best practice in the SPA and Police Scotland's policy work.
31. Police Scotland decision-making can be enhanced by a strong commitment being given to early engagement, information sharing and listening and consulting with the SPA, local authorities, community representatives and the public before making decisions which may have the potential to impact significantly on communities and communities of interest across Scotland. The SPA also has an important complementary role to support Police Scotland in terms of this early engagement, information sharing, listening and consultation. The Inquiry believes that the public would be better assured if they feel that their concerns have been heard and responded to where appropriate – even if it does not result in their preferred outcome.
32. Police Scotland is currently developing a national communications and engagement strategy for rollout in early 2015 and is currently engaged with the SPA and other stakeholders on its development. This presents an opportunity to drive improvement and address many of the engagement issues raised through the experiences of the armed policing issue.
33. The Inquiry findings indicate that a broad spectrum of local opinion exists. While the SPA finds that it is entirely legitimate for local and national elected members to raise concerns on behalf of constituents, it is important for them to assess

¹² HMICS Recommendation 8

overall community views so that the strong views of a minority are not over-represented against other minority, or indeed majority, views. Police Scotland conducting Community and Equality Impact Assessments will go some way towards supporting this balance.

Issue 3

How Police Scotland can best address any public concerns and provide necessary reassurance to communities

Summary of findings

34. Police Scotland should build on its established commitment to ethical policing¹³ and its organisational values of integrity, fairness and respect through increased openness and transparency in its decision-making, further strengthening public trust and confidence. This would include committing to strong and ongoing engagement with local authorities, community representatives and the public on prevailing risk and threat and how policing takes action to address these risks.
35. During the evidence sessions it became clear that there were questions as to why sidearms and Tasers are no longer kept in vehicle safes in ARVs, which was the practice in a number of forces prior to April 2013. Police Scotland should seek to address this.
36. In developing the policy around modes of carriage of firearms further, Police Scotland should ensure wider engagement and discussion before any change is adopted. The Inquiry endorses the view expressed by HMICS in this regard¹⁴.
37. In relation to armed policing, it is important that any 'non time-critical' adjustments to policy on the standing authority or deployment involves appropriate levels of engagement. As part of its scrutiny role, SPA should seek assurances from Police Scotland that such engagement has been undertaken and used to inform the decision-making process.

¹³ <http://www.scotland.police.uk/about-us/code-of-ethics-for-policing-in-scotland/>

¹⁴ See HMICS Recommendation 4

Issue 4

Lessons, if any, that might be learned around how operational decisions with wider strategic or community impact are communicated to national and local oversight bodies and other key interested parties

Summary of findings

38. The issues raised around firearms policy have generated public questions about effective governance and the Chief Constable's accountability to the SPA. It is critical that communities and stakeholders across Scotland have confidence in the SPA. A clear accountability framework exists but there is also value in setting out how that should operate in practice.
39. The public debate around 'operational independence' in respect of the decision to deploy armed officers to routine calls or incidents may have clouded the public understanding of police accountability. The Inquiry considers that a clear accountability framework for policing exists with statutory authority. In order to exercise effective scrutiny, it is unhelpful to pursue a rigid definition of what is an operational matter and what is not. Rather, the Inquiry believes that it is more important to establish clear working protocols to bring the Policing Principles of an engaged and accessible service to life.
40. It is critically important that in seeking to fulfil the main purpose of policing in a way that is consistent with the principle of policing by consent and the statutory principles of engagement and accessibility, Police Scotland works proactively and at an early stage of the policy development process with the SPA¹⁵. This is of key importance on matters that are likely to have significant public impact and which require communication and engagement with partners and the public.

¹⁵ See HMICS Recommendation 8

Scrutiny Inquiry process

41. The SPA Board Inquiry Members were:

Iain Whyte (Chair)

Morag McLaughlin

David Hume

Ian Ross

42. The SPA Scrutiny Inquiry comprised four elements. These were:

- a public call for written evidence;
- a series of public evidence sessions (held in Glasgow, Edinburgh and Inverness), engagement sessions and a private evidence session with Police Scotland representatives and one with Graeme Pearson MSP;
- a national public attitudes survey; and
- a report on effective strategic police community engagement by Professor Martin Innes, Director of the Universities' Police Science Institute at Cardiff University.

Call for written evidence

43. The SPA call for written evidence was launched on 22 September and closed on 17 October 2014 although later responses have also informed the findings and recommendations contained in this report. As well as being open to the public, approximately 350 stakeholders over a wide range of interests (representative bodies such as Inclusion Scotland as well as local authorities and elected members) were contacted directly to invite their evidence. The evidence submission form was published on the SPA website and could be submitted electronically or in hard copy. In addition, correspondence on this issue has continued to be received by the SPA and this has also been taken into account in the development of this report.

44. The Inquiry Group received 194 responses¹⁶ to the call for evidence. Table 1 opposite shows the distribution of responses by category of respondent.

¹⁶ See full list at Annex 2

Table 1: Distribution of responses by category of respondent

Category of respondent	No. of respondents	% of respondents
Member of the public	149	77
Local Authorities	15	8
Elected Representative	9	5
Community Councils	6	3
Police Bodies	2	1
Community Justice Authorities	2	1
Community Safety Partnerships	2	1
MSPs	2	1
Other	7	4
Total	194	100*

*NB percentages do not add to 100% exactly due to rounding.

45. Just over 77% of responses were submitted by members of the public. Fifteen of the 32 local authorities provided a response.

Public Evidence Sessions

46. Responses to the call for written evidence informed a series of public evidence sessions held in Glasgow, Edinburgh and Inverness. This allowed members of the Inquiry Group to hear directly from interested parties about their views and concerns. At these events members of the Inquiry Group took evidence from members of the public, local authorities, elected representatives, police staff associations, community councils and other third sector organisations. These events were Livestreamed and can be accessed at <http://new.livestream.com/accounts/5307060/>.¹⁷

National public attitudes survey

47. Whilst the call for written evidence and public evidence sessions established a clearer picture of public and partner organisations' opinions, the Inquiry Group felt it important to gauge the views and opinions of the public more generally in order to assess the level of any concerns.

¹⁷ See Annex 3

48. TNS UK carried out a Scotland-wide public attitudes survey on this issue (involving more than 1,000 members of the public) during October and November as part of their monthly face-to-face omnibus survey. The full report can be accessed on the SPA website at www.spa.police.uk

Academic report on strategic police-community engagement

49. Identifying and understanding best practice is a central element of the SPA's approach to scrutinising police practice and driving improvement. The SPA asked Professor Martin Innes, Director of the Universities' Police Science Institute at Cardiff University to examine the issue of effective strategic police-community engagement. 'Strategic police-community engagement' is defined by Professor Innes as formal interaction and communication with members of the public that is undertaken to inform policy development and strategic decision-making. It is distinct from more operational forms of engagement that directly shape service delivery at a local level. The full report is available at www.spa.police.uk

Issue One - Assessment of the level and nature of public concerns

50. The first part of the Inquiry remit was to assess the level and nature of public concerns over the pre-October 2014 Police Scotland policy in relation to the deployment of a limited number of trained ARV officers to routine calls and incidents.

Evidence and analysis

51. The Inquiry's assessment has been informed by the public attitudes survey, responses to the SPA call for written evidence, correspondence received on the matter over recent months and views expressed in evidence sessions.

Level of public awareness

52. Notwithstanding significant media coverage over much of 2014 just over half (56%) of those surveyed in October and November said they were aware of the decision to send a limited number of trained ARV officers to routine calls and incidents with a visible sidearm. Within the overall group, more than twice as many people aged over 55 were aware of the change than young people aged 16 to 24. Those in professional or managerial positions were significantly more likely to be aware than those in other employment groups. Although there was a broadly similar geographical split across the country in awareness levels, there was higher awareness in the north of Scotland. This was also borne out in the urban / rural split in national awareness, with those in rural areas being more aware. This may point to the role of the media in raising public awareness of this issue, particularly in the north of Scotland, where the issue first emerged publicly. The Inquiry considers that lessons can be drawn from this data and this is developed further below.

Level of public concern at Police Scotland decision

53. The public attitudes survey showed that a majority of those asked (53%) supported the decision to send trained ARV officers to routine calls and incidents while wearing a visible sidearm. A significant minority (37%) of those asked did not support the decision and the remaining 10% did not know.

54. Overall, around 50% of all age groups supported the Police Scotland decision to deploy armed officers to routine calls or incidents. However, while levels of support are broadly similar across most groups, with no significant difference across gender or social group, more than half of young people surveyed (those aged 16 to 34) supported the decision while fewer than half of those aged 65 and over supported the decision. This may point to a different perception and expectation of policing between the youngest and oldest demographic groups.
55. On the other hand, the majority of those who responded to the call for written evidence held a negative view of the Police Scotland decision to deploy armed officers to routine duties or incidents. Eighty two per cent (159 respondents) of those who submitted written evidence were critical of the decision and perceived it as having impacted negatively on their own or the public's feelings of safety and security.
56. It is worthwhile highlighting that public confidence in policing has remained consistently high overall during the current year¹⁸ and throughout the period during which the armed policing issue was receiving significant media coverage.
57. It is also important to balance the public's concerns with the finding in the HMICS Review that 'the overt carriage of the sidearm and Taser by ARV officers operating under a standing authority is the best and safest method of carriage and [HMICS] endorses the decision of the Chief Constable on the grounds of operational effectiveness.'
58. Some of the reasons for concern provided in responses to the call for evidence and public evidence sessions were: a sense that visible firearms create an impression of increased danger; a fear that the practice increases the risk of fatal accidents; concern that armed police at routine incidents increases the risk of a situation escalating into violence that otherwise may have been resolved peacefully; worries that police officers appear intimidating and people will be less likely to approach them if they are visibly armed; a fear that the policy would lead to more criminals carrying weapons; and a perceived risk that, while ARV

¹⁸ Police Scotland survey results indicate steady and slightly increasing public confidence levels in the year to date 2014/15: 78.8% had high confidence at end of Quarter One; 78.8% at end of Quarter Two; 78.9% at end of Quarter Three

officers with specialist training are well prepared for firearms incidents, they may misinterpret a situation while on routine duties and use their weapon unnecessarily. The potential impacts of these concerns and considerations both on the public and the police officer(s) themselves were advanced as reasons to adjust the policy.

59. In responses to the call for written evidence, amongst the minority of members of the public who considered that the decision made them feel safer and more secure, the most common reason given was that they felt more confident that the police were properly equipped to deal with any incident that could arise.

60. Having considered the evidence collected via the survey, written responses and public evidence sessions, the Inquiry has concluded that the deployment across the country of armed police officers to routine incidents and duties has had a mixed and divergent effect on levels of confidence and trust in Police Scotland. There is a higher proportion of positive than negative views in the public attitudes survey and conversely a higher proportion of negative than positive views in the written evidence submitted to the Inquiry.

Misconceptions about the Police Scotland decision to send trained ARV officers to routine calls and incidents with visible sidearms

61. During the summer of 2014, Police Scotland undertook communication activity to better explain issues such as the number of ARV officers in Scotland, the rationale for them responding to routine calls and incidents, and how the decision was reached.¹⁹

62. The public attitudes survey indicates that support for the policy was higher amongst those who were already aware of the policy (56%) compared to those only made aware while undertaking the survey – although this was a broadly even split with 49% of those unaware prior to the survey being supportive of the policy when it was explained to them. This suggests to the Inquiry that clear communication (such as that which Police Scotland undertook in summer of 2014) and proactive engagement, undertaken at an earlier stage may have enabled Police Scotland to secure greater support from the public and politicians and reduced the potential for misconceptions around the policy to arise.

¹⁹ <http://www.scotland.police.uk/about-us/police-scotland/armed-policing/armed-policing-in-scotland>

63. These misconceptions were demonstrated in the public attitudes survey which showed that just under one in five (18%) of those asked accurately estimated the number of police officers attached to Armed Response Vehicles. More than twice as many respondents thought the number was greater than the true number, compared to those who thought it was lower.

64. Overall the results indicate that there is a lack of knowledge of the numbers of armed officers in Scotland. Better early communication of the extent of the carrying of sidearms, as part of more proactive communications when the change came into place may have helped provide reassurance to the public, and might have ultimately resulted in less divergence of views. HMICS has recommended that Police Scotland should establish suitable processes to monitor, collate and report against the number of ARV officers and work with the SPA and Police Investigations and Review Commissioner to consider what additional police firearms data can be made publicly available to increase transparency and improve the scrutiny of armed policing in Scotland. The Inquiry supports this recommendation and the move towards greater transparency.

65. During the SPA public evidence sessions it was said that:

"The media caused unnecessary alarm...the public thought that there was potential of there being a fully armed force" (Councillor Alan Beveridge, North Lanarkshire Council)

"We believe that there was a general lack of understanding and misreporting of the facts. This has we believe impacted on the public view" (Association of Scottish Police Superintendents)

66. The Inquiry believes that in future Police Scotland and the SPA should work closely together in the development of communications and engagement approaches to ensure that these are both timely and complementary.

Impact (of sending trained ARV officers to routine calls and incidents with visible sidearms) on public confidence and trust in Police Scotland

67. Thirty one per cent of respondents to the survey said that the policy would make them more confident in Police Scotland, 18% less confident and 47% said that it made no difference to their views of the organisation. When asked to consider the effect on their levels of trust in Police Scotland very similar results were recorded, with 28% having more trust in the organisation, 19% less trust and half (50%) saying it made no difference to their level of trust in Police Scotland. These

results were borne out by a subsequent question on whether people in need of unarmed police assistance would prefer to be assisted by an armed officer or to wait longer for an unarmed colleague. Three in ten (30%) said that a police officer with a visible firearm arriving to help would make them feel safer, one quarter (24%) that it would make them feel less safe and 44% that it would make no difference to their feelings of safety.

68. Just over half of respondents said that the change in policy made no difference to their opinion of Police Scotland, with one quarter saying they had a better opinion and one in five a worse opinion of Police Scotland.

69. The public attitudes survey results suggest, therefore, that there may have been less widespread concern, fear and loss of confidence in Police Scotland than media coverage and political discourse during 2014 might have suggested.

70. On the other hand, the overwhelming message during the SPA public evidence sessions was that confidence and trust in Police Scotland had suffered as a result of this issue. This suggested to the Inquiry that, although not widespread, where there was concern it was strongly felt.

71. However, police officer representatives had a different perspective:

"There is not as much concern amongst the public as we are led to believe and it is largely a political issue being led within the media" (Niven Rennie, Association of Scottish Police Superintendents)

"To date all the focus has been on negative comments made by members of our communities. The SPF believe that there are a silent majority whose views have not been sought who support the decision and feel safer as a consequence.....the SPF consider the level of scrutiny placed by politicians and the media on this decision has made it into a national news story rather than the concerns of the public. (Scottish Police Federation evidence to public session, Inverness)

Safeguarding Human Rights and considering impacts on equalities groups

72. The Inquiry's call for written evidence sought views from representatives of people with 'protected characteristics' under the Equality Act 2010²⁰ as well as the Scottish Human Rights Commission (SHRC).

²⁰ <http://www.legislation.gov.uk/ukpga/2010/15/section/4>

73. In its written and oral evidence, Inclusion Scotland²¹ expressed concern about the potential impact of the policy around deployment of armed officers to routine calls and incidents on disabled people, and in particular on those with learning difficulties or mental health difficulties (and on their levels of trust and confidence in the police). Inclusion Scotland highlighted the good work being done by Police Scotland to implement the recommendations of the Equality and Human Rights Commission's Disability Harassment Inquiry, in particular in helping to reduce the fear of the police that can exist in disabled communities²², but expressed concern that the deployment of armed officers to routine incidents risks undermining that good work.
74. The Inquiry has been reassured by HMICS that Police Scotland currently follow best practice guidance and training for dealing safely with situations in which members of communities with such difficulties are involved. Nevertheless the evidence highlights the importance of engaging effectively in the development and implementation of policies such as this which have the potential to impact significantly on particular communities.
75. The public attitudes survey did not make any distinction between those respondents falling into protected characteristics under equalities legislation and the general population (beyond gender and age). This may have resulted in a gap in knowledge and may disguise a disproportionate impact of the policy on particular groups' confidence and trust in Police Scotland. For example, if, as suggested at public evidence sessions, a significant proportion of those who felt less confident or had less trust in Police Scotland were people with disabilities, this would demand consideration of mitigating action by Police Scotland.
76. The Inquiry acknowledges that Police Scotland places considerable emphasis on tackling equalities issues. The Inquiry considers that it is critical that Equality Impact Assessments form part of the development of matters of operational policy to ensure that the impact of policies on those with protected characteristics is fully considered and understood and that any necessary action to mitigate the impact of a policy on particular groups is taken.

²¹ A consortium of organisations of disabled people and disabled individuals

²²http://www.equalityhumanrights.com/sites/default/files/documents/Scotland/Disability_Harassment_Inquiry/ehrc242_dhfi_main_report_v91.pdf

77. In its written submission, the Scottish Human Rights Commission (SHRC) stated:

'The Commission recognises that specially trained armed police perform a necessary and important function in policing, particularly when it comes to protecting people's lives in violent situations. However, the Commission is concerned that introducing firearms to standard policing duties across Scotland, even where officers are fully trained, constitutes a significant shift in approach and practice.'

78. The Inquiry welcomes Police Scotland's commitment as a key partner in the continued development of the Scottish National Action Plan for Human Rights (SNAP)²³ and its ongoing work to embed human rights in the structures and culture of policing. However, it is important that Police Scotland maintains that emphasis across its functions and particularly in areas (such as armed policing) where there is a perceived change in approach and practice.

79. Policing by consent includes making ongoing and consistent efforts to take account of a broad spectrum of viewpoints while ensuring the maintenance of a human rights-based approach²⁴. It also, in the Inquiry's view, must be informed by Community Impact Assessments (which HMICS has recommended are conducted as a matter of course²⁵) and Equality Impact Assessments. This will help to ensure that policing does not deepen any sense of geographical isolation or social marginalisation and is accessible to all. This will rely on maintaining an open approach to broad and meaningful dialogue and engagement. As part of its scrutiny role, the SPA should also seek assurances from Police Scotland that these assessments have been undertaken and used to inform the decision-making process.

Communication, engagement, consultation

80. The most common reason given in written and public evidence for diminished confidence and trust in Police Scotland as a result of this policy was that the decision had been made without public consultation and appeared to be against public opinion. Police Scotland underestimating the impact of its policy and the resultant lack of early communication and engagement with national or local

²³http://scottishhumanrights.com/application/resources/documents/SNAP_Year_One_report_final_approved.pdf

²⁴ 'the systematic embedding and implementation of human rights law and standards in police strategy, policy and practice' – per SHRC written submission to Inquiry.

²⁵ HMICS Recommendation 8

partners or with communities has generated significant debate and comment about governance and the Chief Constable's accountability to the SPA.

81. For many, this issue appeared to be of more concern than the detail of the policy change itself.

82. Typical of comments in the call for evidence were the following:

"The decision taken by Police Scotland to allow its complement of trained ARV police officers to deploy to routine incidents with visible firearms was not consensual in that it lacked any consultation with the community prior to the decision being taken. As a result the decision could undermine the public confidence in Police Scotland to police with consent and that policing reflected local needs and priorities." (West Lothian Council)

"It is essential that decisions which involve a fundamental change in policing policy and both strategic and community impact are consulted upon prior to their adoption. Failure to do so results in greater concerns and leads to questions about transparency and confidence and trust in the police." (Highland Council)

"Most communities and Councils became aware of this issue through widespread media coverage. It is difficult to conceive of a less effective way to communicate such a major change in the approach to policing in Scotland." (Inverclyde Council)

83. The overall point was reinforced at the Edinburgh public evidence session:

"The main focus is not in the use of firearms but around the consultation around the use and carrying of firearms." (Stewart Sandilands, Liberton and District Community Council)

84. In relation to effective engagement with the SPA as its governance body prior to introducing the national standing authority, HMICS found the following:

'Police Scotland does not appear to have effectively communicated the impact of its policy to implement a national standing authority for ARV officers, nor ensured the SPA fully understood the implications. However, we accept that much of this can be attributed to the significant pace of change around reform and the unprecedented challenge on both the Chief Constable and the SPA to transition legacy police forces into a single operational service and establish a functional authority on Day One.'

85. The introduction of the national policy or planned deployment of ARV officers to routine calls and incidents by Police Scotland was taken in the run up to Day One of the new service and at a time when a significant number of pressing issues required to be addressed. It is the Inquiry's view that this was a material factor in Police Scotland not fully recognising the wider impacts of this policy decision and the engagement and communications that should have taken place.

86. It is the Inquiry's view that early engagement between Police Scotland and the SPA would ensure that the public's voice is heard and the principle of policing by consent is maintained. This would result in more effective decision-making.

Cumulative impact of armed policing and earlier issues

87. It may be the case that some of the negative responses received in relation to the issue of armed policing were influenced by the respondents' previous experience of Police Scotland. A number of respondents referred to previous occasions where they felt that communication and engagement had not been sufficient.

"Taken alongside other operational and policy matters that have been communicated recently including routine stop and search, local office closures, control centre rationalisation and changes to the way traffic wardens are deployed have all clearly highlighted the need for

strengthened communication and engagement arrangements between the Scottish Police Authority, Police Scotland and local authorities.” (East Ayrshire Council, call for evidence response)

“This is the latest in a series of decisions taken by Police Scotland with significant implications for our communities but without any meaningful consultation or engagement. The impact of this approach to relations with the community is of considerable concern to the both the Public Safety Committee and Stirling Council.” (Stirling Council Public Safety Committee, call for evidence response)

“Police Scotland’s decision to allow its complement of trained ARV police officers to deploy to routine incidents with visible firearms, without any consultation replicates the approach taken by Police Scotland in relation to traffic wardens and closure of police stations. All three decisions which potentially have significant impact on local communities have been undertaken as ‘operational decisions’ without meaningful engagement with local communities.” (West Lothian Council, call for evidence response)

Issue Two - Assessment of Police Scotland engagement

88. The second part of the Inquiry remit sought to assess how effectively Police Scotland engaged with the public and considered the impact on communities in implementing their approach.

Evidence and analysis

Communication and engagement around armed policing – general

89. In their Assurance Review, HMICS concluded that public concern about the deployment of ARV officers grew from the limited communication around this issue from December 2012 onwards.

Legacy governance of standing authorities

90. Prior to 1 April 2013, Standing Firearms Authorities were in place across Northern Constabulary (from 1 March 2013), Tayside Police and Strathclyde Police.²⁶

91. Discussions with Police Scotland as part of this Inquiry suggested that the legacy approach to engagement on this issue contributed to Police Scotland considerations of pre-Day One engagement with the SPA. The SPA should acknowledge that its own focus (prior to the implementation of the standing authority and Police Scotland decision to send ARV officers to routine calls and incidents) was on immediate Day One readiness. It is therefore important to acknowledge that context. However, given the SPA's national role and its commitment to improve on legacy police governance arrangements, in particular with regard to the findings of the Best Value Audits of those arrangements carried out by Audit Scotland and HMICS²⁷, fuller prior engagement should have occurred. The SPA should have had a greater opportunity to scrutinise the decision given its wider impact. The Inquiry welcomes HMICS Recommendation 2 that a member of the SPA should attend future meetings of the Police Scotland Armed Policing Monitoring Group as an observer to improve transparency and provide reassurance to the Authority over any operational decision by the Chief Constable to grant a standing authority.

²⁶ Figure 1, Page 23 HMICS Review of Firearms Standing Authority

²⁷ <http://www.hmics.org/publications/best-value-police-authorities-and-police-forces-scotland-overview-report>

Best value considerations

92. At the June 2014 SPA Board meeting, the Chief Constable set out his view that armed police officers were police officers first and foremost and should work to support community policing. He said:

"I don't think we can afford to have even a very small percentage of officers sitting waiting to respond by the side of the road."

93. Maximising the use of available resources is an important principle that will help to achieve best value in policing and it is important that officers maintain their skills.²⁸ However, the Inquiry's view based on the evidence given was that Police Scotland appear to have underestimated the community impact generally of this policy (as HMICS has found) as well as the fact that armed police officers engaged in community policing would be seen by some as a significant change in policing style. In written responses from some members of the public, the following views were expressed:

"When I have been to other countries where the police routinely carry weapons openly, it is a very unpleasant feeling and it immediately puts a barrier between you as a citizen and the officer who is supposed to be protecting you. I do not feel at all protected by a person with a gun."

"I do not trust anyone who is wearing a firearm; I am intimidated by it so would have no confidence or trust in such an officer."

"It damaged my trust in the police. I now view them as a threat who are not there to serve the public."

94. The Inquiry's view is that while these appear to be minority views (based on levels of trust and confidence in Police Scotland reflected in the public attitudes survey and overall continuing high levels of public confidence), they are nonetheless strongly held and the potential for a decision such as this to be perceived by some as fundamentally changing their attitude to the police is important.

²⁸ This was raised in the Glasgow public evidence session by Niven Rennie, President, ASPs.

Considering the views of communities

95. The Inquiry considers that it is fundamental to the principle of policing by consent that communities are informed and reassured when there are changes to policing policy or practice which are likely to have a significant impact on them. Police Scotland's communications activity during 2014 sought to reassure the public and explain the rationale for the policy and the inquiry acknowledges these efforts. However, this was made difficult because of public misconceptions and misunderstandings about the rationale, nature and extent of armed policing that had already taken hold. The Inquiry considers that when concerns started to emerge, an approach that included more listening and acknowledging – as well as communicating and informing – would have assisted in allaying at least some of the concerns and in ensuring a clearer understanding and acceptance of the approach that was adopted. This should have included more opportunity to acknowledge and respond fully to the concerns raised by local authorities and other stakeholders with SPA members, for example those raised at the SPA public Board meeting in June 2014²⁹.
96. The Inquiry also recognises that SPA could have adopted an earlier and more proactive response to rising concerns by engaging with local authority scrutiny bodies and undertaking further Board level scrutiny. The Inquiry strongly welcomes the initiative by Police Scotland to develop a national communications and engagement strategy for implementation in early 2015, covering a range of strategic issues. The Inquiry notes that Police Scotland staff and officers are currently engaged with the SPA on the development of this strategy.
97. The HMICS Assurance Review stressed the importance of mainstreaming Community Impact Assessment within a comprehensive stakeholder management process for major policy changes, and that there should be a joint agreement between SPA and Police Scotland on how significant policy changes are communicated in advance. The Inquiry agrees that this should be built into best practice in the SPA and Police Scotland's policy work and that an agreement should be published as part of the suite of underpinning SPA and Police Scotland governance documents.

²⁹ <http://www.spa.police.uk/meetings-events/board-meetings/195129/>

Effective strategic engagement

98. The principle of policing by consent requires the Police to secure and maintain public respect and that includes "securing the willing co-operation of the public in the task of securing observance of laws"³⁰. The Inquiry considers inherent in that requirement is a need to ensure informed community engagement in policy development and the reflection of the public voice and community expectations in policing. This was reflected in public evidence gathering sessions:

"At the end of the day, our politicians and our public should decide how they wish their streets to be policed, and the police should react to that and set their strategy accordingly. But I stress that they should do that based on factual evidence and full knowledge." (Niven Rennie, Chair, Association of Scottish Police Superintendents)

"While we recognise the need for an effective armed police response in certain circumstances, the attendance of armed police officers with visible weapons at routine incidents should only be considered following extensive community consultation and political consideration." (Fife Partnership and Fife Council)

99. In the Inquiry's view, Police Scotland's decision-making should be underpinned by a strong organisational commitment to early engagement, information seeking and provision, listening and consultation with the SPA. Police Scotland should involve local authority scrutiny bodies, community representatives and communities before making decisions which will have significant impact on diverse communities.

100. It is also the view of the Inquiry that there is considerable value in making the public aware (to an appropriate level) of the level and nature of risk and threat prevailing within the country as part of a broader commitment to information sharing and transparency.

³⁰ See footnote 5

Issue Three - Addressing public concerns and reassuring communities

101. The third part of the Inquiry remit was to assess how Police Scotland might best address any public concerns about their policy on sending ARV officers to routine calls and incidents and to provide necessary reassurance to communities.

Evidence and analysis

Putting engagement at the heart of organisational approaches

102. The Inquiry agrees with HMICS that public concerns about armed policing were exacerbated by initial weaknesses in effective public engagement and communications.

103. In Professor Martin Innes' report (published alongside this Inquiry report) the concept of 'strategic community engagement' is explored. He defines this as follows:

'strategic community engagement' is defined as formal interaction and communication with members of the public that is undertaken to inform policy development and strategic decision-making. In this sense, it is distinct from more operational forms of engagement that directly shape service delivery at a local level'.

104. Professor Innes makes the following observations on how 'strategic community engagement' can be used to inform the policing of contentious and contested issues, which the Inquiry considers are complementary to the principles of policing by consent and applicable to development of policy around sending ARV officers to routine calls or incidents.

- There needs to be a shared recognition and definition of a problem that needs to be solved. Investment in building social capital in advance of problems emerging, rather than trying to forge such relationships when an issue has already arisen is important.
- Being transparent and accountable about what is being done and why, is a vital ingredient in terms of securing public permission.

- In a changed political climate where political and public expectations about increased levels of accountability are evident, overt police interventions [being transparent in decision-making and implementation] are generally preferable wherever possible.
- The communication strategy, utilising multiple platforms and channels...is not an adjunct or an afterthought to the intervention.
- Systematic and structured community impact assessment processes can play an important role in helping to manage down the legacies and consequences of contested interventions [e.g. policing decisions where community impacts may be significant or particularly sensitive] in positive ways.³¹
- Such ways of working have significant legacy effects. This includes shifting public expectations about how policing will be conducted in the future.

105. The development of its Communications and Engagement strategy, which is expected to be presented to the SPA in February, provides Police Scotland with an opportunity to consider this advice in relation to developing its engagement approaches on future policy decisions with significant impacts. In doing so, Police Scotland should set out how it is embracing and mainstreaming openness, transparency and appropriate information sharing within its policies, processes, strategies and organisational culture. It should also make clear how this links to its organisational values of integrity, fairness and respect and its approach to ethical policing³².

106. This may also provide an opportunity to make a clear and ongoing commitment to engaging with community representatives and the public on prevailing risk and threat and the Police Scotland response to that to build community confidence and trust. The Inquiry view is that demonstrating a clear willingness to discuss prevailing risk and related police actions will support Police Scotland's efforts to engage and secure public support for their decisions.

³¹ See HMICS Recommendation 8

³² See footnote 13

Valuing dialogue and being prepared to explain

107. A theme from evidence considered by the Inquiry was that there would be greater acceptance and support for policing decisions where there was a level of communication and dialogue with people and communities, which therefore reflected that the public voice had been heard. It is the Inquiry's view that where policing decisions are taken that could be reasonably foreseen to have a significant impact on the public, it is critically important that Police Scotland seeks views from those likely to be impacted upon, explaining in a clear way why it is seeking to pursue its proposed approach. The public can, and will, be better reassured where they feel that their concerns have been heard and appropriate levels of engagement have taken place – even if the resulting outcome is not the one some groups or members of the public would have preferred.

"It is impossible to consult on everything but on items that have a greater impact on communities it is incredibly important... it is important for opportunity to be given for voices to be heard, even if other decisions are taken in the end." (Ann Gee, Executive Director, South Lanarkshire Council, Glasgow Public Evidence Session)

Adjusting policy / explaining policy

108. The HMICS Assurance Review found, in relation to the decision that firearms be carried by officers rather than stored in vehicle safes:

*'It is possible for both the handgun and Taser to be stored securely by ARV officers within the vehicle safe under a Standing Authority and removed by them when required. However, this negates the operational effectiveness of the current standing authority as it does not give ARV officers immediate access to firearms and defeats the intended purpose of providing them with the capability of responding to incidents where there is an immediate need to protect life.'*³³

109. Although the Inquiry understands this relates to the requirement for ARV officers to have immediate access to firearms, a number of responses were received which suggested that there remains a degree of uncertainty and confusion about this. In particular, the Inquiry concludes that there is not yet a widespread understanding amongst the public about why sidearms and Tasers

³³ paragraph 36 of the HMICS Review of Firearms Standing Authority

are no longer kept in vehicle safes in ARVs, which was the practice in a number of forces prior to April 2013.

"Dumfries and Galloway is a region which has significant number of registered guns (circa 16,000) and recognise the need for armed response. However we would request that these weapons are not on show for routine incidents, but that they are stored in appropriate location within officer vehicle, which would allow response to be initiated." (Dumfries and Galloway Council)

"The preference expressed by the majority of Members of this Council is the wish for local officers to attend incidents but retain their firearms within their vehicle. We would support their requirement to have 'standing authority' for this but a sufficient explanation for why this approach is not possible has yet to be provided. As noted above, we would query where within the regulation is there authority for police officers to be armed whilst on routine police work where no threat or risk has been identified which justify the carrying of arms." (Highland Council)

"I believe that section 3 of the consultation presents respondents with a false choice. The SPA does not ask respondents for their views on the option of officers storing weapons in the boot of ARVs and undertaking routine duties unarmed, only accessing their weapons when firearms are necessary or when the public or police officers are at imminent risk. Members will be aware that this was the policy adopted by five of the eight legacy forces before the inception of Police Scotland." (Alison McInnes MSP)

110. In addition, it has been suggested by some in the course of the public debate about this issue that Police Scotland would better reassure the public if sidearms were not visible while being carried by police officers.

111. HMICS's recommendation 4 states that Police Scotland should engage with the SPA and relevant stakeholders in relation to its review into the modes of carriage for firearms and ensure that any changes which are likely to have an impact on public confidence are effectively communicated to local authorities and communities across Scotland.

112. As an example of this, if Police Scotland was to consider moving towards covert carriage of firearms under the standing authority, then it should not assume this would automatically remove any public unease and concern. The Inquiry agrees with HMICS that this and other similar issues about development of firearms deployment policy requires significant engagement and discussion with the SPA and relevant stakeholders before any change of policy is adopted.

113. The Inquiry believes that it is critical that any future adjustments to policy around mode of firearms carriage or deployment of firearms officers to routine calls and incidents are handled with sensitivity and involve significant levels of engagement and explanation.

Issue Four - Lessons for the future

114. The SPA Inquiry was established to assess what, if any, lessons might be learned around how operational decisions with wider strategic or community impact are communicated to national and local oversight bodies and other key interested parties.

Evidence and analysis

Accountability, responsibility and independence

115. The issues raised around firearms policy have generated public questions about effective governance and the Chief Constable's accountability to the SPA. The Inquiry has therefore taken the opportunity to examine the accountability framework of policing in Scotland.

'The Chief Constable's role requires him to make operational policy decisions, free from political interference, to determine what is the best way to keep people safe.' (Armed Policing in Scotland – Facts not myths, Police Scotland)

"A decision about routine deployment of armed police should never have been allowed to be a purely operational decision. It raises doubts as to whether other matters that should have been publicly discussed (issues of confidentiality and of access to electronic communications) are being adequately monitored." (City of Brechin and District Community Council)

116. There has been much debate on where the limits were drawn on the Chief Constable's 'operational independence' to make the decision both to (i) agree a national standing authority for the issue and carriage of firearms and (ii) agree that ARV officers operating under that standing authority should be sent to routine calls and incidents.

117. HMICS found in its report that 'although the decision to grant a standing authority is an operational decision for the Chief Constable, he remains accountable for that decision to the Scottish Police Authority.' This is supplemented by a discussion around accountability and a recommendation³⁴

³⁴ HMICS Recommendation 9

that *'the Scottish Police Authority should engage with Police Scotland and other relevant stakeholders to consider the concept of 'operational responsibility' and develop a shared understanding over roles, responsibilities and boundaries. This should include mechanisms to capture local authority perspective and apply these within its wider scrutiny and governance of Police Scotland.'*

Parliamentary exchanges

118. At the Policing Sub-Committee of the Scottish Parliament Justice Committee evidence session on armed policing (21 August 2014) the issue of what constitutes 'operational policing' arose in questioning of Derek Penman, HMICS from Graeme Pearson MSP (excerpt from exchanges below):

Graeme Pearson: "In the Justice Committee meeting of 27 November 2012, your predecessor described operational independence as a "grey area". It was also described as "fuzzy", and it was acknowledged that clarity would be required through a process of discussion. Have you been involved in any formal discussions about operational independence? If you have, can we have copies of the minutes of those discussions so that we can see the direction in which it is going?"

Derek Penman: "I have not been involved in any formal discussions around operational independence. In giving evidence to the Justice Committee on Tuesday, I said that scrutiny is one of the areas that require further work and the time is now right for that. There should be a national discussion about all levels of scrutiny. It is not just the Chief Constable's operational autonomy that should be looked at, but the accountability to the SPA and, indeed, how scrutiny bodies such as Her Majesty's Inspectorate of Constabulary in Scotland link into that."

119. The SPA Chair was then asked for his view and responded:

"The Police and Fire Reform (Scotland) Act 2012 makes it clear that the Chief Constable has operational independence, and that is intended to be independence from any political influence. There is a maturity in our arrangements with the police on the extent to which the SPA becomes involved in the Chief Constable's decisions. Our scrutiny role is very much after the fact, and that is not really my view of governance. I have expressed that view to the committee at various times when we have met

previously, and we need to move to a situation in which we are consulted in advance of policy decisions being made instead of simply scrutinising those decisions after the fact."

'Operational responsibility'

120. The HMICS reference to the concept of *'operational responsibility'* is drawn from the findings of the Independent Commission on Policing for Northern Ireland which led to the establishment of the Police Service of Northern Ireland. The Commission makes specific reference to the issue of *'operational independence'*, citing this as "one of the most difficult issues we have considered".³⁵ Having consulted extensively in several countries, the Commission concluded that the principle of *'operational independence'* had emerged from the term *'direction and control'* included in the statutory description of the functions of a Chief Constable. It was considered by the Commission difficult, if not impossible, to define the full scope of a police officers' duties and as such problematic to provide a composite definition for the term *'operational independence'*. The Commission concluded that it was not sufficient that the scrutiny attributed to policing decisions was limited to matters falling out with the scope of *'operational independence'*.
121. The Commission argued that the term was unhelpful and that, in a democratic society, a Chief Constable should be considered fully accountable in the same terms as any public official, for the performance of their function. Whilst it fully supported the need to minimise the risk of political influence, it argued that the term *'operational responsibility'* was more appropriate.
122. The Commission suggested that the crux of the *'operational responsibility'* concept is that: "it is the Chief Constable's right and duty to take operational decisions, and that neither the government or the Policing Board should have the right to direct the Chief Constable as to how to conduct an operation. It does not mean, however, that the Chief Constable's conduct of an operational matter should be exempted from inquiry or review after the event by anyone... It is important to be clear that a Chief Constable, like any public official must be both free to exercise his or her responsibilities but is also capable of being held to account afterwards for the manner in which he / she exercises them".

³⁵ Independent Commission on Policing for Northern Ireland: A New Beginning: Policing in Northern Ireland p8

Accountability Framework in Scotland - Police and Fire Reform (Scotland) Act 2012

123. The Police and Fire Reform (Scotland) Act 2012 makes provision for policing and sets out the roles and functions of both the SPA and the Chief Constable of the Police Service of Scotland.

Key elements in respect of accountability

124. The 2012 Act establishes the statutory accountability framework for policing in Scotland and is entirely consistent with the concept of operational responsibility. The key relevant provisions of the Act are:

Scottish Police Authority

Section 2

The main functions of the SPA are -

- To keep under review the policing of Scotland,
- To hold the Chief Constable to account for the policing of Scotland (including, in particular, the Chief Constable's carrying out of the functions outlined within the Act)

The Authority must also try to carry out its functions in a way which is proportionate and transparent and which is consistent with any principle of good governance which appears to constitute best practice.

Chief Constable

Section 17

- The Chief Constable is responsible and must account to the Authority for the policing of Scotland.
- The Chief Constable has direction and control of the Police Service which includes day to day administration such as the allocation and deployment of resources received from the Authority.
- The Chief Constable may be required to provide the Authority with information relating to the Police Service, policing or the state of crime.
- The Chief Constable must ensure that the policing of Scotland is done with due regard to any recommendations made or guidance issued by the Authority on the policing of Scotland.

- See footnote³⁶

Section 99 (Interpretation)

- “Policing” means the carrying out of police functions (and references to the policing of Scotland are references to the carrying out of police functions in or as regards Scotland),
- “Police functions” means the functions of constables (including the Chief Constable’s functions and any functions of a Deputy Chief Constable, an Assistant Chief Constable or a Local Commander)

Scottish Ministers

Section 5

- The Authority must comply with any direction given by Scottish Ministers, and
- Under terms of section 5 of the Act Ministers may not give direction in respect of a specific operation being carried out by the Police Service, nor may it give direction relative to the way in which the Police Service is carrying out (or is to carry out) a specific operation.

125. Whilst there is no specific reference to the term ‘operational independence’ within the Act, the provisions outlined within section 5 clearly seek to support and protect the notion of independence and reduce the risk of political interference in operational policing matters. Notably the wording of the Act relates specifically to *policing operations* as opposed to strategic decisions which could impact upon operational service delivery provisions or changes in policing style. The Inquiry considers this an important distinction.

Inquiry view

126. It is clear from the Police and Fire Reform (Scotland) 2012 Act that the Authority should establish at a high level what Police Scotland should be doing through setting the strategic police priorities. It is a matter thereafter for the Chief Constable to determine how resources should be deployed to achieve these priorities, and to be accountable for those decisions.

127. In its Stage 1 report on the Police and Fire Reform (Scotland) Bill³⁷, the Scottish Parliament’s Justice Committee stated that:

³⁶ In addition, under Section 17(3) the Chief Constable must, when directing constables, police cadets and police staff in the carrying out of their functions, comply with any lawful instruction given by—
 (a) the appropriate prosecutor in relation to the investigation of offences,
 (b) the Lord Advocate under section 12 of the Criminal Procedure (Scotland) Act 1995 (c.46),
 (c) the Lord Justice General, or
 (d) the sheriff principal for the place in which the functions are to be carried out.

'The Committee believes there must be a balance between operational independence and democratic accountability of the police and therefore accepts the Scottish Government's position that use of the power of direction may be necessary in very limited circumstances and in relation to non-operational matters only. Furthermore, we are not convinced that including a definition of operational independence on the face of the Bill would be helpful'.

In response to this, the Scottish Government stated:

'(The Scottish Government) welcomes the Committee's recognition of the balance the Bill seeks to strike between operational independence and democratic accountability. The Scottish Government also shares the Committee's view that a definition of operational independence on the face of the Bill would not be helpful, and believes that it would risk putting some aspects of policing beyond scrutiny and accountability.'

128. There is universal consensus that Chief Constables should remain free from political interference in policing operations. However, the Inquiry considers the statutory definition (at section 5 of the 2012 Act) to have been drawn narrowly to ensure that accountability is maintained.
129. Given the practical difficulties in interpreting the limits of operational independence and responsibility, as was the position of the Scottish Government and Scottish Parliament Justice Committee in developing the legislation, the Inquiry is not attracted to any attempt to define these in future engagement with Police Scotland. In the Inquiry's view, the risk (as expressed by the Scottish Government during the passage of the Bill) in defining operational policing would be that some issues would consequently fall beyond scrutiny and accountability.
130. Overall, the Inquiry concludes that the public debate around 'operational independence' in respect of the decision to deploy armed officers to some routine incidents or calls may have clouded the public understanding of accountability. However, the Inquiry considers that a clear accountability framework for policing exists in Scotland, with clear statutory authority. Going forward, rather than pursuing a rigid definition of what is an operational matter and what is not, the Inquiry believes that it is more important to establish clear

³⁷ [http://www.scottish.parliament.uk/S4_Bills/Police%20and%20Fire%20Reform%20\(Scotland\)%20Bill/SB_12-44.pdf](http://www.scottish.parliament.uk/S4_Bills/Police%20and%20Fire%20Reform%20(Scotland)%20Bill/SB_12-44.pdf)

working protocols to bring the Policing Principles of an engaged and accessible service to life.

Way forward

131. It is clear that many respondents to the Inquiry sought a clearer commitment from Police Scotland to communicate, engage and where appropriate, consult where there is a significant public interest in matters of policing policy. Further, the expectation is that such engagement should begin, but not end, with the SPA. It is through such an approach that the principle of 'policing by consent' can be effectively maintained.
132. A current example of a positive approach is in the Chief Constable's recent comments that the SPA should lead a debate about police officers routinely using body worn cameras and ensure that the public voice is heard and considered before any decisions are taken. The Inquiry considers this to be a clear and welcome signal of intent for the future.

SPA working effectively with Local Authorities

133. One principle of good governance is that the public's voice should be suitably reflected in decision-making. One of the ways in which the SPA fulfils that is through establishing effective links with local authorities, and their local policing scrutiny committees. Although just under half of the local authorities in Scotland contributed views to this Inquiry, a common theme was the expectation that SPA would have advance engagement on these policy issues. Furthermore there was an expectation that, where necessary, local scrutiny bodies would have an opportunity to inform the SPA's considerations of these national matters.
134. Appropriate prior SPA engagement with Police Scotland on these issues is seen as one way of further strengthening mutual understanding of roles, responsibilities and boundaries between SPA and local authority scrutiny bodies. There is an opportunity here for SPA to also move its relationship with local authority scrutiny bodies onto a more forward looking and anticipatory, rather than reactive, basis. The SPA has taken a lead role in bringing representatives from the 32 local authority scrutiny committees together in a number of 'Partners in Scrutiny' forums. This is one channel by which that more forward-looking relationship can be developed.

135. In this context it is essential that scrutiny exercised by the SPA ensures that policing policies have clear links to localism, prevention, and improved outcomes. Further, it is important that policing outcomes are specific and measurable, delivering best value solutions.

Ensuring effective early Police Scotland engagement with SPA and communities in future

136. The Inquiry's view is that the focus should be on establishing a shared understanding between SPA and Police Scotland on which decisions within Scottish policing are likely to raise significant public interest or which will require Police Scotland to communicate and engage on a national basis.

137. The impacts of many policing policy and operational decisions are felt across communities and civic partners, including local government. Early Police Scotland engagement with the SPA should assist in considering these impacts. Subsequent engagement with other partners and communities to shape policing decisions will be critically important in fulfilling the aspiration captured in the Policing Principles of a service that is accessible to and engaged with communities.

138. To ensure transparency, work should be undertaken by SPA in collaboration with Police Scotland to draft an agreed approach to engagement for publication as part of the suite of underpinning governance documents.

Scrutiny Inquiry recommendations

139. As a result of the evidence considered as part of this Scrutiny Inquiry and the findings set out in the body of this paper, the Inquiry's recommendations are as follows:

Armed policing

1. The SPA should formally endorse the Scrutiny Inquiry findings and recommendations alongside those of the HMICS Assurance Review as a complementary body of material to drive continuous improvement in policing. SPA should monitor progress against recommendations through its governance mechanisms.
2. Police Scotland should undertake prior engagement with the SPA, local authorities and communities prior to making any further change in the deployment model or policy in respect of the Firearms Standing Authority.
3. Police Scotland should further explain to the public why a standing authority is required, why weapons must be carried overtly and why sidearms and Tasers are no longer kept in locked vehicle safes in ARVs. It should outline the nature of threat and risk while protecting the sensitivity of restricted police intelligence or national security products.

Wider issues

4. Police Scotland should ensure advance engagement with the SPA over policies or proposals which are likely to have a significant public impact. This should inform decisions around the early engagement and consultation with local authorities, communities, representatives of equalities groups and other relevant stakeholders.
5. Police Scotland should ensure that all operational policies are subject to Community Impact Assessments and Equality Impact Assessments. As part of the scrutiny process, the SPA should seek assurances from Police Scotland that these assessments have been undertaken and used to inform the decision-making process to ensure that 'equal access to specialist services' is not interpreted as 'the same access' but considers impact on groups with protected characteristics or other minority groups. The SPA should also develop dialogue and engagement

with representatives of equalities groups to better reflect their voice in engagement with Police Scotland.

6. Police Scotland should build on its commitment to ethical policing³⁸ and its organisational values of integrity, fairness and respect through increased openness and transparency in its decision-making. This would include demonstrating a strong and ongoing commitment to engaging with local authorities, community representatives and the public on prevailing risk and threat to build confidence and trust. It is judged that this will provide a helpful context setting for the wider understanding of operational decisions that Police Scotland may have to take.
7. The SPA should further develop the 'Partners in Scrutiny' national forum with local authorities into a more forward-looking and anticipatory partnership to identify and discuss strategic policing issues likely to have significant public interest well in advance of any decisions being required.
8. The SPA and Police Scotland should set out in a public document a formal agreement on early and effective engagement to improve police policy development and strengthen the principle of policing by consent across Scottish communities.

³⁸ <http://www.scotland.police.uk/about-us/code-of-ethics-for-policing-in-scotland/>

ANNEX 1: HMICS ASSURANCE REVIEW SUMMARY

The HMICS assessment was informed through four key questions:

(a) Was/is the initial and current Standing Authority for Armed Response Vehicles (ARVs) justified by the information and intelligence contained within the Police Scotland Firearms Strategic Threat and Risk Assessment (FSTRA)* documents and supporting intelligence products?

(b) What were the reasons leading to the selection of overt carriage of sidearms, how does this compare with arrangements elsewhere, and why is this viewed as the most appropriate option by Police Scotland?

(c) What written deployment criteria are in place for Police Scotland ARV officers in respect of both firearms-specific and non-firearms-specific duties?

(d) What external notification and consultation took place around the decision by Police Scotland to deploy ARV officers under the standing authority with overt carriage of sidearms?

HMICS Findings

- The recent political and public debate over armed policing in Scotland has crystallised around questions of legality, legitimacy and police accountability and highlighted the need for greater transparency and improved engagement by Police Scotland.
- In determining the need for the standing authority for ARV crews, Police Scotland has fully complied with all relevant United Kingdom armed policing guidance. The operational need for the standing authority as approved by the Chief Constable is justified by the composite assessment of national threat, risk and intelligence.
- Although the decision to grant a standing authority is an operational decision for the Chief Constable, he remains accountable for that decision to the Scottish Police Authority.
- The overt carriage of the side arm and Taser by ARV officers operating under a standing authority is the best and safest method of carriage and we endorse the decision of the Chief Constable on the grounds of operational effectiveness. More broadly, we consider that overt carriage for ARV duties promotes openness and transparency with the public.
- The procedures for ARV officer deployment to firearms-related incidents are fully compliant with the College of Policing and ACPO guidelines. Whilst there have

been no written criteria for ARV officers to perform non-firearm duties, there have been sufficient operational safeguards in place.

- ARV officers consider there have been improvements in public and officer safety as a result of the new national ARV model with standing authority and overt carriage.
- Police Scotland has underestimated the community impact of its policy to allow ARV officers to attend non-firearms-related incidents and could have done more in terms of local engagement and addressing localised concerns.
- The Chief Constable has recently responded to community concerns around armed policing and we support his decision that ARV officers will only be deployed to firearms incidents or where there is a threat to life. However, we believe that ARV officers can make a positive contribution to local policing and should support local officers through attending appropriate non-firearms-related incidents. This will require deployment criteria that is understood and accepted by local communities.
- Police Scotland has not effectively communicated the impact of its policy decision to implement a national standing authority for ARV crews, nor ensured the SPA fully understood the implications. However, we accept that much of this can be attributed to the significant pace of change around reform and the unprecedented challenge on both the Chief Constable and the SPA to transition legacy police forces into a single operational service and establish a functional authority Day One.
- In terms of the three objectives of police reform, we consider that the new ARV model has protected and improved local services and has resulted in more equal access to specialist support and national capacity. However, there is still a gap in public understanding around the nature and extent of armed policing in Scotland and this issue has not strengthened the connection between police services and communities.
- There are fewer authorised firearms officers in Scotland (AFOs) following police reform, although the geographical coverage of armed response vehicles (ARVs) has been enhanced to provide more equitable access throughout Scotland to specialist resources.

HMICS Recommendations and progress to date

Recommendation	Progress Update
<p>Recommendation 1: Police Scotland and the Scottish Police Authority should engage with the College of Policing to explore options for more formal relationships and reduce the risks and ambiguity which potentially arise from the current voluntary arrangements.</p>	<p>Early engagement has already taken place between SPA and College of Policing.</p>
<p>Recommendation 2: A member of the Scottish Police Authority should attend future meetings of the Police Scotland Armed Policing Monitoring Group as an observer to improve transparency and provide reassurance to the Authority over any operational decision by the Chief Constable to grant a standing authority.</p>	<p>The SPA Chair attended the quarterly meeting of this group on 15 January 2015.</p>
<p>Recommendation 3: Police Scotland should ensure that operational policy decisions around a standing authority recorded in the Force FSTRA should have the supporting rationale better reflected in the document.</p>	<p>For Police Scotland.</p>
<p>Recommendation 4: Police Scotland should engage with the Scottish Police Authority and relevant stakeholders in relation to its review into the modes of carriage for firearms and ensure that any changes which are likely to have an impact on public confidence are effectively communicated to Local Authorities and communities across Scotland.</p>	<p>For Police Scotland.</p>
<p>Recommendation 5: Police Scotland should engage with local stakeholders to develop clear messaging around the limited nature of the standing authority and manage the local community impact from</p>	<p>For Police Scotland.</p>

<p>the recent change in operational practice where armed officers may still be seen responding to incidents or requests for assistance.</p>	
<p>Recommendation 6: Police Scotland should provide clear guidance for ARV officers on how firearms should be handled when they need to leave the ARV when not responding to operational incidents. Where Police Scotland assess that this guidance may have an impact on community confidence, it should be included in any public messaging to communities.</p>	<p>For Police Scotland.</p>
<p>Recommendation 7: Police Scotland and the Scottish Police Authority should re-engage with local authorities and other stakeholders and develop criteria for ARV officers to undertake non-firearm duties which are understood and accepted by local communities and allow ARV officers to meaningfully contribute to local policing priorities.</p>	<p>We will look to progress this action in early 2015.</p>
<p>Recommendation 8: Police Scotland should adopt a comprehensive stakeholder management process for major policy changes, apply community impact assessments as a matter of course and ensure this is supported by a detailed communications plan. In particular, there should be agreement between Police Scotland and the Scottish Police Authority around how significant national policy changes are communicated in advance.</p>	<p>Work underway between Police Scotland and SPA.</p>
<p>Recommendation 9: The Scottish Police Authority should engage with Police Scotland and other relevant stakeholders to consider the concept of "Operational Responsibility" and develop a shared</p>	<p>Work underway between Police Scotland and SPA.</p>

<p>understanding over roles, responsibilities and boundaries. This should include mechanisms to capture local authority perspectives and apply these within its wider scrutiny and governance of Police Scotland.</p>	
<p>Recommendation 10: Police Scotland should establish suitable processes to monitor, collate and report against the number of ARV officers and work with the Scottish Police Authority and Police Investigations and Review Commissioner to consider what additional police firearms data can be made publicly available to increase transparency and improve the scrutiny of armed policing in Scotland.</p>	<p>Progress expected in early 2015.</p>

ANNEX 2: LIST OF RESPONDENTS TO CALL FOR EVIDENCE

Local Authorities

Dumfries and Galloway Council
Dundee Council Police and Fire and Rescue Committee
East Renfrewshire Council
Fife Council and Fife Partnership
Glasgow City Council
Highland Council
Inverclyde Council
Moray Council
North Lanarkshire Council
Orkney Islands Council
Renfrewshire Council
Scottish Borders Council (provided written statement at public session)
South Ayrshire Council
South Lanarkshire Safer South Lanarkshire Board
Stirling Council Public Safety Committee
West Lothian Council
Western Isles Council Environment and Protective Services Committee

Elected Representatives

Convenor Community Safety Perth and Kinross Council
Councillor for Argyll and Bute Council
Councillor for East Lothian Council
Councillors for Highland Council (three councillors)
Councillor for Perth and Kinross Council
Councillor for Renfrew North Council
One unnamed elected representative

Community Councils

Auchterhouse Community Council
City of Brechin and District Community Council
Liberton and District Community Council
Montrose Community Council
Stockbridge and Inverleith Community Council

Strathmartine Community Council

Police bodies

Scottish Police Federation

The Association of Scottish Police Superintendents

Community Justice Authorities

North Strathclyde Community Justice Authority

South West Scotland Community Justice Authority

Community Safety Partnerships

Midlothian Community Safety Partnership

Moray Community Safety Partnership

MSPs

Alison McInnes, Member for North East Scotland Region & Scottish Liberal Democrat Justice Spokesperson, Member of the Justice Committee, Member of the Justice Sub-Committee on Policing

Elaine Murray, Member for Dumfriesshire, Member of the Justice Committee

Other

Convention of Scottish Local Authorities (COSLA)

Craigie High School Dundee

Fellowship of Reconciliation – Scotland

Inclusion Scotland

Scottish Episcopal Church

Scottish Human Rights Commission

Victim Support Scotland

Young Scot

Individuals

149 respondents

ANNEX 3: LIST OF WITNESSES AT PUBLIC EVIDENCE SESSIONS

Glasgow Public Evidence Session

Ann Gee – Executive Director of Safer South Lanarkshire Board

Councillor Alan Beveridge – North Lanarkshire Council

Mike Greville - Member of the public

Niven Rennie – President of Association of Scottish Police Superintendents

Pauline Nolan – Inclusion Scotland Policy Officer

John Syme – Chairman of Dumfries and Galloway Council Police, Fire and Rescue Sub-Committee

Edinburgh Public Evidence Session

Anna Ivic - James Gillespie's High School student

Bruce Young – Member of the public

Councillor Donald Moffat - Chair of the Scottish Borders Police, Fire and Rescue and Safer Communities Board

Councillor George Turnbull – Member of the Scottish Borders Police, Fire and Rescue and Safer Communities Board

Councillor Harry McGuigan – COSLA Spokesperson for Community Well-being

Councillor Kenny Selbie – Fife Council Safer Communities Committee

Councillor Tim Day – East Lothian Council Cabinet Spokesperson for Community Well-being

Douglas Scott – Scottish Borders Council Senior Policy Advisor

Elaine Murray MSP

Emma Scott - Boroughmuir High School student

Louise Macdonald – Chief Executive of Young Scot

Ian Whyte – Member of the public

John Finnie MSP

John Wood – COSLA Policy Manager

Inverness Public Evidence Session

Carol Hutton – Member of the public

David Alston – Deputy Leader of Highland Council

Graeme Ednie – Vice Chairman of Scottish Police Federation

James Miller – Member of the public

Sharon Pottinger – Member of the public

Stephen Davison – Member of the public



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