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# REVIEW OF GOVERNANCE IN POLICING

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TO CABINET SECRETARY FOR JUSTICE

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Chair of the SPA

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## **FOREWORD**

Upon taking up post in September 2015, the Cabinet Secretary for Justice asked me to conduct a rapid review of the governance arrangements in policing in Scotland, and report back to him within six months. As such, this review and report is a personal view. It is not a report by the SPA, its Board or the advisory Reference Group established as part of the review. The conclusions and the related recommendations contained in this report are my own. However both the Board of the SPA and the Reference Group have seen this report and are content to endorse it.

In conducting this review, I have found that after three years of operation much has been achieved and I acknowledge the work undertaken by both the SPA and Police Scotland in setting up both organisations. Local authorities have also had to adapt to the new arrangements and a lot of effort has been undertaken to establish Local Scrutiny and Engagement Committees. There is now the opportunity to build on lessons learned from experiences to date; listening to wide ranging feedback from stakeholders; and recognising the respective roles and responsibilities of the statutory bodies which make up the governance landscape.

In discussions with the Reference Group, and reviewing a number of different governance models, I am satisfied that the SPA is an appropriate model for governing a national police service. However, there are a number of recommendations in this report for the SPA, Police Scotland and other stakeholders which together can improve the effectiveness of this model.

Overall, I expect this governance review and associated recommendations to lead to increased clarity in the role of the SPA, focus its work on strategic governance matters, and appropriate delegation to allow Police Scotland to deal with operational requirements within defined parameters while still holding the Chief Constable to account for the performance and quality of policing. It will also allow for local accountability to be fully discharged in accordance with legislation and the Scottish Government's Programme for Government.

It is important to note that this report is very much a stepping stone on the process of reform and continuous improvement in policing across Scotland. It would never have been possible within the six month reporting period to have assessed the status quo and to generate a series of specific actions that could have been appropriately designed and implemented. My own assessment of the current arrangements indicates that further consideration and detailed implementation plans are required in each of the workstreams in order to take the recommendations forward.

Assuming my recommendations are accepted by the Cabinet Secretary for Justice, these are workstreams which will continue across different organisations, and at a pace which depends on the availability of resources, and competing priorities. However, I have provided indicative timescales where appropriate.

I intend to re-visit this report and its recommendations in 12 months' time to ensure they have progressed at a sufficient rate and remain relevant. I will include a commentary on this work as part of the annual reporting of the SPA's performance.

I would like to thank those who have contributed to this governance review from across the different stakeholder groups – each and every idea, proposal and comment has been reviewed and assessed. With so many wide ranging views it is hard to meet everyone’s expectations. However, I believe that the recommendations set out in this report will go a long way to resolving the issues and concerns raised.

A handwritten signature in black ink, reading "Andrew Flanagan". The signature is written in a cursive style with a horizontal line underneath.

**ANDREW FLANAGAN  
CHAIR, SCOTTISH POLICE AUTHORITY**

## **EXECUTIVE SUMMARY**

1. This report is the result of a review by the Chair of the SPA, Andrew Flanagan, requested by the Cabinet Secretary for Justice in September 2015. It was conducted in accordance with the prescribed Terms of Reference, supported by a Reference Group to assist and advise the Chair, and an officer team from the SPA.
2. The review took into account evidence from the first three years of operation of the SPA and Police Scotland since their inception in 2013. We also reviewed other governance bodies and models to establish experience and areas of best practice. A consultation exercise was conducted to obtain views, and any concerns, from a wide range of stakeholders.
3. The work has focussed on the four workstreams set out in the Terms of Reference – Local Engagement; SPA Structures & Skills; Information Requirements & Processes and Stakeholder Engagement.
4. In addition, I have reviewed the context of the governance model that has been adopted and compared this to other governance models and what is considered best practice. I have concluded that it is an effective model but that improvements can be made in the way it operates.
5. I have made some recommendations to tighten its role in accordance with the legislation and reinforce and promote the positioning and authority of the SPA.
6. In terms of local engagement, the key issue is that local scrutiny bodies do not feel they are sufficiently listened to regarding local policing and they are unable to input into national policy issues. Local commanders do not have sufficient autonomy to adapt national policies to meet local requirements.
7. I have set out a number of recommendations to improve the communication and engagement processes of Police Scotland at a local level and proposed a more formal approach to escalation of issues. I have also suggested a more formalised relationship between local scrutiny bodies and the SPA.
8. The structures and skills of the SPA have been reviewed thoroughly. Although the SPA has operated for three years, the speed with which it was established and experience to date suggests a more structured and defined approach needs to be taken in terms of how it conducts its business. The skill requirements of both members and staff need to be better aligned to its purpose.
9. The recommendations in this area include refining the SPA's areas of responsibilities, more clearly defining its relationships with other stakeholders, and more clearly defining how it will operate including taking a more strategic approach with clearer lines of delegation. This will then inform the skills and expertise required by members and staff, and determine how the SPA fulfils its responsibilities and interacts with Police Scotland.
10. Information requirements from Police Scotland have not been sufficiently well defined by the SPA. There are some difficulties in providing information due to legacy systems but Police Scotland need to be more open and transparent in providing information to the

SPA where it is available. The analysis and benchmarking of information available has not been sufficiently rigorous.

11. My recommendations in this area involve a more systematic approach to the collation, analysis and reporting of information. This will require a fundamental review of the underlying systems and processes used to deliver this information.
12. Stakeholder engagement by the SPA is generally good. Local engagement has been covered earlier but the SPA has strong and well-networked relationships with the wider stakeholders in the Justice system. However it could do more to develop its role and its engagement with the broader government agenda and an extended group of stakeholders.
13. Recommendations involve setting out a clear plan of stakeholder engagement with defined aims and allocated responsibilities.
14. This report identifies 30 overall recommendations in total. A complete list is contained in Appendix 1. In forming these recommendations, I have also taken cognisance of the other areas of work referenced in 'A Stronger Scotland – The Government's Programme for Scotland 2015-16. They are generally high level recommendations in most instances to allow further detailed work to be identified and implemented.
15. Where possible, I have identified the appropriate lead body to take these recommendations forward if accepted by the Cabinet Secretary for Justice, and given an indicative timescale subject to when these recommendations are accepted and any resource constraints.
16. Subject to the views of the Cabinet Secretary for Justice, we will set out a timetable for implementation and report back on progress to Scottish Government and through our annual reviews.

## **BACKGROUND**

17. The Scottish Police Authority (SPA) was established under the Police & Fire Reform (Scotland) Act 2012 and came into being on 1 April, 2013. It was created as the oversight and governance body for the Police Service of Scotland (Police Scotland), a single police service created from the amalgamation of the 8 regional police forces and one national agency previously serving Scotland.
18. The SPA has responsibility for setting the strategic direction of policing, funding arrangements, monitoring performance, driving continuous improvement, promoting the policing principles and holding the Chief Constable to account for the policing of Scotland. It is ultimately accountable to Parliament and its Chief Executive is the Accountable Officer.
19. In addition to its oversight of Police Scotland, the SPA has direct responsibility for a number of other functions. These include managing the Forensics Service, Independent Custody Visiting and Complaint and Conduct processes for Senior Police Officers.
20. The Authority comprises a Board and professional staff. The Board comprises a Chair and between 10 and 14 Members. The Chair and member appointments are subject to the public appointments process and are made by the Cabinet Secretary for Justice.
21. On 3 September 2015, the Cabinet Secretary announced that following the appointment of a new Chair (Andrew Flanagan), he had requested the Chair to conduct a review of the governance arrangements that the SPA had in place. The Cabinet Secretary requested the Chair to report back in March 2016. The Terms of Reference for the review are attached as Appendix 2. This is a relatively tight timescale and some of the recommendations included in this report are framed as suggestions for further work rather than being more definitive.
22. It was expected that the Governance Review would include examination of the experience of the Authority since its establishment and identify areas for improvement.
23. There were four workstreams identified in the Terms of Reference covering local engagement; the structure and skills of the SPA; information requirements; and stakeholder engagement.
24. To assist the Chair, a Reference Group was established to provide advice and additional experience. The group included members drawn from the SPA Board, Local Authorities (both elected members and officials), academia, directors of other public bodies and governance experts. The membership of the Reference Group is detailed in Appendix 3.
25. No serving Police Officers were members of the Reference Group however senior officers, including the new Chief Constable Phil Gormley, have attended meetings of the group and have provided views and inputs to the deliberations.

## **METHODOLOGY**

26. A review team was established within the SPA under the direction of the Chair to carry out a number of activities to assist the review. The review has been conducted through four distinct phases.
27. The first was a desk based information review of the different forms of governance that exist, what is considered good practice and what other models of police governance exist outside of Scotland especially in those countries which have single police services. This also examined the SPA's current processes.
28. Secondly, a consultation exercise was conducted to garner views both in terms of how governance had worked to date and what improvements could be made. We sought the views of a wide range of stakeholders and had responses from a large number of sources including Local Authorities, Unions, Police Officer representative bodies, policy and academic research bodies and individual responses. A number of face to face and telephone interviews were also undertaken. Details of the numbers of responses are listed in Appendix 4.
29. The third step has been to collate and distil this information into the different workstreams, identify common themes and perceived gaps or weaknesses in governance and examine possible solutions. Working with the Reference Group, we have examined the existing structure of the SPA and the processes and procedures it has adopted. We have compared this with alternative governance models and examined what constitutes good practice. For any issues raised either through this work or through consultation we have looked at causes, possible solutions and identified recommendations.
30. The final step has been to further refine the recommendations in conjunction with the Reference Group and complete the report.
31. As stated in my foreword, this review and report has been prepared by me as Chair of the SPA. It is not a report by the SPA, its Board or the Reference Group. Its conclusions and the related recommendations are therefore my own although it has been endorsed by the Reference Group and Members of the Board of the SPA.

## **FINDINGS**

### **General Overview of Governance**

*The key issue:*

32. Over the initial three year period of operating a single force and national oversight body, it has become apparent that there are mixed expectations and knowledge about the roles of the different bodies which make up the governance arrangements for Scottish Policing.

*Wider context:*

33. The legislation (Police and Fire Reform (Scotland) 2012 Act) is specific regarding the respective roles that SPA, Police Scotland, HMICS, PIRC, Audit Scotland and Local Scrutiny Panels are required to perform. Issues appear to have arisen due to variations in interpretation of the legislation and insufficient communication and promotion of these roles.
34. It is possible for SPA to work within the current powers granted to it within the current legislative framework – what is required is greater awareness across the justice and political arena regarding roles and responsibilities, relevant demarcation between the relevant bodies and appropriate use of SPA commissioning other bodies to conduct work on its behalf.

*Personal commentary:*

### **Governance Models**

35. There is no set or standard model for governance. Each organisation must establish what is appropriate based on the context in which it is operating and build a framework for governance based on principles of best practice.
36. In terms of context, a key *raison d'être* of establishing the SPA was to provide an arms-length body to hold the Chief Constable to account, whilst providing clear separation between politics and policing.
37. The SPA's democratic accountability comes through the appointment of its board members by government ministers, who themselves are elected. This process is conducted through the Public Appointments process, which then recommends a selection of possible Board candidates for approval by the Cabinet Secretary.
38. The SPA itself is accountable to Ministers and Parliament, whereby the Ministers and Scottish Government make appropriate legislation, establish broad principles, and grant relevant budgets, but it is for the SPA to then decide on its approach to delivering its function.
39. In some governance models such as Police & Crime Commissioners in England, or the Swedish model where the police are directly overseen by the Swedish Parliament, more direct elected democratic accountability is possible. However, these models were seen to have a number of issues with them.

40. For instance, the Swedish model seemed to result in less oversight of policing generally as politicians were reluctant to be seen to interfere. However, the opposite effect could have arisen whereby direct democratic oversight may be used to direct policing, have too much engagement, and may be seen as political interference in policing activities. In either scenario less effective governance of policing could take place.
41. Having reviewed various different models from around the world, I am satisfied that the current structure of a police authority at arms-length from government to oversee policing is a good one. I do not therefore propose any fundamental or structural change to existing arrangements. However, later in the report, I make a number of recommendations on how the SPA could improve its governance arrangements along with some organisational changes.
42. The SPA has yet to be seen to be sufficiently separate from Government or to fully establish its role and authority. There is now a more linear relationship in that the Chief Constable is accountable to the SPA, and the SPA is in turn accountable to Scottish Government and Scottish Parliament. This model needs to be more fully understood and followed by all stakeholders to allow the SPA to become more effective and credible in its statutory role.
43. To further enhance democratic accountability, alternative options to Board Membership were discussed by the Reference Group, including the possibility of directly elected Members. While this has pros and cons, on balance I decided this is not appropriate as it risks creating representatives rather than a board with collective responsibility and it also introduces the potential for a political dimension when the *raison d'être* is to separate policing from politics.

| <b>Recommendation 1</b>  | <b>Indicative Lead</b>     | <b>Indicative Timescale</b> |
|--|----------------------------|-----------------------------|
| The SPA must govern and oversee Police Scotland within the legislative framework which has been agreed, with appropriate reporting to Scottish Government in accordance with statutory requirements. The role of the SPA and its relationship with Police Scotland should be clearly defined and communicated more widely. | SG / SPA / Police Scotland | Immediate and ongoing       |

| <b>Recommendation 2</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>      |
|---|------------------------|----------------------------------|
| As the SPA strengthens its governance procedures, the Scottish Government, SPA and Police Scotland should review working arrangements and protocols to ensure these reinforce and promote the positioning and authority of the SPA. | SG/SPA/Police Scotland | By end September<br><br>6 Months |

## **Principles of Good Governance**

44. The SPA has no comprehensive, unified written governance framework under which it operates. While there are a number of operating procedures and policies that are well documented, there are also a number of areas where the SPA uses custom and practice which has been created on a relatively ad hoc basis since its creation. There are also gaps where no specified procedure or protocol exists.
45. The lack of consistent adherence to an overarching framework and guiding principles can lead to a misconception of the role of the SPA, its responsibilities and how it interfaces to other organisations including Police Scotland.
46. There are readily available, well researched and well accepted models of good governance from organisations such as the Good Governance Institute, CIPFA and others. These set out the principles which can be adopted and guidance on how to create a refined governance framework. Reference Group discussions highlighted that the following set of principles could be an effective base to look at internal governance of Police Scotland:
- i. Universally understood
  - ii. Able to be complied with
  - iii. Effective
  - iv. Proportionate
  - v. Transparent
  - vi. Risk based
  - vii. Responsive
  - viii. Cost effective
47. Such a revised framework should then guide the modus operandi for the organisation and in addition can help create further clarity on the parameters of delegated authority and the demarcation lines of responsibility between the Authority, Police Scotland and other stakeholders such as Scottish Government, HMICS or PIRC.

| <b>Recommendation 3</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>             |
|---|------------------------|---|
| The SPA should review, enhance and consolidate the current set of governance principles and governance framework to clarify the basis on which it intends to exercise its authority and meet its responsibilities in the future. This should also be used to agree the lines of responsibility between its partner bodies and stakeholders. All operating procedures and processes should be cross-referenced to the governance principles. | SPA                    | By end of August 2016<br><br>(5 months) |

## **Workstream 1: Localism and Community Accountability**

### *The key issue:*

48. Local scrutiny bodies feel that they do not have a sufficient role in developing local police plans and determining local policing policies. Similarly, they have concerns regarding their ability to contribute to national policies. Even if consulted, they do not believe their community concerns are being listened to sufficiently. There is also a degree of confusion regarding the types of policing activity and performance information that should be scrutinised at a local level. Local commanders do not appear to have sufficient autonomy to adapt national policing requirements to community needs where appropriate.

### *Wider context:*

49. The legislation articulates that the responsibility for community engagement and accountability lies within the remit of Police Scotland. The SPA's role is to ensure that this is carried out effectively as part of holding the Chief Constable to account.

50. The stakeholder views expressed during the information gathered for this review has demonstrated an appetite for greater clarity and also greater input into overall governance and oversight of policing performance at a local level. In the 'Programme for Government' announcement, the Cabinet Secretary had also signalled his intention to make sure that the Chief Constable will be required to undertake a new programme of public scrutiny sessions to provide more direct accountability for the performance of policing in local areas.

### *Personal commentary:*

51. Principal responsibility for community engagement and accountability rests with Police Scotland under the relevant legislation. This is particularly focussed on the Local Scrutiny Committees of Local Authorities. While important, Local Scrutiny Committees cannot be considered a single route for local engagement.

52. It was clear before this review was requested and from the responses to our consultation that many local communities did not think engagement was working effectively.

53. A number of issues arose, including Stop & Search, Armed Officers, closure of police offices and traffic wardens, which created a feeling that the policing needs and desires of local communities were being overridden in the search for standardisation and efficiencies. It can be argued that some of these issues were driven by the desire of Police Scotland to improve the quality of service and indeed provide equity of service. However, the overriding perception has been that local communities are not being listened to and that local commanders do not have enough autonomy to make local decisions.

54. A number of Local Authorities felt it was not clear how their views on national and local policing policies are progressed through the chain of command and how they are taken

into account when Police Scotland make decisions. Local communities accept that their view will not always be accepted but, when they are consulted, inadequate feedback is provided on how a final decision has been arrived at. It is important to show both that feedback has been considered and to give the reasons why an alternative decision was arrived at.

55. Part of the issue may be that Police Scotland's command structure is divided between local policing and national specialist units. Specialist units are managed on a national basis to bring better expertise and to deploy it at a local level when necessary. These two aspects of policing only come together at Chief Constable level, with individual Deputy Chief Constables reporting their areas of command directly to him. It is recognised that there is a need to develop a better integrated service delivery model, which encompasses the need to protect and support all local communities by delivering services locally.
56. The main interfaces with Local Scrutiny Committees are the divisional commanders within Local Policing. This can create a situation where decisions made centrally risk being ineffectively communicated through to a local level, and divisional commanders may not be able to effectively consult with local communities or provide feedback in a timely manner.
57. Responses to the consultation indicate that where policing policy decisions go against local views, even if there is feedback, there is no clear route to challenge these decisions. This sense of frustration is exacerbated when inadequate feedback has been provided. Views expressed through the consultation process indicated that there was a strong desire for some form of escalation process perhaps through the SPA.
58. To address these concerns, the SPA had previously instigated its own approach to local engagement. Members, with support from SPA staff, were assigned to cover 3 or 4 Local Authority areas and were given responsibility to build relationships with and attend meetings of Local Scrutiny Committees. This has been welcomed and has worked to some extent. However, members are restricted in the time they can devote to this and the spread and number of committees mean that this approach is relatively superficial and inconsistent. It also risks the SPA being seen as a proxy for engagement rather than reinforcing the responsibility as Police Scotland's.
59. From the engagement that Members have had with Local Scrutiny Committees, it is clear that there is a wide variety of approaches that are being adopted across the country.
60. The SPA has to date not issued guidance on how Local Scrutiny Committees should operate in the belief that it is best in the interests of localism, for Committees to define what they see as appropriate for their community. There is also no mechanism or forum for Committees to share their experience and discuss what may represent best practice. While it is not for the SPA to dictate how committees should carry out their function, feedback from the consultation indicated a number of local authorities would welcome a way to share knowledge and experience. The SPA could act as a facilitator to ensure this happens.

61. In addition to not being able to formally escalate individual areas of concerns, the Local Scrutiny Committees have no official route to report on the overall quality of their engagement with policing. Committees are important contributors to local policing policy decisions and for preparation of the local police plans therefore the SPA needs to understand on a regular basis, the level of satisfaction that Local Scrutiny Committees have with this engagement. This could be done through a formal annual report from each committee to the SPA, underpinned by further evidence collated by SPA through a questionnaire. The outcome of such reporting could then be summarised and commented on by the SPA in its own Annual Review of Policing.
62. Some Local Authorities in the north of Scotland have formed a forum to discuss policing on a collective basis. Consideration is being given to include other local authorities to match the divisional structure of Police Scotland. This initiative if repeated elsewhere could be an extremely useful point of engagement for both Police Scotland and the SPA.

| <b>Recommendation 4</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b> |
|--|------------------------|-----------------------------|
| Police Scotland should ensure that their local engagement programmes are directed at a wide range of local organisations. While a key audience must be the Local Scrutiny Committee, other parties such as Community Planning Partnerships must have an opportunity to understand and comment on policing activities, performance and plans. | Police Scotland        | Current and ongoing         |

| <b>Recommendation 5</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>             |
|--|------------------------|---|
| Greater consideration needs to be given to the differing policing needs of local communities. While an aspiration of equality of service is commendable, any policy or practice must ensure that it is capable of being adapted in its implementation to make it more appropriate for local needs. In this regard, where possible, local commanders should be given more autonomy on how policies and practices are implemented while also achieving the overall policing aim. | Police Scotland        | By end of August 2016<br><br>(5 months) |

| <b>Recommendation 6</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>           |
|--|------------------------|---------------------------------------|
| Police Scotland should ensure that feedback provided by Local Scrutiny Committees is effectively responded to, including detail on how their feedback has impacted on decision making and, where it has not, the reasons for that decision. There must be clear communication channels that ensure feedback is directed through to decision makers and local commanders are fully briefed on why the final | Police Scotland        | By end of June 2016<br><br>(3 months) |

|  |  |  |
|--|--|--|
| decision has been taken. Decisions relating to or activity by national units must be effectively relayed to Local Policing and an engagement plan initiated. |  |  |
|--|--|--|

| <b>Recommendation 7</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>           |
|---|------------------------|---------------------------------------|
| Police Scotland should establish a formal escalation process to allow Local Scrutiny Committees to record their disagreement with individual policing policy decisions. This process should ensure that major policy issues are resolved at senior officer level within Police Scotland rather than at Local Commander level. The SPA should be advised of any matters that require escalation. | Police Scotland        | By end of June 2016<br><br>(3 months) |

| <b>Recommendation 8</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>           |
|---|------------------------|---------------------------------------|
| The primary responsibility for local engagement rests with Police Scotland. The SPA Board should see its role as ensuring proper and effective arrangements are in place rather than attending Local Scrutiny Committee meetings. There should be a requirement on the SPA to assess annually how effective these processes are and they should formally seek feedback from committees as part of this process. The success or otherwise of local engagement should be reported on by the SPA as part of its Annual Review of Policing. | SPA                    | By end of June 2016<br><br>(3 months) |

| <b>Recommendation 9</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>           |
|---|------------------------|---------------------------------------|
| The SPA should establish a process to share knowledge between Local Scrutiny Committees and should hold an annual forum to discuss issues and share experience. | SPA                    | By end of July 2016<br><br>(4 months) |

## **Workstream 2: SPA Structures and Skills**

### *The key issue:*

63. The SPA was established in a short space of time with limited shadow operation. Initially there was uncertainty about where some responsibilities lay. It operated on an interim staffing structure until July 2014 and Members of the Board by necessity became involved in operational detail. How it carries out its functions is not clearly defined or documented. After three years of operation it is appropriate to review experience and ensure that the organisation has clarity on its role, the scope of its authority and has the necessary skills and expertise to deliver high quality governance of policing in Scotland.

*Wider context:*

64. The legislation which established the SPA sets out clear expectations of the purpose of the SPA and its responsibilities in governing policing. This created a new model for scrutinising policing and there is an increased number of stakeholders involved in this model. To effect this additional level of oversight, the legislation requires to be translated into a clear approach and detailed processes that the SPA will adopt. The inter-relationship between stakeholders also has to be clear and relationships have to be nurtured to ensure there is a collaborative and effective approach.
65. For governance to be effective, Police Scotland has to accept the greater degree of scrutiny that comes with being a single national service. The SPA, to establish its authority, has to have the capability and expertise to carry out its functions to the highest possible standards. Its requirements have to be clear and consistent and the relationship between the two bodies needs to be open and transparent.

*Personal commentary:*

66. The SPA is formed of a board of up to 15 members including the Chair and approximately 50 members of corporate staff. Its responsibilities are set out in legislation but essentially it has five main areas of responsibility – strategic direction of policing; funding & finance; promoting the policing principles; driving continuous improvement; and holding the Chief Constable to account.
67. The SPA also carries out certain service delivery functions. It directly manages the Forensic Service. It reviews complaint and conduct issues of senior police officers and it manages the Independent Custody Visiting service. It also appoints and can remove senior police officers from office.
68. The SPA's Chief Executive is the accountable officer responsible to Parliament for the budget of the SPA which, including Police Scotland, amounts to some £1.1bn excluding pension costs. The SPA is the legal employer of the approximate 23,000 police officers and staff, although Police Officers are warranted by the Chief Constable on behalf of the Crown. The SPA is also the contracting body with most external suppliers. It has no investigatory capability although it can request or commission this where necessary.
69. While the SPA is often referred to publicly as a watchdog, it has none of the regulatory powers or sanctions normally associated with a watchdog. It has to govern essentially through its relationships and influence rather than having a direct ability to instruct. This is intentional, as it allows the Chief Constable to carry out their statutory duties and maintain their operational independence. I do not believe it appropriate to request additional powers but the SPA should through its communications be clearer about its function and where regulatory powers actually rest.
70. There are a number of other public bodies which have influence and powers over policing in Scotland. These include Scottish Government, the Crown Office & Procurator Fiscal Service, Her Majesty's Inspector of Constabulary and the Police Investigations & Review Commissioner. Inevitably, this is a complex landscape and can lead to confusion about who does what and where the respective boundaries and demarcation lines lie. Much of this has been worked out by custom and practice in the three years since Police Scotland and the SPA were established. The Justice Board (of which the Chief Executive of the SPA and the Chief Constable are members) coordinates the work of various bodies

to achieve the effective operation of the justice system as a whole but some anomalies persist. An example would be the Forensic Service. This sits with the SPA as it helps the integrity of evidence for the Forensic Service to be separate from the police service. However, the Forensic Service does not have responsibility for ICT/Cyber evidence as this still sits within Police Scotland. Another example would be complaints and conduct matters which sit across Police Scotland, SPA and PIRC.

71. The Board of the SPA initially comprised a mix of members who had broad public sector or commercial experience, as well as a number of individuals who had experience of policing boards. (This experience was gained either through local authority police boards or having sat on the board of the Scottish Police Services Authority, a predecessor body which used to provide certain corporate or shared services to the 8 legacy forces.) While this ensured experience and continuity of policing knowledge, and was appropriate at the inception of SPA, there are a number of skills that are under-represented or missing as the SPA develops its governance role. Three new members and a new Chair were appointed in 2015 and this has addressed some of the skill gaps, but not entirely. Through resignations the Board now comprises 10 members plus the Chair. Seven of the members come to the end of their appointment period in 2016 and two members have indicated they do not wish to be reappointed.
72. When the SPA was created, no full time/permanent staff were in place and there was a lack of clarity over the role of the SPA and its relationship with Police Scotland. This led to some board members taking more direct operational and executive control. In addition, there was disagreement between the Board and Police Scotland over where responsibility for certain functions should lie, particularly in the corporate services area. While this matter is now resolved, there is a legacy of the Board being overly involved in operational detail which should be delegated to the SPA's officials and/or Police Scotland. There is a need to better define the role of the Board in terms of the SPA's statutory responsibilities and to take greater involvement in setting strategic direction and oversight of performance. As part of this, a clearer statement of matters reserved for the Board and those delegated to SPA staff and Police Scotland should be established.
73. The Board has established a number of Committees to assist with its work. These comprise: Audit & Risk; Finance & Investment; HR & Remuneration and Complaints & Conduct. In addition, there are certain more ad hoc task groups such as Business Change Working Group. While these are important focal points for the Board's work, there are areas such as strategy, performance and policy which are not covered. Each committee has terms of reference but in reviewing the work of the committees they are often involved in areas outside of the terms of reference. The work of a committee should be to allow a board to have more detailed examination of issues by those members more qualified. This requires that membership of committees must be aligned with the skill sets of the members. It will not always be the case that members have all the expertise required but currently committees only comprise board members and we do not use co-opted experts to bolster the skills of the committees.
74. The current terms of reference for the committees include decision making powers. In my view, committees should not have the ability to make decisions which are then binding on all members of the Board. As set out above, committees should allow for more thorough assessment of issues and then make recommendations to the board to

make decisions. On occasion, the board may delegate a decision to a committee but this should be exceptional.

75. The Board and its committees hold both public and closed meetings. There is confusion over which matters should be considered in each of these types of meeting. If committees have no decision making powers, they become working committees by default. Therefore, they should not be considered public meetings as they are assessing options for consideration which may or may not be approved. The main board however, is the decision making body, and the default position should be that it conducts its business in public with a clear set of criteria on when an issue should be considered in private. This clarity does not currently exist.
76. As set out earlier, the SPA has both governance and service delivery responsibilities. This requires that SPA staff have competencies in both areas. This poses challenges to get the right levels of skills and experience. It also means that focus can be impacted and priority setting can be difficult. In addition, certain governance functions have been set up to mirror or 'man mark' their counterparts in Police Scotland. This leads to duplication and a mismatch in seniority while at the same time not creating the right level of analysis and scrutiny.
77. While the Chief Executive is the Accountable Officer, £1.0bn of spend (more than 90% of the budget) is delegated to Police Scotland and is under the direct control of the Chief Constable. Until December 2015, the finance director of Police Scotland reported to a Deputy Chief Constable within Police Scotland and the CEO of the SPA had no explicit ability to direct this individual. In response to a seriously critical audit report, we have temporarily introduced a new role of Chief Financial Officer with direct reporting lines to the CEO. It is not desirable for the SPA to have direct line management of the finance function in this way as it blurs the responsibility and accountability of those who make the spending decisions. However, it is equally untenable for the person who has accountability to Parliament not to have the power to act when things are going awry.
78. The SPA does not have a comprehensive set of operating procedures and policies. Its modus operandi has been evolved on the basis of issues and circumstances. This is evident in some areas such as the appointment of senior officers. It is also the case that sometimes we use Police Scotland policies as proxies for our own such as Health & Safety or whistleblowing. In some cases this may be appropriate but on occasion such as whistleblowing there can be distinct and subtle issues which require different approaches.
79. A number of issues which relate to policy and procedures around policing have arisen since the inception of the SPA and Police Scotland. Stop & Search and armed policing would be examples. However, two important principles exist in policing. One is 'operational independence' which is intended to allow the police to conduct their business without being compromised by external influences. The other is 'policing by consent' which means that the police operate in a system whereby the public expects them to adhere to methods of policing that are acceptable to them. These two principles may sit in tension with each other. In the example of armed policing, there may be an operational requirement to have more armed and more overtly armed officers but this has to be balanced by the consent of the public who overwhelmingly wish to maintain a largely unarmed police service. In my view, the SPA sits at this crossroad and has

responsibility to reflect the public consent on police policy and procedures. This should not merely be a reactive oversight once an issue has come to the attention of the public but a proactive approach which seeks to avert concerns. At present, we do not have an approach or the capability to do this.

80. Most of the responsibilities of the SPA are clearly understood in general governance or business terms. However, the responsibility for holding the Chief Constable to account is ill-defined and open to interpretation. This has led to a perception that it is about taking him to task publicly when something goes wrong. Policing is by its nature about managing risk and unless it is operated in an entirely risk averse manner, which would be unrealistically expensive, then things will go wrong. There may be times when public criticism is appropriate but this has to be counter-balanced against the SPA's responsibility to support policing and to maintain public confidence. Therefore, the key question has to be - holding the chief constable to account for what? He has a set of statutory responsibilities, there are defined regulations and procedures under which he operates and he has executive responsibilities for establishing processes, systems and decision making. It is against this backdrop that he has to be held to account for both his and Police Scotland's performance against measurable outcomes. The SPA to date has not set out this framework nor the measures for which the Chief Constable will be held to account. Without a benchmark of expected performance, it is very difficult to establish accountability.

| <b>Recommendation 10</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
|---|------------------------|--|
| Scottish Government should conduct a review of the original organisational structures and remits established as part of the Police & Fire Reform (Scotland) Act 2012 to ensure responsibilities are clear and consistent with the intentions behind the reform.   | SG                     | By end of March 2017<br><br>(12 months)    |
| <b>Recommendation 11</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| Consideration should be given to reorganising or removing the service delivery responsibilities of the SPA and reinforcing its purpose as a governance body. This would focus particularly on its current service delivery responsibilities for Forensic Services, Independent Custody Visiting and Complaints & Conduct. | SG/SPA                 | By end of September 2016<br><br>(6 months) |
| <b>Recommendation 12</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| Following the review at Recommendation 10, the organisational structure and skills of SPA staff should be reviewed with the aim of enhancing the governance skills and removing duplication.  | SPA                    | By end of December 2016<br>(9 months)      |

| <b>Recommendation 13</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
|--|------------------------|--|
| The SPA in conjunction with Scottish Government should undertake a review of the skills required by Board members and prepare an updated skills matrix which should inform future recruitment. This review will need to take account of the other recommendations in this report.  | SG/SPA                 | Immediate and ongoing                      |
| <b>Recommendation 14</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| The SPA should review the role and responsibilities of Board members to ensure they are focussed on the strategic aims and responsibilities of the Authority. Matters reserved for the Board should be clearly defined and schedules of delegated authority both from the Board to SPA officials and from the SPA to Police Scotland should be reviewed and updated.   | SPA                    | By end of August 2016<br><br>(5 months)    |
| <b>Recommendation 15</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| A review of the number and nature of the Committees of the Board of the SPA should be undertaken to ensure they cover appropriately the work and responsibilities of the SPA. Committees should be seen as working groups who are able to conduct a 'deep dive' into key issues, and make recommendations to the full Board. They would not have decision making powers except when exceptionally delegated by the Board. Membership of the committees should also be reviewed and consideration given to increasing the breadth and depth of skills by introducing co-opted experts as members. | SPA                    | By end of June 2016<br><br>(3 months)      |
| <b>Recommendation 16</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| SPA Board meetings which are principally for the purpose of decision making should be held in public. A clear set of criteria should be established for when matters may need to be held in closed session. These criteria should be publicly available. Meetings of committees are working sessions and should be held in private. All decisions will be made by the full Board based on recommendations from the committees. Agendas will be published in advance of the meetings.   | SPA                    | By end of September 2016<br><br>(6 months) |

| <b>Recommendation 17</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
|--|------------------------|--|
| Governance of major projects and programmes should be overseen by SPA at an appropriate level, depending on the scale, scope and impact of each project. This could be achieved in a number of ways but must allow SPA to have full awareness of progress and identify when decisions have to be brought to the full SPA board.  | SPA                    | Immediate and ongoing                      |
| <b>Recommendation 18</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| The Accountable Officer needs to be able to fully undertake his responsibilities to Parliament. This requires him to have strategic oversight of the finance function and an ability to make directions if necessary. So that lines of accountability and responsibility are not blurred, a protocol should be established which sets out the circumstances and the process by which such an intervention should take place. | SPA                    | By end of June 2016<br><br>(3 months)      |
| <b>Recommendation 19</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| The SPA should conduct a comprehensive review of its operating policies and procedures in the context of the governance framework referenced in Recommendation 2 and any change in its service delivery responsibilities under Recommendation 10. Its policies and procedures should be consolidated into a single operating manual.   | SPA                    | By end of September 2016<br><br>(6 months) |
| <b>Recommendation 20</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| The SPA should have responsibility for reviewing policing policy where this may impact on public perception and policing by consent. This should be a proactive process and done collaboratively with Police Scotland. The SPA should consider this in the context of its review of its committee structures and the skills matrix.  | SPA / Police Scotland  | By end of September 2016<br><br>(6 months) |
| <b>Recommendation 21</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
| The SPA should clearly set out how it intends to hold the Chief Constable to account through a governance performance framework. This should set out clear performance standards against both the regulatory framework and operational performance. This should then be the basis on which performance reviews and assessments are conducted.  | SPA                    | By end of June 2016<br><br>(3 months)      |

### **Workstream 3: Information Requirements and Processes**

*The key issue:*

81. There are concerns from within SPA and externally that information and information flows from Police Scotland have not been sufficient to allow SPA to have all material and data required in a timeous fashion in order to discharge its oversight function effectively. Additionally, SPA has not been clear or consistent in its requirements, partly due to the lack of detailed internal governance and communication processes.

*Wider context:*

82. The legislation (Police and Fire Reform (Scotland) 2012 Act) details that Police Scotland should give the SPA whatever information it needs in order to conduct its business, along with the requirement that both SPA and Police Scotland require to give information or access to information to bodies such as HMICS, PIRC, and Audit Scotland as and when required.

*Personal commentary:*

83. Comments earlier in my report are equally applicable to the issues identified in relation to information flows. Our requirements are not clearly set out and have been created largely as a result of practice often added to by ad hoc requests. In some cases, there are templates for information but these may not be used. Much of the information is provided through board reports rather than a more routine monthly reporting cycle which SPA officials can then assess.

84. Many reports/information are overly detailed and can run to tens of pages of operational detail. This can make it difficult to interpret and to identify key information. The quarterly policing performance report would be an example of this. For many reports, volume of information seems to be a major driver and even when the document is for public consumption such as through public Board meetings, inadequate consideration is given to how accessible or understandable it would be to a lay person.

85. At the same time there is a paucity of financial information provided to the SPA. This has typically been delivered both late, and at a highly summarised level, which has prevented more detailed analysis and questioning. The budget over-run in the current year proved difficult to tackle due to the lack of information about where over-runs were occurring and the progress of cost reduction measures.

86. Performance criteria are numerous but are very output rather than outcome focussed. Reports are often based on what can be measured rather than what should be measured, and the causal link between policing and results is not clear. There needs to be greater clarity on what SPA's performance expectations are of Police Scotland, and how we then monitor and manage the overall performance achievement.

87. There are a number of reports that either Police Scotland or SPA is required to prepare and publish including the Strategic Police Plan, Annual Police Plan, Annual Review of Policing, Annual Report and Accounts, Local Police Plans, and various finance, people, technological, change management strategies. Some of these are reporting requirements set out in legislation, whilst others have been requested by other external

bodies. However there is not a clear understanding of what each of these reports are for, how they inter-relate to each other and who is responsible for review and approval. An example would be the draft Annual Policing Plan for the coming year which came for review and included a considerable amount of detail on activity in the current year (which would more appropriately be included in the Annual Review of Policing).

88. Processes to prepare information are manually intensive and data can often be held on spreadsheets or other forms of less formalised systems. Reports and other information are often delivered very late and, given the volume, can make them hard to digest and to interrogate properly before meetings. As much of this is not held in a single place or database it is then difficult to drill down or analyse.
89. Historic data especially relating back to the eight legacy forces is often unavailable as it may have been archived, lost or in a different form. This weakens the ability to do comparative or trend analysis. In any event, the use of better analytical methods including benchmarking is rare. This is having an impact on SPA's ability to consider performance issues as it is often not possible to have a frame of reference to judge it and it hampers both SPA and Police Scotland's ability to assess or show that performance and quality of service has improved.
90. Although the creation of Police Scotland was justified primarily on the basis of cost efficiency, these cost savings have largely been delivered. In the coming years, we need to be able to show that quality of service is improving year on year and we need to be better at collecting and analysing data to inform us that this is the case.
91. Many information processes are still based around systems inherited from the legacy forces. An example would be that we have 19 payroll systems within Police Scotland. This means interrogation and analysis of data is time consuming and there is a significant additional cost and risks to data integrity.
92. While I would not expect systems and processes to be rationalised overnight, especially in the context of a merger of 9 different organisations, I would have expected more progress on the effective management and use of information than appears to have been achieved.

| <b>Recommendation 22</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
|---|------------------------|--|
| A complete review of the information and reporting requirements of both Police Scotland and the SPA should be undertaken. This should cover both routine, transactional reporting as well as analytical and comparative information required for performance management. This needs to be informed by the setting of an agreed performance framework and the modus operandi of the SPA as mentioned in earlier recommendations. | SPA                    | By end of September 2016<br><br>(6 months) |

| <b>Recommendation 23</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>                |
|--|------------------------|--|
| In determining information requirements for the SPA, operational information should be focussed on exception reporting only. A greater emphasis on strategic information, comparative analysis and benchmarking is required. The volume and quality of financial information should be enhanced significantly. | SPA                    | By end of September 2016<br><br>(6 months) |

| <b>Recommendation 24</b>  | <b>Indicative Lead</b>              | <b>Indicative Timescale</b>               |
|---|-------------------------------------|---|
| A review should be conducted by the SPA in conjunction with Scottish Government and Police Scotland of the various planning and strategic reports that are required, with a view to rationalising these and ensuring their purpose is clear. Clear ownership of and approval processes for these documents should be set out. | SPA /<br>SG /<br>Police<br>Scotland | By end of December 2016<br><br>(9 months) |

| <b>Recommendation 25</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b> |
|--|------------------------|-----------------------------|
| In setting our information requirements, emphasis should be given to ensuring that SPA can demonstrate improvements in the quality of service that Police Scotland is providing. | SPA                    | Ongoing – annual reporting  |

| <b>Recommendation 26</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b> |
|--|------------------------|-----------------------------|
| Progress on updating information processing and management systems should be accelerated to reduce cost, improve turnaround times and allow for more open interrogation of data. | Police Scotland        | TBC                         |

#### **Workstream 4: Stakeholder Engagement / Contribution to Wider Policy Objectives**

*The key issue:*

93. Both Police Scotland and SPA conducts a wide range of stakeholder engagement activities across a number of formal and informal fora, however there should be clearer agreement about the purpose of such engagements, which organisation should take a lead role, and how achievement of agreed outcomes can be measured.

*Wider context:*

94. There is an ever increasing appetite for public sector collaboration, moving to shared resources and achievement of the Scottish Government Strategic Objectives – a Scotland that is Wealthier and Fairer, Smarter, Healthier, Safer and Stronger and Greener. There is a need for SPA to be involved in these discussions at a senior level, and to identify opportunities that fit within the broader policing principles, ensure delivery of best value, and drive continuous improvement as required of SPA within the Police and Fire Reform (Scotland) 2012 Act.

*Personal commentary:*

95. I will focus less on local communities on this section as much has already been covered earlier in the report. In general terms the SPA works well with the stakeholder groups that it engages with. Members have worked hard to build relationships with Local Scrutiny Committees and this has been praised.

96. On a wider basis it engages with other emergency services well and has established the Reform Collaboration Group with the Scottish Ambulance Service and Scottish Fire and Rescue Service.

97. SPA also engages well and has good relationships with other parts of the criminal justice system including COPFS, HMICS, PIRC etc. As mentioned earlier we are also active members of the Justice Board. We also engage with the various staff associations and the trade unions.

98. While most of these relationships are on a sound footing and there is goodwill on each side, managing these relationships is not done on a particularly structured basis. The purpose of our engagement is not always clear and most of the time is spent understanding respective positions and in some cases, coordinating activity. More could be done to proactively manage these relationships, build influence and use them to garner support for SPA initiatives.

99. No stakeholder map exists with clear objectives, action plans and identified 'ownership' of the relationship. The SPA's horizon is also too narrowly defined and focussed on justice, whereas a wider perspective should be adopted in areas such as the wider health service and social care. These areas do not strongly feature yet, but have significant interaction with policing. We also do not have a proactive approach to identify our role in and responsibility for achieving wider policy objectives.

100. The respective roles of Police Scotland and SPA in holding and managing relationships with stakeholders needs to be better understood. In most cases we have different roles and therefore separate engagement is appropriate. However, a more coordinated and joined up approach to managing these relationships may be more productive if a collaborative approach was undertaken. The communication strategies of both the SPA and Police Scotland could be better at articulating our approach in inter-facing in a collaborative way with the other agencies and public sector bodies to deliver on partnership working.

| <b>Recommendation 27</b>   | <b>Indicative Lead</b> | <b>Indicative Timescale</b>               |
|--|------------------------|---|
| The SPA should develop a broadly based stakeholder map which identifies key stakeholders, the reason for the relationship and objectives, an engagement plan and specific actions. For each relationship a Board Member or senior official should be identified to own and manage that relationship. | SPA                    | By end of December 2016<br><br>(9 months) |

| <b>Recommendation 28</b>  | <b>Indicative Lead</b> | <b>Indicative Timescale</b>               |
|---|------------------------|---|
| As part of the development of the stakeholder map, we need to review the wider public policy objectives, identify what contribution we can make and set priorities and objectives to deliver that contribution, and be able to publicly report our progress through our annual reporting. | SPA                    | By end of December 2016<br><br>(9 months) |

| <b>Recommendation 29</b>  | <b>Indicative Lead</b>      | <b>Indicative Timescale</b>                |
|---|-----------------------------|--|
| SPA and Police Scotland should coordinate their respective approaches to stakeholder management, agree respective roles and objectives and provide regular feedback to each other on engagement and progress. | SPA /<br>Police<br>Scotland | By end of September 2016<br><br>(6 months) |

| <b>Recommendation 30</b>  | <b>Indicative Lead</b>      | <b>Indicative Timescale</b>           |
|---|-----------------------------|---------------------------------------|
| SPA and Police Scotland should re-visit their communication strategies and make their commitment to partnership working across the public sector more explicit. | SPA /<br>Police<br>Scotland | By end of June 2016<br><br>(3 months) |

## **NEXT STEPS**

101. This report is being presented to the Cabinet Secretary for consideration of the context, evidence found during this review and the associated recommendations. However, it is important to note that since the initial date of this work being commissioned, there has already been a significant amount work undertaken across Police Scotland and the Scottish Police Authority to address some of the development areas identified in this report. It would be the intention of both organisations to continue this work unless otherwise directed.

102. There are some recommendations in this report, which if agreement is obtained and implemented, could deliver success in a relatively short time period. Other recommendations will require more substantive work to be undertaken, such as any actions in relation to staffing structures.
103. It would be my intention to move forward with the actions that can be undertaken within SPA within the indicative time frames outlined, and I would anticipate that progress against these recommendations will be visible to the public in changes to Board and committee meetings. Changes to the effectiveness of Police Scotland's engagement with local scrutiny bodies will be measured through evidence gathering for the annual review of policing.
104. More generally, I would anticipate returning to this report and associated recommendations in a year's time to review the effectiveness of implementation, and reporting on this through the SPA Annual Report and Accounts 2016/17.

**APPENDIX 1: List of Recommendations**

| <b>Recommendation</b>   | <b>Indicative Lead Body</b> | <b>Indicative Timescale</b>             |
|---|-----------------------------|---|
| 1. The SPA must govern and oversee Police Scotland within the legislative framework which has been agreed, with appropriate reporting to Scottish Government in accordance with statutory requirements. The role of the SPA and its relationship with Police Scotland should be clearly defined and communicated more widely.   | SG / SPA / Police Scotland  | Immediate and ongoing                   |
| 2. As the SPA strengthens its governance procedures, the Scottish Government, the SPA and Police Scotland should review working arrangements and protocols to ensure these reinforce and promote the positioning and authority of the SPA.  | SG/SPA/Police Scotland      | By end September<br><br>6 Months        |
| 3. The SPA should review, enhance and consolidate the current set of governance principles and governance framework to clarify the basis on which it intends to exercise its authority and meet its responsibilities in the future. This should also be used to agree the lines of responsibility between its partner bodies and stakeholders. All operating procedures and processes should be cross-referenced to the governance principles.                                    | SPA                         | By end of August 2016<br><br>(5 months) |
| 4. Police Scotland should ensure that their local engagement programmes are directed at a wide range of local organisations. While a key audience must be the Local Scrutiny Committee, other parties such as Community Planning Partnerships must have an opportunity to understand and comment on policing activities, performance and plans.   | Police Scotland             | Current and ongoing                     |
| 5. Greater consideration needs to be given to the differing policing needs of local communities. While an aspiration of equality of service is commendable, any policy or practice must ensure that it is capable of being adapted in its implementation to make it more appropriate for local needs. In this regard, where possible, local commanders should be given more autonomy on how policies and practices are implemented while also achieving the overall policing aim. | Police Scotland             | By end of August 2016<br><br>(5 months) |
| 6. Police Scotland should ensure that feedback provided by Local Scrutiny Committees is effectively responded to, including detail on how their feedback has impacted on decision making and, where it has not, the reasons for that decision. There must be clear communication channels that ensure feedback is directed through to decision makers and local commanders are fully briefed on why the final decision  | Police Scotland             | By end of June 2016<br><br>(3 months)   |

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| has been taken. Decisions relating to or activity by national units must be effectively relayed to Local Policing and an engagement plan initiated.  |                 |  |
| 7. Police Scotland should establish a formal escalation process to allow Local Scrutiny Committees to record their disagreement with individual policing policy decisions. This process should ensure that major policy issues are resolved at senior officer level within Police Scotland rather than at Local Commander level. The SPA should be advised of any matters that require escalation.   | Police Scotland | By end of June 2016<br><br>(3 months)      |
| 8. The primary responsibility for local engagement rests with Police Scotland. The SPA Board should see its role as ensuring proper and effective arrangements are in place rather than attending Local Scrutiny Committee meetings. There should be a requirement on the SPA to assess annually how effective these processes are and they should formally seek feedback from committees as part of this process. The success or otherwise of local engagement should be reported on by the SPA as part of its Annual Review of Policing. | SPA             | By end of June 2016<br><br>(3 months)      |
| 9. The SPA should establish a process to share knowledge between Local Scrutiny Committees and should hold an annual forum to discuss issues and share experience.   | SPA             | By end of July 2016<br><br>(4 months)      |
| 10. Scottish Government should conduct a review of the original organisational structures and remits established as part of the Police & Fire Reform (Scotland) Act 2012 to ensure responsibilities are clear and consistent with the intentions behind the reform.  | SG              | By end of March 2017<br>(12 months)        |
| 11. Consideration should be given to reorganising or removing the service delivery responsibilities of the SPA and reinforcing its purpose as a governance body. This would focus particularly on its current service delivery responsibilities for Forensic Services, Independent Custody Visiting and Complaints & Conduct.  | SG/SPA          | By end of September 2016<br><br>(6 months) |
| 12. Following the review at Recommendation 10, the organisational structure and skills of SPA staff should be reviewed with the aim of enhancing the governance skills and removing duplication.   | SPA             | By end of December 2016<br>(9 months)      |
| 13. The SPA in conjunction with Scottish Government should undertake a review of the skills required by Board members and prepare an updated skills matrix which should inform future recruitment. This review will need to take account of the other recommendations in this report.  | SG/SPA          | Immediate and ongoing                      |
| 14. The SPA should review the role and responsibilities of Board   | SPA             | By end of                                  |

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| members to ensure they are focussed on the strategic aims and responsibilities of the Authority. Matters reserved for the Board should be clearly defined and schedules of delegated authority both from the Board to SPA officials and from the SPA to Police Scotland should be reviewed and updated.   |                       | August 2016<br><br>(5 months)              |
| 15.A review of the number and nature of the committees of the Board of the SPA should be undertaken to ensure they cover appropriately the work and responsibilities of the SPA. Committees should be seen as working groups who are able to conduct a 'deep dive' into key issues, and make recommendations to the full Board. They would not have decision making powers except when exceptionally delegated by the Board. Membership of the committees should also be reviewed and consideration given to increasing the breadth and depth of skills by introducing co-opted experts as members. | SPA                   | By end of June 2016<br><br>(3 months)      |
| 16.SPA Board meetings which are principally for the purpose of decision making should be held in public. A clear set of criteria should be established for when matters may need to be held in closed session. These criteria should be publicly available. Meetings of committees are working sessions and should be held in private. All decisions will be made by the full Board based on recommendations from the committees. Agendas will be published in advance of the meetings.   | SPA                   | By end of September 2016<br><br>(6 months) |
| 17.Governance of major projects and programmes should be overseen by SPA at an appropriate level, depending on the scale, scope and impact of each project. This could be achieved in a number of ways but must allow SPA to have full awareness of progress and identify when decisions have to be brought to the full SPA Board.  | SPA                   | Immediate and ongoing                      |
| 18.The Accountable Officer needs to be able to fully undertake his responsibilities to Parliament. This requires him to have strategic oversight of the finance function and an ability to make directions if necessary. So that lines of accountability and responsibility are not blurred, a protocol should be established which sets out the circumstances and the process by which such an intervention should take place.   | SPA                   | By end of June 2016<br><br>(3 months)      |
| 19.The SPA should conduct a comprehensive review of its operating policies and procedures in the context of the governance framework referenced in Recommendation 2 and any change in its service delivery responsibilities under Recommendation 10. Its policies and procedures should be consolidated into a single operating manual.   | SPA                   | By end of September 2016<br><br>(6 months) |
| 20.The SPA should have responsibility for reviewing policing policy where this may impact on public perception and  | SPA / Police Scotland | By end of September                        |

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| <p>policing by consent. This should be a proactive process and done collaboratively with Police Scotland. The SPA should consider this in the context of its review of its committee structures and the skills matrix.</p>  |                            | <p>2016<br/><br/>(6 months)</p>                     |
| <p>21.The SPA should clearly set out how it intends to hold the Chief Constable to account through a governance performance framework. This should set out clear performance standards against both the regulatory framework and operational performance. This should then be the basis on which performance reviews and assessments are conducted.</p>   | SPA                        | <p>By end of June 2016<br/><br/>(3 months)</p>      |
| <p>22.A complete review of the information and reporting requirements of both Police Scotland and the SPA should be undertaken. This should cover both routine, transactional reporting as well as analytical and comparative information required for performance management. This needs to be informed by the setting of an agreed performance framework and the modus operandi of the SPA as mentioned in earlier recommendations.</p> | SPA                        | <p>By end of September 2016<br/><br/>(6 months)</p> |
| <p>23.In determining information requirements for the SPA, operational information should be focussed on exception reporting only. A greater emphasis on strategic information, comparative analysis and benchmarking is required. The volume and quality of financial information should be enhanced significantly.</p>  | SPA                        | <p>By end of September 2016<br/><br/>(6 months)</p> |
| <p>24.A review should be conducted by the SPA in conjunction with Scottish Government and Police Scotland of the various planning and strategic reports that are required, with a view to rationalising these and ensuring their purpose is clear. Clear ownership of and approval processes for these documents should be set out.</p>   | SPA / SG / Police Scotland | <p>By end of December 2016<br/><br/>(9 months)</p>  |
| <p>25.In setting our information requirements, emphasis should be given to ensuring that the SPA can demonstrate improvements in the quality of service that Police Scotland is providing.</p>  | SPA                        | <p>Ongoing – annual reporting</p>                   |
| <p>26.Progress on updating information processing and management systems should be accelerated to reduce cost, improve turnaround times and allow for more open interrogation of data.</p>  | Police Scotland            | TBC   |
| <p>27.The SPA should develop a broadly based stakeholder map which identifies key stakeholders, the reason for the relationship and objectives, an engagement plan and specific</p>   | SPA                        | <p>By end of December 2016</p>                      |

## REVIEW OF GOVERNANCE IN POLICING

|  |                       |   |
|--|-----------------------|---|
| actions. For each relationship a Board Member or senior official should be identified to own and manage that relationship.   |                       | (9 months)                                |
| 28.As part of the development of the stakeholder map, we need to review the wider public policy objectives, identify what contribution we can make and set priorities and objectives to deliver that contribution, and be able to publicly report our progress through our annual reporting. | SPA                   | By end of December 2016<br><br>(9 months) |
| 29.SPA and Police Scotland should coordinate their respective approaches to stakeholder management, agree respective roles and objectives and provide regular feedback to each other on engagement and progress.   | SPA / Police Scotland | By end of September 2016<br>(6 months)    |
| 30.SPA and Police Scotland should re-visit their communication strategies and make their commitment to partnership working across the public sector more explicit.   | SPA / Police Scotland | By end of June 2016<br>(3 months)         |

## **APPENDIX 2: Terms of Reference**

The Cabinet Secretary for Justice asked the Chair of the Scottish Police Authority to undertake an immediate review of governance in policing, and for this to be reported in March 2016. The terms of reference for that review were indicated in the 'Programme for Government' laid before Parliament on 3 September 2015. Broadly speaking these included four workstreams:

### **Workstream 1: Localism and Community Accountability**

Ensure that local interests are effectively represented in national scrutiny processes; that decision making on national priorities, policies and programmes takes account of local needs; and that there is appropriate discretion and flexibility within national policies to reflect local circumstances.

### **Workstream 2: SPA Structures and Skills**

Ensure that the Scottish Police Authority has the appropriate structures and skills to undertake effective scrutiny. In so doing identify any skills gaps and development requirements and consider any external expertise that needs to be brought to bear to support scrutiny of major change programmes.

### **Workstream 3: Information Requirements and Processes**

Review the information flows and communication between Police Scotland and the SPA to ensure the Authority has all of the material and data required timeously to fulfil its scrutiny function; and the information made available to HMICS, the Scottish Government and the Scottish Parliament to fulfil their respective roles.

### **Workstream 4: Wider Stakeholder Engagement Requirements**

Review the way the Authority works with other stakeholders to ensure its approach is rooted in partnership and contributes effectively to wider policy objectives across the public sector. Propose measures to strengthen communication with partners and communities about the work of the Authority and policing more generally.

### **APPENDIX 3: Reference Group Members**

Membership of the Reference Group comprised of:

- |                        |   |
|------------------------|---|
| a) Andrew Flanagan     | Chair, SPA  |
| b) Moi Ali             | Board Member, SPA   |
| c) Professor Nick Fyfe | Director of Scottish Institute for Policing Research (SIPR) |
| d) David Hume          | Board Member, SPA   |
| e) Margaret Kennedy    | Chair, Fife Council's Safer Communities Committee           |
| f) Christine McLintock | President, Law Society of Scotland                          |
| g) Don Peebles         | Head of CIPFA Scotland                                      |
| h) Angela Scott        | Chief Executive, Aberdeen City Council                      |
| i) Pat Watters         | Chair, Scottish Fire & Rescue Service (SFRS)                |
| j) John Foley          | Chief Executive, SPA  |

## **APPENDIX 4: References / Source Material**

### 6.1 Review of Governance Models / Best Practice etc (General):

- a. On Board – A Guide for Board Members of Public Bodies in Scotland (April 2015)
- b. National Audit Office – Corporate Governance in central government departments: Code of Good Practice (2011)
- c. SOLACE / CIPFA – Developing Good Governance in Local Government (2007)
- d. IFAC / CIPFA – International Framework: Good Governance in the Public Sector (July 2014)
- e. Good Governance Institute – Integrated Reporting (November 2014)
- f. Public Service Improvement Framework (2013)
- g. Audit Scotland - Challenge and Improvement Toolkit (July 2010)
- h. Audit Scotland – Governance & Accountability Toolkit (July 2010)
- i. Banff Executive Leadership - Models of Corporate / Board Governance

### 6.2 Review of Governance Models (Policing):

- a. SIPR Review of Policing Governance Models (December 2015)
- b. Review of MOPAC arrangements
- c. HMICS – Governance and Accountability of Policing in Scotland Discussion Paper (May 2011)
- d. HMICS - Independent Assurance Review Call Handling (November 2015)

### 6.3 Desktop Research:

- a. Principles and Practice of Scottish Police Authority 'Steady State' Operations (2013)
- b. Tri Party Framework for Effective Decision Making (SG/SPA/PS)
- c. The Scottish Police Authority Governance and Accountability Framework Document
- d. Decision Making Framework for the SPA and Police Scotland (Updated October 2015)
- e. SPA Communications and Engagement Strategy (September 2014)
- f. Summary of Scottish Public Opinion Monitor (August 2015)
- g. Outputs from Cabinet Secretary's Local Scrutiny Summit (September 2015)
- h. Collaborative Statement of Good Scrutiny and Engagement (2013)
- i. Legal Opinion from Senior Council (October 2012)
- j. Review of SPA Board and Committee Papers
- k. Current SPA Structure
- l. Alternative Options Appraisal
- m. Scottish Funding Council – Financial Memorandum with College Sector (Dec 2014)
- n. The Pearson Review (Graham Pearson, MSP)

### 6.4 38 written views from Stakeholders

### 6.5 25 councils represented over 2 x Elected Member / Officer Local Authority Workshops

17 face to face meetings undertaken by the Chair or by the Project Team.



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**REVIEW** OF  
GOVERNANCE  
IN POLICING

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TO CABINET SECRETARY FOR JUSTICE

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MARCH 2016