

Meeting 28 August 2020 13:00 – 15:00

Members attending:

John Scott QC, Solicitor Advocate (Chair)
Ephraim Borowski, Chair of the National Independent Strategic Advisory Group
Chief Superintendent David Duncan, Police Scotland
Martyn Evans, SPA Board Member
John Logue, Deputy Crown Agent Operational Support, COPFS
Naomi McAuliffe, Programme Director Scotland, Amnesty International
Professor Susan McVie, University of Edinburgh
Diego Quiroz, Scottish Human Rights Commission
ACC Gary Ritchie, Police Scotland
Dr Catriona Stewart, SWAN Scotland

Apologies:

Bruce Adamson, CYPCS
Aamer Anwar, Solicitor and Human Rights campaigner
Tressa Burke, CEO Glasgow Disability Alliance
Maria Galli, CYPCS
Gill Imery, HM Chief Inspector of Constabulary in Scotland (HMICS)
Dr Elizabeth Kelly, NHS Scotland and Associate Carnegie UK Trust
Susan Kemp, Scottish Human Rights Commission
DCC Will Kerr, Police Scotland
Brian Scott, Glasgow Disability Alliance

Secretariat:

Jennifer Blackwood, SPA Communications and Relationships
Eleanor Gaw, SPA Community Accountability

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1. Welcome and introductions

The Chair welcomed members to the meeting.

2. Note of previous meeting and matters arising

Matters arising were covered in discussion of the main agenda items.

3. Article 11 of the ECHR: right to freedom of peaceful assembly

Draft Paper by Diego Quiroz, SHRC

Diego Quiroz presented a draft paper from SHRC relating to Article 11 of the ECHR, the right to freedom of peaceful assembly and how this relates to the temporary coronavirus restrictions in place to protect public health.

This paper was welcomed by the Chair and members.

Key discussion points included

- The importance of proportionality and non –discrimination if penalties are enforced
- The need to review any temporary restrictions put in place to protect public health
- The need to engage with young people or any groups likely to be disproportionately impacted
- CYPCS will engage directly with SHRC on the specific implications for children and young people; there was specific reference to the involvement of young people in climate change protests.
- The Chair highlighted national and international debate on balancing the right of peaceful protest with restrictions put in place to protect public health. He referenced examples of legal judgments in Australia on the matter which had gone in different directions, and a judicial review now underway in England as a consequence of an application to march by BLM protestors being turned down.
- Members requested that if possible, some additional clarification be provided on what constitutes violent or non-violent protest.
- It was requested that the Draft Paper from SHRC more clearly delineates the roles and responsibilities of a public authority, such as the SPA, and organisations responsible for direct service delivery.
- It was noted that the work would also be highly relevant for next year's COP26 event.

Action:

All members will continue to provide feedback to Diego, and the draft paper will support the IAG report to the SPA board 30 September 2020.

The Chair thanked Diego for an extremely helpful contribution. The final paper will be included as an appendix to the IAG's report to the SPA Board in November.

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5. Data

OpTICAL Update

Professor McVie briefed members that as previously agreed, the remaining data analysis on FPNs will focus on nominal data, to gain more insight into the profile of individuals receiving FPNs compared with the wider population. A further report will be provided to the IAG on these proposals.

The potential to link data with an additional data set from the Scottish Courts & Tribunal Service on FPNs was discussed. This would provide a data set for Scotland which is comparable with data for England and Wales.

There will be further discussion of this proposal between Professor McVie and Police Scotland, and at OpTICAL, to ensure alignment of work with the Terms of Reference. Professor McVie will report to the IAG further on this in due course.

Martyn Evans raised the issue of any outstanding FPNs issued to 16/17 year olds before the legislation was amended, and the need to seek assurance that this matter has been fairly addressed.

Action: Professor McVie will liaise with ACC Ritchie / OpTICAL, ahead of a further report to the IAG.

The group discussed wider issues around any data related to any enforcement of quarantine regulations, and reflected on discussions at the August Justice Sub Committee on Policing. It was agreed that the issue of data and quarantine regulations be referred to the OpTICAL group.

Naomi McAuliffe highlighted the very strong interest of Amnesty in any data on the use of spit hoods, again reflected in Justice Sub Committee discussions. She indicated that if related data becomes available on spit hoods and Covid-19, it would be extremely helpful for this to be streamed through the IAG.

Citizen Space

Jennifer Blackwood briefed members that 9 additional responses have been received, following promotion of the portal in the North East. The Chair recorded his thanks to Chief Superintendent Macdonald for supporting this process.

The overall picture of response at 28 August is outlined below.

	28 Aug	17 July
Responses	76	67
% police contact	26	24

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	28 Aug	17 July
% opinion of policing unchanged	52	45
% opinion worse	9	8
% opinion better	no change	11
Age Group (most responses)	55-64 (25)	55-54 (19)
	Still no u18s	
Male/Female	33/39	30/33
BAME	no change	6
Happy to be contacted	28	25
Happy for response to be made public	58	51

6. AOCB

New regulations implemented 28th August

The new regulations and potential implications were discussed. Reports on use of the new powers will be streamed through OpTICAL in the first instance.

It was noted that new evidence has emerged linking indoor gatherings with the recent spread of the virus. Addressing what has until now been a gap in powers around police entry to premises, may therefore be timely and proportionate.

The recommended numbers for indoor gatherings is lower in guidance than in regulations. Adhering to the guidance is recommended to reduce the spread of the virus, but it was noted that penalties can only be enforced for breaching regulations in a flagrant manner. This has potential to generate some mismatch between public expectations of policing and what can be delivered.

The importance of the quality of supporting legislation was noted and re-emphasised.

7. Date of Next Meeting

Friday 4 September 13:00 – 15:00