

Meeting	Authority Meeting
Date	22 January 2021
Location	Video-conference
Title of Paper	SPA Interim Chair's Report
Presented By	David Crichton
Recommendation to Members	For Discussion
Appendix Attached:	No

PURPOSE

To provide a concluding report and reflections during my term as Interim Chair of the Authority.

Introduction

This is my final report to the Board after 14 months as Interim Chair and so I am taking the opportunity to reflect on my time in the role and share my assessment of the path ahead for the police service, the Authority, and the overall approach we take in Scotland to maintaining and scrutinising a service which is so central to the safety, wellbeing and rights of every citizen.

Before doing so though I want to congratulate Martyn Evans on his appointment as the Authority's new permanent Chair. Martyn and I were appointed to the Board at the same time in early 2018 and we were also in regular contact during my term as Chair of NHS Health Scotland. I have had the benefit throughout those years of his intellect, determination and instinct for the public interest. He will be an excellent Chair and he and I will work closely together to ensure a smooth transition.

Turning to my own reflections as Interim Chair, it would be impossible to do this without first referring to the COVID19 pandemic which has so dominated our personal and professional lives and which has had such fundamental implications for policing. I also want to cover two issues which have been a continuous thread in my previous nine reports to the Board: the funding of policing; and the overall scrutiny system in which the Authority plays the central role. There are also a number of themes which have emerged consistently during my time in office, and which I would like to highlight again as I demit office.

COVID19

If anyone still harboured doubts about the wisdom of establishing a national police service, then the experience of dealing with the pandemic must surely have dispelled them. The prospect of dealing with the policing of such a major national and international emergency through eight separate forces with their own leadership, oversight, cultures and practice is unthinkable. So I hope those old concerns have finally been laid to rest.

The pandemic has also reinforced a very basic tenet of modern policing - one held to very closely by the Police Service of Scotland - that the service has a much wider duty than tackling crime, important as that must continue to be. It has a core role in ensuring the safety and

wellbeing of every citizen and it is at the forefront of public health in the broadest sense. Police Scotland's front-line role in upholding the guidance and regulations necessarily imposed during the emergency has slowed the spread of the virus and saved many lives, and we are all grateful for that. The experience has also shown the importance of the police service being transparent, consistent and robust in its communications. The Police Scotland leadership team has had more public visibility than ever before and has without exception met its communication responsibilities clearly and effectively.

The extraordinary powers vested in Police Scotland during the pandemic could have placed great strain on its responsibility to protect human rights. I was therefore delighted to support the Chief Constable's proposal to establish an Independent Advisory Group (IAG) under John Scott QC's leadership, and to bring the work of the IAG alongside the Authority's own scrutiny duties. The IAG has provided evidence-based advice and challenge and has been acknowledged internationally as a best practice example.

I have said in a previous report that Police Scotland's contribution during the pandemic has been remarkable, and we owe thanks to all officers and staff for their work at a time when they are facing the same personal and family worries as we have all been experiencing.

Our Forensic Service has also done a remarkable job. It was already a world-class service but has shown throughout the pandemic an outstanding ability to adapt procedures and skills, continuing to provide the quality of service on which policing and the wider judicial system depends. The same is true of our Independent Custody Visiting Scheme. The onsite visits to custody centres made by the Scheme's volunteers have necessarily been severely curtailed but again they have shown a commitment and adaptability which has still afforded protection for the wellbeing and rights of those in custody.

The structural deficit

I have mentioned the deficit in the policing budget at every Board meeting which I have chaired. It is substantial and persistent, dating all the way back to the establishment of the national service. There is now however a much wider understanding of the reasons for the continuing deficit, and that the Authority cannot be solely responsible for fixing it.

By far the two most important variables in determining our financial out-turn are the budget allocation from Scottish Government and police officer numbers. Neither of these are under the control of the Authority. Policing is only one of many calls on increasingly stretched public finances, while current officer numbers are the product of both a political commitment and the Chief Constable's very clear operational judgment, a judgment reinforced again in the Strategic Workforce Plan being presented at this meeting. Unless one or both of these variables change significantly the Authority's ability to eliminate the deficit is fundamentally constrained. It was reassuring to see recognition of this in the Auditor General's Section 22 report on the Authority.

We can seek to influence and challenge both budget allocations and officer numbers, and we do so. We can ensure that financial controls and information are as robust as possible, and they are. And we continually challenge Police Scotland on efficiencies, productivity, investment benefits, workforce planning and all the other budget variables which can contribute to deficit reduction.

Ultimately however, there needs to be a much wider public and political debate about what we expect from our police service, how the demands upon it are changing, how it works alongside other public services and what capital investment it needs to generate sustainable efficiencies. Only with that well-informed debate can robust decisions be taken on the baseline budget and officer numbers.

The legislative framework for the scrutiny of policing

When I stepped into the Interim Chair role in December 2019, there was considerable discussion still under way about the appropriateness and effectiveness of the overall policing scrutiny system. Although the level of commentary on this has diminished in the last year, it does persist and it is entirely legitimate that it should. I said last year that, whilst the system was not perfect, I believed that it was workable and that it was no less perfect than other scrutiny systems across the public sector. I also said that I had yet to see a coherent analysis of why it was believed to be unworkable, far less any practical suggestions on how it should be improved.

I still hold very firmly to those views; if anything even more so. During the pandemic, the partners in the scrutiny system – the Authority, HMICS, PIRC, Audit Scotland, Scottish Government and of course Police

Scotland itself – have worked together well, probably better than at any time since the system was established. They have shown respect for each other’s roles, collaborated effectively and exercised a proportionate level of scrutiny. Most important, the focus has been on what matters most – the role and performance of Police Scotland. That’s what should be at front and centre of any debate about how the overall system is functioning, that’s where the public interest lies, and I hope that this will continue to be the case as we move into a post-COVID19 world.

Of course there remain anomalies and overlaps across the system which need to be addressed: for example where the duties of Accountable Officer should rest. These are legitimate areas for review but I would urge that this is done without prejudicing the stability and effectiveness which have been achieved over the last year, and in a spirit of continuous improvement rather than some artificially constructed sense of failure or crisis.

The complaints and conduct process

I make one fundamental exception to what I’ve reported above, and that is the current system of handling complaints against senior officers. The process is inconsistent, unclear and ambivalent. It is neither effective nor transparent, and is open to misuse. It invites recourse to legal challenge, with all the time, cost and uncertainty which that brings. It leaves little scope to apply natural justice or alternative resolution methods, and causes disruption and distress for both complainants and those complained against. It needs reform and I very much welcome Dame Elish Angiolini’s recent review, the Authority’s response to which is presented at this meeting. Dame Elish covers in great depth the flaws in the current system and sets out carefully considered recommendations for change.

Not all of those recommendations require legislative change and can be taken forward relatively quickly – many are already in train. Some do require legislation however, and that inevitably takes time. It is of course important to get new legislation right rather than rushed, but I do urge Government to proceed with that as quickly as practicable.

Improvement themes

There have been two overall themes which I have returned to consistently during the past year: the growing demands on the police service from dealing with vulnerable people with mental health problems; and the need for continued efforts to increase diversity within the service.

The issue of mental health demand was discussed in depth at the Authority's meeting in November 2020 and is regularly examined and reported on by Police Scotland. Protecting and improving mental health is one of the Scottish Government's main priorities, and Police Scotland has an important role to play in that – calls related to people in mental health distress will always be answered. But people experiencing such distress need the treatment and safety which they urgently require, and at the moment the gap between the immediate police response and the availability of appropriate support is too wide. Police officers are not mental health professionals, and rarely are Accident and Emergency Wards or, worse, custody suites, the best places to provide the support needed. The officer time spent dealing with the aftermath of the immediate incident often takes up an entire shift and the opportunity cost of that is enormous. Solutions to this require a much greater degree of cross-service working and resource planning than is currently evident, although I acknowledge the extent of pilot projects now under way with the NHS and others. COVID19 and its aftermath will only magnify this national challenge, and resolving it must be part of the wider discussion on the role and resourcing of policing which I advocated earlier.

Dame Elish's report raised concerns about the extent to which the police service properly represents and respects the full diversity of Scotland's population. This issue had already been explicitly recognised by Police Scotland, with work under way to improve the position. It had already been recognised by the Authority as well and I asked that it be a major theme of our Board meeting in August 2020. I have also spoken personally to the diversity associations representing police officers and staff. Dame Elish has given further impetus to Police Scotland's commitment to build a service which is representative of all parts of Scottish society, and which provides equal opportunity to those wishing to make a career in policing. There is a genuine and heartfelt commitment from Police Scotland's leadership to diversity and equality in the composition and behaviour of the service, but the challenge now is to see that reflected at all levels in the service and in every interaction with members of the public.

Both of these themes are neither rooted in nor capable of being resolved by the police service alone. They are problems which need action across the public, private and third sectors, action founded on better collaboration and budgeting across all sectors. But both are areas where Police Scotland can be more than just a willing participant – the service can demonstrate real leadership and best practice, and is already doing so in many areas.

Development of the Scottish Police Authority

My final subject for this report is a more inward-looking one, the development of the Authority itself. We have been oft-maligned in the past, sometimes as an easy target for those who remained sceptical about police reform, sometimes by an exaggerated degree of self-criticism, and sometimes – and we do have to recognise this – our own lack of pace in building the capacity, skills and confidence needed to properly meet our responsibilities.

I genuinely see a substantial change in the last 12-18 months. The Authority has a clear strategic statement and an outcomes-focused annual business plan to deliver it. It has developed alongside Police Scotland a detailed performance measurement model for policing. Our governance systems continue to improve and our financial controls and management systems are as robust as any I have seen in the public sector. We have implemented an organisational structure which, after a number of false starts in the past, now properly reflects the role and responsibility which we have. Our staff are working with a much greater degree of confidence and innovation than was the case in the past, and new staff are joining who bring additional skills and capacity. We have continued to operate transparently, increasingly so as we have adjusted to the constraints imposed by the pandemic – our public Board and Committee meetings are livestreamed on our website for example. We are working with a degree of stability and consistency which has not been apparent in the past and I am reassured by recent reports from Audit Scotland and HMICS which acknowledge this progress, as well as by feedback from many of our other partners.

The challenges we now face are those which most other organisations face, and I believe we have a stable platform for our new Chair, members and staff to build on.

Closing comments

It has been an enormous privilege to serve as a member of the Authority and over the past year to hold the Chair's role. I have seen Police Scotland deal magnificently with the gravest emergency the country has faced for generations, while at the same time responding to a concurrence of events which even without the pandemic would have been daunting enough. We have a police service to be proud of, led by a determined and compassionate leadership team and delivered by 22,000 officers and staff who turn up day in, day out to protect our safety and wellbeing.

I thank my colleagues on the Board, who have given me unstinting support, wise counsel and constructive challenge. I thank all the staff of the Authority, whose resilience I envy and whose advice I have greatly benefitted from. And I wish Martyn every success in what is one of the most important and rewarding roles in Scottish public life.

RECOMMENDATIONS

Members are invited to discuss and note the content of this report.