



Meeting	Policing Performance Committee
Date	15 June 2023
Location	Video Conference
Title of Paper	Police Scotland and SPA Joint Response to the Independent Advisory Group on New and Emerging Technologies in Policing
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Recommendation to Members	For Discussion
Appendix Attached	Yes - Joint response to recommendations arising from the Independent Advisory Group on new and emerging technologies in policing

PURPOSE

This paper provides (i) a summary of the findings and recommendations identified by the Independent Advisory Group (IAG) on new and emerging technologies in policing and (ii) outlines the steps that Police Scotland and the Scottish Police Authority propose to take to address the identified recommendations.

Members are invited to discuss the content of this report.

1 Background

- 1.1. On 13 June 2019 Humza Yousaf (the then Cabinet Secretary for Justice) appeared before the Scottish Parliament's Sub-Committee on Policing in relation to Police Scotland's use of cyber kiosks. During this appearance, Mr Yousaf announced his intention to form an independent advisory group (IAG) to scope the possible legal and ethical issues arising from emerging technological developments.
- 1.2. The IAG was chaired by Professor Liz Aston, Director of the Scottish Institute for Policing Research (SIPR), based at Edinburgh Napier University. Various academics, along with policing, regulatory and civil society bodies contributed to its work. The IAG met ten times over the course of two years.
- 1.3. The purpose of the IAG was to ensure Police Scotland's use of new and emerging technologies in relation to operational policing is compatible with equality and human rights legislation and best practice and provide recommendations to address any identified issues.
- 1.4. The IAG published its [final report](#) on 22 February 2023.

2 Summary and Recommendations

- 2.1. The IAG report recognised a number improvements that Police Scotland and the Scottish Police Authority have already undertaken. Further details are provided in section 3 below. The final report provides 18 further recommendations to build upon improvements already made. These are grouped under four themes:
 - **Theme 1** - Business case development, implementation and processes.
 - **Theme 2** – Transparency, engagement and evaluation.
 - **Theme 3** – Legislation and policy.
 - **Theme 4** – Oversight.
- 2.2. Appendix 1 provides a breakdown of each of the 18 recommendations and provides detail of how Police Scotland and the Scottish Police Authority consider and propose to address the recommendations.

3 Police Scotland's Improvements

- 3.1. The IAG's report recognised a number of recent improvements made by Police Scotland in relation to how technology projects and initiatives are developed and embedded. In particular, the IAG found that Police Scotland has improved processes for considering and addressing ethical and legal implications when adopting new technologies.
- 3.2. The IAG welcomed the launch of Police Scotland's recently developed 'Data Ethics Framework' which is being piloted to ensure that any 'data-driven technologies' are using data responsibly, and any associated data ethics risks are managed and scrutinised appropriately.
- 3.3. The IAG also highlighted that Police Scotland has continued to introduce Ethics Advisory Panels that enable staff, officers and external participants to come together and discuss potential ethical dilemmas (relating to technology and more broadly). The objectives of panels include: improving service delivery; supporting police officers, staff and leaders; developing and enhancing a visible ethics culture; and supporting organisational learning.
- 3.4. The IAG found that impact assessments, such as Data Protection Impact Assessments (DPIA) and Equality and Human Rights Assessments (EQHRIA), are routinely used by Police Scotland to establish what impact technologies could have on people and communities. The learnings from these assessments are then used to take practical steps to minimise or reduce any adverse impact. Looking forward, it is suggested that Police Scotland consider undertaking Children's Rights and Wellbeing Impact Assessments (CRWIAs) alongside DPIAs and EQHRIAs to further embed a human rights based approach.
- 3.5. In terms of making future improvements to processes, the report notes that policing in Scotland:
 - should more effectively utilise previous 'lessons learned';
 - that there is a need for independent and transparent oversight mechanisms for understanding impacts of improvements; and,
 - When considering future technologies there is an emphasis on using practical risk-based assessments and rights based approaches to assess proportionality.

4 Implementation of recommendations

- 4.1. As can be seen in Appendix 1, the recommendations in the most part refer to suggested enhancements of existing approach.
- 4.2. Given the nature of the recommendations, they cut across several different stakeholders, areas and processes.
- 4.3. Therefore we will consider and progress adoption of the enhancements by the following means:
 - Establishment of a SLWG with representation from relevant business areas to review and close out each recommendation at the next level of detail.
 - SLWG to then drive and oversee agreed changes/enhancements as required.
- 4.4. Progress will be reported and tracked ultimately via Change Board but sub-forums across the organisation for the relevant areas will be tasked by the SLWG where required for specific workstreams.
- 4.5. It is proposed the SLWG provides an update to SPA Audit & Risk Committee on progress on a quarterly basis with evidence of consideration and/or adoption via associated business cases/products where relevant.

5 FINANCIAL IMPLICATIONS

- 5.1. There are no financial implications in this report.

6 PERSONNEL IMPLICATIONS

- 6.1. There are no personnel implications in this report.

7 LEGAL IMPLICATIONS

- 7.1. There are no legal implications in this report.

8 REPUTATIONAL IMPLICATIONS

- 8.1. There are no reputational implications in this report.

9 SOCIAL IMPLICATIONS

9.1. There are no social implications in this report.

10 COMMUNITY IMPACT

10.1. There are no community implications in this report.

11 EQUALITIES IMPLICATIONS

11.1. There are no equality implications in this report.

12 ENVIRONMENT IMPLICATIONS

12.1. There are no environmental implications in this report.

RECOMMENDATIONS

Members are invited to discuss the content of this report.

APPENDIX 1 – Joint response to recommendations arising from the Independent Advisory Group on new and emerging technologies in policing

<u>Recommendation</u>		<u>Scottish Government or Joint Police Scotland (PS) Force Executive and Scottish Police Authority (SPA) Response</u>
Theme 1: Business case development, implementation and processes		
1	<p>Policing bodies (Police Scotland and SPA Forensic Services) should continue to adhere to the guidance set out in the HM Treasury Green book for the Strategic Case. This includes ensuring an assessment of the current available evidence base (including benefits and dis-benefits) across jurisdictions and other police and public services and relevant published research is included in the Case for Change section within the Business Case.</p>	<p>The SPA and PS support this recommendation and reflect the alignment to current practice, with the Joint MoU promoting the development of a clear public narrative on the relative benefits and potential dis-benefits of any proposed new strategy policy or practice, in order to inform understanding of the balanced judgement which underpins decision making. Adherence to the Green Book is the cornerstone of evidence based PS Business Cases which are considered by the SPA for approval and there is a clear expectation that business cases take account of the research and evidence base available across jurisdictions and in other nations.</p>
2	<p>The assessment of the Ethical and Human Rights Impact of emerging technologies should be evidenced and a proportionate judgement for the implementation or otherwise of technology should be included in Business Cases. This could take the form of a 6th Ethical and Human Rights Case, which would be a first for the UK and should make full use of EQHRIA, DPIA, CRWIA, Community and Islands Impact Assessments, Fairer Scotland Duty Impact Assessment, independent expert advice, Ethics Advisory Panels (EAPs), other relevant impact assessments and the results from the new Data Ethics Governance Framework within Police Scotland. The 6th case</p>	<p>The SPA and PS broadly support this recommendation and reflect the alignment to current practice, with the Joint MoU promoting the articulation of considered proportionality and the balancing of often complex and sometimes competing human rights impacts. This is with the common goal of enabling PS access to suitable and beneficial technology which supports the service in the primary role of protecting the safety and wellbeing of citizens and communities. The SPA and PS recognise the possible benefit of establishing a 6th case within the current business case structure set out in the Green Book, in order to demonstrate a clear focus on how these ethical and human rights considerations have informed</p>

	<p>should draw a proportionate judgement using all of the evidence, research and advice available on if and how the technology should be adopted by policing. The SPA and PS should continue to develop the creation of a framework of guidance on the development of a 6th case. This is in addition to Police Scotland ensuring that all new technology introduced is compliant with the Equality Act 2010 and associated Codes of Practice and meets the requirements of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, including the duty to assess and review policies and practices</p>	<p>the case and support the judgement being proposed. However, it is considered that this additional formal process, may not always be necessary as these elements can be described through the existing 5 cases and may introduce a risk of the process taking priority over the application of balanced judgement.</p>
<p>3</p>	<p>Policing bodies introducing emerging technologies, applied in a context which impacts how the public are policed, should publish a clear and publicly accessible Operational Practice Code, ensuring compliance with relevant statutes or codes of practice. This document should be developed with external input and set out the conditions and limitations of use of the technology, safeguards in place and the methods by which compliant application for a policing purpose is maintained and overseen.</p>	<p>The SPA and PS support this recommendation and reflect the alignment to current practice with the operational use of technology for a policing purpose, or any significant policing operational policy, being supported by a public facing publication of an explanation of how the use of the tactic provides public benefit. This document would also describe what limitations and safeguards PS has in place to ensure continued appropriate application of the tactic and also describe the associated monitoring, reporting and oversight arrangements. This proactive publication seeks to build on public understanding of the proportionate, considered and controlled use of the technology or tactic and therefore enhance public confidence in the justification of the adoption for public benefit. Recent examples would include the operational deployment of RPAS and the use of Body Worn Video by armed response officers.</p>
<p>4</p>	<p>Police Scotland should seek to implement, as soon as possible, their Data Ethics Governance Framework. Key stakeholders</p>	<p>The SPA and PS welcome the support for the implementation of the Data Ethics Framework in this recommendation and are fully</p>

	<p>(e.g. DPO) should be involved in internal review and scrutiny prior to implementation and an effectiveness review should be undertaken 12 months after the roll-out to ascertain the benefits realised and lessons learned during implementation.</p>	<p>committed to its implementation. The involvement of a range of internal subject matter experts both within PS and the SPA has contributed to this work, as well as having taken the learning from examining current practice across the UK, in order to develop what is expected to become recognised as best practice in this field. The SPA and PS will ensure this framework is kept under appropriate review in order to continue to enhance the arrangements through both internal reflection and evaluation and continuing to seek learning from other jurisdictions.</p>
<p>5</p>	<p>Project implementation and lifetime management should ensure appropriate training for officers who will be utilising or monitoring emerging technology (particularly AI enabled technologies), with a particular focus on equality, human rights and data protection obligations.</p>	<p>The SPA and PS recognise this recommendation as existing business as usual in delivering change or continuous improvement in policing, where valuing and supporting the workforce and living by the PS values of fairness, integrity, respect and human rights are paramount. This is further reflected in the current Strategic Police Plan objective to prioritise wellbeing and keep our people safe, well equipped and protected.</p>
<p>6</p>	<p>When developing future proposals for technology use, policing bodies should consider, where appropriate, utilising small tests of change/pilots which could be externally evaluated to inform Business Cases and shape wider scale implementation within the Policing System. A system or process should be developed to ensure a standardised approach to this and should include using service design principles and data protection by design and default from development through to implementation.</p>	<p>The SPA and PS recognise this recommendation as reflecting recent good practice demonstrated through the programme to introduce Naloxone for administration by frontline officers and the deployment of Body Worn Video for armed response officers. Both of these programmes which followed the principles laid out in the Joint MoU, included well designed and conducted tests of change which were then evaluated, both internally taking evidence from a range of sources including the officers and members of the public impacted by the test. This was further enhanced by an independent external evaluation process. This intentionally phased and evidence based approach to</p>

		<p>change implementation has best practice from a service design approach at its core.</p>
<p>7</p>	<p>When adopting emerging technology policing bodies should ensure standards are designed to meet the needs of users and enable interoperability within and between public agencies and compliance with data protection, equalities and human rights law. More broadly adherence to ISO, scientific and other relevant standards and codes (such as the ICO Data Sharing Code and Children’s Code) should be designed at the outset of any new technology implementation. Policing bodies could consider establishing a national technology clearing house to ensure robust scientific standards for AI technologies. Internal standards, policies and procedures around the development and use of AI should that draw on the ICO’s AI and Data Protection Guidance. An Algorithmic impact assessment policy should be considered and algorithms should be published via the UK’s Algorithmic Transparency Standard.</p>	<p>The SPA and PS would welcome the opportunity to further explore this recommendation. Current practice and the process to develop business cases includes the requirements to adhere to statutory legislation, legislation codes of practice and compliance with data protection, equalities and human rights law. However recognising that it is not only policing that can gain public benefit from technology adoption, the SPA and PS would welcome a discussion on the relative responsibilities with government, other national bodies and industry representative bodies. This would explore whether standards could be designed and agreed nationally and with input from those parties who design and develop the emerging technologies which may be adopted by policing, but also other agencies. This would allow a more consistent approach and allow evidence and research to be used to support the adoption of technologies across a number of police services on a common and clearly justified evidence base rather than inadvertently establishing a new requirement for evidence with each new adopter.</p> <p>It should be noted that we do follow, adapt and adhere and often exceed standards, e.g. national policing security standards, and we are currently seeking ISO Accreditation for Digital Forensics.</p> <p>We have also established the professional Reference Group as a part of BAU.</p>

8	<p>Police Scotland should continue to enhance its approach to ensuring effective and mature risk management processes by scoping, mapping, identifying and addressing any risk (particularly risks to rights and freedoms of individuals), opportunity or issue which may become associated with the adoption of a new technology and continuing to re-assess and evaluate risks throughout the lifecycle of any new technology. This includes the requirement to regularly review, update and implement data protection and equality impact assessments.</p>	<p>The SPA and PS welcome the recognition of the current effectiveness of the approach to balancing risk and benefit, which underpins the Joint MoU and is the approach applied to business case development through the use of the widest possible range of published research, evidence sources and impact assessments, including surveys and internal and external stakeholder engagement. Current PS practice requires the ongoing assessment of existing and new emerging risk and benefit realisation against planned. This is the focus of the PS Change board and across the breadth of SPA Committees under the established regime for Oversight of Change.</p>
<p>Theme 2: Transparency, engagement and evaluation</p>		
9	<p>Police Scotland should continue to develop and implement the Consultation and Engagement Framework described in this report when considering the adoption of emerging technology. Engagement should align with legal and governance frameworks, occur as early as possible, have clarity of purpose, draw on the evidence base, be inclusive and accessible (including vulnerable groups and those who may have greatest risk of adverse impacts), include an element of formal consultation, enable colleague voice, promote ongoing dialogue, provide clear public facing communication, be transparent about how insights will be and are used and consider involving the public and stakeholders in formulating guidelines (see Appendix C key considerations 3.2, 6.1-6.12). Summaries of EAP</p>	<p>The SPA and PS welcome the recognition of the effectiveness of the approach which has been developed and commit to delivering its full planned implementation. The SPA and PS also welcome the recognition elsewhere in the report of the considerable progress made across a range of areas by PS and the SPA since 2019. The SPA and PS would note that the use of extensive consultation and engagement does not make decision making or judgement easier but it does provide a better decision making outcome through its inclusion.</p>

	meetings should be made public to aid transparency.	
10	Police Scotland should clearly specify the legal basis for using emerging technology, share it with key stakeholders for input and publicly share it.	<p>The SPA and PS support this recommendation and note its inclusion in current practice, with the Joint MoU promoting the development of a clear public narrative, including assurance on any legal compliance or other requirements which give the proposal the required legitimacy.</p> <p>In addition to establishing the legal basis, PS will also assess the ethical risks of deploying emerging technology, and we are keen to share with the public, as broadly as we can.</p>
11	As part of the lifetime management of a new technology/project, policing bodies should have a clear evaluation plan which seeks to gather data (including baseline measurements) so that the emerging risks and efficacy can be assessed and DPIAs reviewed and updated throughout the lifecycle. The decision about whether a research evaluation is needed should be taken early on and informed by the level of risk and existing evidence base. A communication plan should seek to inform and regularly update scrutiny bodies and the public on operational usage and the delivery of the intended public benefit (or any dis-benefits) of the technology.	<p>The SPA and PS recognise this recommendation as reflecting the approach to being able to provide a clear evidence based narrative, which underpins the Joint MoU and is the approach applied to the ongoing monitoring of business case implementation and delivery. This is informed by the ongoing assessment of impact through evaluation, surveying and polling, engagement with stakeholders and the public, formal benefits realisation and other sources of information that allow the overall assessment of the delivery of public benefit. This is then communicated widely to enhance public and partner understanding of and confidence in the project. This is transparently communicated through the public sessions of the SPA Committees under the established regime for Oversight of Change.</p> <p>PS already have a mature DPIA process, which include DPO involvement where high risks have been identified. All high risks from the DPIA's are share with the ICO as standard. We will continue to build</p>

		<p>this into the evaluation of the programmes and benefits realisation and or the financial analysis.</p> <p>The new Data Ethics process will provide an opportunity to identify/assess risks throughout the lifecycle of project implementation. This includes opportunities for further scrutiny (internally and externally), via the Data Ethics Oversight Group (internal) and the proposed Independent Data Ethics Group (external).</p>
Theme 3: Legislation and policy		
12	<p>Whilst significant legislative gaps were not found, Scottish Government (and where appropriate SBC) should seek to keep the legislative landscape under review and consider whether future technological deployments would benefit from the introduction of statutory codes of practice in order to provide greater clarity and safeguards on the application of emerging technologies in policing (such as Live Facial Recognition and certain applications of AI, e.g. in predictive policing). In future if there were plans to consider the deployment of autonomous security robotic devices in policing for enforcement purposes new legislation should be introduced in advance. However, the possibility that certain applications of some technologies in policing should be categorically prohibited from use, either because they are unacceptably risky even with mitigation in place, or because they are intrinsically incompatible with human rights, should be</p>	<p>Scottish Government Response</p> <p>The advisory group noted that no significant legislative gaps exist at this time, but we are mindful that technologies in policing can evolve rapidly. The Scottish Government will continue to liaise with Police Scotland, SPA and other stakeholders to ensure that we are implementing our policy, which is to ensure that the approach taken to new technology should be lawful, effective and proportionate.</p> <p>We recognise that a number of considerations arise for the police when considering the deployment of new technology, and are happy to discuss with them the merits of creating statutory codes of practice, which would be in addition to the other measures they currently take to provide assurances - such as Data Protection Impact Assessments. We wish to ensure that the technologies landscape, and the safeguards attached, continue to be at the forefront of any discussions in this area.</p>

	<p>considered in this context by Government.</p>	<p>We are not aware of any current applications of new technologies in policing that present the high degree of risk that the group’s recommendation refers to. However, we agree that the position must be kept under review given the pace of technological innovation. It may be the case that the statutory codes of practice mentioned above – or a new framework - could set standards for ethical, legal and safety requirements which any future technology would have to meet. This would enable public scrutiny and transparency ahead of the deployment of new technology. Any decisions around the content of such a code or framework would be taken following engagement with relevant policing bodies and wider stakeholders. The publication of standards which have been agreed following broad consultation may therefore avoid the need for Government to consider prohibiting the application of certain technologies in many, if not all, cases.</p>
<p>13</p>	<p>The Scottish Government should take the learning from the <i>'Draft Proposals for Oversight of Ethical Considerations in Policing'</i> and consider endorsing a similar approach to enhancement of the Scottish Public Finance Manual as good practice across all public bodies in Scotland</p>	<p>Scottish Government Response</p> <p>We will review our approach to the Scottish Public Finance Manual (SPFM) internally to see if any learning can be gained from the ETIAG’s work, especially around the possible adoption of an Ethics Case to enhance current SPFM guidance. The SPFM is issued by the Scottish Ministers to provide guidance on the proper handling and reporting of public funds. This includes Section 6: Appraisal and evaluation which incorporates The Green Book and specifically the business case guidance within.</p> <p>The Five Case Model contained within The Green Book, does not only apply to business cases relating to new and emerging technology in policing, but</p>

		<p>is used widely when considering different types of policies, strategies, programmes and projects across Scotland.</p> <p>The ETIAG’s work reviewing the Five Case Model via the Oversight, Scrutiny and Review work stream, indicated that there are currently limited opportunities to assess the ethical implications of business cases which relate to new technology proposals. It is suggested that the addition of a sixth case - the ‘ethics case’ - should be used in a proportionate way, with an independent triage process being introduced to understand whether there are ethical implications that need to be discussed and addressed, thereby focusing resources towards areas of higher risk. This would allow the proposer to consider the impact of change on a variety of aspects of ethics - including human rights, individuals, society and public confidence.</p>
14	<p>Policing bodies’ (Police Scotland, SPA and PIRC) complaints processes must be clearly communicated prior to the start of new technology initiatives in policing and be accessible to all members of the public including those with disabilities. Where an adverse human rights impact to a person is the direct result of implementation of a new technology, those responsible for its implementation should provide an effective remedy.</p>	<p>The SPA and PS would highlight that there are existing complaints processes through which members of the public can raise any perceived adverse impacts of either the adoption of a technology or the specific application of the technology in a given circumstance by an individual officer. The SPA and PS would reinforce that it is a priority that this feedback is rigorously examined and assessed and that any learning or improvement action is taken and then communicated widely to demonstrate that any adverse impact has been addressed.</p>
15	<p>Policing bodies should, at an early stage, ensure that data flows and the roles and responsibilities of all relevant parties under data</p>	<p>The SPA and PS recognise the requirement to adhere to Data Protection laws and the wider responsibility to safeguard data and</p>

	<p>protection law are mapped and understood. This is critical to ensuring that data can flow as intended, in compliance with data protection law and that the introduction of technology and subsequent collection of data does not result in increased victimisation, inequalities and inefficiencies or unjustly adversely impact on individuals' rights and freedoms. Where data sharing takes place, appropriate data sharing agreements should be in place and the ICO's Statutory Data Sharing Code of Practice should be complied with.</p>	<p>ensure its use is lawful, justifiable and legitimate in its purpose within policing, to protect the safety and wellbeing of citizens and communities.</p> <p>The SPA and PS endorse and enact the use of appropriate data sharing especially across public sector agencies where that information contributes to the prevention of threat, risk and harm to individuals, many of whom may be experiencing vulnerability.</p> <p>PS continue to develop its data capabilities to meet both legislative requirements and also to support operational policing requirements. On our ability to map data flows specifically, the Data Drives Digital programme is implementing a new enterprise Metadata capability which will help us map out key data flows across the organisation. Current focus is on the processing of critical data elements across critical data assets. The established Data Governance process will ensure data flow coverage will continue to be enhanced.</p>
Theme 4: Oversight		
16	<p>The SPA (and other oversight bodies) should continue to require assurance that external evidence, research and advice has been sought and considered in the development of cases and that engagement with partners and the public has been undertaken to inform the approach to embedding specific technologies in policing. This should include evidence of early engagement in accordance with the Joint MoU and the use of subject matter experts to advise and inform scrutiny bodies'</p>	<p>The SPA and PS welcome the recognition of the effectiveness of the current approach which is underpinned by the Joint MoU. The SPA and PS also welcome the recognition elsewhere in the report of the considerable progress made across a range of areas by PS and the SPA since 2019.</p> <p>We continuing to develop and improve this and have now established with a joint chair Professional Reference group which as mentioned before will be a BAU group.</p>

	oversight of emerging technology initiatives.	
17	The SPA (and other oversight bodies) should continue to implement a system to regularly review (and consider how Independent EAPs might feed in) the assessment of the public benefit, any risks, harms, positive or negative impacts of the introduction and use of emerging technology projects.	The SPA and PS recognise this recommendation as reflecting the approach to being able to provide the clear evidence based narrative, which underpins the Joint MoU and is the approach applied to both the development of the business case and the ongoing monitoring of business case implementation and delivery. This is informed by the ongoing assessment of impact through evaluation, surveying and polling, engagement with stakeholders and the public, formal benefits realisation and other sources of information that allow the overall assessment of the delivery of public benefit. This is then communicated widely to enhance public and partner understanding of and confidence in the project. This is transparently communicated through the public sessions of the SPA Committees under the established regime for Oversight of Change.
18	Policing and scrutiny bodies should consider the routine collection, publication and accessibility of data on the equality and human rights impacts of police use of emerging technologies, at least for high-risk projects, in order to facilitate ongoing scrutiny and review.	<p>The SPA and PS recognise this recommendation as being delivered through the principles laid down in the Joint MoU, which requires impact assessments and other sources of evidence to be used to inform the public debate on the proposed new strategy policy or practice. This enables the dialogue and debate to enhance public and partner understanding of and confidence in the project and give assurance that the change will deliver public benefit.</p> <p>PS will continue to publish and share with the public what we can. We will explore it and look to build it into further BAU processes.</p>