

1 October 2018

Your Ref:

Our Ref:

Justice Committee Clerks  
Room T2.60  
The Scottish Parliament  
Edinburgh  
EH99 1SP



Steve Johnson  
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Dear Convener

## **UNDERCOVER POLICING**

I refer to the letter to you dated 21 September 2018, in which there was an agreement to provide an update on the recommendations contained within the Strategic Review of Undercover Policing by Her Majesty's Inspectorate of Constabulary in Scotland (HMICS)

Since the publication of the 19 recommendations by HMICS in February 2018 the Police Scotland Undercover Policing Steering Group has met on 4 separate occasions. Chaired by ACC Johnson, members of this steering group include the Specialist Operations Unit (SOU) and HMICS themselves. The next Steering Group meeting is due to take place in November 2018.

Close liaison has taken place with HMICS, and regular updates as to the progress of the recommendations provided. Advice and support has also been given by Police Scotland Audit and Assurance Department.

Of the 19 recommendations, 1 is complete, 12 will be submitted at the next Steering Group meeting as being complete, and a further 6 are ongoing. Due to the nature of UC work, and the involvement of other law enforcement partners, some of the recommendations require input or agreement from other agencies, although all outstanding recommendations are being progressed.

A full update on each of the recommendations is detailed below which I hope you find useful.

### **Recommendation 1**

Police Scotland in partnership with key stakeholders should develop a strategy and supporting implementation plan for covert policing, which provides for a sustainable model of undercover policing and contributes towards the delivery of Policing 2026

#### **Update**

Under the auspices of ACC Johnson, Police Scotland continues to develop a strategic delivery plan for covert policing.

This recommendation is being progressed and will be discussed at the next Steering Group meeting.

### **Recommendation 2**

Police Scotland should ensure that there is a trained covert operations manager-undercover (COM-UC) of at least Inspector rank who has day to day responsibility for the Special operations Unit (SOU) and delivery of undercover policing. This officer should be dedicated solely to this role.

#### **Update**

A Detective Inspector has been appointed to this COM-UC role, meeting the requirements of the recommendation in full.

This recommendation is complete.

### **Recommendation 3**

Police Scotland should demonstrate a process to ensure that undercover officers comply with and uphold the principals and standards of professional behaviour set out in Police Scotland's code of ethics

#### **Update**

Guidance has been produced in conjunction with Police Scotland Ethics, Values and Human Rights Department. This has been circulated to all undercover officers.

Prior to all deployments, undercover officers are given this document and are briefed by the COM-UC as to the ethical standards expected. The officers are reminded of this during and after any deployments.

A Continuous Professional Development (CPD) event for all undercover officers is being held by the SOU in October 2018, which will feature an input from the Ethics, Values and Human rights Department.

A national ethical covert policing strategy for Police Scotland is being developed by the OCCTU Learning & Development Coordinator in consultation with external subject matter experts.

An OCCTU CPD event to take place in December will focus on the ethical approach to covert policing which will include undercover policing.

This recommendation is complete pending approval from HMICS in October.

#### **Recommendation 4**

Police Scotland should introduce an effective tasking and coordination process that supports the release of trained undercover officers from local police divisions and departments.

#### **Update**

A process chart for the release of undercover officers has been approved by ACC Johnson and presented to local policing ACC's.

The Multi Agency Tasking and Delivery Board, chaired by ACC Johnson, co-ordinates and supports any request for undercover assets.

Over the past 12 months there has been a significant improvement in undercover officers being released from Divisions and Departments.

This recommendation is complete pending approval from HMICS.

#### **Recommendation 5**

Police Scotland should enhance the training for senior investigating officers to include the management of proactive intelligence led operations. This should include the use and conduct of undercover officers and the requirements under RIP(S)A, codes of practice, disclosure, Authorised Professional Practice (APP) and the management of intelligence.

#### **Update**

An input on undercover policing is delivered to officers attending their Advanced Detective Training and Senior Investigating Officer (SIO) training at the Scottish Police College. The inputs have received extremely positive feedback from senior Detectives on the courses. These inputs are delivered every 2 months.

A bespoke SIO training event has been produced by the SOU and will take place in December 2018. These events will thereafter be held twice a year.

This recommendation is complete pending approval from HMICS.

#### **Recommendation 6**

Police Scotland should introduce effective processes to ensure that the COM-UC in conjunction with the senior investigating officer is actively involved in the risk assessment of material collected by the undercover officer.

#### **Update**

A guidance document has been prepared to ensure that the COM-UC and SIO are both involved in any risk assessment. This document is shared and discussed with the SIO prior to any undercover operation.

The bespoke SIO training (see recommendation 5) will also cover this process.

This recommendation is complete pending approval from HMICS.

### **Recommendation 7**

Police Scotland should introduce an independent audit regime for the management of productions held by the Special Operations Unit

#### **Update**

All productions are now held on an electronic auditable system. The Operational Security Advisor (OPSY) will provide independent oversight of productions as will the accreditation process of the unit by the College of Policing (see recommendation 10)

This recommendation is ongoing.

### **Recommendation 8**

Police Scotland should introduce a register of all covert assets and technical equipment held by the Special Operations Unit. This should be subject of independent audit and review.

#### **Update**

All covert assets and technical equipment are now recorded on an electronic database which is auditable. A dedicated equipment officer monitors and reviews all movement and storage of assets and equipment

An Investigatory Powers Commissioners Office (IPCO) inspection took place on 20 September 2018 during which the registrar of assets and equipment was examined. Very favourable feedback was received from IPCO.

This recommendation is complete pending approval from HMICS.

### **Recommendation 9**

Police Scotland should introduce a process to undertake a results analysis that demonstrates the impact of the undercover policing deployment in achieving operational objectives.

#### **Update**

A performance framework has been produced for the SOU by Police Scotland Analysis and Performance Unit. This framework details the process of identifying operational objectives and monitors progress.

Hot de-briefs are held after every undercover deployment to capture if operational objectives have been achieved.

Representatives from the SOU attend the Organisational, Learning and Development Group where any identified best practice and learning is shared.

A Central Learning Log has been created that will capture best practice and recommendations.

Costings for undercover operations have been collated to allow analysis of cost effectiveness compared to other methods of covert policing.

This recommendation is complete pending approval from HMICS.

### **Recommendation 10**

Police Scotland should engage with the College of Policing and progress a self-assessment of the authorisation, governance and tactical management arrangements in place for undercover policing as part of a formal process of national accreditation.

#### **Update**

The accreditation registrar at the College of Policing (CoP) is processing the 'pilot' self-assessment application from an undercover unit based in England.

It is hoped that Police Scotland's self-assessment application will be submitted to the registrar by December 2018.

A meeting between the CoP registrar and Police Scotland is due to take place in early November 2018.

This recommendation is being progressed

### **Recommendation 11**

Police Scotland should use the covert compliance group to take forward recommendations and those areas of improvement identified by the Office of Surveillance Commissioners (OSC)

#### **Update**

Recommendations and/or areas of improvements made by the (now IPCO) are presented to the Covert Compliance Group (CCG), the Organisational Learning and Development Group (OLD) and the Scottish Covert Users Group (SCUG). The SOU is represented at all of these groups.

This recommendation is complete pending approval from HMICS.

### **Recommendation 12**

Police Scotland should appoint a human resource professional as a single point of contact to provide advice for officers and staff who operate in specialist covert policing roles and who are subject of psychological support and counselling. This should include undercover officers.

#### **Update**

A Human Resource (HR) professional has been identified and is the single point of contact for all undercover officers and members of the SOU.

The HR representative is delivering an input to the CPD event for undercover officers.

This recommendation is complete pending approval from HMICS.

### **Recommendation 13**

Police Scotland should introduce a welfare based policy for substance misuse testing of active undercover officers. This should provide clear guidance and support those officers to self-disclose alcohol or drug related problems or issues.

#### **Update**

The secretary of the National Undercover Working Group (NUWG) on behalf of the Chair of NUWG is preparing a 'positional paper' regarding a consistent approach to drug testing for undercover officers across the United Kingdom. This paper will be submitted to the next NUWG in December. Thereafter the chair of the NUWG will submit the paper to a senior NPCC meeting for comment.

Police Scotland has been active participants at the NUWG looking for a consistent approach to voluntary / random drug testing.

This recommendation is ongoing.

### **Recommendation 14**

Police Scotland should introduce a secure ICT solution for maintaining cover officers welfare and policy records.

#### **Update**

Funding has been obtained to facilitate an ICT solution to this recommendation. An update from ICT Corporate Services is expected shortly.

This recommendation is ongoing.

### **Recommendation 15**

Police Scotland should establish effective backroom support and office manager roles within the Special Operations Unit.

#### **Update**

The Covert Police Support Unit is now functioning and provides backroom support and officer manager support to the Special Operations Unit.

This recommendation is complete pending approval from HMICS.

### **Recommendation 16**

Police Scotland should introduce an integrated record management solution for the management and supervision of undercover policing.

#### **Update**

The current electronic management system is in the process of being developed in conjunction with the system provider, progressing the business needs of Police Scotland.

The modified system will include a separate Undercover Module that will allow the undercover discipline to be managed electronically ,increasing security , reducing the risk of compromise allowing full access for cover officers, COM- UC,s Authorising Officers (AO) senior AO's including qualified ACC's and CC's.

This recommendation is ongoing.

### **Recommendation 17**

Police Scotland should strengthen the financial management of covert accounts and introduce an independent financial audit regime with improved reporting.

#### **Update**

The SOU submits monthly expenditure to the SCD financial accountant. The Covert Police Support Unit (CPSU) and OPSY provide independent oversight and scrutiny of covert accounts. The CPSU will undertake independent audits of accounts

This recommendation is complete pending approval from HMICS.

### **Recommendation 18**

Police Scotland should strengthen its engagement process with the Crown Office and Procurator Fiscal Service (COPFS) around undercover operations, including notification, operational parameters, special measures and disclosure requirements.

#### **Update**

The submission of Initial and Conclusion documents now takes place, these are submitted to COPFS at the start and finish of undercover deployments.

A memo of understanding (MOU) has been signed by Police Scotland and the COPFS in relation to undercover policing.

This recommendation is complete pending approval from HMICS.

### **Recommendation 19**

Police Scotland in partnership with the National Undercover Working Group (NUWG) should establish a formal process for the reciprocal notification of cross border undercover operations.

#### **Update**

The NUWG has approved a 'cross border notification' process submitted by Police Scotland.

All undercover units in England, Wales and Northern Ireland will notify Police Scotland (SOU) of any undercover operative operations and/or legend building, which is likely to take place within Scotland.

This recommendation is complete pending approval from HMICS.

I trust the foregoing is useful to you and provides some reassurance.

Yours sincerely

Steve Johnson  
Assistant Chief Constable