



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE SUB-COMMITTEE ON POLICING

AGENDA

3rd Meeting, 2021 (Session 5)

Monday 1 March 2021

The Committee will meet at 11.00 am in a virtual meeting and be broadcast on www.scottishparliament.tv.

1. **Decision on taking business in private:** The Sub-Committee will decide whether to take item 3 in private. The Sub-Committee will also decide whether item 4, consideration of a draft report on remote piloted aircraft systems and body worn video cameras, should be taken in private at this meeting and at future meetings.
2. **Brexit and policing:** The Sub-Committee will take evidence from—

Deputy Chief Constable Will Kerr, Local Policing, and Assistant Chief Constable Patrick Campbell, Organised Crime, Counter Terrorism and Intelligence, Police Scotland.
3. **Brexit and policing:** The Sub-Committee will review the evidence heard earlier in the meeting.
4. **Remote piloted aircraft systems and body worn video cameras:** The Sub-Committee will consider a draft report.

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Clerk to the Justice Sub-Committee on Policing
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The papers for this meeting are as follows—

Agenda item 2

Note by the Clerk

JSP/S5/21/3/1

PRIVATE PAPER

JSP/S5/21/3/2 (P)

Agenda item 4

PRIVATE PAPER

JSP/S5/21/3/3 (P)

Justice Sub-Committee on Policing

3rd Meeting, 2021 (Session 5), Monday 1 March 2021

Note by the Clerk

Brexit and policing

Background

1. On Monday 26 October 2020, the Justice Sub-Committee on Policing held an [oral evidence session](#) with Deputy Chief Constable Will Kerr, Local Policing, and Detective Chief Superintendent Patrick Campbell, Specialist Crime Division, Police Scotland on the impact of the United Kingdom's (UK) withdrawal from the European Union (EU) on policing in Scotland.
2. That evidence session sought to update on an [earlier evidence](#) session provided by Police Scotland to the Justice Committee on Brexit Contingency Planning on 1 October 2019. [Written evidence](#) received from various stakeholders is available online.

Evidence session 1 March 2021

3. Following the session on 26 October, the Sub-Committee agreed to hear from Police Scotland again following the end of the Transition Period for the UK's departure from the EU at 11:00 GMT on 31 December 2021. This would allow Police Scotland to update on the situation regarding the impact of Brexit once the terms of the final agreement on the future relationship with between the UK and EU was known under the terms of the EU-UK Trade and Cooperation Agreement (TAC), which came into force on 31 December 2020.
4. The Sub-Committee will again here from DCC Will Kerr and T/ACC Pat Campbell on 1 March 2021. The Sub-Committee will consider the current post-Transition Period situation for Police Scotland (and police forces in the rest of the UK) on their level of access to key security and law enforcement co-operation measures under the deal reached between the UK and the EU. For example: areas such as the European Arrest Warrant, Europol, Eurojust, the Schengen Information System II and the European Criminal Records System.
5. The Sub-Committee will also consider developments in the other areas of interest raised by DCC Kerr during the evidence session on 26 October, namely Maritime and fisheries protection; protests and demonstrations; justice and home affairs measures, and travel and freight, with regard to people's ability to enter and exit Scotland.
6. Police Scotland has provided a written submission which is attached in the annex to this paper. Written submissions for this evidence session have also been received from-
 - [Law Society of Scotland](#);
 - [Lord Advocate](#);
 - [Marine Scotland](#); and
 - [Scottish Police Authority](#).
7. The meeting will be held remotely. Members of the public can watch the evidence session live on the Scottish Parliament TV website from 11.00 am on Monday 1 March at the following link: <https://www.scottishparliament.tv/>.

Justice Sub-Committee clerks

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February

2021

POLICE SCOTLAND SUBMISSION EU EXIT & POLICING

BACKGROUND

On the 29th March 2017, The United Kingdom submitted notification, to the twenty-seven member states of the European Union (EU27), of its intention to withdraw from the European Union (EU) in accordance with Article 50 of the Treaty on the Union.

On the 31st January 2020, a transitional period commenced to facilitate negotiations on the nature of the departure and the cessation of all EU primary and secondary legislation being applicable within the UK. The transitional period concluded on the 31st December 2020.

Periods of intense negotiations have taken place between UK and EU officials over the past 12 months. These negotiations have made limited progress with a number of key areas being identified as a sticking point and contingency planning continued on the basis of no trade deal being achieved. However, following final intense negotiations a trade deal was agreed and ratified on 24th December 2020.

On 31 December 2020, Police Scotland lost access to a number of EU Justice and Home Affairs measures – or Law Enforcement and National Security (LENS) tools. In preparation, officers have been working with the Home Office, UK law enforcement and other partners to identify and develop a range of contingency options that will replace the EU measures we currently utilise.

Police Scotland International Bureau has prepared a package of support which has been put in place for officers to assist in identifying the measures that have been retained and the alternative process where any measure has been amended or removed.

Following the announcement on 24 December 2020 of a Negotiated Outcome, the Brexit Delivery Team have reviewed the Law Enforcement and Judicial Cooperation in Criminal Matters Articles and below is a synopsis of the chapters. The agreement has notable wins on Data Protection, Extradition, access to Europol and Eurojust and direct bi-lateral engagement with EU Member States (EUMS). The loss of SIS II creates an obvious gap, however this is mitigated by increased use of Interpol notices and diffusions and the potential future utilisation of the International Law Enforcement Alert Platform (ILEAP).

The scope of the agreement is to provide for law enforcement and judicial cooperation between EUMS and the UK in relation to the prevention, detection, investigation and prosecution of criminal offences and the fight against money laundering and terrorism. The agreement is based on a shared and longstanding respect for democracy, the rule of law and fundamental rights.

JUSTICE AND HOME AFFAIRS - IMPACT OF EU EXIT ON POLICE SCOTLAND

Police Scotland, in conjunction with our UK partners, are at an early stage in understanding the full impact of EU Exit upon our daily business. To date we have encountered limited issues as a result of EU Exit.

Police Scotland have ensured operational readiness for the Force post EU Exit by actively taking part in Home Office contingency planning which we have then translated nationally to align with our domestic legislation and associated processes.

The UK as a whole have encountered legal challenges mainly relating to Extradition/European Arrest Warrant. These are in the process of being resolved as we establish future relationships with EU Member states.

While the UK was prepared for the outcome of the Trade and Cooperation Unit (TCA), our partners throughout the EU are still establishing their own interpretation of this outcome, and implementing domestic legislation that will allow for future co-operation.

Notably, the UK also awaits the EU declaring the position of the EUMS on implementing nationality bars with regards to extradition to the UK. This decision is due to be announced by 28th February 2021 as set out in the TCA.

Police Scotland continues to engage with Europol over the SIENA platform, and through our Detective Inspector seconded to The Hague who continues to ensure our relationships with International law enforcement partners are maintained.

The issue surrounding Data adequacy is still under scrutiny with the UK and EU Negotiating Teams. A draft decision will be published on Thursday 17 February 2021 (1100 hours GMT) in conjunction with a Press Release. These decisions will be reviewed by working parties in the EU Commission with opinion expected mid-March. In tandem, EU Member States will be given the opportunity to review and comment. The negotiations on Data Adequacy has a six month "bridging" capability to allow both side to finalise the decision.

Civil Contingency Preparations

As previously reported within Police Scotland's EU Exit Civil Contingency Planning, a number of scenario based risk assessments were considered prior to the UK's departure from the EU.

It should be noted, this departure and the 'reasonable worst case scenarios' (RWCS) resultant from same, were scheduled to take place against a backdrop of a resurgent COVID-19 pandemic, in addition to anticipated winter weather disruption.

Given the concurrent demands likely to be placed on Category 1 and 2 responders throughout this period, Police Scotland initiated an 'all-risks' model based on the work of the Scottish Strategic Resilience Partnership (SRP) EU-Exit and Concurrency Sub Groups.

The establishment of the National Co-ordination Centre (NCC) with the capacity to manage multiple and concurrent civil emergencies has coordinated the flow of information from each of the Local Resilience Partnerships (LRP). In addition it also providing updates to the Scottish Government Resilience Room (SGoRR).

Although an EU Exit deal was formally negotiated to mitigate many of the possible risks resultant from the RWCS, the NCC has continued to closely monitor same. To date, only minimal operational impacts have been detected, with partner agency planning and preparedness appearing successful in negotiating the any challenges presented. At present winter weather and the response to the pandemic remain an on-going challenge.

Flexible Response Unit

The previously reported Flexible Response Unit (FRU) has supported the policing response. In addition to being the primary responder to matters arising from EU-Exit, the FRU are deployed to support local policing priorities or areas where there are significant impact or need.

In addition the FRU supports local divisions in the policing of short notice events such as marches, parades, demonstrations or spontaneous incidents.

At present the FRU will be retained until March 2021, where there will be a review of their purpose, necessity and the benefits they provide the communities of Scotland.

Police Scotland
22 February 2021