



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 6 November 2018

Session 5



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JUSTICE COMMITTEE

28th Meeting 2018, Session 5

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

COMMITTEE MEMBERS

John Finnie (Highlands and Islands) (Green)

*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

*Daniel Johnson (Edinburgh Southern) (Lab)

*Liam Kerr (North East Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Liam McArthur (Orkney Islands) (LD)

Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Paisley) (SNP)

Kate Frame (Police Investigations and Review Commissioner)

Graham Jones (Scottish Borders Council)

John McSporran (Office of the Police Investigations and Review Commissioner)

Diego Quiroz (Scottish Human Rights Commission)

Simon Routh-Jones (Her Majesty's Chief Inspector of the Scottish Fire and Rescue Service)

Douglas Scott (Scottish Borders Council)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 6 November 2018

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning and welcome to the Justice Committee's 28th meeting in 2018. We have received apologies from John Finnie and Shona Robison. George Adam is substituting for Shona Robison and we welcome him back to the committee.

Agenda item 1 is a decision on whether to take items 5 and 6 in private. Item 5 is consideration of possible witnesses, and item 6 is consideration of a draft report. Are we agreed to take those items in private?

Members indicated agreement.

The Convener: Thank you.

Police and Fire Reform (Scotland) Act 2012 (Post- legislative Scrutiny)

The Convener: Agenda item 2 is an evidence session in our post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012. I refer members to paper 1, which is a note from the clerks, and paper 2, which is a private paper.

We will hear from two panels, the first of which comprises Simon Routh-Jones, Her Majesty's chief inspector of the Scottish Fire and Rescue Service, HM fire service inspectorate in Scotland; Douglas Scott, senior policy adviser with Scottish Borders Council; and Graham Jones, safer communities and community justice manager with Scottish Borders Council. I thank the witnesses for their written evidence, which has been most helpful to the committee in advance of us hearing from them in person.

Mr Routh-Jones has indicated that he wishes to make a short opening statement—up to about a minute and a half, if you could—to update us. Douglas Scott will also make a brief opening statement.

Simon Routh-Jones (Her Majesty's Chief Inspector of the Scottish Fire and Rescue Service): Good morning. I felt that it would be important and helpful for members of the committee if I were to mention that the fire service inspectorate is totally independent from both the Scottish Fire and Rescue Service and the Scottish Government. The role and purpose of the inspectorate are defined in the Fire (Scotland) Act 2005 and it exists to provide independent risk-based and proportionate professional inspection of the Fire and Rescue Service.

The purpose of the inspectorate is to give assurance to both the Scottish public and the Scottish ministers that the service is working in an efficient and effective way and to promote improvement of the service. Operational service delivery is a matter for the chief fire officer and the services board, and it is important that the inspectorate does not get involved in the day-to-day delivery of the service. My responses to the committee, therefore, will reflect my observations in the inspectorate's role.

Douglas Scott (Scottish Borders Council): Thank you for inviting us. The Scottish Borders Council was a pathfinder local authority to pilot the local scrutiny arrangements that came into force with the Police and Fire Reform (Scotland) Act 2012. As you will see from the information that we circulated to you, over the years we have worked very closely with Police Scotland and the Scottish Fire and Rescue Service and we have built up

very positive relationships with those organisations.

That joint working has been underpinned by our co-located safer communities unit within Scottish Borders Council, which Mr Jones manages. That has enabled us to undertake a range of successful prevention and early intervention initiatives. The council has used a community planning and partnership approach to work with the police, fire and rescue services, which comes through in the scrutiny arrangements and in developing both the local police plan and the community fire and rescue plan. Both those plans link with the community planning work that is done by the council and its partners.

The Convener: Thank you very much.

The committee has heard varying opinions on whether reform has achieved benefits in terms of service delivery. What do the witnesses see as the main benefits or negative consequences of the 2012 act? Who would like to start?

Simon Routh-Jones: I am more than happy to start. In our judgment, the reform process is certainly providing effective impact with regard to what it was there for. It has certainly met the aims for front-line responses and specialist resources.

If reform had not happened, I think that there would have been significant cuts within the service pan-Scotland. That is certainly the case to varying degrees in different areas—obviously, there are different tensions there—but in general I think that certain areas within the legacy services would have struggled to be able to provide a service. For me, that was one of the main benefits of reform, but I think that the change has brought significant benefits, too. We are able to have national resources, which could not be easily transferred across Scotland in the previous legacy elements. Reform has also brought uniformity and an element of being able to deal with training across Scotland in a far more economic and effective way.

Douglas Scott: We have had very close scrutiny of our performance from the work of the board, on a quarterly basis. The meetings have been attended by the local and divisional police and fire commanders and at times by representatives of the Scottish Police Authority and the Scottish Fire and Rescue Service Board. That has enabled us to look at ideas for initiatives such as tackling underage drinking, supporting young and old drivers, and preventing theft from farms and rural crime.

We have been able to focus on things that are important to the Borders, and that comes through in the various plans. From the police point of view, that means a focus on tackling domestic abuse, road safety—that is a major issue for us—violent

crime, antisocial behaviour, drug and alcohol abuse and protecting vulnerable people. Given the demographics in the Borders, there is an issue around older people and vulnerability, and around missing persons. Acquisitive crime is also an issue, and rural crime is a particular issue for us.

The Fire and Rescue Service does a lot of work on dwelling fires, and that has expanded into work on making people safer in their homes. Visits to homes have enabled information on vulnerabilities to be linked to other services. On community resilience, we have been able to get specialist units into the Borders to help us with non-fire emergencies such as flooding. I mentioned road safety as an issue for the police, but that applies to the fire service as well, and fire and rescue have played very closely into a number of initiatives. Other initiatives that are taking place in the Borders include challenging antisocial behaviour and reducing the occurrence of unwanted fire alarm signals.

Apart from the localised perspective, the reform has enabled specialist support to come into the Borders.

Daniel Johnson (Edinburgh Southern) (Lab): One of the key arguments that was made for reform concerned the provision of consistency and access to specialist services across Scotland. Do you have any general insights on that, or any particular examples that support that argument?

Simon Routh-Jones: With regard to national resources, there have been significant examples around flooding and major fires that have happened in Glasgow. Reform has meant that resources could be moved far more easily across borders and areas than they could be before. That facility existed, but it was a little bit more cumbersome. Now that there is one service, it can plan far better and has advance knowledge that enables it to move the resources. In the case of flooding, the service can pre-plan and move the resources around.

Daniel Johnson: One of the phrases that is used by the fire service itself is about the ability to have the right resource in the right place at the right time. The Fire Brigades Union has raised questions as to whether that can be stated without qualification. What is your view on that? Do you share any of the FBU's reservations?

Simon Routh-Jones: The days of resources being static are gone. Risk is changing all the time and a service that has the flexibility to be able to move resources serves the public far better.

Many years ago, we had a standard of fire cover that looked at resources being based in certain areas and staying in those areas. That standard was set up primarily to protect property; basically, it went back to 1947. Now that we have integrated

risk management plans, and all the other bits and pieces, services can identify risk and place the elements of the equipment and the resources in the right place.

I can understand where the FBU might be coming from, but I think that the service needs to move into a more modern way of delivery.

Daniel Johnson: On an associated point, the FBU thinks that it would be useful if the statutory response times, which we no longer have, were restored, both to provide a benchmark and to give clarity about our level of cover. Do you share that view?

Simon Routh-Jones: No. I do not agree at all. We can be far more flexible and identify risks. The service should be based on risk rather than on a prescriptive approach. Moving resources around to meet the risk is far more effective; it is also far safer for the community and for the service itself in delivering that particular function.

Daniel Johnson: I directed my questions to Mr Routh-Jones, but I would be interested to hear any insights from Scottish Borders Council.

Graham Jones (Scottish Borders Council): In the Scottish Borders, we have developed our scrutiny arrangements and we have a monthly oversight group, which has cross-party membership. The police attend, along with Douglas Scott and I, and one of our analysts. That gives us an opportunity, with some political involvement, to look at the areas of demand that are arising in the Scottish Borders, particularly around antisocial behaviour. As Mr Scott pointed out, traffic collisions—particularly serious or fatal collisions—are also a particular problem for us.

We agree a monthly work plan. Clearly, the police have independence around how they deploy their resources, but the plan provides local involvement in the areas of concern. There is an analytical component, but there is also an opportunity for members to bring constituency concerns to that meeting and to have a direct conversation about them with the police. We can also offer up resources that we have within the council to support police activity.

We are looking to put a bit of breadth into that group. The fire service could perhaps be an attendee, because it has something to offer, and the work is not just a single organisation's responsibility.

There is a collaborative nature to the work that we do in the Scottish Borders. We do not have lots of resources across all the business areas, and a lot of our work is done in collaboration. We need support from the different organisations to achieve the end result and that is how we have tried to develop things.

You asked about national resources. Road collisions are a serious problem for us. Local officers do work around such issues as speeding, visibility and road checks, but there are opportunities for us to get additional cover through roads policing or the safety camera partnership to try to improve our prevention response.

If there is a more dynamic serious incident, the police would draw down the resources that they felt were necessary at that particular time. We have had serious crimes in the Borders and there has been no shortage of police resources to deal with those issues, whether those resources are required to provide community reassurance or investigation, or of any of the specialist services that underpin those responses.

10:15

Rona Mackay (Strathkelvin and Bearsden) (SNP): One of the main drivers of reform was the financial imperative. To a large extent, Mr Scott, you have already answered my first question. Have front-line services been maintained at pre-reform levels?

Douglas Scott: We have to look at the changed situation, and the focus from the Borders point of view is both local and specialist. We are very well aware that, nationally, we have seen a real coming together of specialist services. As Mr Jones pointed out, when we have had serious issues around serious crime, we have been able to attract that specialist support in; we have also done that for events such as the Melrose sevens. When we have needed specialist resource, it has come in.

With regard to local response, there has been resource change, but we have been holding the police and the Fire and Rescue Service to account through the outcomes focus that we have in our police and fire and rescue plans, for example. There is a difference between the Fire and Rescue Service and the police. The Fire and Rescue Service has fire stations across the Borders and a mixture of full-time and retained staff, but the police take a different approach. We have tried to hold the police accountable for outcomes in the Borders. We feel that over the last period the position has been maintained, although we recognise that there has been resource change.

Graham Jones: One of the advantages of the national services is the volume of information that is available so that comparisons can be made of different local authority areas. Certainly, the quarterly reports that the police publish on their website, which anybody can view, contain a lot of detail on crime rates per 10,000 of population, the different categories of crime, detection rates and so on. In the past, we were probably less aware of how we compared to similar areas, in terms of

families of councils. I use the quarterly reports a lot because in my view intervention activity needs to be evidence led. We do not have lots of resources, and we will not put resources into lots of different things unless we have analytical evidence to support what we are proposing to do.

There are scrutiny reports on particular matters in relation to the local police and fire plans. However, I think that the information that is on the Police Scotland website allows us to get into the detail and really understand the different categories of crime, the trends and so on. Because the information is published on a quarterly basis, we can compare last year to this year and so on.

I think that that is certainly one of the advantages that I have seen. It helps us to work out whether we are in a different place in comparison with other parts of Scotland or whether we are in much the same place, and, if so, the reasons that lie behind that. That allows us to understand what we are trying to achieve in relation to what the analytical picture tells us.

Rona Mackay: That brings me on to my next question. What effect has national policy had on local services or local communities? I am thinking of some of the big decisions that are taken, such as on armed police. Is there enough local consultation on those decisions?

Graham Jones: The safer communities team is integrated: we have police officers, fire service officers, our alcohol and drug partnership and our community safety team, which principally consists of staff who support victims of domestic abuse and our antisocial behaviour team. I suppose that that is the core, but we also have a couple of analysts who do all the analytical work for us. Within our safer communities team and our planning process, we try to bring together bits of the local community plan, our police and fire plans, our alcohol and drug partnership plan and other things that may have national significance—for example, the equally safe strategy for domestic abuse—but which we then localise, so that they are much more geared up for our local circumstances.

That is where having the analytical information is really important. It allows us to get a better understanding of where we are in relation to what a strategy or a plan asks us to do and how that translates into the local picture. We have performance information, our reports and our monthly oversight group, which I mentioned earlier. With all of that, we try to have a much more local perspective of service delivery. We want to convert something that is quite high level, in terms of the language that we use, into local delivery.

I give the example of the targets around people who are killed or seriously injured in collisions. Although there is an enforcement component, we have looked at the core groups and identified those who are the most vulnerable on our roads. The over-65s tend to be a vulnerable group, so we have done intervention work with them, with inputs across the Borders in which we offer them a refresher drive with a driving instructor to bring their driving skills up to scratch. We also have a newly qualified driver course, which is supported by the Institute of Advanced Motorists. We also offer a number of sessions to young people who are on the cusp of getting their provisional licence to try to influence not only their driving behaviour but their behaviour when they are a passenger in a car driven by another young person. We do lots of things—

Rona Mackay: You are saying that you adapt national policy to suit your local needs.

Graham Jones: Basically, yes.

Rona Mackay: How many policy analysts do you have in the council?

Graham Jones: We have two. We have an information and statistics officer who deals principally with antisocial behaviour and who is a police employee. The other analyst is a council employee. She does the preparation for our scrutiny reports and the analysis for our monthly oversight group, for example, and provides youth bulletins. She and the information and statistics officer collaborate to provide all our analytical support.

Rona Mackay: Mr Routh-Jones, can you relate my question about national policy to the Fire and Rescue Service?

Simon Routh-Jones: Yes. My answer will be in two parts.

On resources, the fact that there have been no station closures has been well-publicised. We started off with 356 and there are still 356. Under the new legislation, the service has positioned itself front and centre within the community in relation to the delivery of community safety and so on. From the work that we have done, I think that the service has shown that it has really taken forward its roles and responsibilities under the Community Empowerment (Scotland) Act 2015. It is now very much part of the development of the community planning response in its transformational agenda.

The service has really embedded itself in communities. I think that the requirement in the 2015 act for local senior officers in the community has made the service far more localised, although obviously there is direction from the service itself. At the beginning, the service needed to bring

things into the centre to ensure a common approach across Scotland, but now the reins are being released. We recognise that officers are very involved in the local planning process, whereas before that was done by template. We are really pleased to see that—we have reported on that approach in some of our findings from our local area inspections.

Local liaison officers are embedded in some councils, so they are right there, dealing with things. There are also secondees in some housing associations, particularly in Glasgow. The service is really into the nitty-gritty of delivering a community safety environment for the whole of Scotland.

Liam McArthur (Orkney Islands) (LD): I am interested in Mr Jones's description of the type of engagement that there has been, both on the police side and on the fire side. As you were speaking, Mr Jones, I was struck by my experience of taser training and the deployment of officers locally. We received a briefing about the national picture and the rationale behind it, which I think that we all understood. Deployment was described as being at 3 per cent across the country, but the local implications of that were not made clear. In Orkney, it soon became apparent that the number of officers who would need to be trained was significantly higher than 3 per cent. I know that the elected members on the police committee in Orkney were somewhat taken aback by the figures. That suggests that although people understood the rationale at a national level, the rationale at the local level was not so well understood. I am curious to know whether you felt that the engagement with you on the case for that level of training was as robust as it might have been. Did you always have a line of sight on the number of officers who would be going through taser training? Was the engagement adequate from your perspective and, indeed, from that of elected members.

Graham Jones: Taser training was raised at one of our scrutiny meetings a few months ago and the rationale was put across. I do not think that anybody had a particularly strong view that that was not a credible argument. As far as numbers are concerned, the police service provides a 24/7 service, 365 days a year, and it needs to build resilience into that. If you are talking about an eight-hour day, Monday to Friday, the number probably looks quite large. I cannot remember off-hand the actual number for the Scottish Borders, but if you are looking at providing operational cover 24-hours a day, building in rest days and so on, you need a critical mass. There is no point introducing something if, when it is needed, you do not actually have the right resource at the right time and in the right place.

Liam McArthur: I think that the needs case at a national level, in terms of increased threat levels and all of the rest of it, was fairly well understood. Was there ever a debate at the more local level about a change in threat levels meaning that the local roll-out needed to match what was deemed necessary at the national level?

Graham Jones: It is a while since the issue was raised, so I cannot remember the exact basis of the discussion, but I think the view was that there was a credible need. I can speak about my previous experience, when I was involved in that kind of work. In the Borders, time can be quite a critical component. Although the crime rate is relatively low and violent crime is also, thankfully, relatively low, there are occasions when specialist, locally based resources are needed—sometimes pretty quickly—to deal with a particular incident. We may not have the profile of some of the big urban areas, but an incident can develop out of very little and we need to be able to deal with that. The argument in relation to the case for tasers is that they are probably a more flexible tactical option, given the circumstances that officers will potentially find themselves in, than some more conventional firearms equipment.

Liam McArthur: That was helpful. I appreciate that I have slightly ambushed you. If there are further thoughts or observations that you want to share with the committee, I would certainly welcome that.

The Convener: Mr Jones, are you confident that you are consulted in advance of national decisions being taken, or are there circumstances in which you are reactive and ask your scrutiny panel, "How are we going to manage this?"

Graham Jones: Mr Scott is probably better able to answer that.

10:30

Douglas Scott: At the scrutiny board, the local police commander and the local fire and rescue commander go through the various things that are happening nationally. Early on, with issues such as police counters, we could have done with more extensive consultation. However, we have indicated very strongly that we need to be aware of such things. The process is now that at our meetings we get an initial presentation from the local police commander or the local fire and rescue commander and we discuss the issues. We feel now that we get early warning of things through that process. Indeed, as a board, we have been at the forefront of ensuring close national and local relations, which, through the work of the Convention of Scottish Local Authorities, has led to the establishment of the police scrutiny conveners forum, for example, which meets today

in Glasgow. We now get an early warning of anything that is coming down the line, so there are no surprises. We are able to work together, working through solutions and reacting to issues.

The Convener: The point is that you are able to influence decisions through consultation.

Liam Kerr (North East Scotland) (Con): Good morning, panel. I would like to follow on from Rona Mackay's question on policy. One criticism of centralisation might be that overall policy and budgetary control is held very much centrally. Would any benefit be derived from devolving some aspects of policy and budgetary control to the local police commanders or the senior fire officers to directly improve their local services?

Simon Routh-Jones: As I have already expressed, to start with there was a need to bring things in more centrally in order to be able to understand where the variance was and to have a standard approach. As time goes by and there needs to be a more local delivery element, there needs to be a lot more autonomy for the local senior officers. Obviously, some of that will come with budget.

There is a risk there that we could move towards having a number of single fire services if we are not careful. A careful balance is needed. That is a discussion that is not for me; it is for the management board and the chief fire officer. I believe that there is a need to release the reins if we truly want community safety and delivery across the whole of Scotland.

Liam Kerr: I will come back to that in a second.

Douglas Scott: This is an evolving process. Certainly, if you look at both the Scottish Borders local police plan and the community fire and rescue plan, you will see that we are getting into things such as strategic assessments and consultations with local communities and partners. We are evolving as we go along. We are working closely with the police on issues such as domestic abuse. Mr Jones looks after a very successful unit tackling domestic abuse, which from a rural point of view has been game changing.

We are working together on road safety, antisocial behaviour, violent crime linked into both counter-terrorism and serious organised crime, alcohol abuse and, as I mentioned, protecting people. That is getting us into very close working. It links into the co-located work that is being done with Mr Jones. On the fire and rescue side, you can see the link-in against the community planning themes in the wider approach that is being taken.

As time goes on in an evolving situation, the issue of resources may come, which may be a good addition. It is evolving as we go. We are

seeing a lot of progressive things happening because of that.

Liam Kerr: Do I take it that you agree with Mr Routh-Jones that there would be benefit in devolving policy and budgetary control to a more local level?

Douglas Scott: There is a case for looking at that, but I have the same concern about risk. We have to ensure that the specialist resources and so on are there. In these changing times, we are into new technology and much more sophisticated approaches to crime. We have to be aware of that changing situation. People are more mobile as well, with people in the Borders working in Edinburgh and so on. We need to take all that into consideration, but I think that the direction of travel is that we need to look at devolution.

Liam Kerr: You may have answered this question in a roundabout way. The final policy intention of the 2012 act was to strengthen the connection between the police and fire services, and local communities and elected representatives. Do I take it from your previous answer that your view is that that has been achieved? If so, to what extent? Has it been achieved completely, or could that connection be strengthened?

Douglas Scott: It is an evolving situation. We have done a lot and we have a lot of initiatives going. We need to develop that work much further in areas such as early intervention and prevention. It is work in hand and we are making a lot of progress. Certainly, the locality planning that we are working on with both fire and rescue and the police will also be important. It is moving forward and we need to look at what devolution is possible.

Liam Kerr: Mr Routh-Jones, do you agree?

Simon Routh-Jones: My original response to you was about finance, as I think that that is where you were coming from. With regard to policy, certainly, there now needs to be a releasing of the reins. It is right and proper that, where the services are meeting a different need within the community, there will be a need for a different policy, but I think that there will be mainstream policies and some slight variance from those in the local plans. However, that needs to be very carefully handled and managed so that it does not grow like Topsy.

Liam Kerr: Do you believe that the impact of the act has been to strengthen the connections between the elected representatives and the local communities?

Simon Routh-Jones: Absolutely. As I said, I think that, right from the start to a degree but now absolutely, the service is embedded within the communities and with the local authorities and is

working hand in hand with them. The service is forming part of the community plans that identify the risk areas in communities.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning, panel. You have talked a bit about the safer communities board, which I know is held up as a model of best practice. What is the composition of the board? I know that you said that you and Graham Jones are on it, but could you elaborate?

Douglas Scott: From the very beginning, we wanted to take a wider approach. We have elected council members from both the administration and the opposition. We also have representatives from key partners such as NHS Borders; Borders housing network, which represents the registered social landlords, which are very involved in tackling antisocial behaviour and community safety; the voluntary sector, which has a big role to play in community safety; and the business sector.

The board consists of six council members and four representatives, and it is chaired by a councillor; at the moment it is chaired by Councillor George Turnbull. It meets on a quarterly basis and takes a consensus approach to decision making. It advises the council. A huge strength is that, when it came together, it had a co-located community safety unit behind it. That has given it a boost. Apart from looking at police and fire and rescue issues, we have widened it to look at community safety as a whole through the work that Mr Jones does. We have a very holistic take on the way forward.

We look at police and fire performance and we look at national issues, but we also go on to look at particular issues. We have had presentations on things such as rural crime, wildlife crime, community justice and road safety. We looked at coastguard and other services to see how they might link in. From that there has been support for a range of community initiatives on driver awareness, motorbike safety, water safety, prevention of alcohol and drug abuse, tackling domestic abuse and violence against women, and rural crime. The work on rural crime has involved work with farmers and has included the Fire and Rescue Service as well in terms of safety. We have received plaudits for that work. We have tried to have very close working with police and fire and rescue services and with our elected members.

We have also had visits to our fire stations. We have been three times now to the police control centre at Bilston Glen to look at how it handles calls. That has been very successful as well. We have taken elected members and the partners to see what is happening there.

Fulton MacGregor: I was going to ask about how the specific mix on the board allows you to deal with the issues. I also want to ask about domestic abuse. You have referred to domestic abuse, and it is obvious that you feel that the board has helped you to identify ways to deal with that. What about missing people, which is another area that I am interested in?

I have a supplementary question on that, which you can answer at the same time. If you were tackling an issue and you felt that the participation of another organisation or service would be beneficial, how would you get it on to the board? Would it be invited?

Graham Jones: What Mr Scott referred to is the scrutiny board. If there were a proposal to invite additional members, that would be a conversation between Mr Scott and the chair. What I alluded to earlier was our monthly oversight group, which is attended by nine elected members. Some are also members of the scrutiny board, which meets quarterly. We have a number of council officers on the group and the police attend it, too. The two things complement each other.

One component is about scrutiny, and the other is about looking at what the issues are, both those that we are identifying through analysis and the specific constituency concerns that elected members bring to the table. We try to marry the two things up and then get some kind of consensus about priorities for the forthcoming month that tie into what is in the community plan and what is in the police plan, so that we are working within a clear linear structure and we are not deviating off across different things. I think that the two things complement each other.

We have had the oversight group only since April this year. We will review its composition in December, because I think that there is an opportunity to put a bit of breadth into it. For example, the fire service should probably be at the table and I have in mind a couple of others that should also be there. When you start looking at some of these problems, you see that they are not one-dimensional. Something is not necessarily a law enforcement problem; it could well be that registered social landlords have a role to play in it, or neighbourhood services from the police side. If we were getting deliberate fires, for example, the fire service could support us on that.

What we have at the minute is to get the thing going, but now that we are into a natural cycle with it, there is an opportunity to put in a bit of breadth. Clearly, if we felt that there was an organisation that could support us, we could either bring it in on a short-term basis or invite it to be a longer-term member.

Simon Routh-Jones: Could I pick up on a part of that? We talked about the involvement of the fire service in other areas. We have recently done an inspection of the service in the Highlands, where community planning has been devolved to eight local areas. The group manager and the local senior officer up there chair two of the community planning committees. That work is not necessarily fire related; they deal with all the challenges within a community. They are very much integrated into the community to deal with—this picks up on what Mr Jones was saying—the cross-referencing of risk across the community and they are able to chair committees on areas other than fire. Certainly, the feedback that I have had has expressed how effective the service is in leading the local community under the chairmanship of those officers.

10:45

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): We have covered local scrutiny in some depth already, but it seems to be working well, in the Borders anyway. What happened with local scrutiny prior to reform in the Borders and how does that compare to the current status?

Douglas Scott: Personally, I was not very close to that; I have just been involved with the local scrutiny arrangements that we have set up in the Scottish Borders. Before that, we were part of Lothian and Borders police and fire and rescue boards. I do not have knowledge about that.

Graham Jones: I was a member of Lothian and Borders Police and then Police Scotland before I joined Scottish Borders Council. I did not work in the Scottish Borders, in either force, but I worked in West Lothian and in Edinburgh. In West Lothian, the arrangements had started to move towards the scrutiny arrangements that we have now. What we had was not called a scrutiny panel; essentially, the divisional commander and other senior police officers would go along with the fire service, and members of the council would scrutinise performance. It was not just police performance, as it deviated into social work and education and those sorts of things. That was quite a good stepping-stone between where we were and where we have come to now.

Before that, there were the old police boards, which I only ever attended once. Although they had representatives from the different councils and cross-party elected members, they would have direct interaction with the chief constable, so they were probably not getting into the detail that I think is possible now. Obviously, the divisional commander comes to meetings, but so, too, do other senior police officers and the fire officers, so we can concentrate on one particular area rather than a scaled-up version of that, where you are

touching on some areas but not lots of areas. Now we can get much more into the minutiae of what has taken place.

I refer back to my comments about the availability of performance information for each of the 32 local authorities in the country. There is a rich picture and a good understanding of how the Borders is positioned relative to other parts of the country, what things are affecting us but not other areas and whether we need to put more of an effort into certain things rather than others. From that point of view, there is now a much more localised understanding. Clearly, the police would understand the business, but other key partners would not necessarily do so in the same way, and in my view that has been achieved.

Jenny Gilruth: Thank you. That is very helpful. Simon Routh-Jones, I would like to go back to the point that you made with regard to local liaison officers. You said that they are now embedded in some councils. How many councils are they embedded in, and do you have a view on whether that is good practice and whether it should be happening as par for the course across the country?

Simon Routh-Jones: I cannot answer the first part of your question, because we have not covered all the areas with our local area inspections, but we have come across a number that have been embedded. In my view, it is absolutely an area that could be developed. It is far better to have a single unit of cross-reference of organisations within one room that can meet on a regular basis and brush ideas and thoughts across each other. In short, I think that it is a very good idea.

The Convener: That concludes our questioning. I thank all the witnesses for attending. This has been a very encouraging evidence session. We will now suspend to allow for a change of witnesses.

10:49

Meeting suspended.

10:53

On resuming—

The Convener: I welcome our second panel. We have with us Kate Frame, the Police Investigations and Review Commissioner; John McSparran, the head of investigations in the PIRC; Michael Tait, the head of communications in the PIRC; and Diego Quiroz, from the Scottish Human Rights Commission. I thank the witnesses for their written evidence, which was helpful to the committee. We will move straight to questions, as

our witnesses are content not to make an opening statement.

Liam Kerr: Good morning. We heard from the SPA in written evidence that it puts information in the public domain in response to queries about the information that the PIRC publishes, but its preference would be to have a confidential process. Would that be the PIRC's preference as well? If so, what measures are you taking to ensure confidentiality?

Kate Frame (Police Investigations and Review Commissioner): In light of our experience last year, we agree that there should be confidentiality around the process and, like the SPA, have determined that in future we will not normally provide comment on senior officer misconduct investigations. We have adapted our policy to that effect.

Liam Kerr: You have adapted the policy, so that is in place now. Is that what the approach will be from now on?

Kate Frame: It is.

Liam Kerr: The PIRC is enabled to review non-criminal complaints about the police once they have gone through Police Scotland's complaints process. A concern has been expressed by the PIRC about the amount of complaints that are being referred. Could you explain that in a bit more depth and say why you see it as a matter for concern?

Kate Frame: I suppose that it comes down to the independence of the process. I have concerns in relation to the level of police discretion, which continues to allow them to investigate some of their own actions. There are three categories that I have identified in which that discretion is extended. The first is at the recording stage, the second is what they interpret as serious incidents and the third is in relation to investigating both on-duty and off-duty criminality.

I will unpick those separately and individually. At the recording stage, there is obviously significant discretion afforded to the police. How a complaint is initially recorded by the police will generally determine the route that it takes thereafter. Recently, we have seen some evidence of serious criminal allegations that have been inappropriately recorded. In one example, a complaint involving someone who had been unlawfully detained was recorded by the police as a quality of service complaint. In another example, an allegation of rape was recorded by the police as incivility. There is a further example in which someone was punched twice on the face, and that was recorded by the police as excessive force rather than as assault.

In each of those cases, we only found out about what had happened in the recording process because the complainer had made a complaint to the police, which had been not been dealt with to their satisfaction, and they came to us seeking a complaint-handling review. At that stage, we were able to refer the matter to the Crown Office for its instructions in relation to the criminality involved. Had the complainers not had the option of coming through the complaint-handling process, we would have been none the wiser and the complaints would have continued down that line.

The second area relates to serious incidents. Obviously, under section 41B of the Police, Public Order and Criminal Justice (Scotland) Act 2006 and the regulations, the chief constable must refer serious incidents to me. That has afforded some discretion around the police interpretation of what is a serious incident, particularly around serious injuries. We have seen instances where the police have advised a complainer to go to the hospital following an injury that they have sustained in the course of an arrest, but the view that was taken was that it was not a serious enough injury to bring it under the "serious incident" category in section 41B, so the police did not refer it to me. In one case, the person went to hospital and was found to have a fusion to the bone rather than a fracture to their arm. Again, that came to us by way of the complaint-handling review process.

There are issues here that touch on the Scottish Human Rights Commission's submission in relation to serious incidents. One suggestion might be that, given what has been regarded by the European Court of Human Rights for a few years now as the threshold for what constitutes a serious incident, we might have come to the point where it would be appropriate to replace the term "serious incident" in the legislation with an inference of a potential breach of articles 2 and 3 of the European convention on human rights.

The Convener: Would you like to come in on that, Mr Quiroz?

Diego Quiroz (Scottish Human Rights Commission): Thank you very much for inviting us to give evidence.

I want to touch on two issues: the issue of confidentiality, which was mentioned earlier; and the issue that has just been raised about serious incidents.

There are a number of requirements that the European Court of Human Rights has on jurisprudence, and which concern what are known as positive obligations. Those positive obligations, as the committee knows, are procedural in character. For an investigation to be effective, it has to be independent, effective, prompt and open to public scrutiny, and it has to involve the victims

or, if the victim is deceased, the victim's family. It is important to say that those requirements of article 2 and article 3 and even article 8 of the ECHR have not been reflected in either the 2006 act or the regulations.

11:00

Going back to the point about confidentiality, I think that confidentiality is crucial and central to the process, but the principle that the procedures and decision making should be open to public scrutiny is equally relevant. The process should be open and transparent in order to ensure accountability.

To give you an example, the regulations and the act give the PIRC discretion to decide whether to investigate serious incidents or matters in the public interest. That discretion is, of course, understandable. That said, it is equally important that the PIRC's decision-making process is open, transparent, objective and independent in order to ensure accountability and public confidence. Therefore, our recommendation is that there should be a requirement that the PIRC gives reasons, at least to those affected, for a decision not to investigate any serious incident involving a person serving with the police or a matter in the public interest, as both are defined in the act and the regulations. Again, that involves the balance between confidence and openness to public scrutiny.

In relation to the term "serious incidents", regulation 6 or regulation 7, for instance, could be revised along the lines of the convention requirements that I just mentioned. The chief constable or the SPA would have the discretion whether or not to refer a matter involving those circumstances to the commissioner for independent investigation. It is clear that those incidents might be lawful in some circumstances and might be not frequent, but the point here is that they have the potential to engage article 3 and article 8. In those circumstances, legal obligations to investigate might arise, and it is not a matter of there being an option in that regard.

The commissioner made the point well that the convention, as you know, is a living instrument, because human rights are evolutive in character. Therefore, the threshold of articles 2, 3 and 8 is not as high as it was before. It might be the case that what was considered a serious incident in 2012 might not be considered to be a serious incident today.

Liam Kerr: I have a question for the commissioner, but Mr Quiroz can also answer if he wants.

I understand the problem, which you have articulated very clearly. A solution that you have

proposed involves the replacement of the term, "serious incident". Would another solution be to take the discretion away from where it currently sits and perhaps have an independent organisation or some other organisation that, at least in terms of transparency, would be independently making these decisions?

Kate Frame: I agree that that would be the gold standard. It would make sense for there to be a completely independent process to increase transparency around the scrutiny of incidents that fall within articles 2, 3 and 8, with regard to criminality and so on. Currently there is a fundamental issue about transparency.

Diego Quiroz: I think the key issue is that the legislation—the act and the regulations—fails to mention the convention requirements under articles 2, 3 and 8. That is the key issue. How can that be solved in terms of a solution? You can qualify the discretion in the act. You can say that the incidents that are covered by regulations 6 or 7 require a qualified discretion with regard to whether the incidents should be referred to the commissioner and are exercised in line with convention rights. You would modify the current text and add those articles and convention requirements.

Liam Kerr: I understand. Thank you.

Daniel Johnson: My questions follow directly on from that. I am quite disturbed by some of the things that you have stated. Did I hear you correctly saying that rape and assault were recorded as quality of service and incivility incidents? Could you confirm that and, more importantly, comment on what is going on there? Is that incompetence—a clerical error—or is it something more disturbing or untoward than that?

Kate Frame: I can first of all confirm that, in relation to the example that I gave of unlawful detention, that was recorded as a quality of service incident. In relation to an allegation of rape, that was recorded as incivility. We were equally surprised when we received that through the complaint-handling process. I think that there may be a combination of factors that have contributed to it, either by way of incompetence or other more sinister aspects.

Daniel Johnson: In February, the Justice Sub-Committee on Policing received evidence from Chief Constable Michael Barton, who investigated the police counter-corruption unit. He said that he was very frustrated in his investigations. He assigned the blame to incompetence but also to a high degree of defensiveness, especially from the legal department within Police Scotland. Would you share that view? Is that what we are seeing in some of these circumstances? I note that, in your submission, you talk about inappropriate use of

attempts to seek front-line resolution of the non-criminal complaints, which you considered would be appropriate for you to investigate.

John McSparran (Office of the Police Investigations and Review Commissioner): Part of the challenge is that front-line resolution encourages an immediate resolution that does not always satisfy the complainer. We have quite a few examples of people making quite serious complaints and the police trying to resolve them locally. However, I am not sure that people should be resolving a serious complaint locally. I think that such complaints need to progress to an investigation, whether that be a full complaint investigation within the police or whether, if it involves articles 2 and 3 of the ECHR, it moves on to us. Serious allegations should move up the ladder with regard to how they are investigated and processed.

Daniel Johnson: How widespread do you think that these examples might be? You stated that you were finding out about them by accident, when people ask for a review of the police's internal complaints handling. Do you have any sense of how significant an issue this is?

Kate Frame: No, and it is difficult to assess that because we only find out about the examples if the complainer comes to us after the event, and some may very well not do so.

John McSparran: It is the old adage that you only know what you know. If you cannot examine something, you cannot tell the extent of the problem. At present, there is no audit of those processes to determine the extent of the problem. The problem might be small, with only a few isolated examples, but unless you can look at the extent of the problem, how can you tell whether wholesale change is necessary or what thresholds to set?

Diego Quiroz: It is important to modify or amend legislation in terms of human rights issues. Right up there in terms of priorities is cascading a human rights-based approach to policing down to constables.

The issue highlights the lack of adequate training and guidance, which should be accompanied by a clear understanding of the obligations in articles 2, 3 and 8, as well as positive obligations. That applies not only to the police, who need to understand the decision-making process and the result of the decisions that they are taking in terms of those obligations, but to the PIRC.

Daniel Johnson: I have a final question about alternatives. The possibility of having a completely independent body to oversee all complaint handling has already been mentioned. Essentially, are you suggesting that PIRC corporately and the

commissioner should have that role? Short of that, is there scope to do secondary reviews to give you the ability to open up any particular cases and perhaps take random samples? Is there scope to do desk-based reviews? Is there scope to take such approaches? I would be interested to hear whether you think that those are good ideas or whether there are other ideas. Ultimately, are you saying that PIRC should triage complaints and decide to hand them back to the police rather than the police deciding to hand complaints over to you?

Kate Frame: We would be well placed to do that. I am not calling for that role to come to PIRC as an organisation, but I recognise that, having gained the expertise and body of experience that we have gained, that would perhaps make sense. I appreciate that such a model would be a huge transformation of the police complaints oversight system in Scotland, but perhaps that change is necessary in the new environment to ensure public confidence and ensure that we have a police complaints system that is seen to be independent and fair.

As you have said, an essential component would be ensuring a proportionate approach. As you have suggested, there could be a role for triaging. We could have a role in receiving, recording and directing complaints to the appropriate organisation. That might be a solution.

The Convener: I want to put the scale of the problem in context. I note from 2016-17 data that it appears that PIRC was asked to review the handling of fewer than 5 per cent of the complaints that were made about the police. Accordingly, most complaints are not subject to any independent oversight. It is clear that Police Scotland's failure in that respect and the 95 per cent figure are very worrying. What can be done?

Kate Frame: That could be viewed in another way. Perhaps Police Scotland is improving its complaints-handling process and a smaller proportion of complainers are coming to us, but I am not in a position to come down on either side of that argument. I am presenting the alternative version. I suppose that the issue goes back to the model that Mr Johnson referred to in which complaints go to an independent organisation with a view to triaging them out to the appropriate recipients.

The Convener: So, without knowing all the facts, that would seem to cover the problem and get over any perception that the police might not want to pass over certain complaints.

Kate Frame: Yes. I think so.

The Convener: That is helpful. I think that we are going back to Liam Kerr.

Liam Kerr: I am not convinced that we are, convener.

The Convener: In that case, I will ask a question.

The 2012 act provides the potential for PIRC to investigate any circumstances in which there is an indication that a serving police officer has committed a crime. PIRC is concerned that there have been instances in which Police Scotland has not progressed such matters, thereby negating the possibility of an independent PIRC investigation. That is the same issue to an extent. How should the process work when there is a failure with such matters? You have already mentioned the triage system, which could possibly be implemented. If that is happening regularly, can you suggest anything else?

11:15

John McSporrán: As I have already said, most of the approach still resides in the police. The police examine themselves and take decisions, because there is no independent decision making at the first stage. The decision still rests with the police. The triaging system involves deciding where a complaint sits. It involves deciding whether it is a criminal allegation and therefore should be passed to the Crown Office for consideration; whether it is a serious complaint or involves a serious injury, in which case it will deserve to be independently investigated; or whether it is a more minor matter that can be resolved through local explanation or at a local level.

The European convention on human rights recognises that a threshold needs to be set, because everything cannot be moved centrally. More minor matters, such as allegations about incivility, can be more than adequately addressed locally. The challenge is in who takes the decision. That is what we are discussing.

At present, the decisions rest very much with the police. There have been instances in which, in my opinion, the decision was wrong and the matter should have been passed onwards, but that did not occur. However, the vast majority of complaints tend to be of a more minor nature. The more serious complaints need to be subject to scrutiny and effective decisions on where they should be investigated. The question is: where does the complaint sit and what threshold should we set?

The Convener: You have already talked about serious incidents and, in particular, if the case involves

“a person serving with the police”.

PIRC is concerned about a divergence of legal opinion on whether that applies to officers who are currently serving or officers who were serving at the time. Is there something specific in the 2012 act that we could look at that could tighten that up in any way?

Kate Frame: That comes down to the point about the resignation or retirement of officers as part of the process. As we said in our submission, there are various opinions on how the legislation has been written, and particularly on the contrast between the section that relates to investigations and the section that relates to reviews, which makes it clear that any act or omission by an officer who was at the time of the act or omission serving with the police would be capable of being subject to review. That was not followed through in relation to the investigations section. Perhaps there could be an adaptation to adopt the same wording.

John McSporrán: That absolutely needs clarity. We have differing legal opinion on what constitutes a

“person serving with the police”.

Some consider that to be a person who is currently serving with the police; others consider that to be a person who is currently serving or has served with the police. There is a distinct lack of clarity, which provides us with a problem. At present, if an officer retires or resigns, our investigation will come to a grinding halt because of the opinion that we have received, and that does not satisfy anybody.

The Convener: That is helpful.

Liam Kerr: Will you elaborate on that? What is the practical impact of that divergence of legal opinion? It seems that you are saying that there have been a significant number of cases—“significant” is my word; I ask you whether its use is fair or not—in which the legal opinion that has been preferred is the one that says that the provision stops at the point of resignation or retirement, and that is not what you would prefer.

John McSporrán: Clarity is absolutely necessary. Our counsel’s opinion and interpretation of the act is that a person who is currently serving with the police is meant. Therefore, that is who we can investigate. We have quite a few examples in which we have begun investigations—sometimes into quite serious matters—but the person has retired or resigned. At that point, we cannot take forward the investigation.

We have a current example in which we are investigating part of an allegation. I will not go into the details of that, but it is quite a serious allegation. It has had to be passed to an English

force for the retired officers because, obviously, it cannot go to Police Scotland. I do not find that to be a satisfactory solution to anything. Therefore, there needs to be clarity on the meaning of the act.

Liam Kerr: I do not disagree with that. However, you have said that you have counsel's opinion that says one thing. Does that mean that there is another counsel's opinion that says something different, or simply that your counsel accepts that there is an anomaly and that is how the act should be interpreted at this moment?

John McSporran: Our counsel says that a person who is currently serving with the police is meant. Different counsel interpret the act differently. We should not go shopping around counsel to get an opinion that satisfies us. That is the challenge. Having sought an opinion, we need to go with it. That is why clarity is necessary and needed.

Daniel Johnson: My questions follow directly on from that. When Iain Livingstone gave evidence to us, he said that, if the ability to carry out an investigation once an officer has resigned is going to change, that should apply to all police officers regardless of seniority, so that there is consistency. Do you agree with that? That begs the question whether all misconduct complaints should be handled by the same place. At the moment, senior officers are your remit whereas the junior ranks are handled internally. Do you think that it is important to have consistency?

Kate Frame: I will deal with your last point first. I understand the point, but I think that there is some sense in having a split process for investigating misconduct. Clearly, senior officers cannot investigate themselves or be in charge of those who are investigating them, so it makes good sense for those officers to be subject to an independent process away from Police Scotland. Equally, I understand why investigation of the federated ranks should stay within the police structure.

Daniel Johnson: What about being able to continue an investigation regardless of resignation? Is there a need for that to be consistent?

Kate Frame: Absolutely, yes.

The Convener: For the avoidance of doubt, it is recommended that section 33 be extended to cover those who were previously employed by a policing body operating in Scotland since the 2012 act was introduced.

John McSporran: It is section 33 of the 2006 act, which was amended through the 2012 act. I think it does need clarity.

Rona Mackay: You are also concerned that the 2012 act does not distinguish between allegations of on-duty and off-duty criminality by police officers. Should the 2012 act be amended to address those difficulties?

Kate Frame: I do not think that that requires any amendment. The legislation, as I said, does not distinguish in that way; it is the operational practice that has created the difficulty around that process. In particular, the Lord Advocate's guidelines, which were in force prior to the introduction of the 2012 act, remain in force. The guidelines relate to a time when there were various district procurators fiscal and different forces, and they say that off-duty criminality by police officers should be reported to the district procurator fiscal in the same way as criminality by a member of the public.

The practical effect of that is that, if an officer became involved in criminality while off-duty, it would naturally be the divisional criminal investigation department that would take forward the investigation. Although there have been some instances recently in which the process has stopped and the Crown Office's direction has been sought, what tends to happen is that the divisional CID progresses its investigation and subsequently, some time later, reports it to the Crown Office as it would report a case involving a member of the public. That deprives the Crown Office of the opportunity to press the stop button and determine whether an independent investigation should be sought, with the case re-channelled or redirected to me.

Rona Mackay: You think that there should be a distinction in terms of how they are—

Kate Frame: No, I do not think that there should be a distinction; I think that the process requires to be sharpened up. There is the potential for the Lord Advocate's guidelines to be amended to reflect what the current legislation says.

Rona Mackay: Does anyone else want to comment on that?

Diego Quiroz: We talked earlier about the need for clarification of whether a person must be serving with the police currently. That issue could be addressed under regulation 5 of the 2013 regulations, which deals with co-operation and assistance. An additional subsection could be included that referred to ex-police officers or police officers who are not currently serving with Police Scotland.

I want to make a point about mandatory referrals. As the committee is probably aware, the European Committee for the Prevention of Torture—the CPT—visited Scotland a couple of weeks ago and, in its final meeting with the Government, raised a number of issues relating to

the excessive use of force. Of course, the entire process is confidential, but the committee will produce a report at the end of this month, which surely will be sent to you. The committee visits all the European countries and examines places of detention and the legal frameworks. There is an emerging trend in European countries to refer all incidents, rather than only serious incidents, to the police ombudsman or the commissioner.

Perhaps that answers some of your questions.

Rona Mackay: That is interesting. With regard to the 2013 regulations, the PIRC is concerned that investigators can be restricted in their enforcement powers when undertaking investigations instructed by the Crown Office. Can you expand on that and on the implications of the restriction and how the issue could be resolved?

John McSporrán: When it is a police-referred investigation, we can use regulation 5 to require the police to provide us with information or we can require a police officer to provide us with information, which can be in a form that we decide. So, in a police-referred investigation we can require a police officer to give us a statement.

In more serious matters, such as death investigations or serious crime investigations, in which a police officer is not a suspect but a witness, we cannot use those powers. We have had death investigations in which police officers have, for a considerable period of time, declined to provide an account or a statement to us. We cannot use the regulations to make that imposition on the police officer—to require them to do that. I think that that is unsatisfactory from an accountability and, particularly, a public perception perspective when a person has died. The Scottish public and the Scottish Parliament would expect a police officer who was a witness to the events to give an account of what they had seen or done.

We do not have those powers just now. It is an anomaly in the regulations that we can use the powers in dealing with more minor matters but not in dealing with more serious matters. I am talking about when police officers are witnesses, not when they are suspects or accused.

11:30

Rona Mackay: Why would a police officer not want to give you that information as a witness?

Kate Frame: That would be a matter for the police to address. I understand that, in certain circumstances, they have received advice on individual cases.

Rona Mackay: Was that legal advice?

Kate Frame: It was advice from the Scottish Police Federation and, I think, legal advice in certain circumstances.

Rona Mackay: You cannot do anything about that, as things are. There is nothing you can do to compel individuals.

Kate Frame: No. It is strange. Section 33 of the 2006 act sets out my functions, and section 33A(b) deals with Crown Office and Lord Advocate-directed matters. As John McSporrán has said subsection (c) relates to matters that can be referred by the chief constable and subsection (d) relates to a public interest investigation. For some strange reason, the regulations have focused on subsections (c) and (d) and have omitted subsection (b).

Rona Mackay: That is interesting. Thank you.

Liam McArthur: I want to pick up on the specific issue of whistleblowing. We have covered a lot of territory around investigation, but the PIRC has expressed concerns about the lack of independent scrutiny of whistleblowing. In your response to Daniel Johnson's question, you said that some circumstances may justify a different treatment of allegations—for example, allegations against senior officers as compared to allegations against other officers. Similarly, in some instances of whistleblowing it may be appropriate for the investigation to be undertaken by senior officers in Police Scotland rather than to take place externally. I am interested to know the position of the PIRC in relation to that. How do you believe whistleblowing as a whole should be dealt with? Should any differential treatment be applied?

Kate Frame: Police Scotland staff can anonymously report wrongdoing to the police through its internal system, integrity matters, and I understand that evidence has been given in that way. However, that system does not provide any external confidential reporting system or mechanism. I know, from discussions with Police Scotland, that it is currently exploring the use of an external charity to receive whistleblowing allegations. However, when I posed the question of what happens to those allegations, the response was that they are diverted back into Police Scotland.

Following a UK Government consultation a couple of years ago, discretionary powers were introduced to enable my colleagues down south at the Independent Office for Police Conduct to investigate whistleblowing concerns. That provides a significant alternative reporting route for whistleblowers, who can now go directly to the IOPC. It also empowers the IOPC to act on its own initiative, without deferring to the police at all. The IOPC is further empowered to ensure that the identity of whistleblowers is protected, and it has a

power to restrict the information that is provided to the police force when it determines that it is going to investigate a whistleblowing report. The Scottish Parliament may wish to consider providing similar powers to the PIRC.

Liam McArthur: You see that as being distinct from the triage option that was discussed earlier. It is more a question of having two options and the whistleblower being able to choose which of those is most appropriate or which they feel most comfortable with.

Kate Frame: Potentially, yes.

Liam McArthur: Mr Quiroz, are there any human rights implications that you want to flag up in relation to the way in which whistleblowing procedures are managed at present?

Diego Quiroz: I am not very familiar with the whistleblowing legislation—as you know, it is UK legislation—but it provides for external mechanisms. When there is no confidence in the internal mechanisms, the whistleblower can go directly to external parties, as has been mentioned—even to reporters or MSPs.

Liam McArthur: Is it your understanding that what Ms Frame has just described as an option—going to a charity that subsequently provides the information to the police—would not be consistent?

Diego Quiroz: Not without an adequate accountability framework, no.

Liam McArthur: In your discussions with Police Scotland, commissioner, does there appear to be a willingness to explore a more robust mechanism—perhaps one that reflects the model that seems to have been adopted south of the border—or is there a degree of resistance to that? If so, is there an explanation for that resistance?

Kate Frame: From the discussions that I have had, there appears to be clear resistance to that, with apparently limited justification.

The Convener: I refer you to an additional submission that we have received from Unison's police staff Scotland branch—it was not able to be represented today—giving evidence from the police staff angle. It is specifically on whistleblowing, and it states that

“positive changes to whistleblowing guidance which offer greater protections to those raising concerns have been very slow to materialise.”

You have mentioned what happens in England. However, Unison favours

“the expansion of independent scrutiny bodies to hear employee complaints”,

as it does not think there is the right balance just now. It states:

“This would require a legislative change.”

Unison also refers to

“positive work underpinned with permanent structures and a guaranteed commitment to work towards implementing the recommendations of Jim Mather's ‘Working Together Review: Progressive workplace policies in Scotland’.”

Are you familiar with that review, and would it aid whistleblowing as we would all like to see?

Kate Frame: I am not familiar with that particular piece of work. I do know, however, from speaking to the IOPC and other police oversight bodies, that those organisations receive whistleblowing directly.

Daniel Johnson: I have two concerns in this space, the first of which is about the complexity of police officers raising complaints. It is right we have proper whistleblowing channels. However, there are grievances that police officers can raise and professional standards, and my experience from casework is that issues can sometimes bounce between different channels and different databases before the substance of a complaint is looked at. Is there a need to clarify the process of whistleblowing? An associated question is: do you believe that it is important that whistleblowing gets treated in the right way, regardless of whether the person coming forward is reporting as a whistleblower to the correct person?

Kate Frame: It is important that they are treated seriously and appropriately. The point you make about reporting grievances is interesting, because, at the IOPC, when matters relating to conditions of service are already under investigation by a different route, they are not taken on as part of the whistleblowing process.

Daniel Johnson: Do you think they should be?

Kate Frame: That would be difficult in relation to terms and conditions, because it would be almost stepping outside the accepted framework.

Daniel Johnson: On the point about treating complaints appropriately, do you think that protocols should be in place for how senior officers handle whistleblowing? Would you be concerned if a senior officer shared information with the subject of a report of whistleblowing?

Kate Frame: Absolutely.

The Convener: Mr Quiroz, in your submission you express concern about the 2013 regulations, which afford the chief constable or the SPA discretion as to whether to refer incidents of baton use by the police to the PIRC for independent review. Can you expand on that specific issue?

Diego Quiroz: The matter was referred to some minutes ago in relation to regulations 6 and 7. Regulation 7 covers batons as weapons. Those incidents are excluded from mandatory referral.

Even if the incidents are what we consider minor—we have talked about the threshold—in certain circumstances, they will trigger article 3 requirements for procedural investigation. The point is that it is not up to the chief constable or the Scottish Police Authority to refer those incidents; they have to be referred, because there is a legal requirement to do so.

Fulton MacGregor: Could the panel, particularly Diego Quiroz, elaborate on how the 2012 act could be improved with regard to human rights being articulated in it?

Diego Quiroz: We made a number of recommendations in 2012 that are still outstanding, as you are aware. We welcome the significant steps that the committee and the Parliament took to embed human rights but a number of relevant recommendations remain. The recent challenges for Police Scotland—stop and search, the deployment of tasers and firearms, the use of cyberkiosks and biometrics, to mention a few—all have a central human rights angle. Human rights are important not only in terms of police compliance with human rights legislation, under section 6 of the Human Rights Act 1998, but to ensure that legislation drives best practice in Scotland.

There are two ways to see that. There are structural issues that remain outstanding and there are specific provisions. In terms of the structural issues and how to improve the current framework, there are three in particular that happened in the Northern Ireland police service—there is no need to go far for this—which we consider has one of the best models of embedding human rights into processes and legislation. The first mechanism is the creation of an independent human rights adviser for the force. The second is the introduction of mechanisms to protect and promote transparency and democratic accountability within local communities. The third is training on human rights for all new and existing police officers within Police Scotland. We are missing most of those mechanisms in Scotland.

In terms of the 2012 act, human rights could be more explicit in general throughout the act. I mentioned some of the provisions in relation to PIRC that meet the requirements of articles 2, 3 and 8 of the ECHR. Also, sections 32 and 33 of the 2012 act could be enhanced by including some of the human rights provisions. We welcome the explicit reference in chapter 16 of the 2012 act to the optional protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This is both unique and progressive of the Parliament. The UK Parliament is trying to copy something similar to what you did in 2012.

The committee might want to consider extending the OPCAT provisions in the act to the inspection of custody by HMICS. I am aware that HMICS has already raised this with you. HMICS is a member of the UK national preventative mechanism and helps to deliver OPCAT obligations in Scotland. Therefore, it makes practical and legal sense to reflect that reality in the inspection of police custody as conducted by HMICS.

Section 94 in chapter 16 of the 2012 act can also be enhanced in order to meet the objectives of OPCAT and to be human rights compliant. There are a number of provisions, if you want me to go through them, that could be enhanced through a human-rights lens.

Fulton MacGregor: Thank you for your very full answer. Can I ask you specifically about the code of ethics for policing in Scotland? You have noted that there is a code of ethics for policing but that there is no provision for it in the 2012 act, and that you believe that the code should be on a statutory footing. Can you expand on that?

11:45

Diego Quiroz: That is correct. Thank you for mentioning that—I forgot to add it. If I am correct, the 2012 act does not make provision for a code of ethics for policing, although there such a code in Scotland. We welcome its explicit references to human rights and how police officers' obligations operate under the Human Rights Act. However, we think that the code should be placed on a statutory footing, as is the case in Northern Ireland, which is one of the best models that we have.

For instance, the police ombudsman uses the code of ethics to classify complaints made against the police. It is important that the police service, the police authority and the commissioner share a common ethical base that is evident in every aspect of policing. The code of ethics could provide a common framework and be a valuable tool to ensure that the police service complies with the Human Rights Act 1998. We consider that it should be on a statutory footing so that the Parliament and this committee will have a say on the content of the code and that it will be reviewed regularly. That will match the character that I mentioned of human rights as a living instrument, and will also give more legal precision to the operational aspect of policing.

Fulton MacGregor: I will finish by putting on my other hat, that of a member of the Equalities and Human Rights Committee. It is great to have this discussion as part of the scrutiny, so credit to the clerks. I hope that Diego Quiroz and other folk

from the Scottish Human Rights Commission will be regular attendees at future scrutiny.

The Convener: Mr Quiroz, is there anything that you have not mentioned in terms of the 2013 regulations that you think we should be aware of and that you think should be amended?

Diego Quiroz: Just to reiterate that the Human Rights Act 1998 has added value to this, as the member mentioned, which I am grateful for. The examples that I gave were the failure to add articles 2 and 3 of the ECHR and also the failure to consider those requirements. There is nothing about victim participation, so that could be added and there is nothing about being open to public scrutiny, which could also be added.

Another thing that is absent from the regulations—the commissioner could correct me if I am wrong—is the power of PIRC to assess, evaluate and report on systemic issues. Other commissioners—again, referring to Northern Ireland—have the power to report on systemic issues and have found that very helpful in their jurisdictions.

The Convener: Could you give an example?

Diego Quiroz: In other jurisdictions, the PIRC has explicit power to conduct reviews of police practices and policies. It analyses anything in relation to police practices and operational issues from a human rights angle. It monitors incidents and practices in relation to specific human rights obligations and reports on those obligations. If it finds a systemic failure within police practices and policies it reports on that as well; it does not report exclusively on incidents.

Kate Frame: I endorse the thinking behind that. In Scotland, HMICS would generally take forward thematic reviews, pulling out systemic issues. We have close consultation with HMICS in relation to matters that emerge from any number of our reports.

The Convener: Are you satisfied with your powers at present, or are you looking for anything further? Are you quite happy with your liaison with HMICS?

Kate Frame: Yes, there is adequate liaison with HMICS.

Liam Kerr: Mr Quiroz, the SHRC made various recommendations, both before the 2012 act and around the 2013 regulations. Your evidence is that many of those were not taken forward. Can you enlighten the committee as to why they were not taken forward, what the thought process of the legislature was at that time and what has changed?

Diego Quiroz: I am afraid that I will not be able to give you a specific reason why they were not

taken forward. Some of them were. We interact with the Parliament, as you know, by means of both written and oral evidence. We provided our recommendations to the Parliament during stage 1 and then tried to follow through to stage 2. However, I am afraid that I cannot comment on the underlying circumstances or the rationale for why they were not taken forward. If you were expressing concern, then I share that concern. The evidence that we have is that those recommendations were relevant and are still relevant.

Daniel Johnson: You have given evidence in writing regarding the independence of the SPA and the Scottish ministers' relationship to both the SPA and the police. You have said that the SPA should have independent power to set its own strategic priorities and, moreover, that the ability for ministers to direct police should be limited. Could you elaborate on that? Are there any specific examples where you believe that the actions of ministers have undermined human rights because of the use of the powers as they stand?

Diego Quiroz: Section 33 of the 2012 act provides that

“The Scottish ministers may determine”

the SPA's priorities. Furthermore, section 5 provides that the SPA

“must comply with any direction (general or specific) given by the Scottish Ministers.”

That would be understandable in terms of the harmonisation of national outcomes, for instance, but there are also disadvantages to that approach. Based on those two provisions, we could say that the Scottish ministers have a comprehensive power to direct the SPA.

There are no specific examples that I am aware of having happened, but it could happen in relation to the deployment of staff or the style of policing. The commission believes that the powers given to the Scottish ministers in the 2012 act represent a significant challenge to the independence of the SPA and the integrity of the police accountability framework. As you mentioned, it is our view that the Scottish ministers should retain only the power to set principles and overall objectives for policing, while the SPA should have the independence and power to serve its own strategic priorities.

Daniel Johnson: One suggestion that has been made in this place is that there should be formal protocols regarding communication between ministers, the police and the SPA. Would that be welcome? Might that help to clarify the relationship and limit overt direction by ministers?

Diego Quiroz: Yes, that would cure some of the disadvantages of the model adopted by the 2012 act.

Daniel Johnson: Likewise, should the appointment of the SPA board members and the SPA chair—the SPA chair is obviously a ministerial appointment—be changed? Should the appointment of the chair reside elsewhere, and if so where?

Diego Quiroz: We are saying that there are models of greater accountability that could deal with that. In the past, local authorities were highly involved in the election process. Wider engagement would solve some of the issues that arise regarding the influence of the Scottish ministers over the SPA.

Daniel Johnson: I believe that it is of fundamental importance to enshrine the principle of policing by consent right the way through the governing structures of the police. At the moment, because of the way in which the SPA is appointed and those lines of accountability, it is unclear to me precisely where policing by consent sits. Could that be focused on and improved, in terms of how the SPA functions, to ensure that the policies and priorities that it is setting are in line with what the public consent to in terms of how they wish to be policed?

Diego Quiroz: Absolutely. Having a rights-based approach is in line with the idea of policing by consent, which is incredibly progressive but is also incredibly old. The idea of policing by consent is not that everyone will agree with the police, but that policing is open, transparent, is mutually reinforced and is founded on human rights. The police protect our fundamental rights, so there should be an alignment of those ideas, which could be enhanced.

The Convener: I again refer you to the submission from Unison's police staff Scotland branch. They say that

"with regards to the role of ministers in shaping our national police service there needs to be greater clarity and more openness about ministerial decision making, how decisions are arrived at, applied and accounted for".

Unison suggests that that should be by way of records and minutes being taken and being openly available. Would that be a way to go, to try to get transparency and openness?

John McSparran: Part of the challenge is that that is very much a decision for the committee and the Parliament. I am probably straying into an area that is your domain, in that the Parliament and the Government need to set the strategic direction for the police force. They need to set boundaries and objectives for where they want to take the Scottish police service, which is quite right. How open and transparent you want that to be is, again, very

much a matter for the Parliament. There need to be those initial conversations about shaping where things go, and there needs to be a degree of openness and transparency, but I very much think that that is a matter for yourselves.

12:00

The Convener: There is perhaps an issue with regard to human rights. If we have not got to the bottom of how a decision was made, and that affects a complaint against someone, you would expect minutes and a record of the decision to be available, in the interests of accountability.

Unison's police staff Scotland branch goes on to say:

"It has always been very difficult to deduce precisely where ministerial advice and guidance start and instruction, direction and intervention end, between the Justice Minister, Scottish Government and the Scottish Police Authority.

This has a direct impact on the credibility of the single service in appearing free from political interference and as a legitimate entity"

The submission also says that

"In order to satisfy the desire for greater transparency, improved standards and building on our support for the adoption of the Scottish Parliament 'Lobbying Register',"

we should consider developing something that is similar to

"the Ministerial Direction/Technical Direction reporting process between UK Government Departments and the National Audit Office",

and it suggests that Audit Scotland is an analogous body in Scotland that could perform that function here, in the interests of providing better scrutiny of the governance role of ministers and revealing the value of their direction.

There is a human rights aspect here with regard to transparency and openness in dealing with anyone's particular issue.

Diego Quiroz: Absolutely. I concur with your point. In the area of policing, there should be, of course, a balance between the public interest and the prevention of crime, but as much openness and transparency as is possible is always welcome. That is why we have recommended that the police, in particular, have a human rights-based approach to policing that involves four areas: policy and strategic decision making; operational planning and deployment; training and guidance; and investigation, monitoring and scrutiny, which is the area that we are focusing on today. A rights-based approach is about having that quite abstract idea embedded in those specific areas. It involves viewing everything to do with policing—training, deployment and investigation—through a human-rights lens.

The Convener: Commissioner, you mentioned that regulation 5 needed to be amended for Crown Office and Procurator Fiscal Service-directed investigations. You also suggested there should be defined timescales for the information to be provided. Is that the case?

Kate Frame: Yes.

The Convener: Do you think that complaints against senior officers should be prioritised, given the length of time that it appears to have taken to deal with them?

Kate Frame: Yes, I agree that all those investigations—in fact all investigations—should be undertaken as quickly as possible. We do our level best to achieve that. However, a number of issues have impacted on our ability to deliver on that. When an investigation comes to us, we assess its nature and complexity and designate it as a category A, category B or category C investigation. Category A is the most serious.

I confirm that each of the recent significant investigations that we have undertaken have been categorised as category A investigations. Last year there were particular features around some of those investigations, and we were drip fed a number over a concentrated six-month period. Throughout that period, we were also dealing with a number of other competing investigations, some involving potential criminality concerning police officers and some involving deaths following police contact. On an almost daily basis, there was some progression of the significant investigations, and we prioritised those. However, we had to juggle priorities.

Mr McSporran probably wants to elaborate on that, because he had first-hand sharp experience of it.

John McSporran: The challenge from my perspective of leading investigations involves what priority to attach to, for example, a senior officer misconduct investigation versus a death investigation or a serious injury investigation. As head of investigations, my priority is always to provide a service to the relatives of the deceased, so my priority will always be death investigations, and I think that that is entirely right. Thereafter, I have to balance the demand on my investigations department.

Last year, we had a significant increase in the volume of investigations that we were expected to undertake, and their severity increased, too. I had limited resources, which I had to balance across those competing priorities. That means that those investigations that are of a lesser priority will take longer because I simply do not have enough resources. The Scottish Government recognised that we were severely strained and, at the start of this year, it increased the money allocated to PIRC

and allowed me to expand the number of investigators that I had. If the same demand as we had last year hit us now, am I better placed to deal with it? Absolutely, because I have more resources now. However, when you have limited resources, you need to balance where you put those resources against the importance of the investigations. To be quite blunt, in a situation involving an employment or a contractual matter versus a death investigation, my priority is the death investigation.

The Convener: In general terms, that sounds sensible. However, when a matter involves a chief constable of the force, a paralysis descends on the whole police force, so there is a disproportionate effect. In those circumstances—laying aside the issue of resources, which I think you are suggesting has been addressed—given the increased volume, would you now say that, with the benefit of hindsight, it would be best to deal with even a minor complaint against a chief constable as a matter of priority so that the police force can function and we can sort out what is a substantive complaint and what is something that is not causing particular concern?

John McSporran: I absolutely agree with you on that point. The challenge in the specific case that you mention is the nature of how that arrived with PIRC. From the point that it was initially received by the SPA, it took 10 weeks to arrive with us. We acted on it immediately. However, that was the first complaint in a series of allegations. Several weeks later a second complaint arrived with further allegations, and, over the course of the next six to seven months, further complaints and further allegations were made. Some people think that that all arrived as one investigation, but it was spaced out over a prolonged period of time, requiring us to go back and interview the same people. If there were a single allegation that could be dealt with quickly, I absolutely agree that we should prioritise that due to what you flagged up as the reputational risk and the damage. However, in that particular instance, the process occurred over a prolonged period, so it was not practical to adopt that approach.

The Convener: Can I tease that out a little? There was a 10-week delay in receiving the complaint from the SPA—is that right?

John McSporran: Yes.

The Convener: Should there be a timeframe within which complaints should be passed on? Is there any way to address that issue? That, in itself, is concerning.

John McSporran: That question should be directed towards the SPA.

The Convener: Is there a danger that a complaint is lodged that could be dealt with, and

then another complaint is lodged, and another? Those could be vexatious complaints, but, meanwhile, the clock is ticking and the longer it takes, the greater the reputational damage that is done. Is that a concern for you? How do you suggest that that could be resolved?

John McSporran: As part of the assessment process, the SPA examines the matter and gets counsel's opinion. I heard representatives of the SPA tell this committee that, in essence, when they get a complaint, they send it onwards to PIRC. However, there are examples of situations in which, if a proper assessment had been undertaken, we would not have seen the complaint. For example, without going into too much detail, I can say that there was a case that concerned a matter of the employment contract of a particular person. That was sent to us for investigation. However, when we began to investigate it, we found that it was actually a contractual matter, and the SPA had had the answer all the time, which means that there was no need for that matter to be referred to us in the first instance.

A more effective assessment and analysis of an issue when it first arrives would potentially address the issue of vexatious matters by ensuring that what is passed on is considered to be a matter of serious misconduct as opposed to a matter of someone's contract or whatever else.

The Convener: More dialogue could be built in retrospectively.

Commissioner, you have been in post since the inception of the new legislation. Can you point to improvements on how things worked in the past with regard to how the SPA and Police Scotland deal with complaints? Can you flag up the things that you would absolutely want to be addressed by this committee in our post-legislative scrutiny?

Kate Frame: It is fair to say that, initially, there was considerable resistance to PIRC as an organisation and in relation to referring matters to us. That has improved over the period. Despite all that has been said here today, we are seeing a greater number of referrals from Police Scotland, particularly in relation to serious injuries. However, there is a nagging concern that there is still a bulk of issues that we are not seeing and which only come to us through the route of the complainers taking the matter to the review process.

As regards the SPA, the difficulties that that organisation has seen are well documented, and I do not want to offer any further comment on that.

The Convener: Unison's police staff Scotland branch says that there is now a variety of forums, wellbeing surgeries and so on in Police Scotland and the SPA. Things have moved on a little bit. Are you seeing improvements?

Kate Frame: In relation to the SPA, you will be aware that, last year, we undertook an audit that threw up a number of features that I am aware that the SPA is now beginning to address. I am hopeful that those improvements will shine through shortly.

The Convener: Would some of the improvements require legislative change? Should we go back to the legislation and see how we can ensure that those features remain, regardless of who is in post?

Kate Frame: That is less to do with the SPA. In relation to legislative changes, we have talked already about the officers serving with Police Scotland. I think that there is the potential for a legislative change around that. In relation to the regulations, we are looking for strengthening of the current regulation 5 so that it attaches to Crown-directed matters, too.

Mr Quiroz spoke about the human rights aspect. Earlier, I talked about section 41B and section 33, which relate to serious incidents. Mr Kerr asked what has changed and moved on. The threshold of human rights cases in relation to severity now points to a lesser level with regard to injury or infringement of article 2. When the act was initially formulated, it specified that something had to be a "serious incident". However, there is now case law to the effect that a single slap to someone who is in the process of being detained would infringe their article 3 rights. It may be that, as I said earlier, it would be appropriate for "serious incidents" to be replaced with the potential inference of a breach of article 2 or 3 of the ECHR.

The Convener: That is helpful. Mr Quiroz, in terms of human rights, is there anything that we have not covered that you would like to see in the legislation?

Diego Quiroz: No, I think we covered everything.

The Convener: I take the point in your submission about the 2012 act stating that the SPA must "try" to carry out its functions in a way that is proportionate, and your view that, instead, the act should say that it should be required to do so.

That concludes our questions. Thank you all very much for attending today, it has been quite an illuminating evidence session. We now suspend the meeting to allow the witnesses to leave.

12:15

Meeting suspended.

12:16

On resuming—

Subordinate Legislation

Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2018 (SSI 2018/293)

The Convener: Agenda item 3 is consideration of the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2018. I refer members to paper 3, which is a note by the clerks. If members have no comments, is the committee agreed that it does not wish to make any recommendations in relation to this Scottish statutory instrument?

Members *indicated agreement.*

Management of Offenders (Scotland) Bill: Stage 1

12:16

The Convener: The next agenda item is consideration of the reports from HM inspectorate of constabulary and HM inspectorate of prisons on home detention curfews, and also the response so far from the Scottish Government in the form of the ministerial statement. I refer members to paper 4, which is a note by the clerks.

Before I ask members for their views on the reports, I want to put on record the condolences of the committee to the McClelland family. I also want to note that the committee paused its consideration of the Management of Offenders (Scotland) Bill to await the publication of those two independent reports. We will shortly consider how we wish to proceed. In the meantime, I invite members to comment on the issues that are raised in the two independent reports and in the response in the chamber from the Cabinet Secretary for Justice.

We are agreed that a number of issues are raised in the two reports. It is our intention to discuss in private session how they will affect our work.

Liam McArthur: Thank you for extending the condolences of the committee, which is entirely appropriate. It strikes me that there is a good deal of substance to both reports. A great deal of it does not necessarily point in the direction of legislative changes but, nevertheless, it involves policy and practice changes that this committee needs to keep an eye on in the months ahead.

Where there are proposed changes, which the Cabinet Secretary for Justice has referred to, there is time to factor those into our consideration of the legislation. My preference would probably be to do that ahead of stage 1, if we are to take evidence, rather than at stage 2, when we could maybe find ourselves running out of time. It was absolutely right for us to stall the process. That decision has been justified by the detail of the reports coming forward.

Liam Kerr: I associate myself with Liam McArthur's comments. He is exactly right.

The Convener: We were very mindful of the sensitivities around this issue.

George Adam (Paisley) (SNP): I agree with everything that my colleagues have said. It was right that we stopped the process in order to get this information. The Cabinet Secretary for Justice has said on the record that he will accept all the recommendations. We have an opportunity in the

legislation to try to make some of these changes. I think that, at stage 1, we should take evidence from the authors of the reviews and then think about how the bill can be amended at stage 2.

The Convener: I think that members of the public and the McClelland family can be assured that we will make sure that the stage 1 report is the best that it possibly can be in light of the two reviews and the ministerial statement.

That concludes the public part of today's meeting. Our next meeting will be on 13 November, when we will continue with our post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012.

12:20

Meeting continued in private until 12:43.

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