



OFFICIAL REPORT
AITHISG OIFIGEIL

Justice Committee

Tuesday 25 June 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 25 June 2019

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
“INDEPENDENT REVIEW OF COMPLAINTS HANDLING, INVESTIGATIONS AND MISCONDUCT ISSUES IN RELATION TO POLICING: PRELIMINARY REPORT”	2
SCOTTISH BIOMETRICS COMMISSIONER BILL: STAGE 1	20
JUSTICE SUB-COMMITTEE ON POLICING (REPORT BACK)	28

JUSTICE COMMITTEE

20th Meeting 2019, 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:

Elaine Hamilton (Scottish Government)

Humza Yousaf (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Justice Committee

Tuesday 25 June 2019

[The Convener opened the meeting at 10:02]

Decision on Taking Business in Private

The Convener (Margaret Mitchell): Good morning and welcome to the Justice Committee's 20th meeting in 2019, and its final meeting before the summer recess. We have received no apologies.

Agenda item 1 is a decision on whether to take items 5 and 6 in private. Do we agree to do so?

Members *indicated agreement.*

“Independent Review of Complaints Handling, Investigations and Misconduct Issues in Relation to Policing: Preliminary Report”

10:03

The Convener: Item 2 is an evidence session on the interim report on the independent review of complaints handling, investigations and misconduct issues in relation to policing. I am very pleased to welcome to the committee Humza Yousaf, the Cabinet Secretary for Justice; Neil Hastie, the head of the Scottish Government's community safety unit; and Anita Popplestone and Julie Robertson, from the Scottish Government's police division. I refer members to paper 1, which is a private paper.

Before I invite the cabinet secretary to make some opening remarks, I thank him on behalf of the committee for making the time to give evidence so soon after the publication of the interim report.

The Cabinet Secretary for Justice (Humza Yousaf): Thank you, convener. I apologise for running a couple of minutes late.

The Lord Advocate and I are very grateful to Dame Elish Angiolini for the significant and detailed work that she has undertaken so far. I spoke to Dame Elish briefly yesterday to convey my thanks to her, prior to her appearance before the committee.

When my predecessor commissioned the review jointly with the Lord Advocate, the intention was that it would assess how well the current framework is working and make suggestions for improvements. I am sure that the committee will agree that, under Dame Elish's leadership, the review is bringing rigorous independent scrutiny to the framework and processes for handling complaints against the police and for investigating serious incidents and alleged misconduct.

I am sure that the committee will recognise that, for the vast majority of time, the many thousands of police in Scotland work selflessly, tirelessly and often courageously. The report acknowledges that it is not an easy job, and, as Cabinet Secretary for Justice, I am especially grateful to all those who have chosen to serve the public in this way.

However, equally, it is important that, when things go wrong, the police are held to account, and that lessons are learned and improvements are made. My predecessor believed, as I do, that we need to improve the system continually so that roles and responsibilities are clear, so that there is

transparency and openness and so that there is accountability and the upholding of fundamental human rights.

I believe that Dame Elish's preliminary report gives us some important suggestions about how we can improve the system. The Lord Advocate and I very much welcome this comprehensive report but, given that it was published only on Friday, we have not had the opportunity to consider and discuss in depth its substantial findings. We will, of course, carefully consider the recommendations and engage with our partners and key stakeholders on implementation. It is vital that such detailed analysis and reflection be carried out in consultation with the principal organisations that are identified in the report before next steps are confirmed.

As I have made clear to the committee before, where there is unanimous agreement among stakeholders that a specific measure can be implemented quickly in order to fix something, we will seek to do that. Identifying and agreeing those measures will take time, but I am happy to provide an update to the committee on progress after recess.

Many of the themes and recommendations from the Justice Committee's report on its post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012 are picked up in Dame Elish's report. Obviously, we will be looking at both reports in tandem when setting out next steps.

The Lord Advocate and I will respond to Dame Elish on her recommendations in full before 1 December 2019. I again thank her for her work so far, and I look forward to discussing that with the committee this morning.

The Convener: Thank you. I will open the questioning by referring you to your response to the committee's recommendation on complaints handling. You said:

"where there is unanimous agreement among stakeholders that a specific measure can be implemented quickly, there is no reason that we should not seek to do that".

Now that you have had sight of the interim report, which makes various recommendations that will require legislative change, can you give the committee some assurance that those will be implemented quickly?

Humza Yousaf: As I said in my opening remarks, where there is unanimous agreement among partners that we should move quickly, I see no reason why we should delay that.

The couple of legislative changes that are suggested in the report will, of course, be part of the measures that I will discuss in the summer recess with stakeholders to see whether there can

be some agreement on them. You will forgive me if, only a couple of days after seeing the report, I do not make a commitment at today's committee meeting to tell you what we will absolutely do. However, I will move with haste and pace, because this is an important matter. Where there is agreement on issues that are within the gift of the Government, we will act.

Of course, as you are only too aware, convener, with regard to any legislative change that is required, we would have to consider the parliamentary timetable, other parliamentary pressures and so on. I can work only at a pace that Parliament will allow me to work.

All of that notwithstanding, I reiterate what I have said previously and in my opening remarks that, where there is unanimous agreement from stakeholders to move quickly on something, there should be no reason for delay.

The Convener: I want to press you a bit more on that. Obviously, this is an important report—you said so in your opening remarks. Our committee was absolutely unanimous that the recommendations would make important improvements. Rather than just seeing how you can fit any such changes into the legislative programme, will you make a case for prioritising them in the legislative programme?

Humza Yousaf: That is a fair request. Where there is unanimous agreement that the best route to achieve what Dame Elish has suggested is through legislation, I am, of course, happy to have that conversation with colleagues about parliamentary business. However, clearly, it would take the endeavours of not only Government but the whole of Parliament to progress those matters.

If we can get to the outcome that Dame Elish is trying to get to without legislative change, that route will of course be preferable, as it almost always is. Members will understand that changing or amending legislation is not a quick fix. If we can get there only through legislation, and there is unanimous agreement, I will do my best to progress that as quickly as possible, although I must say that that is not always in my gift and very much has to involve a conversation with Parliament.

The Convener: I think that committee members will do all that we can to help.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I want to ask about the time that is taken to investigate complaints. We have heard that the complaints process can be lengthy, which often has a detrimental effect on the complainers and the subject of the complaints. Do the policing bodies have the necessary resources to provide as quick a resolution as possible for everyone involved? Does it even come down to resources?

Dame Elish said yesterday that, in her final report, she will possibly make recommendations on streamlining the process. Will you comment on the time that is taken?

Humza Yousaf: I completely understand the concerns that Dame Elish raises in the report about the time that it can take for complaints to be dealt with, particularly complaints involving senior officers, which can have a particularly destabilising effect. She makes serious recommendations to which we should and will give consideration. As you rightly say, she also talks about streamlining. In her evidence to the committee, she was pretty clear that the majority of complaints that come through are not about gross misconduct and they could be dealt with through other avenues. Many complaints are grievances that could be dealt with by the human resources route and so on. Streamlining is hugely important.

There is also the matter of complexity. It would be wrong of us not to recognise that the complaints landscape is complex. I am Cabinet Secretary for Justice, and I think that it is complex. For people who make a complaint, there are a variety of bodies depending on the complaint and there is the referral process and so on. There is no denying that there is a complex landscape, so streamlining is hugely important and I hope that it will cut out a lot of unnecessary time that is involved in the process.

We recognised that the Police Investigations and Review Commissioner's workload had increased, so we increased her resources by more than 33 per cent. The PIRC will no doubt make a budget proposal for the next spending review and we will of course consider that. I will not rehearse too much what I have said about police budgets. We are protecting the police's revenue budget and giving a capital uplift, and it is up to the police to determine how to spend that.

There are also questions about CAAPD—the criminal allegations against the police division. That is very much to do with the Crown Office and is clearly a matter for the Lord Advocate, so the member may wish to raise the issue with him directly.

Fulton MacGregor (Coatbridge and Chryston) (SNP): You touched on the complexity, which the committee has certainly heard about. Is that partly because of the number of organisations that are involved in the complaints process? Do you have any initial ideas, based on the report, about how the process can be simplified?

Humza Yousaf: Again, if the member will forgive me, I am reluctant to be as firm as I hope that I will be after recess, because I would like to have discussions with principal partner organisations about the way forward. However, I

have a couple of general points. I reiterate that I agree with the suggestion that the complaints landscape is complex. It is important for all involved to recognise that. The landscape is not deliberately complex; the complexity is a result of the nature of the allegations and the scrutiny bodies. Police Scotland is one of the most scrutinised organisations in the country, and rightly so given the power that is invested in the police. Therefore, the scrutiny has to be at that level. I reject any suggestion that there are too many scrutiny organisations, because all those organisations—the SPA, the PIRC, Audit Scotland and the committees of the Parliament—play important roles. I would not suggest that there are too many organisations involved in the scrutiny of Police Scotland.

10:15

Dame Elish Angiolini has made a variety of suggestions for ways forward. I have pored over her report a few times since its release, and I am particularly interested in what she says in paragraphs 181 and 182 about misconduct proceedings for senior officers, covering both misconduct and gross misconduct cases—I recognise that the vast majority of cases are not gross misconduct. Recommendations such as her suggestion of an

“independent legally chaired panel appointed by a very senior member of the judiciary such as the Lord President”

should and will be given serious consideration. It is not entirely in my gift to say that such things will happen, but if we can get unanimity with partner organisations on the suggestions, we will have a more robust complaints procedure and landscape for all.

Whatever we do, it will be important for stakeholders to have a one-stop shop or portal, even if it is just on the website, where members of the public can go to understand the complaints procedure. Bits of it are out there—there is a complaints section on the Police Scotland website—but it would be helpful to have something that is easy to read, digestible and not full of acronyms. Whatever we end up settling on, we should make sure that there is an easy-to-read, easy-to-understand format to direct the public to.

Fulton MacGregor: Thank you, cabinet secretary—you have nicely anticipated my next question, which is about communicating with the public in plain language. As you said, the system is complex. Are members of the public likely to struggle with the current complaints procedure?

Humza Yousaf: In a word, yes. It is quite a complex landscape and we should reflect carefully on what Dame Elish says about trying to make it

less complex. We will only be able to do that in some regards; it is difficult, because—for good reason—different bodies with different roles and responsibilities are involved. However, we can definitely make the landscape less complex than it currently is.

Daniel Johnson (Edinburgh Southern) (Lab): One of the areas that could be acted on sooner rather than later is interagency relationships, and Dame Elish's interim report is strong on that.

In paragraph 277, Dame Elish characterises the nature of the relationships as one of "suspicion", at times. I think that, in particular, she is referring to the relationship between Police Scotland and the PIRC, but she also describes, in paragraph 151, the relationship between the SPA and the PIRC with regard to preliminary assessments being not as functional as it should be.

Are your reflections on that similar? What actions might be taken in the short term to improve the relationships and put them on a better and more functional footing?

Humza Yousaf: I agree with the premise of Daniel Johnson's question. The various paragraphs of Dame Elish's report that he mentioned—I am not sure that paragraph 151 was necessarily the relevant one, but paragraph 277 certainly was—plus paragraph 104, make for stark reading about the relationships, which gives me cause for concern.

Daniel Johnson will appreciate that there is only so much that I can do as the Cabinet Secretary for Justice. I am keen that those relationships are constructive, and I am happy to say that I have really constructive relationships with, for example, the chief constable, the chair of the SPA and of course the PIRC, although we have met on only a few occasions.

There is a new commissioner coming in and personalities may play a part in those conversations in future, but Dame Elish Angiolini's recommendation about a working group is hugely important for that purpose. Instead of having "cynicism", "suspicion" and "sub-optimal" relationships—I think that I have her wording correct—if the working group understands that scrutiny and complaints handling is in everybody's interests for public confidence in policing, it can start off on a positive footing to help with those relationships.

I will, of course, reflect on the recommendations. The working group is a good step. However, Daniel Johnson will forgive me if I say that other than that I am not sure that it is in the gift of Government to help those relationships to become more constructive.

Daniel Johnson: I entirely understand and, indeed, agree, but I am pleased to hear that the cabinet secretary believes that it is a priority. For the record, earlier I meant to say paragraph 158, not paragraph 151. However, listening to Dame Elish yesterday, I was concerned that the recommendations for improving those relationships were primarily at the governance level. Although I agree that the working group will be helpful and that a new commissioner may change matters, some of the issues clearly reside at the level of practice and with the people working with the PIRC and in Police Scotland. I bear in mind that the working relationships at ground level are outside the scope of ministerial direction or influence, but will the cabinet secretary reflect on the thought that they, too, need to be improved?

Humza Yousaf: Yes; Daniel Johnson is right and we should reflect on that. I should say that, when I mention that a new commissioner is coming in, that is in no way intended as a slight to the current commissioner. People will recognise that she has done a diligent job. She has appeared in front of this committee on many occasions and everybody has seen the seriousness with which she takes her role and the personal effort that she has put into it. My point is simply that when new people come into an organisation, often that is a chance to refresh and reset conversations and relationships.

I take on board Daniel Johnson's point. If we and some of our principal partner organisations move on some of the changes and suggestions that Dame Elish makes, that could help to foster a better relationship through the governance arrangements. To be honest, in the years that I have been a Government minister, I have seen nothing that beats getting round the table and having those difficult conversations. People are much better to have frank and robust conversations and vent some of their issues. Then, we hope, they can get on and work in a constructive manner. I accept that we should reflect on what Daniel Johnson says and hope that the working group will make a difference to those relationships.

Daniel Johnson: Thank you.

The Convener: Before we leave the subject of relationships, does the cabinet secretary agree with Dame Elish's view that the relationship between the SPA and Police Scotland could be perceived as "too cosy"?

Humza Yousaf: That was an interesting observation. I get exactly where Dame Elish is coming from. I think that she meant that specifically in relation to senior officers and the SPA. In Scotland, as I have often said, we are such a small country that everybody ends up knowing everybody. A small handful of senior

officers work closely with the SPA, which is also a small team, and at the very least there could be a perception of familiarity and a relationship that is too cosy.

We should reflect seriously on Dame Elish's suggestions about making sure that that perception does not exist. I already mentioned her recommendation in paragraph 182 about an "independent legally chaired" board, which I read with a lot of seriousness. I will make that part of my conversations with partner organisations as a matter of urgency, because even the perception that the relationship is too cosy is not good for public confidence.

Rona Mackay: My question follows on from Daniel Johnson's questions. Dame Elish Angiolini says, in paragraph 317:

"Increasingly the police are being called to deal with individuals who have mental health problems. Such situations may generate complaints against the police."

She goes on to say that people who have been involved in minor incidents have sometimes been taken to police stations rather than

"a health-based place of safety",

and that avoiding situations escalating requires "multi-agency co-operation" and communication between the police and healthcare agencies. Will you give your view on the matter? Should it be addressed in the final report?

Humza Yousaf: Yes, and I look forward to the detail of the final report in that regard. The committee will be well aware that the amount of time that is spent on distress calls and dealing with vulnerable people has been a long-standing issue for police officers.

You will also be aware that the child and adolescent mental health services system for police call handling is being rolled out. The contact assessment model means, we hope, that at the triage stage people will be able to consider vulnerability and direct calls to the appropriate places. That does not mean that police will not attend mental health calls and distress calls—I am sure that they still do so and will continue to do so—but I hope that the new system will reduce the number.

The health and justice collaboration improvement board is also considering how we target resource to somewhere that is better placed to handle distress calls and people with vulnerability. It is a win-win for everyone if the police can use their time more productively and individuals can be dealt with by someone who is better suited to addressing their needs.

We hope that that will lead to a reduction in complaints against the police. When there are complaints of such a nature, they should of course

be treated in the most appropriate way, but I hope that we can reduce their number by getting the appropriate person to see the vulnerable person in the first place.

John Finnie (Highlands and Islands) (Green): Yesterday, I asked Dame Elish Angiolini about her ninth and 10th recommendations, which cover the softer elements of the complaints process.

Cabinet secretary, you touched on the opportunity that robustly followed grievance procedures provide to prevent things from escalating. Some matters that have escalated considerably might have been more appropriately addressed through a grievance procedure. Such an approach requires training, not just for managers but for all police officers and police staff, so that they understand the options that are available and the routes that should be followed. Will you comment on that?

Humza Yousaf: I picked up on your questions to Dame Elish Angiolini in that regard. Let me say, first, that she said that she would return to the issue in her final report; it is important that we give her the time and space to do that.

You come from a policing background, so you will well understand—although I think that even people who are not from that background will understand—that in a relatively flat organisational structure someone who is not promoted when there is an opportunity for promotion can become frustrated, and issues that would be treated as grievances elsewhere are not treated as grievances but escalate to the level of misconduct and disciplinary procedures.

Dame Elish's central suggestion is that early intervention to address behaviour and support officers through the human resources route, to prevent escalation, is hugely important. She also talks about

"providing all officers involved in frontline resolution with training in mediation and customer handling."

Mediation is a hugely important issue for our partners in Police Scotland to consider, and I am sure that they will reflect on what Dame Elish has said.

If there is a way of dealing with grievances appropriately without escalating the complaint to one of misconduct, that would be preferable for all, I think. We will reflect on the issues and await Dame Elish's final report, in which she will return to the issue.

John Finnie: Do you have a view on whether the police service, as an institution, is risk averse in relation to such personnel matters and so may resort more readily to punitive, rather than managerial, means of disposing of incidents?

10:30

Humza Yousaf: It comes from a good place, in the sense that the police take their responsibility in such matters very seriously. We must remember that Police Scotland, as a national police service, is still a relatively young and new organisation, so the approach may also be a function of that. I cannot comment with too much knowledge on the specific point about whether the organisation is risk averse or there is some other issue.

Dame Elish Angiolini makes some important recommendations. She will return to the issue in her final report, but what she recommends in her interim report will be given consideration by Police Scotland. That is a conversation that I would like to have with partner organisations.

John Finnie: I thought that the comment about front-line resolution, particularly in relation to mediation and customer handling, was extremely important, given the source of many complaints. You heard Dame Elish talk about how some things that are important to the individual would not, in the relative scheme of things—perhaps in another workplace—be seen in that way. Perhaps the challenge for Police Scotland is that even a day's training is a significant undertaking, given the number of personnel involved. Would that be considered as part of budgetary considerations? I know that your colleague Derek Mackay hears many representations, but the extraction of staff and backfilling that is needed to facilitate training on that scale is significant.

Humza Yousaf: As John Finnie will know from his personal experience, the good thing is that Police Scotland has a really rigorous training procedure in place, both for new starts in their time at Tulliallan and for current officers—as we saw with the roll-out of the training in relation to the Domestic Abuse (Scotland) Act 2018. Police Scotland is able to take forward large-scale training opportunities relatively quickly. Of course there is a budgetary consideration, as there was with training in relation to the 2018 act. If Police Scotland brings us specific budgetary proposals, they will be considered within the wider spending review picture.

I am afraid that I often give that line, but it is important because there is a variety of budgetary pressures, some of which have come through requests from the Justice Committee. We would have to consider such proposals in the round.

The general thrust of what is being discussed in relation to the training of front-line officers in mediation and customer handling should be given very serious consideration.

Daniel Johnson: John Finnie makes an interesting point. The report stems from complaints, but Dame Elish makes several

comments about police culture that she did not necessarily have to make. On top of what John Finnie has mentioned about grievances, she says in paragraph 106:

“Resentment around promotion could also be exacerbated by factions, favouritism or litigiousness which existed historically within different parts of policing.”

Similarly, in paragraph 108, she said that the focus group found that

“not all line managers understood the management of performance and how to use the Performance Regulations.”

Does the cabinet secretary agree that those paragraphs should give the chief constable and the force executive some pause for thought around police culture and practice? Does he agree that we would want to see some action taken on the cultural aspects that have been highlighted, which we might not necessarily have expected to see in the report?

Humza Yousaf: Yes—I simply agree with Daniel Johnson. Bearing in mind that we have eight legacy forces coming together with two central organisations, although there may have been good HR practice in relation to feedback and why someone did not get promotion or a certain position, Dame Elish Angiolini is clearly saying that, across the board, the organisation has to look at the feedback loop in relation to promotions.

That is not all; she also talks about the need for managers to give negative feedback, which can be tricky. She says that managers have a tendency to shy away from telling constables that they are not ready for promotion, for example, and that there is

“a reluctance to consult HR professionals in Police Scotland to get advice on staffing issues.”

The paragraphs that Daniel Johnson mentions—particularly paragraph 108, which I just quoted—need to be looked at by Police Scotland, and I am certain that they will be. You would think that, if there was a positive focus on that issue and a positive outcome in terms of how to provide that feedback, even in situations in which someone does not get a promotion—which can be difficult to take—the grievances and the complaints would reduce. It is in everyone's interests that the paragraphs that Daniel Johnson highlights—paragraphs 106 to 108—should be focused on by the chief constable and colleagues in Police Scotland.

Shona Robison (Dundee City East) (SNP): I have a couple of questions on transparency, which you have touched on briefly. You probably noted that one of the issues in the report is that people do not feel that they are being given enough information with which to pursue complaints. It has been suggested that that could be improved by policing bodies having a duty to provide

complainants with regular updates on the progress of their complaints, the procedures that are being followed and a named contact. Is that something that you think has merit and that you would support? I understand that you have not had much time to digest the recommendations, but is it your instinct that that might be helpful?

Humza Yousaf: Where we can improve transparency, doing so in a way that is swift is important. There are suggestions about legislative change and so on. I am not dismissing them—I think that they are important—but, if we can do things relatively quickly that improve transparency and have the unanimous support and confidence of the public, we should look to do them.

As I said in my opening remarks, the current landscape is complex. That probably gives rise to some element of public suspicion—again, that is just a perception; I do not think that the complexity is deliberate. Some of the suggestions around a named contact and so on should be seriously considered by us all, and we must do what we can to improve any lack, or perceived lack, of transparency in the system.

Shona Robison: Do you think that a similar duty could be provided in relation to people who are the subject of complaints?

Humza Yousaf: Again, I think that we should give that some consideration. Dame Elish's report is clear about the effect that complaints can have on the person who makes the complaint as well as the person who is being complained about. It is important that, when we are talking about fairness and transparency, we do not forget that there are two sides to an allegation, and we have to ensure that the appropriate steps are taken to give the public confidence in the process and to ensure that the process is fair to everyone involved. We have to take a bit of time to reflect on the suggestions that are made to see how we can create that level of confidence and inject even further fairness into the system.

Shona Robison: The PIRC has expressed concern about the level of discretion that Police Scotland currently has in relation to how it categorises and investigates complaints in the first instance. We discussed the issue yesterday, particularly with regard to serious complaints having been inappropriately recorded. I do not know whether you have had a chance to reflect on what Dame Elish said. Is the PIRC's concern justified?

Humza Yousaf: Dame Elish made an interesting suggestion about the various stages and steps that should be taken with the most serious complaints that are made about senior officers. She said that, initially, the complaint should be triaged and, potentially, referred on. I

know that the commissioner has come in front of the committee on occasion and suggested that there is too much discretion and that the PIRC could have a further role.

My understanding from reading the report—I am happy to be corrected if I am wrong—is that Dame Elish does not consider the PIRC's proposed triage role to be necessary. She suggested that the PIRC should be using its powers to audit the complaints handling processes of Police Scotland and the SPA, and to carry out research, before a triage role is considered. We need to be careful that proposals relate to the quality of service and do not have the potential unintended consequence of creating additional bureaucracy that is not warranted for the vast majority of complaints. The PIRC having such a role would not be necessary, proportionate or logical. We need to weigh up such matters, but it was quite striking that Dame Elish did not give any further consideration to the proposed triage role.

Liam Kerr (North East Scotland) (Con): I want to ask about the investigation of criminal complaints. As you know, Police Scotland has discretion to decide whether a complaint is a criminal allegation and whether it should be referred to the Crown Office for independent investigation. Do you have a view on whether Police Scotland has been carrying out that process effectively? Has the Crown Office raised any concerns with you about that issue?

Humza Yousaf: First things first, there was a good reason why my predecessor jointly commissioned the review with the Lord Advocate. The Lord Advocate has written to Dame Elish Angiolini to thank her for her preliminary report, but he will determine the appropriate steps for the Crown Office and Procurator Fiscal Service to take. It is important to recognise his independent remit.

I noted that, in its report on the post-legislative scrutiny of the 2012 act, the committee welcomed the measures that were introduced by the Crown Office and Procurator Fiscal Service to provide reassurance that Police Scotland is identifying and reporting appropriate cases. I note that Dame Elish's report proposes that

"all ... allegations of excessive force should continue to be reported immediately by"

Police Scotland's professional standards department

"for instruction and investigation by the independent Procurator Fiscal or by PIRC on the direction of the Procurator Fiscal".

The committee has welcomed the measures to ensure that Police Scotland identifies and reports appropriate cases. Importantly, Dame Elish has given a serious suggestion on how to improve the

system further. Liam Kerr will forgive me if I take some time to reflect on that suggestion, but the recommendation should be given serious consideration.

The Crown will respond to the suggestion, and I will speak to the Lord Advocate in good time about the interim report. As Liam Kerr completely understands, decisions about criminal proceedings are entirely a matter for the Crown. The Lord Advocate fiercely guards the Crown's independence from political interference in that regard, and so he should. It is entirely appropriate that such decisions are left to the discretion of the Lord Advocate and the Crown.

Liam Kerr: You mentioned the measures that have been introduced. Have you had any feedback on those measures and their impact? Are we at that stage yet?

Humza Yousaf: I have not had direct feedback. I read the committee's report on the post-legislative scrutiny of the 2012 act, and I was quite comforted by what the committee said in relation to that matter. The evidence that the committee took and the reassurances that it received gave me great comfort.

I have not taken the conversation any further than that but, clearly, the Lord Advocate and I will chew the fat over the interim report. In his independent role, the Lord Advocate will take forward what is a matter for him, and other partner organisations and the Government will take forward what is a matter for them.

10:45

Liam Kerr: On a different topic, there is a concern about senior officers' complaints being identified in the media. To make sure that they are not identified, do the relevant regulations need to be amended, or is that not a concern at this stage?

Humza Yousaf: We should give consideration to that point. Dame Elish Angiolini was robust in saying that she had conversations last year with the PIRC about the fact that complaints becoming public can have a detrimental effect on public confidence, and that, since she had the conversations, the practice had ceased.

When it comes to changes in regulations, if you forgive me, I will take time to look over what Dame Elish has said. It is also important to recognise that she said:

"I will give further consideration to the whole question of privacy, the public interest and the role of the media in my final report, but welcome further views on this issue from the public and members of the press and media."

We should have the conversations, but Dame Elish takes the right tone in saying that, with cool

heads, we must have an honest conversation about the public interest—there will always be a public interest—and the role of the media in scrutinising the allegations. There is a role for the press not in investigation of the complaints but in relation to the public interest. We must also have an honest conversation about the rights of the individuals who are making the complaint and being complained about. They are not easy questions to answer but I welcome what Dame Elish has said so far. I welcome the conversations that she has already had with the PIRC. As Liam Kerr said, as times goes on, it is worthy of further discussion.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): I will ask a couple of questions about whistleblowing. I am not sure what level of detail the cabinet secretary will be able to go into. Police Scotland and the SPA already have whistleblowing policies. Have any concerns been raised with you as to whether those policies are fit for purpose?

Humza Yousaf: The interim report notes that Police Scotland recently published up-to-date guidance in order to allow officers to report concerns or to whistleblow. It also awarded a contract to Protect (Whistleblowing Advice) Ltd, which provides independent advice on whistleblowing matters.

That tells me two things: first, that Police Scotland noted that its whistleblowing procedures could be improved; and, secondly—and importantly—that it has taken credible action by bringing in that element of independence to improve procedures.

Dame Elish set out her intention to examine and explore whistleblowing processes. She said that she will take further evidence and advice from stakeholders. That will make up part of her final report.

Do I think that Police Scotland and the SPA's whistleblowing policies are fit for purpose? Yes, I do. However, Dame Elish will come back to the issue and, before we decide on potential next steps, it is important that we wait for that final report.

Jenny Gilruth: The PIRC told the committee that Police Scotland's policy

"does not provide any external confidential reporting system or mechanism"

and suggested that that could be helped by independent oversight by the PIRC. Should Police Scotland's whistleblowing policy have an external body, such as the PIRC, to police the police, as it were?

Humza Yousaf: Dame Elish's report suggests that protection for whistleblowers in policing could be enhanced

"by prescribing in legislation another Scottish third-party reporting body or person."

That is in the report, so we should give it consideration, but I do not want to take a view here and now about it. There is a firm suggestion about a potential third-party reporting body, so let us consider that. The review also took evidence from the PIRC, who suggested:

"legislative amendment could be made to provide the PIRC with 'prescribed person' status and legislative powers to independently investigate these matters".

As I said in answer to Jenny Gilruth's previous question, Dame Elish said that she will return to the matter in her final report. There are some weighty suggestions, but let us give her time to produce that final report before we consider the matter further. She has laid those suggestions on the table, and they will be the subject of conversation and discussion, but let us wait for the final report.

The Convener: One issue that has impacted on confidence in police complaint handling is the fact that police officers may retire or resign when a complaint or investigation is on-going. The committee heard that that brings non-criminal investigations to a halt and can be unsatisfactory for everyone involved. Do you agree that it is unsatisfactory and do you think that change is required to ensure fairness in the process for everyone involved?

Humza Yousaf: I completely understand the concerns about the fact that, when allegations are made, officers can choose to retire, which can lead to ambiguity around the investigating roles and powers. I am keen to reflect carefully on that. I understand that there are differing interpretations of the legislation, which refers to

"a person serving with the police".

If we can put that to bed and amend the relevant provisions at the earliest opportunity with, I hope, unanimous agreement with our partner organisations, we will give that careful consideration.

I agree with the convener's premise that the ambiguity and potential loophole to get out of investigations could have a detrimental impact on public confidence. Her very first question today was about whether we can move quickly on legislation where there is unanimous agreement. I suppose that this is one of the areas where we will look at the relevant provisions and see whether we can at least give some certainty where there is ambiguity.

The Convener: Although Dame Elish did not make a specific recommendation on the issue in her report, at paragraph 321 she says:

"there may be merit—for example in terms of the public interest in transparency and justice, and in line with the practice introduced in England and Wales by the Policing and Crime Act 2017—in allowing/requiring misconduct proceedings to operate, even after an officer has resigned and even if he ... is unable or unwilling to engage with the proceedings".

Will you consider that suggestion to try to resolve the issue?

Humza Yousaf: Where there is good practice for us to look at in jurisdictions elsewhere in the United Kingdom, we should look at it. I have always said that in relation to a variety of matters. I am often the first to mention that other jurisdictions look towards Scotland but, clearly, if we can learn from best practice, we should do so, although things cannot always be translated from England and Wales to Scotland. Paragraphs 319 to 322 in the report, which the convener referred to, will be given consideration. Again, you will forgive me if I do not commit here and now that we will absolutely do what is being asked, but we will take forward those conversations. There may be merit in Dame Elish's suggestions on that front.

The Convener: To turn the issue round and consider it in a different way, given the wide-ranging and complex nature of complaints, would there be merit in considering whether certain categories of complaint should not be discontinued on the retirement of officers?

Humza Yousaf: I would be careful about that. I understand where the convener is coming from. Let me go back to my answer to John Finnie. We could absolutely have a conversation about whether there is merit in pursuing grievance issues when a person retires. I would like to reflect carefully not just with our partner organisations but particularly with those who have an experienced background in HR about the implications of what is being suggested, including any potential unintended consequences.

At the forefront of my mind is ensuring that we have transparency, fairness and public confidence in the system—we should give very serious consideration to anything that enhances those.

The Convener: Given that you have said several times that the issue impacts on public confidence, are you disappointed that there is not a specific recommendation on it?

Humza Yousaf: I would not say that I am disappointed. For an interim report, it is a substantial and weighty document—there is a lot in there for us to reflect on. The changes that I hope we will make in relation to the interim report

alone will make a big difference to the complaints procedure and the handling of complaints.

I think that the public still have high confidence in complaints being investigated but, clearly, we cannot ignore what has happened over the past few years and the fact that it might well have dented public confidence.

I am not disappointed about the lack of such a recommendation. It is a weighty interim report with a lot in it, and I think that good changes will be made on the back of it. Of course, when the final report is ready for publication and is published, there will be a further round of discussions about what more we can do to improve the process.

The Convener: I thank the cabinet secretary. That concludes our evidence session. The committee appreciates the speed at which Dame Elish Angiolini completed her interim report and very much looks forward to hearing about the progress that the cabinet secretary makes over the summer, in particular in relation to implementing legislative changes, or persuading cabinet colleagues to make that a priority.

I wish you a restful summer and thank you again for appearing before us so soon after the publication of the report, cabinet secretary. We look forward to seeing you again after recess.

Humza Yousaf: Given that I have an eight-week-old baby, I am not convinced that I will have a restful recess. Nonetheless, I hope that you will think of me as you are sunning yourselves on the various beaches that you will no doubt be inhabiting. Thank you very much, and I look forward to seeing you on the other side of recess.

The Convener: That was an optimistic hope.

Humza Yousaf: Indeed.

The Convener: I briefly suspend the meeting.

10:58

Meeting suspended.

11:02

On resuming—

Scottish Biometrics Commissioner Bill: Stage 1

The Convener: Our next item of business is to take evidence at stage 1 of the newly introduced Scottish Biometrics Commissioner Bill. I welcome to the committee the Scottish Government's bill team. This is an opportunity for us to find out more about the purposes of the bill, which we will scrutinise in more detail. We have with us from the Scottish Government Elaine Hamilton, who is the bill team leader; Euan Dick, who is deputy director of the police division; and Louise Miller, who is from the directorate of legal services. I refer members to paper 2, which is a note by the clerk. I ask Elaine Hamilton to make some opening remarks on the bill. We will then move to questions.

Elaine Hamilton (Scottish Government): The purpose of the bill is to put in place new oversight arrangements for collection, use, retention and disposal of biometric data in the context of policing and criminal justice. By "biometric data", I mean fingerprints, DNA, other data that are currently being developed, such as facial recognition software, and any other forms of data that might emerge in the future that we cannot even imagine just now.

The oversight arrangements will focus on the creation of a new biometrics commissioner, who will have a range of functions. The oversight arrangements will apply to Police Scotland and the Scottish Police Authority. The bill allows a power for Scottish ministers to insert additional bodies, if that should be required in the future.

To ensure the impartiality of the postholder, the commissioner will be appointed by the Crown on the recommendation of Parliament. The commissioner will be accountable to Parliament for the performance of his or her functions and expenditure.

The need for independent oversight arises from the ethical, legal and human rights considerations that are associated with the use of biometric data. It is vital that the public have confidence in police use of biometric data. Given that biometric data and samples that are captured by Police Scotland may be taken without an individual's consent, it is all the more important to ensure that there is adequate protection of rights and independent oversight of the police's powers in that respect. The need for independent oversight has been identified in a number of independent reports—most recently, in the 2018 report, "Use of biometric data: report of the independent advisory group". The Scottish Government consultation that

followed the group's report also indicated broad support for those arrangements.

I turn first to the commissioner's general function, which is to support and promote the adoption of lawful, ethical and effective practices in relation to collection, use, retention and disposal of biometric data. That means that the commissioner will keep under review the law, policy and practice relating to biometric data in the context of policing and criminal justice.

The commissioner will also promote public awareness and understanding of biometric data, and of how police powers and duties are exercised, as well as how the powers and duties can be monitored and challenged.

The commissioner will prepare and promote a code of practice. In addition, his or her functions will include carrying out research and making recommendations in relation to any matter relevant to the Commissioner's function.

In carrying out those functions, the commissioner will be required to promote in particular the interests of children, young people and vulnerable adults.

I will say a bit more about the code of practice. The commissioner is to prepare a code of practice in consultation with a list of prescribed stakeholders including Police Scotland, the Scottish Police Authority, the Police Investigations and Review Commissioner, HM inspectorate of constabulary in Scotland and anyone else whom the commissioner considers to be appropriate. The code must then be approved by Scottish ministers and laid before Parliament. The content of the code can be reviewed at any time, but there must be a report on it every four years.

The bill requires that there be a code, but it does not specify what its content should be. That is important, because it will allow the commissioner to use his or her own judgment and the input of stakeholders to shape the code. We anticipate that the code will provide information and guidance that sets out the standards and responsibilities of Police Scotland and the SPA, with the aims of ensuring good practice, driving continuous improvement and enhancing accountability. The SPA and Police Scotland will be legally obliged to have regard to the code.

To enable the commissioner to perform his or her functions, the commissioner will have the power to request information. Should that information be refused, concealed or destroyed, the commissioner has a remedy to the Court of Session, which would consider the matter. If an order were to be made by the court, it would be contempt of court to ignore it.

Having considered information about collection, use, retention and disposal of biometric data, the commissioner may wish to make a recommendation. Should no response to the recommendation be forthcoming, the commissioner would reference that in a report to Parliament, which would be made public. Therefore, the sanction is to name and shame, so to speak.

In conclusion, we will have a commissioner who will encourage and support the fulfilment by Police Scotland and the SPA of their functions in a manner that respects fundamental rights, the law and ethics. That support will include promoting good practice, identifying systemic deficiencies and providing a measure of transparency, which together will promote public confidence in policing and in the criminal justice system.

The Convener: Thank you for those helpful opening remarks. Before I bring in John Finnie, I want to ask a question about behavioural characteristics. Can you give an example of what those would include?

Elaine Hamilton: Behavioural characteristics would include analysis of, for example, a person's gait or pattern of speech, such as a stammer—a defining characteristic in their behaviour. For example, if the person twitches or blinks, that could be helpful.

John Finnie: I thank Elaine Hamilton for her summary. I have a couple of questions, in particular about the status of the code of practice. It is very hard to predict the future, but four years on, if things go as expected, what status will the code have, what requirement will there be to adhere to it and what would be the sanction for someone who does not adhere to it?

Elaine Hamilton: The code of practice will set out the standards and responsibilities that will be expected of Police Scotland and the SPA. The expectation is that we will have in place internal systems to ensure transparency in how they exercise their powers, and that those powers will observe human rights and ethical considerations.

If the commissioner felt that Police Scotland or the SPA were not having regard to the code, the commissioner will be able to make a recommendation that they have regard to a certain part of the code. If Police Scotland or the SPA respond, the commissioner will consider that response. If the commissioner felt that they had not responded, that could be reported to Parliament and made public. There is therefore no legal sanction for failing to observe the code, but there is the sanction of reputational damage, which is a powerful one.

I have had discussions with Professor Wiles, the Commissioner for the Retention and Use of

Biometric Material for England and Wales, and know that he, too, does not have sanctions in terms of enforcement powers. However, he feels that he does not need enforcement powers and that having them would adversely affect his relationship with police forces. I understand that there might be concerns here about the commissioner not having teeth, but in practice that does not appear to be an issue. The provisions in the bill for naming and shaming appear to be adequate.

John Finnie: Would there be retrospective application?

Elaine Hamilton: No. The code of practice will come into effect on a day that will be set by regulations that the Scottish ministers will lay before Parliament under affirmative procedure.

John Finnie: Have you formed a view of what the public might think about the likelihood of compliance, given the Scottish Information Commissioner's and many other people's views of the legitimacy of Police Scotland's proposed deployment of cyberkiosks, and the fact that Police Scotland nonetheless considers it appropriate to go ahead with that deployment?

Elaine Hamilton: The cabinet secretary was clear when he appeared before the committee on 13 June that the legality of cyberkiosks is a matter for Police Scotland and the SPA. The bill's proposed remit for the commissioner includes looking at developing technologies and ensuring proper validation of them before they are deployed, and ensuring that human rights and ethical considerations are taken into account.

John Finnie: Okay. I will not push further on that. Thank you.

The Convener: Liam Kerr has a supplementary question.

Liam Kerr: What is driving the process? Have there been breaches—for want of a better word—with regard to what is mandated just now? If so, is how we move forward time critical?

Elaine Hamilton: There have not been such breaches. The Scottish Government's position is that Police Scotland and the SPA work to very high standards, and that there is no suggestion that the commissioner is required because of deficiencies in their performance.

As I mentioned in my introductory comments, there have been a few independent reports in recent years, including the independent advisory group's report in 2018 and a report by HMICS in 2016, both of which called for independent oversight arrangements. There have been independent oversight arrangements in England and Wales for a number of years now, so it is felt that there is a gap in Scotland.

If we consider the times in which we live, so many processes are now propelled by technology, particularly biometric technology, and the Scottish Government understands that the public will naturally be concerned about issues including privacy and the security of data. There has, therefore, been alignment of a number of factors here that make creation of the post of commissioner all the more appropriate.

11:15

Daniel Johnson: I would like to ask a supplementary before moving on to my substantive question. It follows on from the convener's question about behavioural characteristics. My question is about the definition of "biometric data" in the bill. I accept that the list of types of data that is provided in section 23(2) is a "may include" list, but it does not include behavioural characteristics.

A more important concern stems from the fact that much machine learning does not codify behavioural characteristics in terms of information, as such. There is a system that can identify such behaviours, but it cannot articulate what information is being held by people. I am concerned that the definition might not capture all the means by which people are identified by their behavioural characteristics. To what extent has the bill team looked into and covered off that issue? Are you confident that the definition is comprehensive?

Elaine Hamilton: The definition of "biometric data" was considered very carefully by the bill team. We wanted to offer a very broad and comprehensive definition that would allow future proofing, given the fast pace of technology. Ultimately, the definition that is provided in the bill is not meant to define biometric data generally; rather, it is provided for the purposes of the bill and for setting out the scope of the commissioner's remit.

To be clear, in the bill,

"'biometric data' means information about an individual's physical, biological, physiological or behavioural characteristics"

that may establish their identity either on its own, or when it is combined with other information. When we talk about information about a person's physical characteristics, that would include facial recognition. Information about biological characteristics would include a DNA profile, which can be derived from blood, saliva, hair and so on. Information about physiological characteristics would include vein patterns. As I mentioned earlier, information about behavioural characteristics could include a person's gait or speech pattern.

In offering the definition in the bill, we have tried to be as broad as possible. We have made the definition broader than existing definitions of biometric data, such as in the general data protection regulations, which focuses more on data that has undergone some sort of chemical process.

Daniel Johnson: The area is one that I would like to examine further as scrutiny of the bill progresses. There is an important difference between data and information, particularly when it comes to machine learning.

I will move on to my substantive question. The committee has taken evidence on the preliminary report on the handling of complaints against the police. Four bodies oversee or are involved in policing; indeed, if HMICS is included, it could be argued that we have five such bodies. The bill would introduce a sixth one. I note that the policy memorandum says that consideration was given to whether the functions of the proposed commissioner could be given to another body, such as the Police Investigations and Review Commissioner.

Is there concern that we are creating a crowded landscape for police governance? What steps have been taken with the bill to avoid that? Why was the idea of giving the functions in question to the PIRC, the Scottish Police Authority or some other body rejected in favour of creating a separate commissioner?

Elaine Hamilton: The regulatory landscape in Scotland includes the roles of HMICS and the PIRC. It is the policy of the Scottish ministers not to create a new public body unless there is an absolute need for it and the functions cannot be carried out by an existing body. To that end, a robust options appraisal was undertaken in May of last year, which considered existing bodies such as HMICS and the PIRC.

HMICS and the PIRC are certainly well established in their respective areas of expertise, but they do not have a remit across all areas of biometrics. If we were to widen their remit, that could lead to a loss of focus for them, and it could negatively impact on their perceived authority and credibility. On that basis, using an existing body was not considered to be optimal. To have added to the remit of either of those bodies would have represented a fundamental shift in their purpose.

Undoubtedly, HMICS and the PIRC have valuable roles to play, but the options appraisal identified that they were not ideally placed to take on an additional function such as this. The need for a new parliamentary commissioner was based on having a fresh approach to supporting improvements in the setting, monitoring and enforcing of standards. The option of a new body

scored the highest for benefits realisation, particularly around strengthened oversight and accountability of public services. It also offered the value of ensuring a proportionate and effective approach to biometric data and additional capacity to support world-class innovation research and development.

A new parliamentary commissioner would also function independently, with no perception of undue influence from policing-related bodies.

Those are a number of reasons why it was felt to be inappropriate to use HMICS or the PIRC, and why the optimal solution was to have a completely new parliamentary commissioner.

The Convener: When will the code of practice be available, even in a draft form?

Elaine Hamilton: The provisions of the bill are such that the code of practice is to be prepared by the biometrics commissioner in consultation with a list of prescribed bodies. The whole point of having an impartial commissioner is they will not be under the direction of Parliament or the Scottish ministers. It is therefore difficult for me to say exactly when the code of practice will be produced. I hope that it will be the new commissioner's top priority but, as I say, there is a requirement for the commissioner to prepare the code in conjunction with stakeholders, which always takes time. The code will then have to be approved by the Scottish ministers and laid before Parliament. There is therefore a time element to it.

There is existing material that could be drawn on to form the code. The Scottish Government prepared a concept of operations code that was part of its consultation last year, and the new commissioner could also choose to draw on the existing standards from the forensic science regulator, for example. One would therefore hope that the commissioner will not be starting off with a blank sheet, but we have to respect the postholder's impartiality, so I would not like to estimate when the code might be produced.

The Convener: It will be after the bill is passed and it will be introduced by secondary legislation.

Elaine Hamilton: Indeed.

The Convener: You mentioned raising awareness. Could you clarify whether that is about the role of the new commissioner or about the legislation itself and say how it is intended to raise public awareness?

Elaine Hamilton: Yes. One of the functions of the new commissioner will be to raise public awareness of police powers and duties in respect of biometric data. Because the post is impartial, it will be for the commissioner to decide how he or she will go about that. We would expect the commissioner to liaise with parliamentarians, with

various representative groups and with the media in order to raise awareness of rights and duties in respect of biometric data.

The Convener: That is quite a grey area. It sounds very good, but the detail of how you raise awareness in practice is not so clear. Is there a budget for doing that?

Elaine Hamilton: Yes. The financial memorandum sets out the costings for the bill. That particular part of the commissioner's role has been costed. There is a budget for publications and a budget for travel and subsistence, which will cover the costs of the commissioner travelling around the country, attending conferences or public meetings to provide information. There is a costing for that but not one specifically for public awareness raising—that is wrapped up in the travel and subsistence budget, the salaries and other administration costs.

The Convener: What is the budget?

Elaine Hamilton: The budget for travel and subsistence is £4,000 per annum. The administrative costs are £2,000 per annum. Do you wish to know the salary or remuneration costs?

The Convener: Why not?

Elaine Hamilton: The commissioner's remuneration is estimated at £57,000, and the staff salaries at £167,000, based on three full-time equivalents.

The Convener: Thank you—that is helpful.

That concludes our questioning. I thank the bill team for providing evidence today.

11:27

Meeting suspended.

11:28

On resuming—

Justice Sub-Committee on Policing (Report Back)

The Convener: Our next item of business is a report back from the meeting of the Justice Sub-Committee on Policing that took place on 13 June. I refer members to paper 3, which is a note by the clerk, and I invite John Finnie to present his report.

John Finnie: On 13 June the Justice Sub-Committee on Policing took oral evidence on Police Scotland's proposal to introduce the use of digital device triage systems, commonly known as cyberkiosks, to search mobile phones. That session was held with the Cabinet Secretary for Justice.

The cabinet secretary told the sub-committee that it is for Police Scotland and the Scottish Police Authority to satisfy themselves that they have the legal basis to proceed in deploying cyberkiosks, adding that,

"if there is a difference in opinion in relation to the law, it would be up to the courts to make a determination",

although he said that he was

"not advocating that approach".—[*Official Report, Justice Sub-Committee on Policing*, 13 June 2019; c 5.]

The cabinet secretary explained his intention to form an independently chaired reference group to scope the possible legal and ethical issues arising from new and emerging technological developments. He confirmed that the group could also consider existing technologies, such as cyberkiosks. The intention is that the work of the group will be open and transparent, and that ethical and human rights considerations will be central to its work.

11:30

The cabinet secretary confirmed that he is confident that lessons had been learned from the proposal to roll out cyberkiosks, and that Police Scotland has the necessary processes in place to provide confidence and reassurance to victims and witnesses of a crime whose phones may be searched.

However, the cabinet secretary also acknowledged that Police Scotland had been unable to address the concerns raised by the Scottish Human Rights Association and the Information Commissioner's Office, telling the sub-committee that

"it is incumbent on Police Scotland and the SPA to do their utmost to give as much confidence as possible to the public".—[*Official Report, Justice Sub-Committee on Policing*, 13 June 2019; c 16.]

prior to deploying cyber kiosks.

The evidence session was the final one on the issue prior to the summer recess. I understand that Police Scotland intends to deploy cyberkiosks in late summer.

The Convener: There are no questions from members. Thank you for that report, John.

Before we conclude in public, as this is the last meeting of the Justice Committee before the summer recess, I take this opportunity to wish everyone a restful summer. We will return in September.

I will also take a moment to express on the record the committee's thanks to the longest-serving member of our clerking team, Christine Lambourne. Christine will be retiring from the staff of the Scottish Parliament at the end of the month, having supported the work of the Justice Committee over the past three sessions—she must have a medal for that, and I believe that it is something of a record. Well done for that. Christine's dedicated and professional approach to her work has won her the respect and gratitude of all those she has worked with over the years—both past and present committee members—and her work behind the scenes has contributed immensely to the smooth running of our committee and our meetings.

Christine, on behalf of the members of the Justice Committee, I say thank you and wish you the very best for the future.

I ask John Finnie to say a few words on behalf of the Justice Sub-Committee on Policing.

John Finnie: There will be very few words, as the committee convener has covered it comprehensively—Christine's continual support, often in the face of very testing time schedules, and her professionalism. I am—despite sitting with my back to Christine—very grateful for all her support. I give my personal thanks to Christine, who has been very helpful to me.

The Convener: With that, I bring the public part of the meeting to a close. We will continue in private.

11:32

Meeting continued in private until 11:55.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba