

Bell College
Scottish Centre for Police Studies

SUPPORTING POLICE : PROTECTING COMMUNITIES
SCOTTISH EXECUTIVE CONSULTATION PAPER

1. The traditional basis of the work of the police in Scotland, as in the UK as a whole, is the principle of 'policing by consent', that police forces operate with the support and co-operation of the public and that effective delivery of police services is dependent on that consent. In our opinion, the two key areas of the present consultation paper which relate to this fundamental principle are those sections dealing with the national delivery of services and the establishment of an independent police complaints system. Our response therefore focuses on these two themes.

National Delivery of Service

2. Paras. 2.1 to 2.3 refer to the review of the structure of Scottish policing and the recommendation that the present system of eight forces should remain unchanged. Unfortunately, this appears to have been an entirely internal review and the arguments both for and against either a reduction in the number of forces or some form of national police forces have never been officially aired in public. Despite calls for such a debate going back to 1998 when the issue was raised by the then Secretary of State for Scotland, the late Donald Dewar, more recent calls for discussion from some past and present chief constables in Scotland, and the very open arguments in England, especially from the Police Superintendents' Association there calling for 'a bold and radical step to deal with the present and prepare us for the future', the issues have never been seriously discussed in Scotland. The lack of a serious, open and transparent debate on policing and police structures in Scotland is, in our view, a major weakness in trying to shape the national delivery of services for the 21st century.
3. Analysis of how policing in Scotland has developed over the past decade demonstrates clearly that the developing model of Scottish policing is now less one of tripartism, i.e. central government, local government and the chief constable as equal

contributors, and has even gone beyond simple partnership arrangements. It is more one of 'multi-tiered policing' which demands mutual co-operation, mutual compliance and mutual accountability of a wide range of parties involved. This multi-layered approach includes -

- General public policing by 8 independent forces
- Local municipal enforcement by, e.g. community wardens, support officers, volunteers
- National strategic- and policy-bodies, e.g. ACPOS, SOCA, National Intelligence Model
- Common police services
- National policy- and strategy- making bodies
- Public sector multi-agency partnerships
- Private security industry.

4. There is an argument that suggests that, in very broad terms, we already have a national service in Scotland in all but name. The fact that this is not fully acknowledged, as in the present consultation, within a properly constructed national framework is the source of some of the present difficulties, such as the position of the common police services, the constitutional position of the SDEA, and the fragmented approach to effective delivery of operational policing, which risk confusing the public as to who does what and who is responsible to whom.
5. The proposals for a Service Authority Board, essentially to run the three common police services (SPC, SCRO and SPIS), is certainly a step in the right direction in that it clarifies where responsibility for such services lie. However, the model adopted resembles the notion of a 'ninth force' which was spoken of some years ago, the governance of these services being organised in a similar fashion to a Scottish police force, except under a senior strategic officer rather than a chief constable. As well as creating a further layer of management, it is unclear how this post will be able to bring together the very diverse and at times quite specialised set of services into a common strategic direction. Further, the proposed model appears to replicate the tripartite system used at local police board level (centrally-appointed chair and lay members/local government convenors/ACPOS) at the very time when serious questions are being raised about the capacity of such a structure to fulfill the tasks either of acting effectively to monitor and scrutinise or of effectively holding such services to account. In particular, the distinction made in the paper (and the diagram on p.13) between the roles of the Service Authority in 'providing' common services and 'maintaining' SDEA is unclear and, probably, unhelpful.

6. The proposed role and governance of the SDEA rightly receives considerable attention in the paper. The future role of the SDEA will be as a major national force in the fight against serious and organised crime, drugs and an array of associated national responsibilities, such as money laundering, Scottish crime intelligence, witness liaison, computer crime, illegal people trafficking, the sex trade, and terrorism. It is important to note that the present role of the SDEA, in gathering and disseminating drug intelligence and with a limited operational role which still relies heavily on local forces, and its future responsibility for all serious and organised crime and other criminal operations across Scotland are quite distinct. To combat these challenges the SDEA will have to function as a full national operational service, interfacing with the eight Scottish forces, UK national police bodies and EU and international groups. Taking seriously the present and future threats to the Scottish community, evidence suggests that the police service is and will continue to be in overload in terms of the reasonable resources available to it, future demographic trends and public demands being made on policing. It is therefore critical that the SDEA Director has full control over his resources, including training, recruitment, retention and deployment. The Scottish Executive's proposals go some way to satisfy these needs, but not enough. For example, how much is the Director in overall operational command and control of resources which will be superimposed onto the eight police forces ? How much of a say will the eight chief constables have in the SDEA operations in their force area ? There is a fuzziness in the present proposals and it is not entirely clear whether or not the Director has full autonomy over operations and resources. If the Director has full autonomy then should his rank be equivalent to a chief constable? It may be that any alternative to full autonomy for the Director in the fight against national crime and drugs could lead to conflict and disagreement between chief constables and the SDEA. This also ignores potential constitutional problems that may arise from the powers of the Westminster Parliament in relation to the workings of SOCA and the security agencies in Scotland.

Independent Police Complaints Body

7. Both in the UK and beyond Scotland is increasingly out of step in not having an independent body to deal with complaints against the police. This position has become difficult to sustain with the establishment of a revised police complaints authority for England and Wales and the creation of a police ombudsman in Northern Ireland. The proposal to establish an Independent Police Complaints Body for Scotland is therefore to be unequivocally welcomed.

8. In relation to criminal complaints against police officers, the proposals do not appear to change the existing procedure to any great extent. While recognising that the decision to prosecute lies with the Fiscal, the investigation of any complaint still remains with the police. The recommendations are vague in terms of what will actually be different from the existing procedure (e.g. 'encourage more proactive involvement', 'seek the appointment . . . from another police force in appropriate circumstances'). It is understandable that the Crown Office will feel comfortable working with police officers that they interact with on a daily basis, but the recommendations appear, in terms of the rhetoric of the consultation document, to be minimal.

9. In relation to non-criminal complaints, much is made of the independence of the proposed Police Complaints Commission. The detail of its remit and powers suggest, however, that the independence of the new Commission runs the risk of being compromised, for example in

- referring complaints to 'the appropriate authority' – who is this ?
- in not being the sole gateway for complaints
- in having the power only to 'call for reports . . . of concern to the Commission' – what are these ?
- not having powers of independent investigation
- in having the power only 'to get involved in' certain categories of complaints.

In other words, a new body is created, but it has to operate within very imprecise parameters and with very limited powers. This compares quite unfavourably with the powers put in place to support the independence of police complaints bodies elsewhere.

10. Three further, more specific comments on police complaints. Firstly, the extension of the work of the proposed Commission to cover police support staff and other law enforcement agencies is a significant step forward in relation to establishing the accountability of the wider mix of workers who now operate within the context of policing. Secondly, there is no mention of situations in which complaints against police officers are terminated because of decisions on early retirement, which seems to occur more often than the public would like, and what might be done about that. Thirdly, in noting that the proposed Commission would replace some of the current responsibilities of HMIC, nothing is said about the position of HM Lay Inspector of Constabulary, who is given a specific remit in force inspections for looking at complaints, and whether or not the proposed changes affect the role, duties or appointment of this independent part of the inspection system.

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