



HM INSPECTORATE OF CONSTABULARY IN SCOTLAND

Thematic Inspection of the Scottish Police Authority

September 2019



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HM Inspectorate of Constabulary in Scotland

HM Inspectorate of Constabulary in Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012 and has wide ranging powers to look into the 'state, effectiveness and efficiency' of both the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA).¹

We have a statutory duty to inquire into the arrangements made by the Chief Constable and the SPA to meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the SPA or Police Scotland as they consider appropriate. We also have an established role in providing professional advice and guidance on policing in Scotland.

- Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions
- The SPA and the Chief Constable must provide us with such assistance and co-operation as we may require to enable us to carry out our functions
- When we publish a report, the SPA and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit
- Where our report identifies that the SPA or Police Scotland is not efficient or effective (or best value not secured), or will, unless remedial measures are taken, cease to be efficient or effective, Scottish Ministers may direct the SPA to take such measures as may be required. The SPA must comply with any direction given
- Where we make recommendations, we will follow them up and report publicly on progress
- We will identify good practice that can be applied across Scotland
- We work with other inspectorates and agencies across the public sector and co-ordinate our activities to reduce the burden of inspection and avoid unnecessary duplication
- We aim to add value and strengthen public confidence in Scottish policing and will do this through independent scrutiny and objective, evidence-led reporting about what we find

Our approach is to support Police Scotland and the SPA to deliver services that are high quality, continually improving, effective and responsive to local needs.²

This report was undertaken by HMICS in terms of Section 74(2)(a) of the Police and Fire Reform (Scotland) Act 2012 and is laid before the Scottish Parliament in terms of Section 79(3) of the Act.

¹ Chapter 11, Police and Fire Reform (Scotland) Act 2012.

² HMICS, [Corporate Strategy 2017-20](#) (2017).



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Our inspection

The aim of this inspection³ was to assess the effectiveness and efficiency of the Scottish Police Authority in terms of fulfilling its core role. It scrutinised how the Scottish Police Authority is meeting its statutory obligations under the Police and Fire Reform (Scotland) Act 2012 and as a public body.

The inspection examined issues relating to the SPA in terms of its role, responsibilities and relationships with Police Scotland, Scottish Government, Scottish Parliament and the separation of politics from policing.

The inspection included a comparative overview of different police governance models in other jurisdictions, which identified three main models of governance:

- Centralised direct democratic model where the responsibility for police governance sits with the relevant Minister or government department
- Power-sharing model where the powers of police governance are shared between local and central government
- Centralised model where the responsibility for police governance is delegated to an independent or arms-length Policing Authority or Joint Board.

The work included consideration of how these different models operate in practice, how powers of governance are shared between key stakeholders, and how the balance between the operational responsibility of chief officers and legitimate democratic oversight is achieved, all of which are relevant to an assessment of the governance arrangements for policing in Scotland.

The Scottish Parliament's Justice Committee has scrutinised the extent to which the policy objectives of the Police and Fire Reform (Scotland) Act 2012 have been realised, finding the Act to be largely fit for purpose. The Justice Committee's report included a recommendation that HMICS evaluate the changes being made by the Scottish Police Authority to address leadership, governance and accountability concerns to determine whether they have been addressed effectively.

There is consensus from key post holders in the Scottish Police Authority, Police Scotland, Scottish Government, and other stakeholders that the Police and Fire Reform (Scotland) Act 2012 establishes the right model of centralised governance of police by an independent police authority, and that the functions of the SPA are sound. Where the difficulty arises is in the interpretation and implementation of the Act.

It has been suggested to me that the governance of policing in Scotland is an innovative model, and that the SPA differs from other public bodies. This leaves room for people to have different interpretations of the 2012 Act and how it relates to Scottish Government guidance for members of all statutory boards, and potentially to suggest that the role of the Chief Constable, as the person in charge of the operational delivery of policing in Scotland, is similar to that of a Chief Executive in many other public bodies. HMICS is clear that the Scottish Government's "On Board" guidance for all statutory boards applies to the relationship between the SPA Board and the SPA Chief Executive, and to its relationship with the Chief Constable.

³ HMICS, [Thematic Inspection of the Scottish Police Authority – Terms of Reference](#), 1 March 2019.



HMICS has found evidence of genuine progress at the Scottish Police Authority over the past 18 - 24 months. The appointment of experienced and talented individuals to both the Police Scotland senior leadership team and to the SPA Board, is a significant achievement. A new governance framework with a focus on transparency and accountability was put in place in May 2018 and is now being reviewed to address a number of areas for improvement and reflect the ever-changing policing landscape.

However, HMICS has found that challenges remain in terms of fulfilling the core statutory role of the SPA six years after it was first established. There have now been three different Chairs of the SPA, each of whom has had a different view about how the organisation should fulfil its statutory functions. This leads to confusion about how the SPA should fulfill its governance role, and the low response rate to our public survey shows that few members of the public understand or are interested in the work of the SPA. This varying interpretations of the Act over the years has also caused uncertainty for staff at the SPA.

A smaller SPA corporate function, supporting the SPA Board as non-executive members, is a model worthy of further consideration. The Act does not specify how the SPA should discharge its functions and there is no explicit requirement for the SPA to contain all the functionality itself, rather it can utilise existing resources in other organisations or directly commission services.

A recurring theme, particularly shown in the case studies offered in the report, is the limited ability of the SPA Board to recognise issues of significant public interest and effectively to hold Police Scotland to account for decisions that impact on communities.

SPA Forensic Services continues to feel different from the rest of the SPA, and I offer some views on the inherent conflict of interests presented by the SPA being both a service provider to and a scrutiny body of Police Scotland.

During the inspection, a number of issues emerged that are outwith the scope of the HMICS terms of reference, which I have raised directly with the SPA Chair and the Scottish Government for their attention.

Whilst progress and improvements have been made in the SPA over the last 18 – 24 months, I consider that the SPA still requires to fully demonstrate the value it adds to policing in Scotland through its statutory role and relationships. I am confident that with the right leadership and supporting resources in place this can be achieved.

I would like to thank all those who participated in and facilitated our inspection. The inspection was led by Tina Yule, Lead Inspector, supported by other members of the HMICS team.

Gillian Imery QPM

Her Majesty's Chief Inspector of Constabulary
September 2019



Key Findings

Capacity to deliver

- There have been significant efforts to redesign and develop the approaches to recruitment of chief officers and new Board members by the Scottish Police Authority resulting in a number of successful recruitment exercises.
- The current SPA Chair and Board members bring a wealth of experience and skills from a range of professional backgrounds that can usefully be brought to bear on the governance of policing.
- Issues of constrained capacity and capability within the SPA corporate function have been raised consistently over the years, but despite numerous past recommendations to tackle structural issues, there has been limited progress. This lack of pace has had a profound effect on a number of staff in terms of morale and wellbeing, compounded by recent public assertions in the Chair's reports to the Board.

Governance

- SPA has made a number of changes and improvements over the last 18 - 24 months to improve the overall system of governance, including a revised Committee structure, a new Governance Framework, Standing Orders and Scheme of Delegation. However many aspects are under-developed and much work is still required.
- The implementation of the role of Chair and its associated responsibilities, remains subject to interpretation. This is reflected in the differing approaches taken by each of the three Chairs, each of whom has rooted their interpretation in the legislation and developed both their leadership approach and the governance framework to suit that interpretation.
- The Chair and a number of Board members are acting well outwith their core non-executive role, contrary to agreed job descriptions and guidelines set out in On Board guidance.
- A number of reserved matters⁴ relating to policing remain controlled by central government resulting in anomalous relationships, accountability and lack of clear locus for the SPA.
- Some local authorities remain concerned that national policy decisions, and their impact locally, are not the subject of effective engagement and consultation and that there is a disconnect between local scrutiny and the SPA Board.
- The SPA has improved its visibility and engagement with local authorities and has recognised the need to improve its overall approach, but has no current communications and engagement strategy or plan, setting out its wider programme of engagement activity with clear aims, objectives and outcomes.
- There is a lack of clarity as to the continuing role and remit of the Justice Sub-Committee on Policing which some consider to be duplicating, or compensating for, the role of the SPA in scrutiny, and often focusing on operational matters.

⁴ In the United Kingdom reserved matters and excepted matters are the areas of public policy where the UK Parliament has retained the exclusive power (jurisdiction) to make laws (legislate) in Scotland, Wales and Northern Ireland.



Maintenance of the police

- Recent SPA financial reporting shows a definite improvement in the quality of information being produced, but concerns remain about the ability to balance its budget and meet longer term strategic objectives.
- Strategic workforce planning, an essential component of effective resource management, is under-developed.
- Effective engagement with staff associations and unions in the system of governance is very limited with little opportunity for engagement directly with the SPA Board to inform decision-making.
- There is a continuing lack of maturity in the current approach to the governance of change and transformation with effective scrutiny still not taking place over two years since the launch of the 'Serving a Changing Scotland' strategy and 18 months since the transformation programme was first considered by the Board.
- Given the financial challenges facing policing, there are limitations on the ability of the SPA to effectively discharge its maintenance function. However the SPA has been aware of the extent of these challenges for some considerable time and has failed to advocate this position effectively on the national stage.

Promoting the policing principles

- There is no clear vision, strategy or plan in place for the SPA resulting in a lack of wider understanding of the intended outcomes and steps which require to be taken to achieve the Board's vision.

Promoting and supporting continuous improvement

- Improvement is being driven in a number of settings by the SPA, but interpretation of this function was varied and capacity for continuous improvement was limited in both the SPA and Police Scotland. There is no system-wide approach to organisational learning and a lack of focus on key areas of strategic risk.

Keep under review and hold to account

- There is a wide variance in expectation regarding the role of the SPA, a perception pervades of a passive approach from the SPA and a lack of rigour or effectiveness in holding the Chief Constable to account.
- A lack of effective impact assessment of some operational policing policy decisions has given rise to a number of reputational issues.
- The lack of effective policing performance reporting has to date been a major obstacle to effective SPA scrutiny, supporting continuous improvement and holding to account.

Providing services

- There is a fundamental conflict of interest in the SPA being both a service provider to and scrutiny body of Police Scotland and limited attention has been given to previous recommendations to review delivery options for both Forensic Services and the Independent Custody Visiting Scheme.



Recommendations

Recommendation 1

The Scottish Police Authority Chief Executive should lead and expedite the implementation of a new Scottish Police Authority corporate structure and ensure an appropriate focus on existing staff wellbeing.

Recommendation 2

The Scottish Government should clarify in what respects the Scottish Police Authority differs from other public bodies and specify the implications for the system of governance for policing.

Recommendation 3

The Scottish Government and the Scottish Police Authority should undertake an immediate review of the roles of the Chair and Board members in executive work, in line with principles of good governance, empowering the Scottish Police Authority executive team to assume operational management of the organisation.

Recommendation 4

The Scottish Government, the Scottish Police Authority and Police Scotland should develop a clear system of engagement and governance for reserved policing matters.

Recommendation 5

The Scottish Police Authority should proceed to formally co-opt COSLA to their Board and appropriate Sub-Committees in order to enhance the link between local and national policing.

Recommendation 6

The Scottish Government, the Scottish Police Authority and Police Scotland should review the designation of Accountable Officer(s) within policing.

Recommendation 7

The Scottish Police Authority should implement effective engagement and feedback mechanisms with staff associations and unions as part of a wider stakeholder engagement and consultation approach.

Recommendation 8

The Scottish Police Authority executive team should develop proposals for effective governance of change and transformation, bringing forward proposals as a matter of urgency.

Recommendation 9

The Scottish Police Authority executive team should develop and secure approval from the Board for a new corporate plan.

Recommendation 10

The Scottish Police Authority should further develop its self-assessment and performance monitoring approach to include examples and measures of the Scottish Police Authority's own impact on continuous improvement.

Recommendation 11

The Scottish Police Authority requires to set out in detail how it will exercise its duty to hold the Chief Constable to account through its system of governance.



Recommendation 12

The Scottish Police Authority and Police Scotland should develop a forward planning system of proactive risk awareness and post-implementation scrutiny for policing policy changes which are likely to have an impact on public confidence.

Recommendation 13

The Scottish Police Authority should review the role of the Forensics Committee to work effectively with other Scottish Police Authority Committees and review the optimum governance and delivery options for Forensic Services.

Recommendation 14

The Scottish Police Authority should improve visibility of the work of the Independent Custody Visiting Scheme, direct scrutiny of custody arrangements and outcomes for detainees. It should also review the optimum governance and delivery options for the Independent Custody Visiting Scheme.



Background

1. The Scottish Police Authority (SPA) was established under the Police and Fire Reform (Scotland) Act 2012⁵ ('the Act') and its main functions are:
 - To maintain the Police Service;
 - To promote the policing principles;
 - To promote and support continuous improvement in the policing of Scotland;
 - To keep under review the policing of Scotland; and
 - To hold the Chief Constable to account for the policing of Scotland.

2. A number of other statutory responsibilities are set out for the SPA within the Act which include:

<ul style="list-style-type: none">■ Be proportionate, accountable and transparent■ Enter into contracts■ Comply with Ministerial directions■ Appoint senior officers■ Provide forensic services to Police Scotland and COPFS⁶■ Develop a strategic police plan	<ul style="list-style-type: none">■ Deliver best value and continuous improvement■ Produce an Annual report■ Provision of goods and services■ Charging for services■ Make arrangements for an Independent Custody Visiting Scheme
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3. Whilst the SPA is required to fulfil these functions and responsibilities, the Act does not prescribe how they are to be fulfilled or delivered and does not explicitly state that the SPA as an organisation must have the capacity and capability within its own organisation to directly meet these obligations.

4. The original policy intentions and aims of reform behind the Act were to create a single police service:
 - To protect and improve local services despite financial cuts, by stopping duplication of support services eight times over and not cutting front line services
 - To create more equal access to specialist support and national capacity – like murder investigation teams, firearms teams or flood rescue – where and when they are needed
 - To strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more local councillors and better integrating with community planning partnerships.

⁵ [Police and Fire Reform \(Scotland\) Act 2012](#).

⁶ COPFS - Crown Office and Procurator Fiscal Service.



5. The Act was intended to provide a clear statutory framework for national governance including clear roles and responsibilities for the Scottish Ministers, the SPA and the Chief Constable. This responded to consultation feedback which identified the need for robust arrangements which ensured clear separation between the Scottish Ministers and the services being provided. In particular, the Act intends that the Chief Constable is free from undue political influence in making decisions about the investigation of crime. The Act also ensures that the office of the Chief Constable is distinct from the SPA with all constables under the direction and control of the Chief Constable.
6. As set out in the Act, the SPA is established as a body corporate in the 'Other Significant National Body' category and is therefore a non-departmental public body (NDPB) and required to operate under a clear set of governance parameters. HMICS acknowledges that the SPA has a number of unique characteristics which must be considered when assessing its system of governance. Primarily this relates to the Act giving the Chief Constable a number of direct statutory responsibilities, which are not delegated by the SPA, but are aligned to the office of the Chief Constable.

HMICS approach

7. HMICS has consistently set out a position which expresses a need for a balanced system of governance and accountability for policing in Scotland. Our reports demonstrate that governance over policing is a complex endeavour, with an extensive landscape of stakeholders attempting to exert influence and accountability. HMICS accepts that any system of governance is likely to have associated risks and issues, but views that it should be possible within a country the size of Scotland with a single national police service, to successfully implement an effective and efficient model.
8. Since the creation of the SPA and Police Scotland in 2013, HMICS has consistently raised a number of issues in our annual reports and thematic inspections regarding governance. These include:
 - The need for absolute clarity and understanding of relative roles, responsibilities and accountability and in particular where boundaries lie between the SPA, Police Scotland and Scottish Government
 - Local and national demand are properly balanced, resourced and prioritised
 - Governing bodies having appropriate capacity, capability and competence to exercise their functions
 - Exercise of effective support and scrutiny
 - Balanced democratic representation and input.
9. HMICS has endeavoured through our inspection methodology (see terms of reference) to focus on the strategic role of the SPA through the lens of their statutory duties. We have undertaken interviews with all SPA Board members, SPA executive team, Police Scotland senior management team, Scottish Parliament, Scottish Government, staff associations and unions. We have also engaged directly with COSLA (Convention of Scottish Local Authorities) on behalf of local authorities and with other scrutiny bodies. HMICS undertook a public questionnaire between 24 June and 19 July 2019,⁷ receiving 83 responses, the majority of those from staff.
10. HMICS has also placed reliance on the work of a number of other scrutiny bodies and their reports which are individually referenced within this report. They include Audit Scotland, the Police Investigations and Review Commissioner (PIRC), the Information Commissioners Office (ICO) and internal auditors Scott-Moncrieff.

⁷ HMICS, [Press release - HMICS launches online questionnaire about the role of the Scottish Police Authority \(SPA\)](#), 24 June 2019.



Comparative analysis

11. As part of its policy development process, the Scottish Government considered a number of alternative approaches to national governance of policing. It examined a range of governance structures for both fire and rescue and policing in other countries and hosted an international summit on policing to explore this further in August 2011. It considered structures common in countries such as Finland and Denmark. This comparative analysis assisted in shaping the consultation on structural options for the governance of policing.
12. HMICS is also aware that elements of benchmarking have been undertaken as part of the Scottish Government funded research on Police Reform⁸ and as part of the recent Justice Committee post-legislative review (Norway). These activities have primarily focused on the process of reform and transformation.
13. In order to provide independent updated comparative information, HMICS commissioned desk-based research⁹ across a number of jurisdictions in the UK and abroad to assess which governance models remain in place and the relative benefits and dis-benefits of their ongoing operation. This has identified three main models of governance:
 - Centralised direct democratic model (Chief Constable accountable to a government minister or government department/division)
 - Power-sharing model where the powers of police governance are shared between local and central government (includes locally elected Police and Crime Commissioners)
 - Centralised model where the responsibility for police governance is delegated to an independent or arms-length policing authority or joint board.
14. The research considered models in England and Wales, the Netherlands, Republic of Ireland, Northern Ireland, Finland and New Zealand. HMICS also examined national arrangements in the National Crime Agency (NCA), British Transport Police (BTP) and Scottish Fire and Rescue Service (SFRS).
15. High level analysis of these models identified a number of key factors in delivering effective governance:
 - Clarity of roles and responsibilities (set out in legislation and supporting protocols and codes of practice)
 - Openness and transparency – flexible approaches minimising bureaucracy
 - Robust performance management arrangements (for both policing and for governance bodies)
 - Clear local arrangements for participation, engagement, delivery and accountability.
16. HMICS will refer to our research findings throughout this report where appropriate to inform our judgements and recommendations for improvement. HMICS has also examined a number of governance case studies as part of our inspection to provide examples where relevant to our findings.

⁸ Scottish Government, [Research - Police and Fire Reform](#).

⁹ Dr Ali Malik, [Comparative overview of police governance arrangements](#), April 2019.

17. The Scottish Fire and Rescue Service was established as a single organisation by the Act to provide fire and rescue services across Scotland, and includes a Board. The SFRS is a 'body corporate' in its own right and employs a Chief Fire Officer. Scottish Ministers appoint the Chair and members of the Board and have a statutory duty to prepare a Fire and Rescue Framework for Scotland¹⁰ setting priorities and objectives and providing guidance to the SFRS on the execution of its functions.
18. The Fire and Rescue framework, whilst still being a high level document, provides a more prescriptive basis for governance and delivery than the strategic policing priorities. With the SFRS Board and delivery operation being one body, this also improves understanding of roles and responsibilities. Whilst the levels of complexity and sensitivity differ, specifically in terms of the need to separate politics from policing, there is value in the clarity provided by the Fire and Rescue framework. It is a fact that the SFRS reached a sustainable system of governance soon after its establishment.

Justice Committee review

19. The Justice Committee, Justice Sub-Committee on Policing and Public Audit and Post-Legislative Scrutiny (PAPLS) Committee have played a significant role in the scrutiny landscape for policing since the establishment of the SPA and Police Scotland. The key role of the Sub-Committee is to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing.
20. On 1 April 2018 the Justice Committee issued a call for written evidence to review whether the policy objectives of the Act had been delivered.¹¹ The Committee published its report on 25 March 2019¹² and set out a number of recommendations for the SPA, Police Scotland and the Scottish Government.
21. In terms of the original policy commitments, the Committee found that whilst more equal access to specialist support and national capacity was a success story, the intent to protect and improve local services (by stopping duplication of support services and not cutting front line services) had only been partially met. The Committee also found that the intent to strengthen the connection between services and local communities had not been consistently met. However on the whole, apart from a review of the police complaints process,¹³ there were limited changes to be considered in terms of the Act.

Developments in the SPA

22. The former Chair of the SPA Board resigned on 13 June 2017.¹⁴ A new Chair was named on 16 November 2017 and took up post on 4 December 2017 for a four year appointment.
23. The role of Chief Executive Officer was made redundant on 1 September 2017¹⁵ with the incumbent taking early retirement and remaining in post until the completion of the 2016-17 annual accounts process. A new Interim Chief Officer was appointed on 25 October 2017 on a 12-month secondment from the Scottish Government and took up post on 13 November 2017. The Interim Chief Officer left the SPA in November 2018 having developed and implemented an improvement plan and received approval for a new SPA structure.¹⁶ A new Chief Executive took up post in October 2018, undertaking a month of induction and handover activities. The Chief Executive resigned in September 2019 after a period of sickness absence.

¹⁰ Scottish Government, [Fire and Rescue Framework for Scotland](#), 1 September 2016.

¹¹ Scottish Parliament, [Justice Committee - Call for evidence on the Police and Fire Reform \(Scotland\) Act 2012](#), 1 April 2018.

¹² Scottish Parliament, [Justice Committee - Report on post-legislative scrutiny of the Police and Fire Reform \(Scotland\) Act 2012 - The Police Service of Scotland](#), 25 March 2019.

¹³ Scottish Government, [Police complaints handling, investigations and misconduct issues: independent review](#).

¹⁴ SPA, [Letter of resignation from SPA Chair to Cabinet Secretary](#), 13 June 2017.

¹⁵ SPA, [News: SPA Board to Strengthen Oversight of Forensic Services](#), 24 August 2017.

¹⁶ SPA, Board meeting Item 19 - SPA Capacity and Capability Business Case, 31 May 2018 (private paper).



24. The new Chair clearly set out their planned approach in a number of settings which included stating their commitment to ensuring that the SPA fulfills its statutory role and functions as effectively as possible with a key focus on helping drive improvement and change in Scotland's police service. In the SPA's submission to the Justice Committee meeting of 23 January 2018¹⁷ the new Chair set out a number of guiding principles for development and improvement.
25. The SPA Board has shared objectives in place, which were approved in October 2018¹⁸ and cover the period until March 2020. It has committed to refreshing these regularly to adapt to any changes in the context in which the SPA and Police Scotland operate. The objectives are grouped into four categories: Strategy, Scrutiny, Support and Communication.¹⁹
26. There is no current organisational vision or corporate strategy or plan in place specifically for the SPA. A Strategic Police Plan ('Serving a Changing Scotland' Strategy) was approved in 2017,²⁰ which sets out four strategic priorities for policing.
27. Whilst there is no current improvement plan in place, a one year SPA Improvement Plan 2018/19²¹ was agreed by the SPA Board in May 2018 and focused on four priority areas for action. Consideration is now being given to the development of a new plan which may fulfil both the need for an organisational strategy and a clear articulation of development and improvement activity. In an analysis of the status of the improvement plan, HMICS has found evidence of some improvement, but that much work is still required.
28. In evidence to the Justice Committee, the SPA have consistently stated it is possible to make the statutory framework work as intended and to build a strong and effective SPA.

¹⁷ Scottish Parliament, [Justice Committee, Policing in Scotland - Written submission from the Scottish Police Authority](#), 18 January 2018.

¹⁸ SPA, [Board Item 6 - SPA Chairs Introduction and Report](#), 24 October 2018.

¹⁹ SPA, [Board Objectives 2018-2020](#).

²⁰ SPA, [Board Item 8.1 - 2026 'Serving A Changing Scotland' Strategy for Policing](#), 22 June 2017.

²¹ SPA, [Board Item 8.4\(i\) - SPA Improvement Plan](#), 2 May 2018.

Capacity to deliver

29. It is the SPA Board's responsibility to ensure there is appropriate capacity and capability in both Police Scotland leadership as well as at executive level in the SPA. The Board has a corporate responsibility for promoting the efficient and effective use of staff and other resources in accordance with the principles of best value. It is essential in maintaining the police service that within the SPA itself, capacity to deliver business-as-usual is in place as well as effectively supporting much required development work.
30. HMICS found evidence of significant efforts to redesign and develop the approaches to recruitment of senior officer and new Board members by the Chair and Interim Chief Officer. This has resulted in a number of successful recruitment exercises, which have been the subject of positive comment in previous HMICS reports.²²
31. The SPA Chair and Board members bring a wealth of experience from a range of professional backgrounds. The attraction of quality candidates for Board membership was a direct result of the efforts of the SPA Chair, Scottish Government and the Public Appointments Commissioner for Scotland. HMICS recognises the level of personal time and effort invested to realise these achievements.
32. Since December 2017, in public update reports to the Board, the Chair, the Interim Chief Officer and the now former Chief Executive consistently raised issues of constrained capacity and capability within the SPA corporate function.
33. Going back as far as January 2015, similar issues have been identified and over the years there have been numerous reviews, inspections and improvement plans, which have indicated an urgent requirement to address shortcomings identified in the SPA structure. On at least four occasions, specific recommendations have been made to address this but none have delivered the required changes to date.
34. In the SPA Improvement Plan 2018/19, the SPA established that one of its priorities was to address capacity and capability. In May 2018, the Interim Chief Officer presented a business case²³ for the restructure of the SPA corporate function which was approved by the Board. A further report in August 2018,²⁴ identified that SPA staff had been consulted and that counter-proposals had been considered. The report recommended an updated four Directorate model and that the new Chief Executive, once in post, should review the detailed structure before commencing the next phase of recruitment.
35. In October 2018 it was again reported that the new Chief Executive would oversee the completion of the process. HMICS found that the structure was not fully implemented with only six key posts recruited which were deemed to be of a critical nature. The Chair told HMICS that a number of new Board members were taking up their roles during this period, and that differing views were expressed regarding the needs of the organisation and that the further deferral of implementation was viewed as beneficial. In both November 2018 and January 2019 the new Chief Executive in his report to the Board indicated that the work had been paused to allow further review and that evaluation of the proposed structure would now be taken forward as a matter of urgency.

²² HMICS, [Annual Report 2018-19](#), 27 June 2019.

²³ SPA, Board Meeting Item 19 - SPA Capacity and Capability Business Case, 31 May 2018 (private paper).

²⁴ SPA, Board Meeting Item 21 - Scottish Police Authority Capacity and Capability, 30 August 2018 (private paper).



36. At the end of January 2019, the Chief Executive submitted initial outline proposals to the Board²⁵ for a new structure with fewer Directors, but introducing a new layer of senior management. Detailed work was said to be underway to develop proposals for underlying team structures. After feedback from the Board, the Chief Executive was instructed to bring a further paper to a planned Board Members' Seminar on 6 February 2019.
37. In the Chair's report of February 2019, it was indicated that the Board had discussions with the Chief Executive on the priorities for organisational development and improvement and had stressed the need to accelerate progress. HMICS heard varying views on the reasons for the lack of pace, some attributing it to performance issues on the part of the senior executive team of the SPA, and others citing the lack of clarity about what was required.
38. The Chief Executive reported in March 2019 that the SPA had ended the year with fewer staff than when the improvement plan was developed and that resourcing requirements would be assessed in quarter 1 (April – June 2019). This was the final report submitted to the Board by the Chief Executive before he left for a period of sickness absence. The Chief Executive has since resigned.²⁶
39. In May 2019, in the update to the Board the Chair again emphasised the need to take the next steps to ensure that an SPA executive function was in place with the capability, capacity and practices to discharge statutory duties effectively.
40. HMICS has found that despite numerous past recommendations to tackle structural issues within the SPA as a matter of urgency, and numerous assertions of prioritisation, there has been limited progress in the past two years. HMICS has found this has had a profound effect on a number of staff in terms of morale and wellbeing. This has been compounded by recent public assertions in the Chair's reports to the Board.
41. HMICS acknowledges that the Board has recognised the need for additional organisational development and design support to provide the capacity and capability to take forward significant change within the organisation and to do so in a way that ensures effective staff and stakeholder involvement.²⁷ External specialist human resources and organisational development expertise has now been procured and work has commenced to develop a structured process of organisational design and development.
42. In the Chair's report to the Board (21 August 2019) it states that a Board development seminar had provided an early opportunity for members to help shape and inform this work. A further report on this work is planned for September 2019. HMICS welcomes this approach to engagement and the development of new structural proposals, however concerns remain regarding the slow progress to date and the time it will take for real change to be delivered on the ground.
43. The establishment of the Strategic Co-ordination Unit (SCU),²⁸ led by an Assistant Chief Constable and Chief Superintendent from Police Scotland also aims to provide additional capacity to the SPA. The Unit has been established for an initial period of six months to develop a strategic 'whole system' approach to the development and improvement of policing. HMICS views the introduction of the SCU as a symptom of the gap in capacity and an effort on the part of the Chair, Board and Chief Constable to provide resilience and additional professional policing advice in the short term.

²⁵ SPA, Board Meeting (Kilmarnock) Item 15 - SPA Organisational Development, 30 January 2019 (private paper).

²⁶ SPA, [Statement - Chief Executive to stand down](#), 4 September 2019.

²⁷ HMICS recognises that the SPA has moved quickly to appoint an Interim Chief Executive who will take up post shortly.

²⁸ SPA, [Board Meeting Item 2 - SPA Chair's Report](#), 22 May 2019.



44. At the time of our fieldwork, no terms of reference for the SCU had been formally agreed, over eight weeks since its establishment despite draft terms of reference being produced early in its tenure. However on 21 August 2019 the Chair indicated a terms of reference had been agreed with the Chief Constable and would be published on the SPA website.²⁹
45. A number of stakeholders expressed concern regarding inappropriate use of senior police resources and a potential perception that the two organisations are too close. The terms of reference make clear that the ACC (SCU) will report directly to the SPA Chair for direction in support of the work of the SCU, while maintaining a line management relationship through the DCC (People and Professionalism).
46. HMICS notes that legislation provides that officers may be seconded (or engaged on temporary service) to the SPA or other organisations (section 15) and Police Scotland may provide assistance to the SPA (section 83). However there is no provision within the Act, or other legislation (as per Section 15(2)(b)), for serving officers to be under the direction and control of the SPA Chair, this responsibility remains with the Chief Constable (section 21).
47. HMICS accepts the positive intentions in bolstering SPA development resources. It is a matter for the Chief Constable to decide how officers are best deployed however HMICS would have concerns about the prolonged use of experienced senior police officers in this corporate capacity.
48. Whilst HMICS is assured of the best intentions of the Chair and Board to progress the development of the SPA corporate function, we are clear that the pace at which this has been progressed is not acceptable. As noted at paragraph 32, the lack of capacity and capability has severely constrained the wider development of the SPA over the past two years. Continual delay in progressing restructure has also led to unacceptable levels of uncertainty for SPA staff. HMICS is of the view that this should have been viewed as an equal priority to that of the work undertaken regarding recruitment of senior officers and Board members.

Recommendation 1

The Scottish Police Authority Chief Executive should lead and expedite the implementation of a new Scottish Police Authority corporate structure and ensure an appropriate focus on existing staff wellbeing.

²⁹ SPA, [Strategic Co-ordination Unit Terms of Reference](#), 22 August 2019.



Governance

49. In order for the SPA to fulfil its statutory role and responsibilities, it must establish a system of effective governance with Police Scotland. The Act states that:

'The Authority must try to carry out its functions in a way which is proportionate, accountable and transparent and which is consistent with any principle of good governance which appears to it to constitute best practice'.³⁰

50. The current Board and committee structure was implemented as part of the Corporate Governance Framework approved by the Board in June 2018³¹ and further amended to subsequently institute two additional committees. This is set out in Figure 1 below:

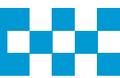
Figure 1 – Current Board and SPA Committee Structures



51. A Scottish Railways Policing Committee was also approved at the SPA Board meeting on 26 June 2019.³² The Committee has been established as a Sub-Committee of the British Transport Police Authority (BTPA) under paragraph 12(b) of Schedule 4 of the Railways and Transport Safety Act 2003. Terms of Reference and a Memorandum of Understanding were also approved by the SPA Board.

52. In our comparative analysis, we identified three main models of governance (see paragraph 13), with a number of key success factors (see paragraph 15). Whilst each model had benefits, they also had limitations in terms of the level of political influence, the balance between local and national governance and clarity around roles and responsibilities. These are issues which continue to be seen in the current Scottish model, but have been addressed to varying degrees of success in the other examples we considered.

³⁰ Section 2 (3) of the Act sets out the main Functions of the Authority.
³¹ SPA, [Board Meeting Item 8 - SPA Governance Framework](#), 28 June 2018.
³² SPA, [Board Item 6 - Devolution of Railway Policing Meeting](#), 26 June 2019.



53. HMICS has found that the SPA has made a number of changes and improvements over the last 18 - 24 months to improve the overall system of governance. This has included:
- Implementation of a new Governance Framework (June 2018)
 - Holding more of the Board's business in public to improve transparency (with clear rationale for those items in private) and ceasing the practice of having closed Board meetings
 - The establishment of new committees with decision-making powers (Complaints and Conduct, Succession Planning and Appointments)
 - Combining the former Finance and People Committees into a new Resources Committee
 - Establishing a new Strategy, Policy and Performance (SPP) Committee, Legal Actions, Claims and Appeals Committee and Railway Policing Sub-Committee
 - Reconstitution, during an interim period, of a Transformation Working Group
 - Establishment of a number of other working groups including Communications and Engagement (now closed), Contact Assessment Model (CAM),³³ Digital Forensics and Governance
 - Having regular Board development sessions, which also involve the Police Scotland executive team and other stakeholders where appropriate.
54. However, the Chair's report to the Board on 22 May 2019 stated that there is 'much work to be done to ensure that good governance is developed and maintained across all our work'. A number of key aspects of governance work which had not yet been progressed were identified including reviewing schemes of delegation and developing the various frameworks and protocols covering the SPA's relationships with Police Scotland and the Scottish Government.
55. The SPA Board approved the establishment of a Governance Review and Development Working Group (now the Governance Development and Improvement Group) in May 2019 which has developed a structured workplan and systematic approach to the further development and review of the system of governance.
56. The Governance Development and Improvement Group is led by the Chair with the Vice Chair and Chair of the Audit Committee personally taking forward pieces of work. SPA and SCU staff are also supporting the work of the group. However, no members of the SPA senior management team are currently members of the group. HMICS notes its concern regarding Board members undertaking executive functions and ownership of development work which should be led by SPA senior staff, contrary to job descriptions and general recognised good practice in corporate governance.
57. Figure 1 of this report shows the current committee structure of the SPA. HMICS has observed the Board and Committees, reviewed their terms of reference, agendas, minutes and papers and evaluated their governance approach. HMICS notes that the Committees and Board meetings themselves do not constitute the entirety of the work of the SPA, but do provide the necessary transparency to the public, which promotes public confidence in the system of governance. It is therefore essential that the SPA demonstrates its statutory and strategic role, both in supporting and holding to account through these meetings.

³³ CAM constitutes part of the Local Approaches to Policing (LAP) change programme, a key operational element of the Police Scotland wider transformation programme.



58. HMICS has found that a number of these Committees, effectively supported by Police Scotland and SPA staff, have developed well over the past 18 months. In particular the Complaints and Conduct Committee, Audit Committee, Forensics Committee and the Resources Committee (in terms of financial matters) are now providing increasingly effective governance over their areas of responsibility. The SPA has recognised that further development is required in terms of the SPP Committee and the people elements of the Resources Committee. There are however a number of issues we have identified previously across all Committees which now require to be urgently addressed:
- Lack of delegated decision making to all Committees
 - Number of reports for noting, discussion, information only or verbal updates
 - A large proportion of items in private in some Committees
 - Update or discussion reports which contain recommendations for approval
 - Variance in quality and lack of clarity on the level and type of information required or presented
 - Continued delay in co-opting other stakeholders to Committees
 - Frequency of meetings increasing administrative burden
 - Lack of cohesive governance arrangements for change and transformation.
59. HMICS has found that these issues often manifest in lengthy agendas and meeting duration, inappropriate operational discussion, significant variance in the level of scrutiny applied, and a perception that SPA Board meetings are 'stage managed' and lacking in effective challenge. HMICS found a level of duplication, repetition, lack of flexibility and inconsistency across the system.
60. HMICS found improvement in the management and distribution of papers and quality of minutes, but notes that there remain issues with late papers, website accessibility and clear rationale for all agenda items. There remained a lack of clarity regarding the routes which reports should take to secure approval. There is also significant effort required on the part of Police Scotland to support the monthly SPA Board meeting cycle, and there would be value in considering a move to quarterly meetings (with increased delegation to committees), with the ability to introduce additional meetings quickly to support a dynamic policing environment.
61. HMICS also identified that there has been a reluctance to establish Working Groups, possibly due to the desire to ensure transparency. However this has delayed the introduction of Working Groups in key areas such as CAM and digital forensics, which should have been established much earlier.
62. In contrast, HMICS also found that a significant number of private Board development sessions have been held (approx. 30) with a limited number having Police Scotland and SPA staff senior management input. Whilst these sessions were viewed as a positive development by the Board, others viewed the approach as a direct replacement for closed Board sessions and lacking in transparency. The SPA's position is that the majority of these sessions have been induction and development events to support Board members during a period of significant refresh.

63. The Transformation Working Group (TWG) was established in May 2018 and went on to meet regularly until March 2019. HMICS found that most stakeholders were unclear as to why the TWG was ceased, unsure of activity in the interim and any outputs or decisions. Given its original aim to 'move forward at pace' and report by October 2018, HMICS was unable to establish clearly how its work has informed current governance arrangements. The Governance Development and Improvement Group is now considering options for change governance, indicating a preference for the use of existing committees rather than establishing a dedicated forum. HMICS has previously highlighted concerns regarding the governance of change and transformation, and given that the overall system of governance still lacks maturity, we consider that this issue requires to be addressed immediately (see paragraphs 154 to 163).
64. Whilst acknowledging that improvement has indeed been achieved, the commitments made to enhance the system of governance have not all been delivered. The pace at which change has taken place has also been much slower than that originally set out. HMICS has found that this can be attributed to a number of key factors:
- Lack of clear and consistent articulation of overall vision and the changes required
 - Lack of prioritisation of the key enablers of change
 - Lack of capacity within the SPA corporate function to deliver the necessary change.
65. HMICS found that further work is required by the SPA executive team to develop the system of governance. The Chair and Board members should not be undertaking this work but should provide direction and empower the executive team to deliver the required developments. HMICS recognises that Board members have stepped in to provide additional capacity in the short term but HMICS is clear that this is not right nor sustainable in the long term.

Governance framework

66. The SPA currently has an established Governance Framework approved in June 2018. This is now under review by the Governance Development and Improvement Group, as part of an intended ongoing process to maintain and develop the system of governance. Police Scotland also recently reviewed its corporate governance framework³⁴ to ensure that its own internal systems were fully aligned to those of the SPA.
67. The Justice Committee in its review found that despite the Act clearly defining roles and responsibilities, past governance arrangements were unduly affected by personalities and recommended that the SPA and Police Scotland continue to focus on demonstrating that they have achieved the required culture change in leadership and governance, and their procedures and practices, to avoid any repeat of previous issues.
68. During our inspection, HMICS found that there was a strong consensus and evidence to suggest an improving picture around governance. However many aspects were still described as embryonic, having gaps, and on a journey to becoming more strategic. This supports our finding that there is still much work to be done and that the pace of change to date has not been acceptable. HMICS views that the risk of governance being affected by individual interpretations of the legislation, and not delivering the required culture change, still remains.
69. The Chair's report of 26 June 2019 states that the SPA *'is still operating within an environment where the boundaries between different organisations and institutions are blurred. There is not a shared understanding of respective roles and relationships and resources and functions often do not sit where they should'*. The report also noted that *'the role and responsibilities of the SPA are not well understood and, in part as a consequence of this, the expectations of the Authority often far surpass its capacity and capability, or even its powers'*.

³⁴ Police Scotland Governance Review approved by Strategic Leadership Board on 12 June 2019.



70. This recent assessment by the Chair clearly identifies that there has been limited progress in this area over the past 18 - 24 months. Update reports to the Board over this period from the Chair, Interim Chief Officer and Chief Executive have however consistently reported progress and that previous issues had been actively addressed in all areas with the exception of building the capacity of the organisation. This clearly contradicts the assessment given in June 2019.
71. HMICS accepts the rationale that without effective supporting capacity and capability, the ability of the SPA to effectively deliver on its stated intentions has been limited. However we view that work 'to develop a strategic whole system approach to the development and improvement of policing', as detailed in the Chair's report to the Board in May 2019, in support of the SPA Board is long overdue and should have been addressed as an immediate priority.

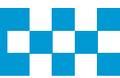
Role of Chair and Board

72. On Board guidance states that the four main functions of the Board of a public body are: to ensure that the body delivers its functions in accordance with Ministers' policies and priorities; to provide strategic leadership; to ensure financial stewardship; and to hold the Chief Executive and senior management team to account. Board members must adhere to collective corporate responsibility, confidentiality and the highest standards of conduct. Every member of a Board of a public body must be clear about their specific roles and responsibilities if the Board and the public body are to operate successfully.
73. The Act established the SPA as a body corporate comprised of Board members. The Board is the Authority. In terms of the role of the Chair, the Act itself does not clearly define specific responsibilities, only setting out that:³⁵

'The Authority is to consist of— (a) a member appointed by the Scottish Ministers to chair the Authority ("the chairing member"), and (b) not fewer than 10 nor more than 14 other members appointed by the Scottish Ministers'.
74. However, the role of the Chair of the Board is set out in a job description (most recent version October 2017) and more generically in a number of other key reference documents, in particular the Scottish Public Finance Manual (SPFM)³⁶, On Board guidance, SPA governance documents and objectives. On Board guidance states that the Chair has additional responsibilities to other Board members, particularly leadership, directing a diverse team and harnessing the benefits of this, and the conduct of Board business.
75. The Chair must ensure that appraisal systems both for individual members and collective functionality of the Board are in place. Performance as a Board member is assessed on a continuous basis throughout the term of their appointment and formally appraised at least annually by the Chair against pre-established criteria and objectives. However the Chair does not 'line manage' Board members, rather the Board shares collective corporate responsibility for decisions taken by it as a whole.
76. As noted at paragraph 24 the new Chair set out guiding principles for the development and improvement of the SPA. At each public meeting of the SPA Board since December 2018, the Chair has provided an 'Update' or 'Introduction and Report' which clearly sets out their approach and progress.
77. HMICS welcomes the transparency with which the Chair has set out their agenda for improvement and honestly reflected on progress and the issues which the Authority continues to face. We have found that the Board, in support of this, presented a highly consistent view of their role, strong support for the Chair and consensus around the direction of travel, although articulation of this was not always clear.

³⁵ Act Schedule 1 – Part 1 – 2(1)(a) Membership.

³⁶ Scottish Government, [Scottish Public Finance Manual 2018](#).



78. HMICS has however found that the implementation of the role of Chair and its associated responsibilities, remains subject to interpretation. This is reflected in the differing approaches taken by each of the three Chairs, each of whom has rooted their interpretation in the legislation and developed both their leadership approach and the governance framework to suit that interpretation. Whilst this is acceptable under the Act, it has led to six years of ongoing change and differing levels of involvement, engagement and strategic direction from the Chair and the Board. HMICS considers there is a risk that this will continue in the absence of clearer definition of roles and responsibilities.
79. HMICS has found that the Chair and a number of Board members are acting well outwith their core non-executive role, contrary to the guidelines in On Board guidance and the Chair's commitment that Board members are more non-executive in their work and contributions. Whilst a lack of capacity within the SPA corporate function may have necessitated an increased input at Board level, this is not a position which is sustainable and therefore HMICS recommends that a review of the Chair and Board individual roles in executive work is immediately undertaken.
80. HMICS has noted the calibre of the current Board membership which allows policing to benefit from the skills, knowledge, expertise, experience, perspectives and commitment of members who focus on clear and specific functions and purposes. This provides independent advice and expertise on complex issues outwith the political arena. It is therefore essential that effective use of the considerable experience of individual Board members, without stepping outwith their non-executive role, is made. HMICS considers that providing advice and guidance through working groups, mentoring relationships and effectively scrutinising performance at Committee and Board meetings are the best ways to fulfil this. HMICS has found that clear boundaries to ensure that this does not impinge on the role of the Chief Executive and senior management are required as well as adherence to the originally prescribed number of working days for the Chair and Board members.
81. The Scottish Public Finance Manual sets out a requirement to agree a broad framework³⁷ within which any NDPB will operate and defines key roles and responsibilities which underpin the relationship between the NDPB and the Scottish Government. While such a document does not confer any legal powers or responsibilities, it forms a key part of the overall accountability and governance framework and should be reviewed and updated as necessary, and at least every two to three years. A framework was originally agreed in 2014. However HMICS has identified that there is not a current agreed framework between the SPA and Scottish Government in place and this has been outstanding since 2017. This should be addressed as a matter of urgency.

³⁷ Scottish Government, [Scottish Public Finance Manual 2018 – Annex 3 – Model Framework Agreement](#).

Role of SPA executive

82. The Authority may appoint staff to assist it in the carrying out of its functions. It is for the SPA Board to determine the extent of delegation of SPA functions to the Chief Executive (as the most senior representative of the staff engaged to support the Authority) or any other staff member. Once responsibilities are delegated, the Board should remove itself from those operational responsibilities and empower the Chief Executive and senior management team to deliver in line with the principles of good corporate governance.
83. As noted above, one of the main functions of the Board is to hold the Chief Executive and senior management team to account. The Chief Executive is accountable to the Board for the overall organisation, management and staffing of the public body. The Board should focus on strategy, performance and behaviour whilst the Chief Executive advises the Board on all matters and is solely responsible for operational issues. Board members have no authority to instruct the Chief Executive or any member of staff on operational matters once delegated. Contrary to job descriptions and general recognised good practice in corporate governance, HMICS has found that the Chair and some Board members have been instructing the Chief Executive and SPA staff for some considerable time.
84. The SPA Chief Executive, supported by his executive team, is the Board's principal adviser on the discharge of its functions and provides operational leadership. The SPA Chief Executive's general responsibilities include performance management and staffing of the public body. It is the Board's duty to hold the SPA Chief Executive (and executive team) to account for the operational management of the organisation and the delivery of agreed plans on time and within budget.
85. The Board must ensure an effective team and management arrangements are in place at the top level of the organisation. The Board is the employer of the individuals who work for the SPA, although the management of staff, apart from the SPA Chief Executive (whose performance is appraised by the Chair), is a matter for the executive. The Board should be satisfied that the SPA is meeting its moral and legal obligations to its employees and that the senior management team is fulfilling its obligations in this regard. The Board is responsible for the recruitment of the SPA Chief Executive and part of the process for other senior staff.
86. As we note above, with the appointment of the SPA Interim Chief Officer in November 2017, one of the priorities was to re-design the structure and recruit appropriately. And whilst a business case³⁸ for the restructure of the SPA corporate function was approved by the Board in May 2018, this was not fully implemented but deferred without further governance approval. The new SPA Chief Executive made a number of attempts to secure approval of a revised structure, which were not progressed. Whilst these proposals may not have met expectations, HMICS considers that the Chair and Board are ultimately responsible for these delays, preventing senior management from being empowered to establish suitable capacity and capability in the organisation.

Recommendation 2

The Scottish Government should clarify in what respects the Scottish Police Authority differs from other public bodies and specify the implications for the system of governance for policing.

³⁸ SPA, Board Meeting Item 19 - SPA Capacity and Capability Business Case, 31 May 18 (private paper).

Recommendation 3

The Scottish Government and the Scottish Police Authority should undertake an immediate review of the roles of the Chair and Board members in executive work, in line with principles of good governance, empowering the Scottish Police Authority executive team to assume operational management of the organisation.

87. HMICS has found that the relative scope, and therefore size, of the SPA corporate function remains the subject of debate. The former Chair, in his Review of Police Governance,³⁹ made clear his preference for a lean corporate function which focused on supporting the Board rather than duplicating the functions and internal assurance processes of Police Scotland and Forensic Services. That interpretation basically equated to a secretariat role, where the SPA corporate function would have been established solely to support the work of the SPA Board. Many of those we interviewed indicated a preference for this model. As the SPA Chief Executive currently holds Accountable Officer responsibility, the corporate function is required to support a wider assurance role rather than just a secretariat to the Board. In effect the Chief Constable cannot deliver policing without finance approved by the Accountable Officer. Our analysis of the Accountable Officer role, its requirements and where it is best placed, is included in this report at paragraphs 135-142.

Relationship with and role of Scottish Government

88. In the Chair's report of 26 June 2019 it was noted that *'the SPA was created to ensure a clear separation between Ministers and policing and between politics and policing more generally, a separation which has, to date, not been achieved'*. This reflects the original policy memorandum to the Act,⁴⁰ which states that *'The establishment of the Scottish Police Authority and the Scottish Fire and Rescue Service provides a clear separation between the Scottish Ministers and the services. In particular, it ensures that the Chief Constable is free from undue political influence in making decisions about the investigation of crime.'* This is often referred to as the SPA providing a 'buffer' between government and politics more generally and operational policing.
89. The Act (section 5) states that the SPA must comply with Ministerial directions which should also be published and laid before the Scottish Parliament. No such directions have been given to date. Based on the evidence it received, the Justice Committee highlighted the need for greater clarity and transparency on the role of Scottish Ministers in dealing with policing matters with, in its view, implementation of the provisions being open to interpretation. Given that Ministers have chosen not to issue directions thus far, it would appear the issue is one of risk perception, rather than actual interference, which could impact on public confidence.
90. HMICS comparative analysis has identified that in order to avoid undue political influence, other jurisdictions support their legislation with protocols and codes of practice.⁴¹ HMICS therefore considers that the Committee's recommendation that the Scottish Government provides guidance for Scottish Ministers when issuing directions to the SPA is a useful one.
91. The relationship between the SPA and Scottish Government is led primarily by the Chair, with the majority of other members and SPA staff having limited involvement. A higher level of shared trust and respect was evidenced by both parties, with engagement characterised as open, honest and direct. The need to collaborate as well as challenge each other was viewed as a healthy tension in the relationship. HMICS understands there is also regular contact at senior management level and an opportunity every six weeks for SPA Directors to meet with Scottish Government officials.

³⁹ SPA, [Board Meeting Item 11 - Chair's Review of Police Governance](#), 31 March 2016.

⁴⁰ Police and Fire (Reform) Bill - [Policy Memorandum](#), 17 January 2012.

⁴¹ GOV.UK, [Revised framework document for National Crime Agency](#) (October 2013) and [Policing Protocol Order 2011 \(statutory instrument\)](#), 21 February 2012.

92. As a Ministerial appointment, the Chair's reporting line is to the Cabinet Secretary and then to Parliament. The Chair meets quarterly with the Director-General for Education, Communities and Justice who conducts their appraisal against an agreed set of objectives. Regular engagement between the Chair and the Director of Safer Communities provides routine management and accountability for the SPA. The Chair also meets regularly with the Cabinet Secretary for Justice.
93. HMICS has also identified that a number of reserved matters⁴² relating to policing remain controlled by the Home Office. This relates to areas of policing where a national approach is required and includes counter-terrorism, serious organised crime and resilience planning. The conduit for information and direction typically comes from the Home Office, direct to Scottish Government or Police Scotland, rather than via the SPA. A recent example of such an issue is the requirement for additional resources to support Brexit. Initial communication on resource requirements was between Police Scotland and Scottish Government with no involvement from the SPA.

Exhibit 1: Brexit Case Study

BREXIT - preparation and planning



- June 2016, UK votes to leave European Union – March 2017 Article 50 triggered – ongoing uncertainty as to final leave date and impact of 'no deal'
- 2017, Police Scotland identifies multi-agency strategic risk and put arrangements in place for Scottish contingency planning - SPA made aware and given membership of strategic groups
- SPA attendance at meetings poor and processes not in place to ensure quick sharing of information between SPA and Police Scotland – however briefings provided to SPA Board to keep up to date with developments
- September 2018, Home Office via National Police Chiefs Council (NPCC) requests support for mutual aid - **sent direct to Scottish Government (SPA not sighted on this)**
- September 2018, Ongoing monthly reports to SPA Board (also private briefings) provide increased public transparency of planning
- 29 October 2018, Police Scotland Brexit contingency team established
- 19 November 2018, Police Scotland submits initial mutual aid **funding request direct to Scottish Government (not via SPA)**
- 27 November 2018, Police Scotland presents planning considerations and impact on policing to SPA Board
- 13 December 2018, SPA Chair requests assurance from HMICS by end of year
- 20 December 2018, Chief Constable clarifies additional resourcing position to Scottish Government
- 21 December 2018, HMICS responds to Chair with its findings
- February 2019, Monthly public Brexit briefings⁴³
- February/March 2019, Correspondence between SPA Chief Executive and Scottish Government on financial implications.

⁴² Reserved matters – see footnote no.3.

⁴³ SPA, [Brexit briefings](#).

94. Key learning points from this case study are that:

- Police Scotland effectively identified strategic multi-agency risk and put arrangements in place for contingency planning
- Communication from the NPCC or Home Office on reserved matters comes direct to the Scottish Government and/or Chief Constable – who are not always able to effectively engage the SPA due to time imperatives
- Although the SPA had some awareness of Brexit risk there was limited initial engagement or governance
- The SPA Board recognised the level of risk and cost implications, after appropriate briefing, and has enhanced its scrutiny and engagement.

95. A number of those we interviewed noted concerns regarding the anomalous relationship and accountability in terms of reserved matters and the lack of clear locus for the SPA. However, others were clear that there was a requirement to respond timeously to Home Office requests and directions, and that additional governance would not be helpful or appropriate to operational decisions, albeit there was a requirement for accountability to the SPA.

96. HMICS therefore concludes that further clarity is required around the SPA, Police Scotland and Scottish Government roles in reserved matters. This should assist Police Scotland to adhere to clear set of principles which do not inhibit operational decision-making but provide suitable levels of governance and accountability.

Recommendation 4

The Scottish Government, the Scottish Police Authority and Police Scotland should develop a clear system of engagement and governance for reserved policing matters.

Relationship with and role of Scottish Parliament

97. As previously noted, the Justice Committee, Justice Sub-Committee on policing and PAPLS Committee have all undertaken a significant level of scrutiny in terms of policing since 2013. An analysis of this work shows it has focused on:

- | | |
|---|-------------------------------------|
| ■ Budget and annual audit | ■ Undercover policing |
| ■ SPA governance | ■ Cyber kiosks |
| ■ Complaints | ■ Armed policing |
| ■ Legislative review | ■ Stop and Search |
| ■ ICT (i6 ⁴⁴ and Digital Data and ICT) | ■ Contact, Command and Control (C3) |
| | ■ Counter Corruption Unit |

98. The Justice Sub-Committee was established in response to section 124 of the Act where the Scottish Parliament is charged with making arrangements for keeping under review the operation of the Act. The remit and responsibilities of the Sub-Committee are to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing.

99. After analysing the work of the Sub-Committee since 2013, HMICS has found that its initial focus was clearly on reform and amalgamation but increasingly focused on operational issues. There is evidence of the Sub-Committee repeatedly returning to police reform issues including ICT Strategy and the financial position.

⁴⁴ i6 was the project to implement a new integrated national police ICT system which was subsequently cancelled.

100. The Sub-Committee has more recently changed its approach with cyber kiosks being the only operational policing issue being considered and the majority of recent workload relating to evidence sessions on ICT and budget. It is also clear that recent areas of work are shorter, more focused and not reliant on other external factors.
101. In their 2016 Session report,⁴⁵ the Justice Committee concluded that *'given the Justice Committee's workload, it is clear that police reform would not have been subject to the level of scrutiny required in these early years had the Sub-Committee on Policing not been created. The approach of creating a Sub-Committee with a particular remit of post-legislative scrutiny of the 2012 Act has worked well in ensuring that the many issues of concern which have arisen relating to policing have been examined in depth. In particular, the Sub-Committee has effectively filled a void where the Scottish Police Authority has failed to provide the public forum for debate of Police Scotland's decisions which has been required in these formative years. It is essential that such a public forum for debate remains, yet it is unclear whether the SPA is yet ready to take on this role'*. This continued the establishment of the Sub-Committee under its standing remit.
102. HMICS found that a lack of clear boundaries in terms of relative scrutiny roles had led to duplication of work between the SPA and the Sub-Committee. SPA staff reported this had placed an excessive burden of information provision on the SPA and Police Scotland. The current Chair has consistently asserted that the SPA is subject to considerable external scrutiny and criticism. The Chair has also stated that in order to make the statutory framework work the Board requires sufficient space and support to enable them to succeed, implying that both Parliament and regulators, including HMICS, require to give them more room to improve.
103. Whilst HMICS is clear that Parliament will always have a legitimate interest in the delivery of policing, we could not identify other examples of the continuing establishment of a Sub-Committee to monitor the implementation of legislation (relating to other areas of public service provision such as education, health, social services etc.). Given that the Justice Committee has now undertaken a full review of the Act, HMICS found there is a lack of clarity as to the continuing role and remit of the Sub-Committee. It is also unclear under exactly what circumstances the Sub-Committee would deem the SPA able to effectively undertake its statutory scrutiny role.

Relationship with and role of Local Government

104. Sections 45 and 47 of the Act set out the role of local authorities in policing. HMICS has been consistently clear in our view that whether delivered locally, regionally or nationally, policing is ultimately delivered to, and within, local communities. The ability for local communities and their representatives to be consulted on and scrutinise that delivery is essential to public confidence and the concept of policing by consent.
105. The Act focuses the local authority role around the local police plan, but is not clear in terms of how national policing policy and style changes, provision of specialist services, relative resource allocation and performance are to be considered. Feedback from our public questionnaire and COSLA clearly highlights that some local authorities remain concerned that national policy decisions, and their impact locally, are not the subject of effective engagement and consultation. It was felt there is a disconnect between local scrutiny and the SPA Board which is particularly apparent when the Board is not geographically representative. The opportunity to strengthen the definition of the role of local committees and their conveners in legislation was also strongly supported.

⁴⁵ Scottish Parliament – Justice Committee Session Report 2016.

Temporary traffic regulation orders



- TTROs Ongoing issue of inconsistency between policing and local authorities regarding legacy approaches to traffic management of pre-planned events
- Police Scotland and local authorities seek legal opinions – opposing views received
- September 2017, TTRO report deferred by the SPA Board
- 13 October 2017, Police Scotland issue letter to all local authorities stating in the absence of a TTRO, it did not have the required legal authority to carry out the duties it had previously undertaken (such as closure of roads and control of traffic) and that it would advise event organisers to contact relevant roads authority to apply for TTROs (with associated cost implications)
- 24 October 2017, TTROs considered at SPA Policing Committee. First time SPA considered this change in policy
- Police Scotland revert to status quo after SPA emphasise need for early consultation and engagement on public interest issue - prompting multi-agency, problem-solving approach with COSLA, Transport Scotland and other relevant partners.

106. The key learning points from this case study are that:

- The SPA has a clear role to play in proactively considering changes in policing policy and style which impact locally
- The SPA requires to be more aware of the development and implementation of such changes
- The SPA requires to have some oversight of effective local engagement in terms of such changes.

107. As well as its established engagement role, HMICS is clear that the SPA should have a national oversight role in ensuring effective local engagement, proportionate allocation of resources to meet demand, comparing levels of local performance and understanding the varying extent of local outcomes across the country which Police Scotland is required to address. HMICS does not consider that the SPA is currently fulfilling this role.

108. The Chair and SPA officers attend the COSLA Scrutiny Convenors Forum. This forum is facilitated by COSLA, chaired by the Spokesperson for the COSLA Wellbeing Board and attended by the convenors of local scrutiny and engagement committees from all 32 local authorities. A joint officer working group was also established between the SPA, COSLA, Police Scotland and SOLACE (the Society of Local Authority Chief Executives) in May 2018 and has had regular meetings.

109. In October 2018 it was announced that future Board meetings would take place in a range of community settings across the country and that, routinely, on the day prior to the Board meeting, members take part in a mix of policing, local authority and community engagement activities within each locality. This was to be coupled with a scaling up of the wider communication effort put around each Board meeting to ensure that those with an interest in the development and delivery of policing could attend and engage with the SPA's work. This approach has been undertaken in Fife, Perth and Kinross, South Lanarkshire, Inverclyde and Glasgow. The Chair has also undertaken a series of personal visits to a number of areas, including Dumfries and Galloway, Aberdeen, Aberdeenshire, Orkney and Arran. HMICS has also seen evidence of identification of thematic issues which have been raised during these visits to inform future engagement.

110. HMICS has found in our local policing inspections that local scrutiny arrangements vary significantly. The Justice Committee review also highlighted that whilst the Act provides for more involvement from local authorities in policing decisions, the policy intention has not been met consistently across the 32 local authorities. An unintended consequence of the centralisation of services was also considered to be that local authorities seem to be undertaking less scrutiny than before. The Committee recommended that the SPA considers re-instating the liaison role for specific SPA Board members with the 32 local scrutiny bodies. HMICS has previously recognised the value of a formal link between the SPA and local scrutiny bodies, however now considers that the primary liaison role lies with the Local Police Commander.

Outward facing SPA

111. HMICS interviews and questionnaire feedback reflected that most local authorities welcomed the engagement approach adopted by the Board. However, the programme of local visits was still viewed by many as perfunctory and lacking in any measurable impact, having been attempted previously by the first Chair of the Authority.
112. In its review of the Act, the Justice Committee stated that the level of engagement between the SPA and local authorities could be improved. As noted above, the SPA has improved its visibility and engagement with local authorities but has also recognised the need to improve its overall approach. HMICS is clear this requires to be part of a cohesive strategy and plan for stakeholder engagement.
113. HMICS could find no evidence of a current communications and engagement strategy or plan, which would place such an approach within a wider cohesive programme of activity with clear aims, objectives and outcomes. HMICS therefore considers that the SPA has failed to deliver on its aspirations and fulfil a key element of its core role. Whilst internal capacity and capability may be the primary constraining factor, HMICS believes that the Authority should have established this as an early priority, utilising external resources if necessary.
114. HMICS welcomes the Board's publicly stated intention to bring in professional support to improve the SPA's capacity to develop communications, engagement and relationships, including a scaling up of stakeholder engagement which builds on the work undertaken to date.
115. In our comparative analysis, we found examples of national and local advisory boards and panels, utilising the expertise and experience of statutory partners as well as the third and private sectors, elected officials, academic researchers and independent appointees to implement effective engagement and consultation mechanisms. In England and Wales, Police and Crime Commissioners have a statutory requirement to hold their Chief Constable accountable for engagement with local people. These examples demonstrate the need for more overt accountability for public engagement in both the SPA and Police Scotland reflecting the policing principles.
116. As noted at paragraph 58, there has been little progress in co-opting other stakeholders onto the Board and its Committees. HMICS recommends that the SPA should co-opt a COSLA representative as soon as possible in order to enhance the link between local and national policing. Further co-options and regular attendance by other key stakeholders is also encouraged.

Recommendation 5

The Scottish Police Authority should proceed to formally co-opt COSLA to their Board and appropriate Sub-Committees in order to enhance the link between local and national policing.



Wider statutory obligations as a public body

117. The SPA is a Public Body in Scotland, in the 'Other Significant National Body' category. Therefore a number of statutory duties apply to it, including requirements to publish information about expenditure; senior remuneration; reports on equalities; biodiversity and climate change duties; procurement strategy; codes of conduct; health and safety; records management; freedom of information, and data protection. The SPA is also required to comply with the 'Fairer Scotland' duty in Part 1 of the Equality Act 2010 (in force since 2018) and also to report on its contribution towards the Scottish Government's National Outcomes.
118. On the whole the SPA as a body in its own right has maintained regulatory compliance. The information Commissioner's Office published an initial Data Protection Audit report with 28 urgent priority recommendations and overall audit opinion of 'very limited assurance' in April 2018.⁴⁶ A follow up audit in December 2018 provided 'reasonable' assurance levels with only three urgent recommendations⁴⁷ indicating good progress by the Authority.
119. HMICS found that work remains ongoing on regulatory compliance, but that some areas require further development. Monitoring of progress should be considered by the Audit Committee and the Strategy, Policy and Performance Committee.

⁴⁶ ICO, [Scottish Police Authority Data Protection Audit Report – Executive Summary](#), February 2018.

⁴⁷ ICO, [Scottish Police Authority Data Protection \(Follow-up\) Audit Report – Executive Summary](#), December 2018.

Maintenance of the police

120. The Board has a corporate responsibility for promoting the efficient and effective use of staff and other resources in accordance with the principles of best value. Section 3 of the Act states that in terms of maintenance of the police, the SPA must:
- pay constables pay and allowances and reimburse any expenses reasonably incurred by a constable
 - provide and maintain anything necessary or desirable for the carrying out of police functions, including vehicles, equipment, information technology systems, land, buildings and other structures
 - before the beginning of each financial year, provide to the Chief Constable details of how it intends to allocate the financial resources it expects to have available to it in respect of that financial year.
121. The Scottish Government allocates a block grant to policing, which the SPA must then allocate to Police Scotland, Forensic Services and the Board itself supported by the corporate function. Whilst many of those we spoke to were clear that maintaining the police service pertained primarily to finance and resources, others had a wider interpretation which included the effective management of change and transformation, a focus on outcomes and working with partners. HMICS endorses this wider definition of the maintenance role.

Financial Position

122. HMICS has found that recent financial reporting from Police Scotland and auditors shows a definite improvement in the quality of information being produced, providing assurance as to the accuracy and understanding of the financial position of policing. This improvement over the past two years is attributed to the appointments of the Deputy Chief Officer and Chief Financial Officer (CFO) in Police Scotland, as well as the continued work of the SPA Resources Committee.
123. This improved understanding of the cost base and financial position resulted in a three year financial plan and ten year financial strategy being approved by the Board in May 2018;⁴⁸ improved quality of business cases to support transformation; effective capital prioritisation and planning, and submissions to the Scottish Government Spending Review process and the Infrastructure Commission for Scotland⁴⁹ to support the capital programme. Auditors have also delivered an unqualified opinion for the past two years (2016/17 and 2017/18),⁵⁰ with improvement year on year in respect of the timetable for production of the annual accounts. However it should be noted that the Auditor General has submitted a Section 22⁵¹ report to the PAPLS Committee each year for the past 5 years and has already indicated they will continue this in 2019. The last Section 22 report in November 2018⁵² noted the SPA had made progress but concerns remained about its ability to balance its budget and meet longer term strategic objectives.

⁴⁸ SPA, [Board Meeting Item 6.2 - Three Year Financial Plan and Ten Year Financial Strategy](#), 2 May 2018.

⁴⁹ [Infrastructure Commission for Scotland](#).

⁵⁰ Opinion awaited in 18/19 accounts to be published later in 2019.

⁵¹ Section 22 of the Public Finance and Accountability (Scotland) Act 2000.

⁵² Audit Scotland, [The 2017/18 audit of the Scottish Police Authority](#), November 2018.

124. The overall financial position of policing has become much clearer and the extent of the challenges more apparent. The financial plan and strategy were able to establish the extent of the funding deficit and set out a savings plan to progressively reduce this over three years. However, slower realisation of transformation benefits, additional financial pressures and less than expected capital allocation have impacted on these plans. The emergence of Brexit as a significant risk has also resulted in a revised approach to officer numbers and has compounded the need for revised plans.
125. In its recent Management Report 2018/19⁵³ Audit Scotland noted that the SPA had taken reasonable actions to address the risks associated with European Union (EU) withdrawal but that the financial position remains challenging. Although the costs associated with recruitment of additional officers in 2018/19 was managed within the 2018/19 operating budget, this will not be possible going forward. Overall the additional recruitment means that the balanced budget position planned for 2020/21 is no longer achievable. A new timeline for addressing how to progress towards a balanced budget position will therefore need to be identified.
126. At present over 85% of the revenue budget of Police Scotland lies in the cost of officers and staff. The flexibility to vary officer numbers is therefore essential to transforming the service and reducing the financial deficit. In terms of maintaining officer numbers at 17234 (1,000 above the former legacy forces total establishment of 16,234 FTE recorded at 31 March 2007), there has been a move away from this commitment to recognise the role of the Chief Constable in determining the appropriate workforce mix. However, there remains a significant level of public interest in officer numbers, equating this to frontline visibility and effectiveness rather than specific outcomes. The recent UK government announcement of 20,000 additional officers for UK forces has compounded the level of interest in overall officer numbers. As yet it is unclear how this commitment will translate to funding to Scotland, which the Scottish Government will then decide how to allocate.
127. HMICS has been undertaking ongoing assurance work on workforce numbers as part of its 2018-19 and 2019-20 annual scrutiny plans.⁵⁴ HMICS has found that strategic workforce planning is under-developed in terms of managing officer and staff numbers within the SPA and Police Scotland and is an essential component of effective resource management. The SPA has been pressing for a Strategic Workforce Plan for some time, but there has been limited progress until recently. HMICS remains concerned regarding the ability of Police Scotland to plan and best meet demand through an appropriate workforce mix of officers and staff, particularly in light of the need to make capacity savings through the transformation programme. Similarly the ability of the SPA to effectively support and challenge this process remains limited.

Managing and maintaining assets

128. As with strategic workforce planning, it is essential that resource strategies align with each other and underpin the overall financial strategy. Auditors have consistently highlighted gaps in this strategy landscape. Delays in developing an ICT Strategy, Estates and Fleet Strategies and a Workforce Plan (a People Strategy⁵⁵ was approved in August 2018) were noted in the last three annual audits.

⁵³ SPA, [Audit Scotland Interim Report - Scottish Police Authority Management report 2018/19](#), 11 July 2019.

⁵⁴ HMICS, [Annual Scrutiny Plan 2019-20](#), 29 March 2019.

⁵⁵ SPA, [Board Meeting Item 8 - Empowering, Enabling and Developing our People – the Police Scotland People Strategy](#), 30 August 2018.



129. There has been considerable public attention drawn to the condition of the police estate over recent months. This has been highlighted by the Scottish Police Federation as part of a programme of health and safety visits as well as previous HMICS custody reports since 2014. The condition of the estate is clearly linked to operational effectiveness as well as general wellbeing and morale of the workforce. Reductions in maintenance budgets and limits on the amount of capital funding available have directly impacted on the ability to ensure a 'fit for purpose' estate is available. It should also be acknowledged that estate issues are not recent and that the SPA and Police Scotland inherited many issues from legacy forces.
130. Police Scotland has confirmed that any health and safety issues, as well as fire safety requirements, are given high priority status for remediation as part of its hard and soft facilities management contracts. Previous improvement notices served by the Health and Safety Executive and Scottish Fire and Rescue Service have since been addressed. However staff associations and unions highlighted to HMICS that they have continued concerns regarding the health, safety and wellbeing of their members in relation to the current estate.
131. The SPA recently approved a new Estates Strategy.⁵⁶ A Fleet Strategy is still in development and has been delayed to allow consideration of climate change targets to be better reflected in future plans. The key issue for the SPA will be securing sufficient funding from Scottish Government to develop the estate and fleet in the context of meeting the needs of a modern national force.
132. The approval of the Digital Data and ICT (DDICT) outline business case⁵⁷ in September 2018 was a major step forward in setting out the future strategy and plans for policing. This was a detailed strategy and costed delivery plan that integrates the wider DDICT requirements of the police service with the programmes outlined in the 'Serving a Changing Scotland' strategy, addresses legacy ICT issues and will make the service compliant with new data regulation. This programme has already resulted in the roll out of mobile technology and implementation of a number of national core operational systems. However the extent of the funding required (approx. £298m) has proved to be a major issue in terms of securing the necessary capital investment from Scottish Government. The Auditor General noted in her Section 22 report of December 2018 that a lack of clarity on sourcing the funding required to implement the DDICT strategy, means that there is a risk to both the timing of its implementation and the future financial sustainability of the SPA.
133. Police Scotland has demonstrated it has the 5th lowest level of capital investment per employee of all police services in the UK. This has led to an annual degradation in its asset base as it has insufficient funds for maintenance or replacement. HMICS notes that other asset strategies are not clearly articulated in terms of specialist equipment and technology particular to policing and cannot therefore comment on the relative levels of investment or planning. A consistent asset management approach across all categories of asset is also not evident as yet.
134. In January 2019, internal auditors published a review of ICT Procurement⁵⁸ and in May 2019, also published a review of Tendering Procedures.⁵⁹ These reports identified issues more widely across procurement at Police Scotland including in the awarding of contracts and non-compliance with Scottish Government guidance and EU procurement legislation and the monitoring of contract spend. Whilst improvement plans are in place, internal and external auditors have reflected ongoing concerns.

⁵⁶ SPA, [Board meeting Item 10 - Draft Estate Strategy 2019](#), 22 May 2019.

⁵⁷ SPA, [Board Meeting Item 8 - Digital Data & ICT Outline Business Case: Paper by Interim Chief Officer and Accountable Officer](#), 27 September 2019.

⁵⁸ SPA, Audit Committee Item 17 - Internal Audit Procurement Report, 22 January 2019 (private paper).

⁵⁹ SPA, [Audit Committee Item 11 - Internal Audit Tendering report](#), 1 May 2019.

Role of the Accountable Officer

135. The Chief Executive of the SPA has been appointed as the Accountable Officer for policing. The Public Finance and Accountability (Scotland) Act 2002, the Memorandum to Accountable Officers and the SPFM clearly set out the specific responsibilities associated with the role which includes overall personal financial responsibility for the Authority's budget.
136. The Accountable Officer and Police Scotland have an agreed financial protocol in place setting out the roles and responsibilities for each organisation,⁶⁰ which was agreed in August 2017. The Police Scotland Chief Financial Officer has delegated responsibility for the management of the SPA Resource Budget.
137. Prior to the introduction of the Act the financial accounts of police forces were the responsibility of individual police authorities or Joint Police Boards. The Police Authority or Joint Police Board were required to appoint a treasurer⁶¹ and submit accounts to Audit Scotland in the same way that the SPA are required to do currently. The Treasurer of the authority, who would also be a local authority officer, was responsible for the preparation of the Board's statement of accounts.
138. Typically, in an NDPB, the Chief Executive is appointed as the Accountable Officer, having operational direction and control over the organisation they lead. However in the case of the SPA as an oversight body, the Chief Constable has a separate statutory responsibility for the direction and control over Police Scotland, constituting over 90% of the SPA budget. This is not a delegated authority from the Accountable Officer, as is common in other organisations, but a clearly defined separation of statutory responsibilities. This position was characterised by many of those we interviewed as unique, unusual and often confusing in terms of financial accountability.
139. The ability of the Chief Executive of the SPA to effectively discharge their responsibilities as Accountable Officer, where they do not have line management control over the individual making daily operational decisions on the deployment of the majority of resources, is likely to be limited. The previous Interim Chief Officer introduced a system of assurance certification within Police Scotland. Whilst this is viewed as an effective mechanism for assurance, ultimately it is the Chief Constable who was required to sign off these certifications as accountable for the system of governance within Police Scotland.
140. In designing a revised structure for the SPA, the Interim Chief Officer specifically included the requirement to provide support and assurance to the Accountable Officer. This increased the planned establishment of the SPA to 68 staff. This proposal was viewed negatively by Police Scotland, as duplicating roles and introducing further levels of assurance which were unnecessary.
141. There was a clear view expressed from those we interviewed outwith the SPA that the Chief Constable should be the Accountable Officer. As part of our comparative analysis exercise, HMICS examined the accountability arrangements in a number of jurisdictions. In some examples, the national Police Commissioner acts as both Chief Constable and Chief Executive Officer, having full financial accountability. In other examples the Police and Crime Commissioner (PCC) in England and Wales (an elected official) or the Chief Executive of the Board may take this role.

⁶⁰ SPA, [Financial Protocol Between the SPA Accountable Officer and Police Scotland](#).

⁶¹ [Local Government Finance Act 1988](#).

142. In Northern Ireland, where the Department for Justice designate the role of accounting officer, both the Chief Executive and the Chief Constable have financial accountability. Both therefore have direct accountability to the Department for Justice as well as the Northern Ireland Police Board (NIPB). The NIPB is an NDPB and a separate organisation from PSNI. The Chief Constable also prepares accounts on behalf of the Northern Ireland Police Board. The NIPB, similar to the SPA, also has a statutory role in 'securing the maintenance of the Police in Northern Ireland'. Similarly the Chief Finance Officer of the BTPA acts as the Accountable Officer with the BTP Chief Constable designated as an Additional Accounting Officer. HMICS considers that these models provide for increased accountability and properly reflect the statutory responsibilities of the Chief Constable. Therefore we recommend that further consideration is given to a review of the Accountable Officer designation within policing.

Recommendation 6

The Scottish Government, the SPA and Police Scotland should review the designation of Accountable Officer(s) within policing.

143. Due to the former Chief Executive's extended absence the Chief Financial Officer (CFO) for Police Scotland has been appointed by the Permanent Secretary as Accountable Officer. HMICS could not identify a legal impediment to this arrangement but the line management arrangements surrounding this position are unique. The CFO is line managed by the Deputy Chief Officer within Police Scotland, who is in turn managed by the Chief Constable and therefore not under the direct management of the SPA, albeit that the agreed financial protocol provides for a line of accountability between the CFO and the Chief Executive of the SPA.
144. A number of those interviewed expressed some concern as to the potential inherent conflict in the CFO essentially reporting to himself as Accountable Officer. HMICS was given assurances that this is a short term arrangement and should not be maintained for longer than is absolutely necessary.

SPA role as an employer

145. In terms of the Act and the specific function of maintaining the police service, the SPA has a clear role in terms of the pay and conditions of police officers. The Authority is also required to appoint the Chief Constable,⁶² one or more Deputy Chief Constables, and one or more Assistant Chief Constables.⁶³
146. The Authority may appoint police staff to assist in the carrying out of police functions. These staff will be employed by the Authority, or can be provided to the Authority by a third party. The Chief Constable also has power to appoint police staff on behalf of the Authority. The SPA determines the terms and conditions of employment for staff. The provision of staff to support the carrying out of police functions also falls under the definition of maintenance.
147. The Chief Constable appoints police officers who are under his direction and control. The SPA does not have a role in their appointment (other than chief officers) or management, but does participate in the Police Negotiating Board⁶⁴ (PNB) and has specific roles in grievance and current complaint procedures.

⁶² An appointment of a Chief Constable has effect only if approved by the Scottish Ministers.

⁶³ The Authority must consult the Chief Constable before appointing a deputy or assistant Chief Constable.

⁶⁴ Scottish Government, [Police Negotiating Board negotiates the terms and conditions for police officers in Scotland](#).

148. Police Scotland has a Director of People and Development, who as with the CFO, also provides advice to the Accountable Officer and the Board. The People and Development function provides services to the SPA corporate function, SPA Forensics and Police Scotland. SPA has appointed a Head of HR Governance supported by a number of other staff who fulfill a specific assurance remit in terms of the role of the Authority as an employer.
149. The Staff Pay and Remuneration Modernisation (SPRM) project has aimed to implement a new single set of terms and conditions for staff employed by the SPA. The project had been in development since 2013 within Police Scotland until the SPA People Committee exerted increased scrutiny due to the delay in implementation. This prolonged delay caused considerable uncertainty for staff, with many still operating under legacy arrangements. However the SPRM project is now on track for delivery and is viewed as successful by SPA Board members and the Scottish Government. This view is disputed by unions who view the project as long overdue and still a major concern for staff which has also impeded transformation work. Of the approximate 5000 staff employed and issued with the outcome of job evaluations, around 2120 staff members (607 jobs) have appealed. This significant number of staff remain uncertain as to the outcome and timing of their appeals. Some staff in the SPA highlighted particular re-grading concerns to HMICS and a lack of support for their wellbeing in this respect.
150. Engagement with staff associations and unions is a key element of the employer role. The Chair set out early in their tenure that this engagement was a priority and stated an intention to establish a forum for the Board to engage all staff associations and unions. HMICS found that this initiative was welcomed, but had failed to meet expectations. Meetings had not taken place as frequently as planned and although intended to be an informal opportunity to engage in wider discussions complementary to the formal engagement and negotiation structures, had yet to have a clearly articulated terms of reference or standing agenda.
151. HMICS also found that engagement in the system of governance with staff associations and unions had also been very limited. Whilst able to attend public Board and Committee sessions, there was no opportunity for direct contribution, and attendance at private sessions was by invitation only. This is a particular issue in terms of the Resources Committee, where finance, estates, staffing and health, safety and wellbeing are routinely discussed, most often in private.
152. HMICS acknowledges that staff associations and unions have opportunities for engagement within the internal governance of Police Scotland and formally through the Joint Negotiating and Consultative Committee (JNCC) and Scottish Police Consultative Forum (SPCF).⁶⁵ However there remains little opportunity for engagement directly with the SPA Board. This has been a continuing theme for improvement for the SPA for a number of years with limited progress being made.
153. HMICS recommends that the SPA consider a more effective plan to support engagement with staff associations and unions as part of a wider stakeholder engagement and consultation approach (see paragraph 112). Providing increased transparency to officers, staff and the public over these arrangements would also be beneficial in improving confidence.

Recommendation 7

The Scottish Police Authority should implement effective engagement and feedback mechanisms with staff associations and unions as part of a wider stakeholder engagement and consultation approach.

⁶⁵ Sections 11 and 54 of the Act require Scottish Ministers to consult and share a draft of regulations to be made under section 11 or 48 and consider any representations made to them. The SPCF, although not required in statute, provides a forum to allow statutory consultation to be open and transparent.

Managing change and transformation

154. The 'Serving a Changing Scotland' strategy sets out an ambitious programme of change and transformation. As noted previously, HMICS views that the SPA, as part of its statutory function to maintain the police service, has a responsibility to provide effective oversight of the progress and impact of change in policing and there is an expectation that the SPA will exercise this responsibility in a visible and robust way.
155. It was reported to the public meeting of the SPA Board in August 2019 that the Vice Chair has been developing proposals for a new approach to change oversight as part of the work of the Governance Development and Improvement Group. The SPA already provides some oversight of elements of the overall transformation portfolio and has acknowledged that Police Scotland also has robust internal governance arrangements in place which should not be duplicated.
156. HMICS has made previous recommendations and commentary relating to the governance of change and transformation, including:
- The SPA should consider the level of scrutiny and due diligence applied to change project budgets and projected financial benefits⁶⁶
 - The SPA should introduce governance arrangements for the approval and on-going monitoring of major change by Police Scotland, including the wider transformation portfolio under Policing 2026. This should include a commitment to conduct scrutiny of major change in public⁶⁷
 - Police Scotland and the SPA should adopt the C3 governance programme management and quality assurance approaches as standard in implementing significant change.⁶⁸
157. Currently the Resources Committee gives consideration to business cases, benefits tracking, productivity improvements and operational capacity gains, as well as the current financial position of business cases and change control history. HMICS has observed that the level of scrutiny, whilst constructive, is significant and repeats much of the internal governance process within Police Scotland with very limited assurance placed on this. The scrutiny is also primarily focused on financial benefits being delivered in relation to the current financial plan, with very little attention given to operational impact and benefits.
158. The SPA Board receives regular updates⁶⁹ on the transformation benefits and delivery as part of quarterly performance reporting. This reporting is high level and provides narrative detail on benefits tracking. HMICS has observed that this does not prompt the required level of scrutiny by the SPA Board over the scope of the programme and its progress.
159. The SPP Committee has been meeting since February 2019. The Committee has focused on the development of performance reporting and annual police plans (APP) as well as a number of operational issues. There has been limited focus on the transformation programme in this setting where there is potential to better consider operational impact, aligning benefits with performance.

⁶⁶ HMICS, [Independent Assurance Review Police Scotland - Call Handling: Final Report](#), Recommendation 22, 10 November 2015.

⁶⁷ HMICS, [Local Policing+ Inspection Programme Inspection of firearms licensing](#), Recommendation 6, 6 March 2018.

⁶⁸ HMICS, [Independent Assurance Review - Police Scotland Call Handling: Update Report - May 2018](#), Recommendation 5, 22 May 2018.

⁶⁹ SPA, [Board Meeting Item - 11 Policing Performance January – March 2019](#), 22 May 2019.

160. HMICS considers that there is a continuing lack of maturity in the current approach and that without a dedicated forum there is a high risk that a piecemeal approach will continue to pervade. Effective scrutiny is still not taking place over two years since the launch of the 'Serving a Changing Scotland' strategy and 18 months since the transformation programme was first considered by the Board.

Exhibit 4: Transforming Corporate Support Services (TCSS) Case Study

Transforming corporate support services



- June 2017, TCSS programme established as part of transformation portfolio
- Preferred Police Scotland model is Enterprise Resource Planning (ERP) solution
- Some initial delay to development as team working on BTP transfer project
- June 2018, Initial Business Case approved by SPA Board
- September 2018, Approved by SPA Board as part of DDICT business case
- Full Business Case (FBC) and supporting investment case developed with support from external consultants aligned to Target Operating Model
- Funding required to deliver in 3 year period estimated at £35m (over 10 years would deliver £65m discounted gross savings, £44m cashable savings and £37m in efficiency savings)
- TCSS first considered in February 2018 and subsequently considered 9 times in various SPA settings over 18 months
- FBC formally submitted to SPA Resources Committee four times and not approved.

161. The key learning points from this case study are that:

- Approval and governance routes were inconsistent and unclear, with governance of the portfolio, funding, benefits and prioritisation considered in different settings
- Police Scotland is to be commended for maintaining a close and open dialogue with the SPA, briefing and consulting as necessary throughout the TCSS development and approvals process
- In the context of emerging funding constraints, the SPA was unclear on the type of TCSS solution they could approve which would have allowed Police Scotland to consider earlier opportunities for a more financially sustainable solution with phased implementation
- Whilst developing an overarching DDICT Strategy was the right approach - the SPA and Police Scotland should have given more consideration to the impact the strategy would have on the approval of individual programmes it embraced
- TCSS has been effectively supported with internal assurance, but earlier independent assurance could have highlighted whether all viable solutions (beyond ERP) were being properly considered.

162. HMICS considers that the Board must establish a clear portfolio oversight approach which complements, but does not duplicate, change governance within Police Scotland. Transparency over the scope, risks, costs, delivery timelines and benefits of the programme is essential to provide greater public understanding of the impact of the proposed changes to policing delivery.

163. HMICS has previously commended the SPA governance approach⁷⁰ taken to implementation of the Contact, Command and Control model and recommended it be followed for other major programmes with significant operational impact. As we note at paragraph 61 the recently formed CAM Working Group would have benefitted from being established much earlier to influence development of the model rather than purely its implementation.

Recommendation 8

The Scottish Police Authority executive team should develop proposals for effective governance of change and transformation, bringing forward proposals as a matter of urgency.

SPA advocacy role

164. Given the financial challenges facing policing, HMICS has found that there are limitations on the ability of the SPA to effectively discharge its maintenance function. The SPA can only allocate funding within the envelope it receives relative to the rest of the public sector in Scotland.
165. The SPA Board expressed a united position on its commitment to securing the necessary resources for policing, although HMICS found the understanding of the 'maintaining' role was not consistent across Board members. The Chair, supported by Police Scotland, has continued to develop relationships and engagement with Scottish Government and Ministers to provide an accurate picture of budget requirements, but HMICS considers this requires further development in order to address the fundamental deficit in funding.
166. At the most recent SPA Board meeting on 21 August 2019 the Chair's report states that the '*significant challenges emerging over how, going forward, the SPA will be able to fund both current commitments and necessary enhancements to the service*'. The report states that the SPA is '*...clear that significant additional investment in policing is required and that it must be aligned to the distinctive needs and priorities of policing in Scotland*'. These comments were set in the context of increasing demands and uncertainties over the costs and impact of Brexit; potential major events; the growing amount of police time spent addressing issues of vulnerability; historic underfunding in fleet, estate and technology. During the course of the public meeting, the Chair set out an intention to gather more information and engage directly with Police Scotland and Scottish Government. This was the most overt that the SPA has been in terms of making the case in public for increased funding. HMICS welcomes this increased visibility of the extent of the demands and funding challenges faced by policing.
167. Many of those we interviewed felt the SPA has not fulfilled its core role and has shied away from overtly expressing the extent of the deficit budget position and its impact. A reactive rather than proactive stance was considered to be the norm. There was a general view expressed that there required to be more public and robust debate around the demands on policing led by the SPA which also included more effective engagement with public and third sector partners, staff associations and unions. HMICS considers that the SPA has been aware of the funding challenges for some considerable time and has failed to effectively advocate this position on the national stage.

⁷⁰ HMICS, [Independent Assurance Review - Police Scotland Call Handling: Update Report - May 2018](#), Recommendation 5, 22 May 2018.

Promoting the policing principles

168. Section 33 of the Act sets out the policing principles, the main purpose being identified as improving the safety and well-being of persons, localities and communities in Scotland.
169. Ministers may also determine strategic police priorities for the Authority (section 33) pertaining to both policing and the SPA itself. The Scottish Government is currently consulting on its third set of principles.⁷¹ The Justice Committee noted that it was content with the current provisions which enable Scottish Ministers to set the strategic police priorities for the SPA. HMICS similarly views that it is appropriate for Ministers to set these priorities in line with their own political priorities and national outcomes, having consulted widely on their validity.
170. The stated main purpose clearly sets out the intent to improve and as such the main function of the SPA to promote the principles aligns with their duty to promote and support improvement. The Act sets out that the principles are particularly pertinent to the SPA and the Chief Constable when preparing the strategic police plan and each annual police plan requiring each to reflect how they will improve policing.

Strategic planning

171. As set out in statutory guidance,⁷² strategic planning is a core element of best value and therefore continuous improvement. Without effective systems and processes in place to produce high quality strategy and plans, many of the other aspects of best value cannot be delivered.
172. The SPA has a statutory responsibility to prepare a strategic police plan. The current Strategic Police Plan ‘Serving a Changing Scotland – a 10-year Strategy for Policing’ was developed collaboratively by the SPA and Police Scotland and was approved in 2017. The Authority must involve the Chief Constable in the preparation of the plan and the Chief Constable must provide the Authority with such assistance as it may reasonably require in that regard. Given that Police Scotland has the policing professional expertise, produces the strategic risk assessment and other analytical products as well as the resource to lead on strategic planning, it is clear that the SPA must collaborate effectively with them to develop the plan.
173. Prior to the development of the ‘Serving a Changing Scotland’ strategy, HMICS is aware of historical tensions between the two organisations in terms of leadership and resourcing of this process. This led to misalignment of plans and challenges in developing effective performance reporting arrangements. HMICS considers that it is essential that internal governance around strategy development provides clarity around roles, responsibilities, resourcing and plans for delivery.
174. As noted above, the Scottish Government is currently consulting on its third set of principles. Given that the SPA is required to review its strategic police plan at least once every three years, and must, in particular, do so where the strategic police priorities have been significantly revised, HMICS has confirmed that such a review is now underway.
175. In the most recent Chair’s update to the Board,⁷³ it was noted that the revised strategic policing priorities will inform a new Strategic Police Plan and that work is underway to develop a timetable and process for the refresh of the plan with the full involvement of Board members. No mention was made of the role of the SPA executive team.

⁷¹ Scottish Government, [Strategic police priorities for Scotland: consultation](#), 15 July 2019.

⁷² Scottish Government, [Best value in public services: guidance for accountable officers](#), 22 March 2011.

⁷³ SPA, [Board Meeting Item 2 - Chair’s Introduction and Report](#), 21 August 2019.

176. In the recent HMICS Review of Police Scotland's approach to the development and operational delivery of the Annual Police Plan (December 2018) we made a number of recommendations in relation to the strategic assessment approach including that Police Scotland and the SPA should develop a clear process for governance and engagement around strategic assessment and consideration of priorities as part of their statutory responsibilities in the planning process.⁷⁴ We also recommended a move to a three year planning cycle⁷⁵ and that the review of the strategic police plan be brought forward.⁷⁶ HMICS will continue to monitor progress on these recommendations.
177. One of the key issues identified within our fieldwork was the lack of a clear vision or strategy for the SPA itself. Many of those we interviewed had different interpretations of the vision, referencing elements which have been set out in the Chair's updates to the Board including Board objectives and their guiding principles for the development and improvement of the SPA. However none could point to a single document which set out this vision, strategy or plan for the organisation. HMICS has found this has led to some confusion and a lack of wider understanding of the intended outcomes and steps which require to be taken to achieve the Board's vision.
178. Whilst a number of SPA staff confirmed that drafts of a new Corporate Plan had been developed, they told us these had not been progressed having not met expectations. The Chair⁷⁷ and Interim Chief Officer first mention a new Corporate Plan for 2018/19 in February 2018 in their updates to the Board. Whilst this appears to have been replaced by the SPA Improvement Plan 2018/19, the next mention of a strategic plan for the SPA is in November 2018 in the Chair and new Chief Executive's update reports with impending submission for approval flagged again in their reports to the Board in March 2019.
179. HMICS could find no evidence of such a plan actively being developed, with no update provided at the Board meeting on 21 August 2019. Internal auditors have recently commented in their annual report⁷⁸ and work on best value readiness that in the absence of such a strategy or plan the SPA does not have a clear vision for the future for the sustained success of the organisation.
180. HMICS therefore recommends that the SPA executive team should develop and secure approval from the Board for a new corporate plan. Consideration should be given to support the cyclical planning recommended to Police Scotland.

Recommendation 9

The Scottish Police Authority executive team should develop and secure approval from the Board for a new corporate plan.

⁷⁴ HMICS, [Thematic Review of Police Scotland's approach to the development and operational delivery of the Annual Police Plan \(2018-19\)](#), Recommendation 2, December 2018.

⁷⁵ HMICS, [Independent Assurance Review - Police Scotland Call Handling: Update Report - May 2018](#), Recommendation 10, 22 May 2018.

⁷⁶ HMICS, [Independent Assurance Review - Police Scotland Call Handling: Update Report - May 2018](#), Recommendation 9, 22 May 2018.

⁷⁷ SPA, [Board meeting Item 6 - Leadership, Governance and Accountability - Chair's Report](#) and [ICEO Update](#), 27 February 2018.

⁷⁸ SPA, [Scottish Police Authority Internal Audit Annual Report 2018/19](#), 11 July 2019.

Promoting and supporting continuous improvement

181. One of the main functions of the SPA is to promote and support continuous improvement in the policing of Scotland. This aligns with their duty to make arrangements which secure best value. Both HMICS and the Auditor General have powers set out in the Act to examine the achievement of best value. This is embedded within the Audit Scotland external audit approach and the HMICS Inspection Framework.
182. A commissioned review of Best Value Readiness⁷⁹ in the SPA was recently undertaken by internal auditors. Auditors concluded that arrangements to promote value for money and deliver best value are not yet adequate.
183. In our fieldwork we identified that there was significant variance in the understanding and interpretation of continuous improvement and where relative responsibilities should lie. Many felt that the responsibility should lie with Police Scotland and that the SPA should have oversight of this. Others were clear that the SPA should drive the improvement process, specifically through the work of its Committees and in particular the Audit Committee. HMICS is of the view that the SPA should have an embedded risk-based approach to improvement which is overtly part of its organisational culture and governance system.
184. A number of Board members were focused on improvement in terms of outcomes and using an effective performance framework alongside their scrutiny and challenge role, to support the improvement process. They told us their ability to do this to date had been severely constrained by the lack of effective performance reporting from Police Scotland and much emphasis was placed on the new approved performance framework (March 2019) and the first of the new style performance reports due at the August 2019 meeting of the SPA Board.
185. We found that many of those we interviewed felt that the capacity for continuous improvement was limited in both the SPA and Police Scotland, with scarce dedicated resource available. This was viewed as directly impacting on the pace of improvement. A small number of those we interviewed recognised continuous improvement as a wider cultural issue which alongside the management of change, needed to form part of a more holistic approach to organisational development.
186. HMICS was provided evidence of improvement being driven in a number of settings by the SPA. This included the work of the Resources Committee, the Audit Committee and recent support by the SPP Committee to the development of the new performance framework⁸⁰. HMICS found that examples of scrutiny and challenge in particular areas such as financial strategy, CAM, C3, Stop and Search and Armed policing also provide evidence of improvement support, however these examples are considered to be more reactive than proactive in nature.
187. HMICS found limitations in the ability of the SPA to support and promote continuous improvement. There is a lack of a system-wide approach to organisational learning, a lack of focus on key areas of strategic risk and severely limited resources available to support further development. Areas such as strategic workforce planning (see paragraph 127) were cited as examples of where limited support for improvement was evident.

⁷⁹ SPA, [Scottish Police Authority Internal Audit Annual Report 2018/19](#), 11 July 2019.

⁸⁰ SPA, [Board Meeting Item 7 - Police Scotland Performance Reporting Framework](#), 28 March 2019.

188. HMICS recommends that examples and measures of the SPA's own impact on continuous improvement should form part of its self-assessment and performance monitoring approach.

Recommendation 10

The Scottish Police Authority should further develop its self-assessment and performance monitoring approach to include examples and measures of the Scottish Police Authority's own impact on continuous improvement.

Audit and assurance

189. Essential to good governance is the exercise of a strong audit function (both internal and external). The effective consideration and use of audit reports to gain assurance and encourage improvement is core to the role of the Audit Committee.
190. HMICS has observed the SPA Audit Committee and reviewed its reports from the last 18 months. HMICS found evidence of a more focused role and improving levels of scrutiny. Those we interviewed were also positive regarding the progress made by the Committee and its new Chair. The Audit Committee now meets quarterly and has also agreed a Protocol for Commissioning of Additional Work⁸¹ from internal auditors and a new SPA risk framework.⁸²
191. HMICS did find evidence of variance in the levels of scrutiny applied within the Committee, with some higher risk areas receiving limited attention and other lower risk areas having more intensive challenge. Further work is required to ensure consistency and focus at a strategic level.
192. A Risk and Assurance function has been established within Police Scotland to provide risk management support and services as well as business assurance services. An effective risk management framework is in place. An excellence framework (based around EFQM)⁸³ is also in place to provide the basis for a business assurance programme. Both approaches have recently been the subject of positive internal audit reports. Ideally this function should provide the necessary internal assurance to the SPA which when combined with other audit work and external inspection and regulation will provide a sufficiently complete picture of assurance over a defined cycle.
193. The Audit Committee has commissioned work from internal auditors to consider assurance mapping to ensure coverage of all areas of corporate governance and operational policing. This work has been attempted previously by the SPA, and remains at an early stage. HMICS considers that given the concerns expressed regarding overlap and duplication of scrutiny, this mapping work is essential to ensure a proportionate and risk-focused response.

⁸¹ SPA, [Audit Committee Item 4.4 - Internal Audit Protocol for Commissioning of Additional Work](#), 11 September 2018.

⁸² SPA, [Audit Committee Item 13 - SPA Risk Framework](#), 11 July 2019.

⁸³ European Foundation for Quality Management excellence model is a non-prescriptive business excellence framework for organisational management.



Keep under review and hold to account

194. The Act states that one of the main functions of the SPA is to hold the Chief Constable to account for the policing of Scotland. This is supported by an additional responsibility to keep the policing of Scotland under review.
195. Establishing a professional and effective relationship between the SPA and Police Scotland is essential to allow effective scrutiny and challenge to take place. HMICS found evidence of an improving picture in relation to this, with improved transparency at the Board and Committees. However as noted previously (see paragraph 59) there remains significant variance in the level and focus of scrutiny applied and an ongoing perception of ineffectiveness.
196. HMICS did however identify that this perception was associated with a wide variance in expectation regarding the role of the SPA. There were contrary views expressed with some of those we interviewed expecting an in depth level of scrutiny and others envisaging a more strategic approach. In terms of the focus for scrutiny, some felt all areas of policing should be considered whereas others felt only higher risk areas should be considered with reporting on an exception basis for other functions. Without a clearly set out approach to scrutiny and its outcomes, HMICS views that this variance in perception may continue, preventing the SPA from realising its core role.
197. In our comparative analysis, we found that some jurisdictions rely on parliamentary scrutiny to hold policing to account, with all having external scrutiny of complaints (ombudsman or PIRC equivalent) and finances (internal and external auditors). Only some jurisdictions have the equivalent of HMICS, relying instead on auditors to undertake operational inspection. Scrutiny landscapes and reporting lines were consistently complex with a number of bodies being involved in holding to account in all the examples we considered.
198. HMICS also identified variation in the level of democratic representation across the models. There is evidence that the PCC model in England and Wales is providing improved direct scrutiny of the Chief Constable, but often to the exclusion of Police and Crime Panels (who hold the PCC to account), and at the potential expense of poor relationships developing. The Northern Ireland Police Board is one of the most mature models in place, having been reviewed on a number of occasions, which balances both independent Board appointees with elected officials to provide effective scrutiny.

Relationship with Police Scotland

199. HMICS found that the relationship between the SPA and Police Scotland was consistently viewed as much improved, respectful, open and constructive with a healthy degree of challenge, but still a work in progress in terms of developing clearer boundaries. The primary engagement mechanism was through the Chair, Board and Committee meetings, with Police Scotland involved in a number of Board development sessions and in specific meetings and briefing sessions.
200. On Board guidance states that the Board is responsible for ensuring that systems are in place to enable early notification to be provided to the Scottish Government about emerging issues which will impact on the operation or reputation of policing. There was a clear aspiration expressed from both parties to improve the level of forward planning, to better anticipate impact and public interest in terms of tactical and operational policy decisions. This was accompanied by a mutual desire to focus on outcomes and prioritise key areas for scrutiny.



201. Recent commentary⁸⁴ regarding the level of proximity between the two organisations was dismissed by most of those we interviewed. The tension between the SPA's role of support and that of scrutiny was viewed by some as a difficult balance to strike, but one that was common across the public sector. However a number of recent examples of Board and Committee agendas were cited to HMICS as demonstrating a lack of effective public scrutiny including (other than minutes and action logs):
- Resources Committee held on July 2019 having only two items in public and 22 items in private
 - SPA Board held on 21 August 2019 having nine items for discussion in public, only one item for approval and six items in private
 - SPA Board held on 24 September 2019 having eight items for discussion in public, two items for approval and six items in private.
202. A high proportion of papers in private and a limited number of reports for actual decision-making, many of which had already been fully scrutinised in Committee, were felt to be indicators that the SPA is not fully exercising its core role with suitable levels of transparency. A number of those interviewed felt that the focus of the Board should be on scrutinising performance and high level financial reporting, allowing Committees with delegated powers to manage other business.
203. HMICS considers that alignment and effective engagement between the two bodies is essential for effective delivery of policing. Both organisations were of this view, but that for public confidence to be secured, separation must be demonstrated through the 'holding to account' function, and that more effective demonstration of this was required, particularly in public forums. Given the ongoing concerns expressed by the Justice and Justice Sub-Committees regarding SPA's ability to discharge this function effectively, HMICS recommends that the SPA requires to set out more clearly how this will be achieved.
204. The ability to engage effectively around sensitive areas of policing was also raised with HMICS as an area for further development by a number of those we interviewed. Issues such as resilience, counter-terrorism, serious organised crime, counter corruption and undercover policing have had limited consideration in formal SPA settings.

Recommendation 11

The Scottish Police Authority requires to set out in detail how it will effectively exercise its duty to hold the Chief Constable to account through its system of governance.

⁸⁴ Scottish Parliament, [Justice Committee - Official Report](#), 24 June 2019.



Operational direction and control

205. The Act gives the Chief Constable sole responsibility for direction and control of the police service of Scotland. This means he must make the most appropriate operational decisions and provides a clear line of accountability. However it is well established that after any such decision, the SPA can hold the Chief Constable to account.
206. HMICS provided advice in early 2019⁸⁵ to the SPA regarding operational independence and accountability and previously had made a recommendation⁸⁶ in 2014 that the SPA should engage with Police Scotland and other relevant stakeholders to consider the concept of “Operational Responsibility” and develop a shared understanding over roles, responsibilities and boundaries. Our advice has continued to be the Act is clear that operational direction and control, and therefore decision-making, rests with the Chief Constable. HMICS found that the majority of those we interviewed felt there were no issues with interference in operational decision-making. However many felt clarity of boundaries could be improved.
207. In our comparative analysis of other governance models, we found that most, but not all, set out the operational independence of the Chief Constable in legislation. This level of independence or autonomy was also set out in supporting protocols, such as that used in England and Wales.⁸⁷ HMICS considers that the implementation of such additional guidance or protocols is a useful tool in providing clarity.
208. A joint agreement was approved at the SPA Board meeting on 24 February 2015⁸⁸ which set out expectations on how engagement between Police Scotland and the SPA would take place on police operational ‘policy’ issues. The agreement detailed a number of key commitments that both Police Scotland and the SPA should work to. Since this protocol was established there have been a number of operational issues which have not been captured. To date the protocol has not been formally reviewed for effectiveness. As part of the work of the SPA Governance Development and Improvement Group, a review of this protocol is now planned.
209. Many of those we interviewed stated that Police Scotland had not fully considered the impact of some key decisions and had subsequently not effectively engaged the SPA. Others felt that the SPA should be more aware of strategic risks and the tactical control measures proposed to mitigate them, allowing it to be more proactive in its scrutiny.
210. HMICS examined a number of governance case studies as part of our inspection which confirmed that an ongoing lack of effective impact assessment of some operational policing policy decisions had given rise to a number of reputational issues. These decisions were often taken under the assertion of operational ‘direction and control’. A recent example is that of cyber kiosks, which has been the subject of significant public and parliamentary interest in the past year.

⁸⁵ HMICS, [Briefing Note - Operational Responsibility of the Chief Constable](#), February 2019.

⁸⁶ HMICS, [Review of the Standing Firearms Authority for Armed Response Vehicles within Police Scotland](#), Recommendation 9, 27 October 2014.

⁸⁷ GOV.UK, [Policing Protocol Order 2011 \(statutory instrument\)](#), 21 February 2012.

⁸⁸ SPA, [Board Meeting Item 16 - SPA/Police Scotland Joint Agreement on Police Policy Engagement](#), 24 February 2015.

Cyber kiosk roll out



- 10 May – 2 September 2016, trials of cyber kiosks (digital device triage systems) undertaken in Edinburgh and Stirling. No impact assessment deemed necessary (as technology already in use). No approval sought from or engagement with SPA
- September 2016, Reports completed setting out findings - not shared with SPA
- 29 March 2018, 'Serving a Changing Scotland' 3 year implementation plan noted by SPA Board - plan includes proposal to commence roll out of cyber kiosks
- Business case produced to create national ICT network, 5 regional Cyber Hubs and Cyber kiosks. No scrutiny of business case by SPA (as contract value below £500k limit)
- Early April 2018, Police Scotland purchased 41 'cyber kiosks'
- Mid April 2018, Justice Sub-Committee schedules evidence session(s) after media reports on the purchase and previous trials
- 30 April 2018, Written evidence provided by SPA and Police Scotland to Justice Sub-Committee
- 10 May 2018, Justice Sub-Committee commences first of five evidence sessions
- April 2019⁸⁹, Justice Sub-Committee publishes report finding that SPA did not carry out its governance function effectively.

211. HMICS considers that the case study and the report from the Sub-Committee identify a number of key learning points:

- Although the introduction of cyber kiosks was not technically a change to operational policing style, "allowing police officers to do in local police stations what they were already doing in regional hubs", there was insufficient consideration given to human rights, equality and community impact assessment of wider access to digital triage devices by Police Scotland
- The SPA failed to consider the full implications of the 3 year implementation plan and had inadequate change governance and proactive risk identification arrangements in place
- Due to the lack of scrutiny by the SPA and impact assessment by Police Scotland, the Justice Sub-Committee undertook a significant amount of public scrutiny on cyber kiosks over an extended time period. Whilst this has been effective, the delay to implementation and wider reputational impact for policing have been significant.

212. As far back as 2014 HMICS recommended⁹⁰ that Police Scotland should adopt a comprehensive stakeholder management process and apply community impact assessments as a matter of course. We also recommended that the SPA and Police Scotland should develop a shared understanding over associated roles, responsibilities and boundaries in this planning system. HMICS recommends that further work is required from both the SPA and Police Scotland on this matter in terms of both proactive risk awareness and post-implementation scrutiny.

⁸⁹ Scottish Parliament, [Justice Sub-Committee on Policing - Report on Police Scotland's proposal to introduce the use of digital device triage systems \(cyber kiosks\)](#), 8 April 2019.

⁹⁰ HMICS, [Review of Standing Firearms Authority for Armed Response Vehicle Crews within Police Scotland](#), 27 October 2014.

Recommendation 12

The Scottish Police Authority and Police Scotland should develop a forward planning system of proactive risk awareness and post-implementation scrutiny for policing policy changes which are likely to have an impact on public confidence.

Performance management

213. In our Review of Police Scotland's approach to the development and operational delivery of the Annual Police Plan of December 2018 we provided commentary on the development of, and made a number of recommendations in relation to, performance reporting. At the time of our review, Police Scotland had been developing a new outcome-focused performance framework for over a year and there had been a significant lack of progress in finalising this. HMICS considered that the lack of progress on performance management was a major leadership and governance shortcoming for both the SPA and Police Scotland requiring immediate remedial action.
214. The SPA has a statutory responsibility to produce an annual report which includes an assessment of the performance by Police Scotland in the previous year. This must include an assessment of progress towards meeting the main objectives and outcomes set out in the strategic police plan, as well as an assessment of the implementation of the annual police plan. HMICS therefore identified that the role of the SPA in clearly defining its expectations of performance reporting was key to effectively discharging its core role.
215. HMICS specifically noted that SPA Board members could be more engaged in this process with support from both SPA and Police Scotland staff. With the creation of the SPP Committee, Board members were able to engage more directly with the development process and a new performance framework was approved in March 2019. Police Scotland told us that Board members on the Committee had added significant value to the development process.
216. HMICS found the lack of an effective performance framework has to date been a major obstacle to effective scrutiny, to supporting continuous improvement (see paragraph 184) and holding to account. A perception pervades of a passive approach from the SPA and a lack of rigour or effectiveness in this area. The lack of capacity in the SPA corporate function to support the Board in its scrutiny role is also a contributory factor to these issues.



217. As part of the new performance framework, a revised outcomes-focused style of report was introduced at the SPA Board meeting on 21 August 2019.⁹¹ The report was described as a 'step change' in approach, a significant improvement on previous reporting, and still a work in progress. However a number of issues were identified with the report, requiring further engagement with the SPP Committee:

- More balance and transparency is required between positive performance and where challenges remain
- Need to improve articulation of resource allocation and its relationship and impact on performance
- Lack of benchmarking (between local areas and with other bodies)
- Lack of impact measures – focus on narrative/descriptive text rather than measures and targets
- In respect of Cybercrime, unclear on what activities undertaken and associated measurable outcomes/impacts
- Unclear on how skills requirements impact on performance.

218. It has been acknowledged by both the SPA and Police Scotland that the report will develop over time, however it is clear that there is substantial work still required in order to provide an effective suite of performance reporting products. Having deferred the report for consideration by the SPP Committee, no scrutiny took place at the Board meeting. HMICS continues to be concerned regarding this lack of effective challenge to policing performance by the SPA Board. We will continue to monitor progress in this area.

219. In our comparative analysis HMICS found examples of negotiated performance contracts with local policing (linked to funding), national target setting (which most had moved away from) and strategic plans setting out measurable outcomes, indicators and information requirements to support objective and transparent assessment of police performance. In some jurisdictions legislation sets out specific duties to monitor performance which places an emphasis on the effectiveness of these arrangements. Whilst not advocating a prescriptive approach, HMICS considers there is much to be learned from these examples, which could improve the Scottish model.

Annual review

220. The Act states that the SPA must prepare an annual report as soon as practicable after the end of each reporting year. Such reports must reflect both the performance of the SPA itself as well as policing. The SPA has published an annual review report every year since 2014.

221. The quality and content of the annual review report has varied in each year of publication, much of which has been determined by lack of alignment between plans and the information provided by Police Scotland reflecting the issues with performance reporting noted above.

222. HMICS has found that the key issue with the reports in terms of the SPA itself has been the lack of effective performance measurement of the corporate function and the Board. Whilst progress can be reported in terms of SPA plans, there is limited quantitative detail on the added value which the organisation provides and its overall performance as a public body. HMICS considers that without a clear corporate strategy or plan which sets out objectives (see paragraphs 177 and 179), there cannot be an effective performance framework in place for the SPA.

⁹¹ SPA, [Board Meeting Item 5 - Policing Performance April – June 2019](#), 21 August 2019.

Providing services

223. Whilst the SPA is often described as a ‘watchdog’ or scrutiny body, it should be recognised that it is also a service delivery body. The SPA must provide forensic services to the Police Service, the PIRC and the Lord Advocate and procurators fiscal (section 31 of the Act). It must also make arrangements to provide an Independent Custody Visiting (ICV) Scheme (section 94 of the Act).
224. Recommendation 11 of the previous Chair’s review of governance recommended that *‘consideration should be given to reorganising or removing the service delivery responsibilities of the SPA and reinforcing its purpose as a governance body. This would focus particularly on its current service delivery responsibilities for Forensic Services, Independent Custody Visiting and Complaints & Conduct’*.
225. HMICS found that a number of those interviewed and those who responded to our questionnaire continued to question whether the SPA should have delivery responsibilities with a view that there is a fundamental conflict of interest in being both a service provider to and scrutiny body of Police Scotland.

Forensic services

226. Forensics services were provided to all Scottish legacy police forces through the Scottish Police Services Agency (SPSA) until April 2013, when they became part of the SPA. As part of the development of the Act the need to maintain a ‘sterile corridor’ between the police service and the provision of independent forensic services was a fundamental principle on which the new arrangements were made. HMICS is firmly of the view that this principle must be upheld.
227. HMICS published its Thematic Inspection of the SPA Forensic Services⁹² in June 2017. The inspection made 23 recommendations for the SPA and Police Scotland. As of August 2019, 12 of these recommendations have been discharged.
228. Recommendation 3 of this report was to establish a Forensics Committee as a matter of urgency to provide more effective governance. This Committee was subsequently established and first met in November 2017. HMICS has recently discharged this recommendation on the basis of observations at the Committee and its effective operation under a new Chair, however a perception remains that Forensic Services are quite separate from the rest of the SPA.
229. A number of observations were made in relation to the Committee during this inspection which we consider to be valid. There is a perceived lack of clarity on the relative role of the Forensics Committee in relation to other SPA Committees including Resources, Audit and Strategy, Policy and Performance. Many felt that some wider governance issues were being contained within the Committee which should be more prominent in a shared forum including finance and workforce issues. Engagement with staff associations was also felt to be an area which could be strengthened by the Committee.
230. HMICS found that many were of the view that the Forensics Committee should essentially mirror the work of the SPP Committee which focuses on policing, but that the two Committees should consider areas of overlap and potential joint sessions once or twice a year. Similarly better definition of how financial, audit and workforce issues are handled between the Resources Committee, Audit Committee and the Forensics Committee would be of benefit.

⁹² HMICS, [Thematic Inspection of the SPA Forensic Services](#), 27 June 2017.

Recommendation 13

The Scottish Police Authority should review the role of the Forensics Committee to work effectively with other Scottish Police Authority Committees and review the optimum governance and delivery options for Forensic Services.

231. At the request of the previous Chair,⁹³ HMICS provided a Professional Advice Note (PAN) on options for the future governance and delivery of Forensic Services in October 2016.⁹⁴ In the PAN, HMICS stated that the creation of a post of Head of Forensic Services for Scotland to report directly to the Chair and SPA Board, on a similar basis to that of the Chief Constable and the SPA Chief Executive, would provide improved clarity on the status of the Forensic Service as having 'operational independence' in a similar manner to Police Scotland.
232. We also advised that an additional appointment of a Chief Scientific Officer to maintain compliance with scientific standards and lead strategy, research and development would provide the required capacity to develop these areas. The separation of business management from technical leadership was evidenced in a number of the other delivery models we reviewed and HMICS professional opinion was that this would provide an added layer of assurance and expertise.
233. HMICS confirmed this position in our inspection report of 2017 and therefore made a recommendation that the SPA should review the senior management structure for Forensic Services. This recommendation is yet to be discharged albeit HMICS received assurance that the Forensics Committee has been considering proposals for a revised structure.
234. During this inspection HMICS also identified some concerns regarding the current reporting line of the Director of Forensic Services. Having previously reported to the former Chief Executive Officer, reporting lines were changed after that post was made redundant. The Director currently reports directly to the Chair of the SPA. We found that contact with the SPA Chair is limited. The Director also attends the SPA Senior Management Team meeting on a monthly basis.
235. As stated in our PAN and Inspection report, HMICS is supportive of a new post of Head of Forensic Services for Scotland (or equivalent) reporting directly to the SPA Chair and SPA Board. However this requires to be complemented by cohesive governance arrangements across all SPA committees and with the required levels of accountability in place. This is particularly pertinent to financial accountability where HMICS views that Accountable Officer status should also be considered for the Head of Forensic Services.
236. As previously noted HMICS considers there is a fundamental conflict of interest in being both a service provider to and scrutiny body of Police Scotland. This has been observed in the balance of scrutiny overall between Forensic Services and Police Scotland. Police Scotland is receiving disproportionate scrutiny about the quality of corporate services provided to SPA Forensic Services, compared with the level of scrutiny applied to the quality of forensic services provided to Police Scotland.

⁹³ Letter from SPA Chair to HMCIC June 2016.

⁹⁴ HMICS, [Professional Advice Note - Options for the Governance of Forensic Services in Scotland](#), 12 October 2016.



237. Police Scotland provides the majority of corporate business support services to the SPA and Forensic Services. These currently include Human Resources, ICT, Procurement, Estates, Fleet and financial processing. In our June 2017 report HMICS did not view that it would be sustainable for Forensic Services to maintain their own support functions, but did note that service levels were having a direct impact on day to day business. We recommended that Police Scotland should develop formal Service Level Agreements for the delivery of corporate support services. There has been limited progress on this recommendation and limited improvement in the services provided.
238. Should the SPA decide it requires its own corporate services support capability, with the majority of SPA staff working within Forensic services, HMICS considers that these functions should be based within that service area providing services back to the SPA corporate function.

Independent custody visiting scheme

239. Another policy aim of the 2012 Act was to place independent custody visiting (ICV) onto a statutory footing. The provisions in Chapter 16 of the Act are in pursuance of the objective of the United Nation's Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). That is, the objective of establishing a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.
240. Custody is subject to regular external scrutiny by HMICS and independent custody visitors, both members of the UK National Preventive Mechanism (NPM) which monitors the treatment and conditions for detainees under international law. HMICS has acknowledged the role of ICV and has implemented a memorandum of understanding⁹⁵ with the scheme, which facilitates the sharing of information and encourages custody visitors to follow up on our own findings.
241. In our joint written submission, with the NPM, to the Justice Committee review we confirmed that the Act had strengthened arrangements for independent custody visiting and provided a more consistent approach to safeguarding detainee rights across Scotland. The UK NPM and the Inspectorate asked the Committee to consider recommending the extension of the OPCAT provisions in the Act in relation to independent custody visiting to inspection of police custody as conducted by HMICS.
242. In our Inspection of the Strategic arrangements for the delivery of police custody published in June 2019.⁹⁶ We found that the SPA had given little attention to the former Chair's recommendation that consideration should be given to reorganising or removing the SPA's service delivery functions as it relates to independent custody visiting. In particular, little consideration had been given to whether it is appropriate that independent custody visitors are managed by the same body which oversees funding provision for custody. As with forensic services, there is an inherent conflict of interest in these arrangements which HMICS recommends should be considered further.
243. The HMICS report also highlighted that further consideration could also be given by the SPA as to whether the independent custody visiting scheme is sufficiently impactful given the frequency with which visits are made and that there is limited publicly available information about their findings. HMICS found that impact is also constrained by the limited attention given to ICV at SPA Board or Committee level. Chief Executive and Interim Chief Officer reports have regularly included basic information on detainee engagement statistics, but have limited information on the impact of their work.

⁹⁵ HMICS, [Independent Custody Visiting MoU](#).

⁹⁶ HMICS, [Inspection of the strategic arrangements for the delivery of police custody](#), 6 June 2019.

244. An annual ICV report⁹⁷ has been produced since 2014-15 which is considered by the SPA Board. HMICS notes that an annual ICV conference, also takes place arranged by the SPA and attended by some Board members. This is complemented by regular training, cluster meetings and a quarterly newsletter. However there has been limited engagement by the Board as a whole in the scheme and with visitors. HMICS recommends that further consideration be given to improving the visibility of ICV work, direct scrutiny of custody arrangements and outcomes for detainees.

Recommendation 14

The Scottish Police Authority should improve visibility of the work of the Independent Custody Visiting scheme, direct scrutiny of custody arrangements and outcomes for detainees. It should also review the optimum governance and delivery options for the Independent Custody Visiting scheme.

Complaints handling

245. As noted previously in this report and in our terms of reference, HMICS has not considered the specific issues associated with complaints handling highlighted by the Justice Committee review. The Independent Review of Complaints Handling, Investigations and Misconduct Issues in relation to Policing: by the Rt. Hon. Dame Elish Angiolini DBE QC was announced in June 2018.⁹⁸ A preliminary report⁹⁹ published on 21 June 2019 contains a number of complaint handling recommendations for Police Scotland, the SPA, the PIRC and considerations for the Crown Office. A final report is expected to be published later in 2019.

246. There are four specific recommendations made to the SPA in the preliminary report. One of those recommendations was in direct response to evidence submitted by HMICS to the review. Paragraph 176 of the report states that Her Majesty's Chief Inspector of Constabulary in Scotland stated that:

"The conduct regulations for senior officers are silent on how the SPA will undertake its preliminary assessment of a misconduct allegation and there is no provision to appoint an investigator or commence an investigation until after the preliminary assessment has been made. HMICS believes clarity is required on the activity that constitutes "preliminary assessment".

"HMICS does not believe that the SPA currently has the skills, experience or knowledge to undertake the assessment role for chief officer complaints to the standard required. A review of the SPA's capability in this area is required and other options, such as immediate referral to the PIRC, should be considered."

⁹⁷ SPA, [Annual Review 2017-18 - Independent Custody Visiting Scotland](#).

⁹⁸ Scottish Government, [Review of police complaints handling: parliamentary statement](#), 9 July 2018.

⁹⁹ Scottish Government, [Independent review of complaints handling, investigations and misconduct issues in relation to policing: preliminary report](#), 21 June 2019.



Conclusion

247. HMICS has found that challenges remain in terms of fulfilling the core statutory role of the SPA six years after it was first established. There is consensus that legislation is fit for purpose and that the system of governance can be effective, however there remain differing interpretations of how the legislation should be implemented. This is apparent in the way the role of the Chair, Board, Committees and structure of the SPA corporate function have been approached under each Chair and chief executive. Similarly the suggestion that the SPA differs from other public bodies requires the implications for the system of governance to be specified to avoid further re-interpretation.
248. One of the key constraining factors to progress which has been highlighted to HMICS is the lack of capacity and capability within the SPA corporate function. The varying interpretations of what the organisation should be doing and the type and number of staff required to fulfil its role, have resulted in nearly six years of uncertainty and change for staff. There have been a number of reviews and proposals for new structures which have not been implemented. The delays to work over the past 18 - 24 months, combined with the impact of SPRM and public statements at SPA Board meetings have served to further exacerbate an extremely challenging working environment.
249. Progress has been made in the overall governance approach over this period, albeit that the pace of implementation, lack of capacity and regular pauses for review have limited the positive impact of these changes. HMICS considers that the negative impact of each differing interpretation has been primarily on public confidence, the wider reputation of policing and in particular on some staff within the SPA itself.
250. The SPA has made some progress toward fulfilling its function to maintain the police, having worked with Police Scotland to gain a much improved understanding of its cost base and demand. However work is still required on workforce planning and other resource strategies to ensure that a whole system approach can be taken. More fundamentally however, the SPA has played a limited role in advocating publicly the extent of the financial challenge being faced by the police service in Scotland.
251. HMICS has found that progress has been made in the quality of scrutiny and challenge provided by the SPA, but the consistency and quality of publicly 'holding to account' remains a work in progress with much work still to do. The promotion and support of continuous improvement has similarly been limited due to the lack of effective performance reporting. The interpretation of these functions has been highly variable and better articulation of how they will be discharged and the outcomes they will deliver is required. These functions are fundamental to promoting public confidence and at present are considered to be of limited effectiveness.
252. HMICS has also found that there continue to be issues with Board members stepping outwith their non-executive roles. Whilst commending their commitment to the development of the SPA, and accepting the issue of constrained capacity within the corporate function, HMICS found this has disempowered some staff and significantly impacted morale. This has been a repeated feature of the SPA since its inception.



253. HMICS has identified a number of options, based on our comparative analysis and feedback from the inspection process, to potentially address these ongoing issues. The use of protocols, codes of practice or statutory instruments to clarify roles and remits is evidenced in a number of jurisdictions to support legislation and reduce the risk of differing interpretations. A smaller corporate organisation focused on supporting a Board as non-executive members, augmented by representation from locally elected members and key partners is also a model worthy of further consideration.
254. The development of an organisational strategy or plan, which is properly resourced and prioritised to deliver Board objectives, will meet statutory obligations and support delivery of the Strategic Police Plan. This should provide the basis to more clearly define outcomes for the organisation and assess its performance and overall value. A comprehensive engagement and involvement strategy to sit alongside improved forward planning and impact assessment would also ensure that the visibility of the SPA and its effectiveness would be improved.
255. HMICS considers that the SPA still requires to fully demonstrate its added value to policing in Scotland both through its statutory role and its relationships. We believe the model can work and that the SPA will be able to fulfill its statutory duties with the right leadership and supporting resources in place.

Appendix 1

Key governance and scrutiny event

- 21st June HMICS phase 1 report published
- 22nd June 'Serving a Changing Scotland' strategy approved
- 27th June HMICS Forensic Services report published
- 7th Nov 1st meeting of Forensic Services committee
- 19th Dec Complaints & Conduct committee re-instated

2017

MAY
JUN
JUL
AUG
SEP
OCT
NOV
DEC

Structure and key appointments

- 13th Jun Former Chair resigns
- Sep Chief Officer voluntary redundancy
- Sep Director of Forensic Services now reports directly to board
- 13th Nov Interim Chief Officer takes up post
- 16th Dec New chair takes up post

2018

JAN
FEB
MAR
APR
MAY
JUN
JUL
AUG
SEP
OCT
NOV
DEC

- Jan Practice of closed board meetings ceased
- 2nd Mar Marchant/Burr review of Scottish Police Authority Executive reports
- 2nd May SPA Improvement Plan 18/19 approved
- 29th May Last meeting of Policing Committee
- 31st May Transformation Working Group re-established
- 19th Jun Angiolini complaints review announced
- 28th Jun New SPA Governance Framework approved
- Oct HMICS Phase 1 recommendations discharged
- 24th Oct Board objectives approved
- Nov SPP and new combined Resources Committee established
- 1st Nov Transformation Working Group extended
- 27th Nov First update from new Chief Executive

- Mar Appointment of new board members
- May Board approves Interim Chief Officer new SPA structure proposal
- 2nd May Vice chair elected
- 14th Jun 3 new ACCs appointed
- 18th Jun 2 new DCCs appointed
- 3rd Aug Interim Chief Officer update on structure
- 15th Aug New Chief Constable announced
- Oct Last of new board takes up post Terms 'Chief Officer / Interim Chief Officer' removed
- New Chief Executive takes up post
- Nov Interim Chief Officer leaves / Chief Executive formally takes over

2019

JAN
FEB
MAR
APR
MAY
JUN
JUL
AUG
SEP

- 5th Feb 1st meeting of SPP Committee
- Mar Last Transformation Working Group meeting held
- May Governance Working Group established
- Jun New Legal Claims Committee approved
- 21st Jun Publication of Angiolini preliminary report
- 26th Sep HMICS Inspection report published

- Jan Appointment of Director of Strategy and 3 other key posts
- 31st Jan Chief Executive outline structure proposal considered
- 26th Apr New DCC appointed
- 14th May 2 new ACCs appointed
- 4th Sep Chief Executive resigns



HMICS HM INSPECTORATE OF
CONSTABULARY IN SCOTLAND

HM Inspectorate of Constabulary in Scotland
1st Floor, St Andrews House
Regent Road
Edinburgh EH1 3DG

Tel: 0131 244 5614

Email: hmic@gov.scot

Web: www.hmics.scot

About Her Majesty's Inspectorate of Constabulary in Scotland

HMICS operates independently of Police Scotland, the Scottish Police Authority and the Scottish Government. Under the Police and Fire Reform (Scotland) Act 2012, our role is to review the state, effectiveness and efficiency of Police Scotland and the Scottish Police Authority. We support improvement in policing by carrying out inspections, making recommendations and highlighting effective practice.

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