



HM Inspectorate of Constabulary in Scotland

Improving Policing across Scotland

Monday, June 27th, 2016

PRESS RELEASE

HMICS today publishes its Independent Assurance Review of the Police Scotland Counter Corruption Unit

Derek Penman, Her Majesty's Inspector of Constabulary in Scotland has today published his independent Assurance Review of Police Scotland's Counter Corruption Unit.

This review was requested by the Scottish Police Authority and a copy has been provided to the Chair, the Chief Constable and the Scottish Government.

A copy has also been laid before the Scottish Parliament. The report will be considered by the Justice Committee at its meeting on Tuesday 28 June 2016, when Derek Penman, Her Majesty's Inspector of Constabulary in Scotland will attend to give evidence.

Ends

Note to Editors:

- Attached for your information is the Executive summary and the recommendations. The full report is available on the HMICS [website](#).
- There will be no interview facility prior to the meeting of the Justice Committee tomorrow.

Executive summary

I recognise the legitimate need for Police Scotland to protect itself, its people and its information against the risk from corruption. However, in order to maintain public confidence in policing, the tactics employed for counter corruption must be lawful, proportionate and necessary. They must also be subject to effective oversight.

In conducting this review, I have highlighted two key events that preceded the SPA requesting HMICS to undertake this assurance review of Police Scotland's CCU. The first was the Sunday Mail newspaper article on 5 April 2015, claiming there was a "forgotten suspect" in the unresolved murder of Emma Caldwell. The second was the annual inspection by IOCCO of Police Scotland (15 - 17 June 2015) when compliance issues were identified and investigated.

On 25 November 2015, the Interception of Communications Commissioner published a statement¹ that Police Scotland had contravened *the Acquisition and Disclosure of Communications Data Code of Practice (2015)* by seeking communications data to determine either a journalist's source or the communications of those suspected to have been acting as intermediaries between a journalist and a suspected source without the required judicial approval.

Since publication of the Commissioner's statement there has been significant political, public and media interest that centred on an assertion that Police Scotland, specifically the CCU, had carried out an unlawful "spying" operation directed at serving and former police officers who had allegedly leaked information to the media about deficiencies in the original murder investigation. There has also been criticism that Police Scotland had placed its efforts into finding the source of this leak and protecting its reputation, rather than concentrating on the reinvestigation.

The Sunday Mail's coverage has been helpful in raising public awareness and prompting a reinvestigation into the murder of Emma Caldwell. In particular, it resulted in Police Scotland responding in two distinct ways.

Firstly, in response to the media claim that there was a "forgotten suspect," the Assistant Chief Constable (Major Crime and Public Protection) immediately instructed the Homicide Governance and Review Unit (HGRU) to prepare a report on the previous murder investigation for consideration of a more detailed review or reinvestigation. I consider that this was an appropriate response to the issues raised by the newspaper article by Police Scotland.

On 22 May 2015, Crown Office and Procurator Fiscal Service (COPFS) formally advised Police Scotland that Crown Counsel, having considered the circumstances of Emma Caldwell's death instructed the murder be reinvestigated. Having personally interviewed the chief officer, the senior representative from COPFS and the senior investigating officer (SIO), I am satisfied that the reinvestigation into the murder of Emma Caldwell is well resourced and the SIO and enquiry team have had no prior involvement in the previous homicide investigation. I am satisfied that governance arrangements are in place to ensure integrity of all aspects of the reinvestigation and that Police Scotland, directed by COPFS, is using modern investigative and forensic techniques. This includes a more sophisticated approach to witness engagement than that used during 2005-2007.

As this remains a live reinvestigation, it is my view that continued public and media interest around potential suspects is unhelpful and may prejudice fresh proceedings. I shall not make further public comment on this aspect of my review.

Secondly, in response the newspaper article, the then Head of the HGRU made a referral to the CCU that information contained within it was operationally sensitive and, in his view, could only

¹ Interception of Communications Commissioner [statement](#).

have originated from a police source. In response, the CCU commenced an initial intelligence assessment. This was conducted separately from the homicide reinvestigation and did not diminish the effectiveness of this reinvestigation.

The purpose of the CCU intelligence assessment was to gather information and identify who in Police Scotland had made the alleged unauthorised disclosure of information. Police Scotland has a legitimate interest in protecting sensitive operational information from unlawful disclosure and I believe it was reasonable at that time for Police Scotland to establish whether or not information from a “live” murder enquiry had been unlawfully disclosed to a journalist.

However, I established that even although the then Head of the HGRU had responsibility for the continued management and oversight of all unresolved homicides, including Emma Caldwell, there was no “live” enquiry ongoing and no major investigation team established at this time. Furthermore, following enquiry by the CCU Intelligence Section in June 2015, it was established that the majority of information printed in the Sunday Mail article, including statements and the deployment of covert techniques, had already been disclosed by COPFS to defence agents (circa 2007) as part of a legitimate criminal justice process. This resulted in the CCU Intelligence Section concluding that *“it was impossible to identify whether this information was passed to the media by any officer or member of police staff, serving or retired, or if it had been disclosed through other sources”*.

As Police Scotland was aware of this previous disclosure of sensitive information to defence agents and had concluded its CCU intelligence development activity by August 2015, I believe that there was an opportunity to make this information clearer in its evidence to the Justice Committee on 15 December 2015. This would have provided a plausible explanation for the sensitive information within the Sunday Mail article and offered some balance and reassurance over the assertions that an officer from the Emma Caldwell murder investigation team had leaked sensitive policing information to a journalist.

On 17 June 2016, IOCCO released a statement relating to the Police Scotland investigation concerning journalistic sources and published the Commissioner’s Memorandum, Annexes and letter to Police Scotland. I welcome the publication of these documents as they provide a factual account of the Commissioner’s determination and the circumstances surrounding IOCCO’s investigation of the contraventions of the Code of Practice (2015). The Commissioner has recognised that Police Scotland has put in place significant measures in order to prevent any recurrence of such contraventions. While my review has not re-examined the Commissioner’s determination, I have taken the opportunity to look at the wider CCU intelligence development activity as a case study to inform my overall assessment of effectiveness and efficiency.

I confirmed that the CCU Intelligence Section presented an initial application for communications data which included details of a journalist’s communications address (or telephone number) to the Designated Person (Detective Superintendent). The Designated Person was independent of the CCU and had no prior involvement in the Emma Caldwell murder investigation. This senior police officer sought and received advice from the Police Scotland Communications Investigations Unit that this application required judicial approval and on the basis of this advice, he returned the first application to the CCU Intelligence Section, indicating that judicial authorisation was required.

The CCU Intelligence Section deleted the request for communications data on the journalist’s communications address from this initial application and resubmitted the application along with two additional applications to the Designated Person (Detective Superintendent). All three applications were then authorised without further reference to the Police Scotland Communications Investigation Unit or the Senior Responsible Officer (SRO) or a chief officer which was in line with the operating procedures existing at that time.

Notwithstanding the pace with which the revised Code of Practice (2015) was introduced, I found no evidence of any organisational failure by Police Scotland in preparing for the Code. Whilst there is a clear responsibility for police officers and members of police staff to keep themselves abreast

of new legislation and guidance, I believe that Police Scotland would have benefited from a more structured and formalised approach to communicating important changes in legislation, practice and process. I also found the introduction of the revised Code had no bearing on the decision making process of the Designated Person (Detective Superintendent) as advice in relation to the Code was available and provided.

While access to communications data remains a valid tool in the prevention and detection of crime, I consider that other lines of enquiry were not fully exhausted in this case. It is my assessment that the CCU Intelligence development activity lacked objectivity and that those responsible applied prematurely for the acquisition and disclosure of communications data. Furthermore, I found no evidence of chief officer involvement in any of the five applications for communications data nor evidence of undue pressure or coercion placed on either of the two Designated Persons or the SRO by any police officer or member of police staff. I also found no evidence to suggest that either of the Designated Persons intended to undermine the revised Code of Practice (2015).

The Investigatory Powers Tribunal has confirmed to IOCCO that Police Scotland has conceded that the communications data authorisations were obtained in contravention of the Code of Practice (2015) and there is a public hearing to be held to decide the outstanding points of law in the case and to consider remedy.

In relation to the wider CCU intelligence development activity in this case, I found that information handling processes within the CCU were significantly different from national standards for source and information evaluation and fell below the standards I would have expected. In particular, the safeguards put in place by the CCU Intelligence Section to manage contact with sources of information were inadequate and highlighted gaps in the accurate recording of contact and information provided. I also found that confidential information provided by a retired police officer was not sufficiently recorded, risk-assessed and lacked proper evaluation. This information unduly influenced the CCU intelligence development activity.

I also identified that the handling of the CCTV disc footage in accordance with the Police Scotland standard operating procedure on productions had not been properly adhered to by the CCU Intelligence Section and that evidence had been lost. My examination of CCU intelligence files also raised concerns over the routine management, oversight and wider governance of CCU enquiries, including the extent to which chief officers are actively briefed and can direct on CCU matters.

As a consequence of my case study into this CCU intelligence development activity, I wrote to Police Scotland on 5 May 2016 with four initial recommendations for improvement to Police Scotland.

Using the HMICS Inspection Framework I conducted a thorough assurance review testing the operational practice of the CCU and compliance with relevant legislation, codes of practice, policies, procedures and recognised best practice. As a consequence of my review I have made **39 recommendations** that I believe will assist in improving police counter corruption practices in Scotland.

It is important to recognise that corruption within United Kingdom (UK) policing is rare and while it is clear that the majority of police officers and members of police staff are professional, and that corruption is not widespread in the police service, there remains a small but pernicious element whose corrupt actions have a negative effect on public confidence.

Police Scotland's CCU was established in 2013 as the single department for police officers and members of police staff to report, with anonymity and confidentiality ("whistleblowing") any criminality, conduct or integrity concerns. The CCU also has responsibility for carrying out internal investigations into allegations of corruption and wrong-doing on the part of police officers and members of police staff.

Over the past three years, the CCU has become a largely reactive unit with minimal evidence of proactive anti-corruption investigations with the majority of activity focused on administrative background checks, notifiable associations and data protection offences. There is no independent capacity or capability within the CCU to proactively investigate serious allegations of corruption from police officers and members of police staff without a requirement to secure specialist assets from elsewhere in the service. Although Police Scotland has the capacity and capability to provide these specialist assets, this increases the awareness of counter corruption investigations to other areas of policing and could potentially compromise operational security.

I found that police officers and members of police staff within the CCU have a range of pre-existing skills and training from previous roles including surveillance, financial investigation, public protection, intelligence and are motivated and experienced. Much of the feedback from officers and staff reflected a sense of frustration that the skill set available to the CCU was not being fully used due to the high volume of low complexity operational activity. I found that some CCU staff were unsure as to the overall purpose and direction of the unit, with some staff commenting that the focus was on prevention and that investigating corruption through proactive investigation was no longer a priority for the unit. There was an overlap between the functions of the CCU and wider professional standards activity.

I acknowledge that the CCU has evolved under the direction of the current senior command team, specifically in relation to preventing corruption through the Service Integrity programme. This has contributed to strengthening the preventative message, raising awareness of the threat, risk and harm from corruption and of the work of the CCU.

However, I have recommended that Police Scotland should take the opportunity to articulate a clear vision for tackling corruption and develop an overall strategy through engagement with relevant stakeholders. I have recommended that the service should urgently review its approach to tackling corruption, and develop both the capability and capacity for effective pro-active anti-corruption investigations that are underpinned by a robust intelligence function. This should include a review of its existing structures and give consideration to transferring the burden away from the CCU of high volume administrative background checks, notifiable associations and those data protection offences which do not infer corruption. Police Scotland should ensure that the CCU prioritises its workload around the threat posed by serious organised crime groups.

Despite the value of Authorised Professional Practice across a range of UK policing activities (including counter corruption) this has not been used by Police Scotland to develop its CCU policies. I also found that a number of standard operating procedures used to promote integrity require completion, are currently under review or being updated. Although the term “whistleblowing” is widely understood by police officers and police staff, there is not yet a formal “whistleblowing” policy. The online Integrity Matters application provides a secure internal platform for police officers and members of police staff to anonymously report wrongdoing, although this could be supplemented by an external confidential reporting function.

The establishment of a single police service has introduced complexity in terms of the police investigating the police and there is a need for an approach in Scotland that satisfies the demand for accountability, transparency and independence. I have recommended that Police Scotland should engage with COPFS, the Police Investigations Review Commissioner (PIRC), Scottish Government and other stakeholders to review and strengthen the overall approach to the independent scrutiny and oversight of investigations into allegations of serious corruption by police officers and members of police staff.

I have a statutory duty to secure continuous improvement in “user focus” and for this review, I met with the police staff associations. I also took the opportunity to meet with a solicitor with significant experience in representing police officers and former police officers who had been subject of CCU investigations, either under legacy force arrangements or under Police Scotland and through his co-operation, I was able to arrange a focus group to identify common themes or issues.

I found that the experiences from many of the police officers related to legacy Strathclyde Police CCU investigations, although there was a shared view that the culture from this unit was carried forward into the Police Scotland CCU in 2013. A common theme was the legality, proportionality and the apparent lack of procedural fairness carried out by the CCU when dealing with police officers and members of police staff. The primary concern was over a general lack of transparency and accountability within the CCU and frustration by police officers that when they raised complaints against CCU officers, these were not taken seriously or independently investigated.

I consider that in order to establish its legitimacy the CCU must be seen as an integral part of the service and consistently operate within the same values and Code of Ethics as the rest of Police Scotland. Whilst I acknowledge that CCU staff operate within a challenging environment and may be subject to unwarranted allegations intended to undermine genuine corruption investigations, the need remains for Police Scotland to demonstrate even greater transparency and independence in dealing with complaints made against CCU staff. Whilst I have made recommendations to increase the independent oversight of CCU investigations, I consider that additional safeguards should be put in place for complaints made against CCU police officers and members of police staff.

I acknowledge that both Police Scotland and the SPA recognise the importance of maintaining public trust and confidence in the delivery of a quality policing service and are committed to embed the Code of Ethics and values across policing in Scotland. Chief officer oversight of counter corruption activities sends out a clear message that the service takes ethical standards, integrity and tackling corruption seriously. I therefore welcome the personal commitment from the Chief Constable to review Police Scotland's approach to ethical policing and to consult with relevant stakeholders and benchmark across a range of public and private sectors to identify best practice. I support this commitment and will be interested in its development.

Key findings

General

- HMICS recognises the legitimate need for Police Scotland to protect itself, its people, and its information against the risk from corruption. However, in order to maintain public confidence in policing, the tactics employed to counter corruption must be lawful, proportionate and necessary. They must also be subject to effective oversight.
- Chief officers and senior managers within the CCU have co-operated fully throughout our review and the senior leadership within Police Scotland are committed to preventing corruption and investigating wrongdoing in a professional and ethical manner.

Part one – case study

- The Sunday Mail article reporting on deficiencies in the initial murder investigation of Emma Caldwell contributed significantly to raising public awareness and prompting the reinvestigation.
- The reinvestigation into the murder of Emma Caldwell is well resourced and the Senior Investigating Officer (SIO) and enquiry team have had no prior involvement in the previous homicide investigation. In addition, a strategic governance group, chaired by a chief officer and with senior representation from COPFS, has been established to provide oversight and ensure integrity over all aspects of the reinvestigation.
- Whilst Police Scotland instigated a counter corruption intelligence assessment after the publication of the Sunday Mail article on 5 April 2015, this was conducted separately from the reinvestigation into the murder of Emma Caldwell and did not diminish the effectiveness

of this investigation.

- We would have expected the CCU to have confirmed whether there was a “live” reinvestigation into the murder of Emma Caldwell as part of its initial assessment, both in terms of identifying potential suspects from within a major investigation team and also to assess any ongoing risk to the integrity of the reinvestigation.
- The evidence provided by the then Deputy Chief Constable Designate to the Justice Committee in December 2015 reflected the initial CCU assessment. However, as this evidence was provided some eight months after the initial referral, we consider there was an opportunity for Police Scotland to have clarified the status of the reinvestigation.
- The information handling processes within the CCU Intelligence Section were significantly different from national standards, in terms of source and information evaluation. The safeguards put in place to manage contact with sources of information were found to be inadequate and highlighted gaps in the accurate recording of contact and information provided.
- The procedures relative to the seizure, handling and management of the CCTV disc footage by the CCU Intelligence Section including the recording, lodging and storage as outlined in the Police Scotland standard operating procedure on productions had not been adhered to and evidence had been lost.
- We found that Police Scotland had reached the conclusion on 21 August 2015 that all sensitive information contained within the Sunday Mail article had previously been disclosed through Crown Office to defence agents acting on behalf of four accused persons, and it was impossible to identify whether this information was passed to the media by any police officer or member of police staff, serving or retired, or if it had been disclosed through other sources.
- While access to communications data remains a valid tool in the prevention and detection of crime, we found that other lines of enquiry were not fully exhausted in this case. Following our examination of the CCU intelligence files into the alleged unauthorised disclosure of sensitive policing information, it is our assessment that the enquiry lacked objectivity and that those responsible applied prematurely for the acquisition and disclosure of communications data.
- Our examination of CCU intelligence files has raised concerns over the routine management, oversight and wider governance of CCU enquiries, including the extent to which chief officers are actively briefed and can direct on CCU matters.
- The Investigatory Powers Tribunal has confirmed to IOCCO that Police Scotland has conceded that the communications data authorisations were obtained in contravention of the Code of Practice (2015) and there is a public hearing to be held to decide the outstanding points of law in the case and to consider remedy.
- Whilst there is a clear responsibility for police officers and members of police staff to keep themselves abreast of new legislation and guidance, we believe that Police Scotland would have benefited from a more structured and formalised approach to communicating important changes in legislation, practice and process.
- In relation to all five applications for communications data we established that in line with the operating procedures existing at that time, there was no requirement for either of the two Designated Persons to contact the Police Scotland Communications Investigations Unit, the Senior Responsible Officer (SRO) or a chief officer.
- The Commissioner has recognised the comprehensive review that Police Scotland conducted and wished to emphasise that Police Scotland has put in place significant

measures in order to prevent any recurrence of such contraventions.

- Notwithstanding the pace with which the revised Code of Practice (2015) was introduced, we consider this had no bearing on the decision making process of the Designated Person, as advice in line with the Code was available and provided.
- From our review, we found no evidence of chief officer involvement in any of the five applications for communications data nor evidence of undue pressure or coercion placed on either of the two Designated Persons or the SRO by any police officer or member of police staff. We found no evidence to suggest that either of the Designated Persons intended to undermine the Code of Practice (2015).
- Given that Police Scotland was aware of the legitimate disclosure of sensitive information to defence agents in June 2015 and had concluded its CCU enquiry, there was an opportunity to make this information clearer in its evidence to the Justice Committee. We consider that placing this information into the public domain may have provided a legitimate explanation for the sensitive information within the Sunday Mail article and provided balance and some public reassurance to the assertions that an officer from the Emma Caldwell murder investigation team had leaked sensitive policing information to a journalist.

Part two – assurance review

Outcomes

- National studies consistently show that corruption within UK policing is rare. While it is clear that the majority of police officers and members of police staff are professional, and that corruption is not widespread in the police service, there remains a small but pernicious element whose corrupt actions have a negative effect on public confidence.
- Through the Service Integrity programme, the emphasis from the CCU has been on prevention raising the awareness of all police officers and members of police staff to the potential threat, risk and harms from corruption.
- We found little evidence of an effective and efficient approach to proactive anti-corruption investigations with the majority of CCU activity focused on administrative background checks, notifiable associations and data protection offences.
- While there is a general awareness of Police Scotland's values across the service the detail within the Code of Ethics is less understood.
- The Chief Constable has committed to reviewing Police Scotland's approach to ethical policing and the service is currently engaged with stakeholders and benchmarking across a range of public and private sectors in pursuit of best practice.

Leadership and governance

- The CCU completed an internal self-assessment exercise in 2014 that identified 50 recommendations to support improvement. Although a number of recommendations have been progressed, we found that awareness of this internal review amongst current senior CCU staff was limited and we found no clear evidence of a structured approach to implement the required improvements.
- CCU internal governance arrangements are organised and management team meetings are conducted professionally with an agenda, minutes, action log and documented updates. While there is evidence of regular discussion around activities we did not see the same level of evidence in relation to formal peer review of ongoing operations.

- Although there is a requirement for Police Scotland to have effective internal governance and accountability of CCU activities we consider that in cases involving serious allegations of police corruption, there is a legitimate role for COPFS to provide independent scrutiny over ongoing investigations.
- There is no independent covert capacity or capability within the CCU to proactively investigate serious allegations of corruption without a requirement to access specialist assets from elsewhere in Police Scotland. This increases the awareness of counter corruption investigations to other areas of policing and potentially compromises operational security.
- There is an overlap between the functions of both the CCU and Professional Standards Department (PSD). This creates ambiguity over the role and function of the CCU and has created tension where staff suspected of misconduct issues are interviewed by the CCU.

Planning and process

- Police officers and members of police staff within the CCU do not routinely access the College of Policing Authorised Professional Practice (APP).
- The CCU contributes to the National Crime Agency UK Anti-Corruption Threat Assessment about the nature of the threat from corruption.
- The strategic assessment, control strategy and the use of intelligence, prevention and enforcement priorities by the CCU were not fully understood by some staff and are not part of routine business.
- We found little evidence of measures to reflect the outputs and outcomes from CCU activity.
- The CCU Tactical Assessment provided a useful foundation and there are opportunities for improvement with additional focus on intelligence, operational and prevention activity.
- A number of standard operating procedures used to promote integrity across the service require completion.
- The CCU introduced a number of “60 Second Policies” as a quick reference guide for police officers and members of police staff. Officers welcomed their concise and readable format.
- Although the term “whistleblowing” is understood by police officers and members of police staff, there is no formal “whistleblowing” policy.
- The online Integrity Matters (IM) system provides a secure platform for police officers and members of police staff to anonymously report any criminality, conduct or integrity concerns.
- Developing an external confidential reporting function to receive reports of unethical or illegal behaviour by police officers and police staff would provide an additional channel for police officers and members of police staff who were not confident in using the internal IM system. Moreover such an arrangement could provide a new channel for members of the public to report such matters.
- The CCU must be seen as an integral part of Police Scotland and be committed to the same values and Code of Ethics. We acknowledge that in the past year the CCU management team have worked hard to develop positive working arrangements with partners to improve perceptions.
- Feedback from some police officers and members of police staff is that the previous approach by the CCU to reports of notifiable associations and data protection offences

lacked a proportionate and measured response.

- There were 140 Police Scotland personnel on restricted duties with 29 of these having been on restricted duties for over 700 days. Police Scotland has recently introduced a process to assess each case with a risk management plan for each individual.
- Management Meetings that were previously used by the CCU to interview staff over professional concerns became discredited amongst staff associations and users. Police Scotland has since introduced a more transparent process which is focused on advice and guidance.
- Monitoring the use of police ICT systems in a proportionate and lawful manner is vital in countering corruption and the service remains at risk without having the capacity and capability to monitor activity across information systems in real time.

People and resources

- Feedback from CCU staff across Scotland revealed they felt part of a national unit and received good support from their local managers.
- CCU officers and staff are motivated and experienced, with a range of competencies and training from previous roles including surveillance, financial investigation, public protection and intelligence. Officers and staff reflected a sense of frustration that the skill set available to the CCU was not being fully used due to the high volume of low complexity operational activity.
- Police Scotland would benefit from developing a workforce planning model that supports the current and future demands on the CCU and provides an evidence based assessment of the required staffing levels, including supervisory ratios.
- Officers and staff are equipped to manage the current priorities within the CCU. However, to ensure that individuals are equipped to fulfil the array of future operational demands, there would be value in Police Scotland undertaking a Training Capacity and Capability review.
- We found an inconsistent approach across the risk assessment process with different terminology and styles being used. Work is in progress to standardise internal processes.
- The *iBase* case management system within the CCU contained in excess of 700 entities that were either unlinked or “orphaned”. This makes analysis and research difficult.
- The CCU has been actively developing its approach to assessing the threat, risk and harm from serious organised crime groups however, this is being managed alongside the significant volume of work generated by audit and background checks, notifiable associations and data protection offences.
- Although the CCU identifies and distributes organisational learning from its investigations, this could be further enhanced by a more structured approach to internal debrief.
- The CCU Public Sector Section has contributed to preventing fraud and corruption across the public sector in Scotland. However, its role currently lacks clarity and there is insufficient capacity and capability within the CCU to instigate an enquiry into public sector corruption and provide a sustained level of service delivery across all public sector organisations in Scotland.
- The Public Sector Investigators Course has been well received by partners and has enabled internal audit and investigators to have a better understanding of corruption.

- To reduce the vetting backlog of approximately 1155 applications additional staff have been appointed on a temporary basis to the vetting section.

Partnerships

- We found that centralising the CCU has improved engagement with partners both internally and externally.

User focus

- We found that a number of the negative experiences from police officers who had been subject to CCU investigations related to the legacy Strathclyde Police CCU, although there was a shared view amongst these officers that the culture from this unit was carried forward into the Police Scotland CCU in 2013.
- Concerns were raised from officers who had been subject to CCU investigations during the period of transition from Strathclyde Police to Police Scotland that the CCU tactics were disproportionate and lacked procedural fairness. The primary concern was over a general lack of transparency and accountability within the CCU and frustration by officers that when they raised complaints against CCU officers, these were not taken seriously or independently investigated. A number of police officers have outstanding complaints in relation to their contact with the CCU and we consider that these cases should be reviewed and resolved. In interest of transparency and service confidence any review should include independent scrutiny.
- Whilst we acknowledge that CCU staff operate within a challenging environment and may be subject to unwarranted allegations intended to undermine genuine corruption investigations, there is a pressing need for Police Scotland to demonstrate greater transparency and independence in dealing with complaints made against CCU staff.

Recommendations

Part one – case study

Recommendation 1

Police Scotland should ensure that the Counter Corruption Unit intelligence processes are reviewed and that information including the source of that information is subject of a process of evaluation, risk assessment and validation to produce a product that provides added value and supports the decision making process.

Recommendation 2

Police Scotland should reconsider the decision not to seek an explanation from the serving officers regarding information collected during the Counter Corruption Unit enquiry.

Recommendation 3

Police Scotland should investigate the circumstances which led to the loss of CCTV disc footage seized by the Counter Corruption Unit Intelligence Section and establish whether the loss of the disc and any data is a notifiable data security breach.

Recommendation 4

Police Scotland should introduce robust and effective scrutiny arrangements for Counter Corruption Unit operations, including greater oversight from chief officers.

Recommendation 5

Police Scotland should introduce a more structured approach to communicating changes in legislation, practice and process to police officers and members of police staff involved in applications under the Regulation of Investigatory Powers (RIPA) 2000 and by extension the Regulation of Investigatory Powers (Scotland) Act (RIPSA) 2000.

* Recommendations 1 to 4 were communicated to Police Scotland by letter dated 5 May 2016.

Part two – assurance review

Recommendation 6

Police Scotland should take the opportunity to articulate a clear vision for tackling corruption and develop an overall strategy that involves engagement with key stakeholders.

Recommendation 7

Police Scotland should urgently review its approach to tackling corruption, and develop both the capability and capacity to undertake effective pro-active anti-corruption investigations that are underpinned by a robust intelligence function. This should include a review of its existing structures and give consideration to transferring the burden away from the Counter Corruption Unit of high volume administrative background checks, notifiable associations and those data protection offences which do not infer corruption.

Recommendation 8

Police Scotland should develop a refreshed communications plan to increase the awareness of the Code of Ethics and promote a positive culture where police officers and members of police staff at all levels are familiar with each of the behaviours and are conscious of applying them.

Recommendation 9

Police Scotland should improve its co-ordination of internal self-assessment reviews to ensure they receive greater executive visibility and where accepted, any recommendations or improvement actions are supported by a delivery plan detailing SMART objectives² and outcome measures.

Recommendation 10

Police Scotland should introduce a process of formal peer review of counter corruption investigations.

Recommendation 11

Police Scotland should engage with the Crown Office and Procurator Fiscal Service, Police Investigations and Review Commissioner, the Scottish Government and other stakeholders to review and strengthen the overall approach to the independent scrutiny and oversight of investigations into allegations of serious corruption by police officers and members of police staff.

Recommendation 12

Police Scotland should develop formal joint working arrangements between the Counter Corruption Unit and those areas of the service that provide specialist assets in support of counter corruption investigations. This should be supported by agreed governance structures that allow informed decisions to be made against competing operational priorities.

² See glossary.

Recommendation 13

Police Scotland should maintain functional separation between the Counter Corruption Unit and Professional Standards Department and where possible, Counter Corruption Unit police officers should not be used to investigate cases that would ordinarily be conducted by Professional Standards Department police officers.

Recommendation 14

Police Scotland should consider adopting the Authorised Professional Practice on counter corruption, subject to any modification or extension to cover Scotland. This should be applied to the review and development of key policies and procedures.

Recommendation 15

Police Scotland should finalise its Strategic Assessment on Corruption and thereafter produce a control strategy that will deliver the intelligence, service integrity, enforcement and the communication and engagement priorities for the next 12 months.

Recommendation 16

Police Scotland should develop a balanced performance management framework to reflect Counter Corruption Unit activity and provide regular management information to those charged with the internal and external governance and oversight.

Recommendation 17

Police Scotland should develop the Counter Corruption Unit Tactical Assessment to focus more on intelligence, operational and preventative activity.

Recommendation 18

Police Scotland should expedite the review and development of those standard operating procedures that are used to promote integrity and consider relevant Authorised Professional Practice.

Recommendation 19

Police Scotland should introduce a system that enables the analysis and cross-referencing of notifiable associations across relevant ethical registers. This should identify potential conflicts of interest and provide an informed assessment of trends, threats and vulnerabilities to inform preventative activity.

Recommendation 20

Police Scotland, through engagement with staff associations, should progress development of its "whistleblowing" policy, which informs relevant standard operating procedures that support those who report wrongdoing.

Recommendation 21

Police Scotland should review the Integrity Matters Confidential Reporting System with a view to implementing further technical safeguards for audit.

Recommendation 22

Police Scotland should engage with the Police Investigations and Review Commissioner to consider establishing a confidential reporting function.

Recommendation 23

Police Scotland should engage with Crown Office and Procurator Fiscal Service to examine alternative and more expeditious approaches to the reporting of minor offences against the data protection act in cases where the individual police officer or member of police staff has admitted the offence and there is no evidence of corruption.

Recommendation 24

Police Scotland should urgently review the circumstances of all police officers and members of police staff who are on restricted duties to ensure that those restrictions remain proportionate and necessary to the current risk.

Recommendation 25

Police Scotland should engage with Crown Office and Procurator Fiscal Service to expedite decisions around outstanding data protection cases. In addition to this, Police Scotland should review those cases which have been returned from Crown Office and Procurator Fiscal Service with no criminal proceedings being taken, with a view to expediting decisions around ongoing internal misconduct.

Recommendation 26

Police Scotland should engage with the Scottish Police Authority to finalise its standard operating procedure for Advice and Guidance Briefings by the Counter Corruption Unit. This should also include a process to ensure that the offer/option to audio record the briefing is documented for audit purposes.

Recommendation 27

Police Scotland should progress development of a business case for workforce monitoring software.

Recommendation 28

Police Scotland should review its Counter Corruption Unit production handling procedures to ensure they maintain the operational security of corruption investigations and are consistent across all areas.

Recommendation 29

Police Scotland should develop a workforce planning model that supports the current and future demands on the Counter Corruption Unit and provides an evidence based assessment of required staffing levels, including supervisory ratios.

Recommendation 30

Police Scotland should commission a Training Capacity and Capability Review to map current and future skills and identify gaps within the Counter Corruption Unit which can be filled through recruitment, training and professional development.

Recommendation 31

Police Scotland should review its Counter Corruption Unit Risk Assessment Processes to ensure a consistency of approach.

Recommendation 32

Police Scotland should maintain *iBase* as its primary Counter Corruption Unit case management system and commission a comprehensive review of the design, structure and management of the system. This should also include the development of operating procedures, guidance and training for staff.

Recommendation 33

Police Scotland should ensure that the Counter Corruption Unit prioritises its workload around the threat posed by serious organised crime groups.

Recommendation 34

Police Scotland should introduce a process that enables Counter Corruption Unit police officers and members of police staff to debrief intelligence and operational activity in a structured manner to support organisational and operational learning.

Recommendation 35

Police Scotland should consult with its public sector partners and refresh the remit of the Counter Corruption Unit Public Sector Section.

Recommendation 36

Police Scotland should monitor the progress of the vetting section to reduce and, if possible, eliminate the backlog of vetting applications and provide regular updates to the Scottish Police Authority.

Recommendation 37

Police Scotland should expedite its review of police officers and members of police staff who are considered to be “super users” with administrative access to Force ICT systems. It should ensure these staff are appropriately vetted, with safeguards put in place to ensure access to information is for a legitimate policing purpose.

Recommendation 38

Police Scotland and the Scottish Police Authority should engage with the Crown Office and Procurator Fiscal Service, Police Investigations and Review Commissioner and other stakeholders to review and strengthen the overall approach to the independent scrutiny and oversight of complaints made against Counter Corruption Unit police officers and members of police staff.

Recommendation 39

Police Scotland should ensure that in the interests of transparency and service confidence, any review into outstanding complaints against the CCU should include independent scrutiny.