



## **Her Majesty's Inspectorate Of Constabulary for Scotland**

### **HMICS Justice 1 Committee Internal Review - May 2007**

# **The Lessons to be Learned for Future Inspection Procedures**

**- following a review of HMIC Inspections of SCRO  
subsequent to the Fingerprint Bureau Inspection of 2000.**

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# I Executive Summary

The case of HMA v McKie prompted an examination by Justice 1 Committee of the inspection processes undertaken by Mr Bill Taylor and subsequent Her Majesty's Chief Inspectors of Constabulary (HMCIC) for Scotland into the Scottish Criminal Records Office (SCRO).

Paragraph 701 of the Justice Committee report recommended that Her Majesty's Inspectorate of Constabulary (HMIC) carry out an internal review to identify lessons to be learned for future inspection procedures.

The internal review has now been concluded and this report sets out the findings of the review team. In so doing, the report broadly examines HMIC's basis in law and the methodology applied during inspection and review. Consideration is also given to the manner in which HMCIC makes recommendations and highlights the differences between input based recommendations and outcome-focused models.

HMCIC is responsible for making a judgement on whether or not recommendations have been discharged by the inspected body. The report discusses the means by which this is achieved and what options are available to improve the process.

Police Boards play a key role within the inspection process. This report considers how the role of Boards can be developed, including discussion surrounding powers of direction and sanction.

A number of lessons to be learned are highlighted throughout this report with a view to developing better inspection procedures.

## **II Introduction and Methodology**

Following receipt of the remit for this review<sup>1</sup> an action plan was developed that included:

**Literature Review** - A full review of the available literature in respect of primary and review inspections was undertaken. An independent reader who had not previously worked within the inspection arena reviewed these documents.

**Stakeholder Analysis** - Consideration was given to all parties that contribute to the HMCIC inspection process, are affected by that process or receive inspection reports. It was also considered prudent to meet with a number of other inspection bodies operating within the public sector<sup>2</sup>.

**Stakeholder Consultation** - Interviews with a number of key partners were undertaken. All interviews were based upon a series of questions that reflected the broad remit of this review and focused on the particular area of interest of the partner concerned.

**Chatham House Rule** - In order to ensure a maximum degree of openness, none of the comments made by those interviewed are attributed within this report but all conversations have been taken into account when considering the lessons to be learned.

**Findings** - Whilst these are solely the views of the review team, they have been shaped through consultation. Significantly, all of the lessons to be learned are compatible with the work currently being undertaken by Professor Lorne Crerar in his review of the inspection process for public bodies.

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<sup>1</sup> See Appendix A

<sup>2</sup> Details of those identified through this analysis are contained in Appendix B

### **III Summary of Lessons to be Learned**

1. Recommendations made by HMCIC in inspection reports are often too ill defined. Future inspection procedures should result in SMART (Specific Measurable Achievable Relevant Time-framed) Recommendations that have an outcome focus.
2. Some HMCIC Recommendations within a report on an inspected body are directed at other agencies and subsequently the inspected body has little or no control over their implementation. HMCIC should ensure that all Recommendations are entirely deliverable by the inspected body.
3. The relevance of HMCIC Suggestions, given that they carry less weight and are often even more ill defined than Recommendations, is seriously questioned. HMCIC should remove the category of Suggestions from the tool kit available to HMIC and staff officers when undertaking inspections of any type.
4. Areas for Review, like Recommendations, are often too ill defined. Future inspection procedures should result in SMART Areas for Review that have an outcome focus.
5. The Scottish Executive has not routinely played as active a role in following through HMIC reports as it possibly could. HMCIC should request that the Scottish Government engage more actively in the process of Force improvement by seeking Action Plans from Police Boards and Authorities following inspection reports.
6. Police Boards/Authorities have not been given guidance since devolution in how best to engage with HMIC procedures. In particular, HMCIC should work with the Scottish Executive to develop new guidelines for Police Boards/Authorities to assist them in responding to HMIC inspection reports.
7. The range of judgements open to HMCIC when evaluating an inspected body's progress is too limited. HMCIC should move towards a graduating scale when considering progress. This scale would better reflect work done by inspected bodies in achieving their outcome-focused recommendations.
8. The timing of inspections and reviews has been too rigid and did not necessarily reflect any risk assessment of performance. HMCIC should change the arrangements surrounding the timing of inspections and reviews to one based on an assessment of risk, linked to performance.
9. A high turnover of staff leads to discontinuity and a loss of skills. HMCIC should explore the opportunities to engage permanent inspection staff.

10. There is no real method of sanction other than measures that are at best draconian. HMCIC should undertake a diagnostic review of the principles and benefits relating to support and sanction within the scope of HMCIC inspection, and thereafter provide guidance and support to Police Boards in respect of their findings.

## **1 Background**

1.1 On 8 January 1997, Marion Ross was found murdered in her home in Kilmarnock. Shirley McKie, also known as Shirley Cardwell, a Detective Constable with Strathclyde Police, was part of the murder investigation team. In the course of the murder investigation, Scottish Criminal Record Office (SCRO) fingerprint officers identified a mark (given the reference code Y7) on the bathroom doorframe as matching Ms McKie's left thumbprint. This set in action a series of events over the next nine years.

1.2 At its meeting on 22 March 2006, Justice 1 Committee of the Scottish Parliament, following consideration of correspondence received from the Minister for Justice, agreed to hold an inquiry, with the following remit—

“To consider the efficient running of the Scottish Criminal Record Office and Scottish Fingerprint Service; the implications of the McKie case; the operation of SCRO and within that the fingerprint service and public confidence in the standards of fingerprint evidence in Scotland; to scrutinise the implementation of recommendations of Her Majesty's Inspectorate of Constabulary primary inspection report of 2000 and to ensure that their service is efficient and effective; and to scrutinise the Action Plan announced by the Minister for Justice for improvements in fingerprint and forensic services in Scotland.”

1.3 On 15 February 2007, Justice 1 Committee published its report: Inquiry into the Scottish Criminal Record Office and Scottish Fingerprint Service. It contained the following paragraphs:

**700. The Committee concludes that a number of important HMIC recommendations were clearly discharged prematurely. Sir David's review would appear to call into question the diligence with which HMIC carried out its inspections following the HMIC Primary Inspection of the SCRO Fingerprint Bureau in 2000.**

**701. Accordingly, the Committee recommends that HMIC should conduct an internal review of its inspections of SCRO subsequent to Mr Taylor's Primary Inspection of the SCRO Fingerprint Bureau in 2000, in order to consider the lessons to be learned for future inspection procedures.**

### **Literature Review**

1.4 In May of 2000 HMIC, under Mr Bill Taylor, carried out a primary inspection of the Fingerprint Bureau of SCRO. The timing of the inspection reflected concern within the SCRO Executive following the case of HMA v McKie. The inspection was specific to the Fingerprint Bureau rather than waiting until December 2000, which was scheduled as timing for a full primary inspection of the entire SCRO.

- 1.5 This primary review of the Fingerprint Bureau noted that insufficient progress had been made by SCRO in respect of the previous review that had taken place in 1998. HMCIC went on to make 25 recommendations in respect of SCRO along with a further 20 suggestions.
- 1.6 In concluding his report, HMCIC commented that SCRO “*was not managing the demands and processes in a fully effective and efficient fashion*”<sup>3</sup>.
- 1.7 This assertion led to a drop in confidence and morale within the SCRO<sup>4</sup>. This was based upon the belief that “*many of the issues identified by HMIC were outside the direct control of SCRO staff and a result of insufficient resources*”<sup>5</sup>
- 1.8 The 25 recommendations made in the 2000 primary inspection report were considered in the full primary inspection of SCRO that followed in December 2000. This inspection concluded that five recommendations were found to be discharged with one further recommendation considered partially discharged. The remainder were classed *work in progress*.
- 1.9 The 2000 primary inspection of the entire SCRO made some 17 recommendations and a further 5 suggestions. These recommendations were reviewed in December 2001 as part of the second year review of the 2000 primary inspection.
- 1.10 The language used by HMCIC when considering the work done by SCRO is, to the uninformed reader, somewhat cumbersome. Recommendations are, throughout all reports, generally fairly vague and open to interpretation. For example
- “HMIC recommends that the concept of “authorisation” needs further consideration”*<sup>6</sup>
- “HMIC recommends that the Director of SCRO’s scheme of delegation be considered as part of the re positioning of SCRO within a new Common Police Services arrangement”*<sup>7</sup>.
- 1.11 In both these instances, it is not clear to the reader what exactly HMCIC is seeking from SCRO - it is very difficult to quantify “consideration”.

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<sup>3</sup> SCRO - The Fingerprint Bureau Primary Inspection 2000, 10.4

<sup>4</sup> Scottish Criminal Record Office 2000 Primary Inspection 2001, Executive Summary

<sup>5</sup> Ibid

<sup>6</sup> SCRO - The Fingerprint Bureau Primary Inspection 2000, Recommendation 6 Paragraph 3.5.5

<sup>7</sup> Scottish Criminal Record Office 2000 Primary Inspection 2001, recommendation 2, Paragraph 2.9



- 1.12 The presence of Suggestions can be a confusing notion. For a reader unaccustomed to the usual formation of HMIC inspection reports, it is unclear what relevance Suggestions hold. If they are important enough to merit inclusion in the report then they should surely be of such a weight that merits their content as Recommendations?
- 1.13 Upon review inspections in 2001 and 2003, HMCIC outlines the work done by SCRO in respect of recommendations previously made, whilst also making comment based on this work. A decision is then made whether to discharge the recommendation or otherwise.
- 1.14 Given the construction of recommendations and the potential for their interpretation it is perhaps unsurprising that discharge can be achieved quickly. For example, where HMCIC recommends that
- “A centralised model for a national fingerprint service be considered”*<sup>8</sup>
- 1.15 It is clear from the SCRO response to that recommendation that consideration was given to this issue and that a particular model was being worked towards. Whilst HMCIC noted the *“clear determination”*<sup>9</sup> of the SCRO management to *“drive further change and strengthen corporate identity”*<sup>10</sup> it is the case that no discussion of the wider options is made. It is also evident that there is a lack of clear outcome when discharge is granted.
- 1.16 To the independent reader, these omissions are key elements. The reader is also left wondering as to who is the ultimate arbiter in deciding whether a recommendation should be discharged. As noted above, construction of recommendations and responses is often complex and confusion may arise. It would be interesting to explore who is responsible for reaching a final decision on discharge and what situation arises where parties have differing views.
- 1.17 In summary, there has clearly been a great level of work and good intention on the part of all parties involved in the various inspections and reviews undertaken in respect of SCRO since 2000. The outcome of these reviews is less obvious. Issues concerning input focused recommendations rather than outcome focused discharge are matters worthy of further consideration, as is ownership of responsibility for direction and arbitration.

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<sup>8</sup> Third Year review of the Scottish Criminal Records Office (2000) Annex A, Recommendation 3

<sup>9</sup> Ibid

<sup>10</sup> Ibid

## **2 Overview of Her Majesty's Chief Inspector of Constabulary**

- 2.1 Her Majesty's Chief Inspector of Constabulary (HMCIC) is a position founded in statute and referred to within the Police (Scotland) Act 1967<sup>11</sup>. The Act requires inspectors, under the direction of the Secretary of State, *"to visit and inquire into any matter concerning or relating to the operation of a police force or of police forces"<sup>12</sup>* and thereafter *"submit to the Scottish Ministers a written report on the state and efficiency of the police forces"<sup>13</sup>*. In general terms, prior to April 2007, each Force underwent a primary inspection every five years with two follow-up review inspections at 18-month intervals thereafter. In order to provide context for the main body of this report, the methodology for these inspections and subsequent reviews are considered below. (On 29 March 2007, when HMCIC Paddy Tomkins took up his appointment, he announced a review of inspection methodology that was underway at the time of this report.)
- 2.2 In addition to conducting inspections into the eight Scottish Forces, HMCIC is also responsible for the inspection of common police services such as the Scottish Police College, the Scottish Criminal Records Office and The Scottish Crime and Drugs Enforcement Agency. These bodies now form part of the Scottish Police Services Authority (SPSA). Whilst the SPSA is responsible for the daily management of these agencies, it has been agreed that HMCIC will continue to undertake inspection of these agencies.
- 2.3 HMCIC also conducts periodic thematic inspections relating to the discharge of single issues of business across Forces and Agencies.
- 2.4 HMCIC undertakes its business through the deployment of staff officers. These officers are drawn from the superintending ranks of Forces across the United Kingdom. They are generally seconded to HMCIC for two or three years. This arrangement ensures currency and dynamism. Other inspecting bodies, which will be discussed below, work along different management structures, often employing more permanent staff. In common with HMCIC, other inspectorates often call upon the services of short-term secondees to ensure currency.
- 2.5 In common with the police service in Scotland, while the primary legislation has not changed since 1967, the relationships between HMCIC, Police Boards/Authorities, Forces and central government have continually developed. It is an on-going challenge for HMCIC to ensure that key stakeholders fully understand both the wide scope of the role and the practical limitations faced by the Inspectorate.

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<sup>11</sup> Part II Central Administration and Supervision and Common Services, Section 33-34

<sup>12</sup> S 33, SS3

<sup>13</sup> SS4

### **3 Inspection Process**

- 3.1 Until April 2007, each Force underwent primary inspection every five years. The methodology for this process was as follows.

#### **Pre-Inspection Scoping**

- 3.2 In preparation for each inspection HMCIC undertook a scoping exercise in respect of the force involved. This involved an examination of data sources, stakeholder analysis and consultation and an environmental scan including reference to various media sources.
- 3.3 This initial scoping process was intended to give HMCIC an overall view as to how a Force might be performing in both general and specific terms, for example in respect to road accidents or housebreaking.

#### **Options Appraisal**

- 3.4 Once the initial scoping was completed HMCIC convened an options appraisal meeting involving the lead inspecting officer and the staff officers responsible for undertaking the inspection.
- 3.5 This meeting was constituted under the EFQM<sup>14</sup> approach<sup>15</sup> to inspection. Under this model some 140 areas of potential questions were considered with the final question selection reflecting the findings of the pre-inspection scoping work. To this end, and using the previous examples, it may be that there was a greater degree of questioning in relation to a particular area such as road accidents or housebreakings.
- 3.6 All staff officers working within HMIC have individual portfolios of responsibility that correspond to the key areas of business identified by ACPOS<sup>16</sup>. At the Options Appraisals Meeting, staff officers adapted questions relating to their own area of responsibility in light of the evidence found during the scoping phase.
- 3.7 Following the Options Appraisal Meeting questions were finalised and were written in both an open and closed style.

#### **Inspection Protocol**

- 3.8 Each force has an appointed liaison officer for HMIC. At the start of the inspection process the staff officer leading the inspection would meet with the liaison officer. At this meeting the list of questions was supplied to the force. At this time guidance was given on the style and

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<sup>14</sup> European Foundation for Quality Management.

<sup>15</sup> Details of this model are contained at <http://www.efqm.org/Default.aspx?tabid=35>

<sup>16</sup> Association of Chief Police Officers in Scotland

substance of the answer expected by HMCIC. This would vary according to the subject area.

- 3.9 The lead officer from HMIC would then spend time in-Force conducting interviews with a variety of personnel as well as examining practices and procedures. It is fair to say that Forces were receptive to HMCIC inspections and there is no evidence of anything other than Forces being open and transparent when undergoing inspection.

### **Initial Inspection Outcomes**

- 3.10 At the conclusion of the inspection process HMIC published a report that included recommendations and suggestions. HMCIC might also identify areas for future review.

### **Recommendations**

- 3.11 During an inspection HMCIC would gather evidence relating to particular areas of business and consider the performance of the force in relation to those areas. Following discussions between staff officers and HMCIC recommendations for change were constructed and thereafter included in the relevant report. Examples of recent recommendations include the following

*“That the force review its processes for documenting, storing and auditing productions”<sup>17</sup>*

*“HMIC recommends that the force introduce a comprehensive officer safety policy”<sup>18</sup>*

*“A truly diverse workforce brings benefits to the organisation in terms of the variety and breadth of experience and understanding brought to the workplace, and in building trust and confidence between the force and the communities it serves. HMIC recommends that, in developing a recruitment strategy, Grampian Police fully consider opportunities to increase the diversity of the workforce: this should apply to both police officers and support staff”<sup>19</sup>*

Whilst these recommendations are supported by advice in the body of the relevant report, it is clear that the Force in question would be in a position to seek a discharge simply by demonstrating that it had reviewed its process rather than demonstrating that change and improvement was the outcome of the recommendation.

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<sup>17</sup> Dumfries and Galloway Constabulary Primary Inspection 2006, Recommendation 2e, paragraph 5.131

<sup>18</sup> Dumfries and Galloway Constabulary Primary Inspection 2006, Recommendation 5, paragraph 3.67

<sup>19</sup> Grampian Police Primary Inspection 2006, Recommendation 3, Paragraph 3.6

- 3.12 Given this assertion, it is necessary to consider the effect of any recommendation and reflect on the impact a recommendation carries.
- 3.13 Whilst no doubt both persuasive and influential, recommendations did not, in and of themselves, deliver or demand change. Recommendations contained within an HMCIC report are not binding on any chief officer. In effect, there is no requirement for chief officers to implement any recommendations made by HMCIC.
- 3.14 It is very much the case that Forces being inspected hope to discharge recommendations. There are, however, instances where that may prove problematic, as recommendations made may not be clearly within the sphere of influence of the relevant Force. For example

*“That ACPOS and the Scottish Executive enter into a debate about the long-term future options for the sequence of recruiting and training”<sup>20</sup>*

- 3.15 In this particular regard, it may be argued that the bringing together of these two bodies is outwith the immediate power of the management team at the Scottish Police College.

### **Suggestions**

- 3.16 Suggestions are not as widely used a tool as recommendations and it appears it falls on individual staff officers to decide whether to include suggestions in any inspection. Examples of suggestions made in recent HMCIC reports include the following

*“HMIC suggests that the College ensure that best practice in procuring visiting lecturing staff is applied consistently across all divisions”<sup>21</sup>.*

*“HMIC strongly supports the positive steps taken by ACPOS towards national ICT integration, and suggests that 'information push' be adopted as a key priority for the design of systems supporting operational policing”<sup>22</sup>.*

### **Areas for Review**

- 3.17 When an inspection identifies an area where it may be appropriate to make a recommendation for improvement, it is open to the Force to demonstrate to HMCIC that they were already aware of the issue and undertaking work to address any perceived deficiency. Where HMCIC is satisfied that remedial work is ongoing it is open to the Inspectorate to include the issue as an area for future review rather than making a specific recommendation in respect of that aspect of work.

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<sup>20</sup> Scottish Police College Primary Inspection 2006, Recommendation 1, Paragraph 1.5

<sup>21</sup> Scottish Police College Primary Inspection 2006, Suggestion 14, Paragraph 4.48

<sup>22</sup> Common Knowledge: Thematic Inspection on Intelligence and Information Sharing 2007, Suggestion 6, Page 60

- 3.18 In common with recommendations, HMCIC makes note of the areas for review within the relevant report. Examples include

*“HMIC noted that some aspects of internet content were not up to date and will be interested to view progress during the next inspection”<sup>23</sup>*

*“The force approach to staff vetting”<sup>24</sup>*

- 3.19 It is fair to note that HMCIC applies the same scrutiny to areas for review as it does to recommendations when carrying out follow up inspections.

### **Second Options Appraisal Meeting**

- 3.20 Once a Force was aware of recommendations, suggestions and areas for review, they had the opportunity to respond to HMCIC. These responses along with any findings gained through a second period of stakeholder consultation were considered at a second Options Appraisal Meeting. Following this meeting HMCIC might undertake follow-up work as necessary before reaching final conclusions.
- 3.21 Once final conclusions had been reached a ‘hot debrief’ was carried out between HMCIC and the chief constable of the relevant force. During this conversation the issues leading to recommendations as well as the recommendations themselves were discussed.

### **Reporting**

- 3.22 Following the chief constables debrief, HMCIC submitted its report to the Force for a factual accuracy check. This check was intended to ensure that all information relating to the running of the force was correct and that any recommendation predicated on specific issues were well founded in fact. The Force had no locus in challenging any recommendations at this stage.
- 3.23 The primary inspection report was then sent for printing and was thereafter published. It is important to note that the period between printing and publication might, for wholly understandable logistic reasons, be several months. In this respect, it is fair to say that the finished product should be viewed in the context of the time in which the inspection was undertaken rather than publication date.

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<sup>23</sup> Scottish Police College Primary Inspection 2006, Area 6, Paragraph 5.60

<sup>24</sup> Dumfries and Galloway Constabulary Primary Inspection 2006, Area 3, Paragraph 3.21

### **Review Process**

- 3.24 HMCIC reviewed a Force 18 months after completion of the primary review. The methodology for this review mirrored that of the primary inspection, though focused entirely on the recommendations, suggestions and areas for review identified in the primary report.
- 3.25 A similar review was carried out eighteen months later and was followed by the five yearly primary inspection.

### **Developments in Inspection Processes**

- 3.26 Since taking over this post HMCIC Mr Tomkins has stopped current inspections and indicated, by letter, to chief officers that he intends to oversee an evolution in process that will have more emphasis on self-assessment and more sharply focused thematic inspections.

## **4 Review Findings and Lessons to be Learned**

- 4.1 Inspections are not unique to policing and a number of partner agencies are subject to periodic reviews by bodies that have a role similar to that of HMCIC. The manner of inspection styles does, however, differ in some key respects from the approach taken by HMCIC.

### **Self-Inspection**

- 4.2 Self-reflective professionalism is a phrase used by other professions. It reflects the view that individual bodies are responsible for the constant and consistent review of their own practices and procedures. When inspected it is expected that the organisation involved will highlight areas of best practice as well as areas for improvement and submit those to the inspecting body.
- 4.3 Areas upon which inspections are focused are highlighted via self-examination questionnaires. These are often wide ranging and questions are submitted to a variety of staff, managers and stakeholders. Organisations are also asked to grade their own performance in key areas identified by the relevant inspectors. It is the experience of other inspectorates that this process of self-grading is usually done accurately and that individual bodies are aware of their failings as well as good practices. By developing an ethos of self-reflective professionalism it has been found that organisations undertake a fairly rigorous regime of self-inspection.
- 4.4 In common with work done by HMCIC, other inspecting bodies spend time within the agency they are inspecting. This then leads to recommendations and the highlighting of good practice via a report.

### **Formation of Recommendations**

- 4.5 Partner agencies take an 'outcome focused' view of recommendations. To this end, inspectors construct recommendations in such a way that once complied with a clear outcome will be achieved which should benefit the body in question, and by extension, the service they provide. An example of such a recommendation being '*social policy should set out to reduce the number of children...who experience three or more moves...in a 12 month period*'<sup>25</sup>.
- 4.6 It is submitted that this form of recommendation is clear, concise and its outcome measurable. Discharging recommendations constructed in this form becomes a clear-cut task as it is possible to assess the impact of the recommendation on the service provided.

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<sup>25</sup> Recommendation 1 - Social Work Inspection Agency; Performance Inspection, West Lothian Council, March 2007, Pg2



- 4.7 Once inspection reports are completed, the body concerned has several months to develop an action plan to address issues raised. These plans are owned by the inspected body and any action taken to meet the recommendations made by the inspectorate are wholly and solely the responsibility of the inspected body. The relevant inspector receives a copy of the plan as a matter of process in order that it can be evidenced that the recommendation has been received and understood by the relevant body.
- 4.8 Whilst the inspector may appoint a link officer to assist the recipient in working towards discharge of the recommendation the responsibility for the development of any plan and follow up work remains with the body concerned. This ensures that the inspector remains a separate part of the improvement process and whilst supporting, avoids micro managing the relevant agency through any improvement process.
- 4.9 It is the view of the review team that many of the issues associated with the recommendations made in respect of SCRO and the subsequent findings of the Justice 1 Committee, are a result of HMCIC recommendations not being clear and outcome focused. As the recommendations cited above demonstrate, it is possible for a recipient body to evidence compliance with a recommendation without actually needing to evidence improvement.
- 4.10 It is the review team's belief that it would assist both the recipient body and HMCIC if recommendations were formulated in an outcome-focused manner. Chief officers would have a clear idea of what was expected of them, and HMCIC would be able to evidence improvement or otherwise in follow-up inspections. Outcome-focused recommendations would assist in the promotion of positive, measurable and focused change.

**Lesson 1. Recommendations made by HMCIC in inspection reports are often too ill defined. Future inspection procedures should result in SMART (Specific Measurable Achievable Relevant Time-framed) Recommendations that have an outcome focus.**

- 4.11 It is essential that the body being inspected can implement all recommendations made by HMCIC in respect of their business. To this end, the review team feel it is appropriate for HMCIC to confine any recommendations within the scope of the inspected body's area of influence.

**Lesson 2. Some HMCIC Recommendations within a report on an inspected body are directed at other agencies and subsequently the inspected body has little or no control**

**over their implementation. HMCIC should ensure that all Recommendations are entirely deliverable by the inspected body.**

### **Suggestions**

- 4.12 Suggestions sit below recommendations in the hierarchy of HMCIC inspection content.
- 4.13 Given the status of recommendations, discussed above, it can only be concluded that suggestions carry considerably less weight and influence with chief officers. To this end, the review team believe that should an issue be worthy of comment by HMCIC it should be included either as a recommendation or area for review.

**Lesson 3. The relevance of HMCIC Suggestions, given that they carry less weight and are often even more ill defined than Recommendations, is seriously questioned. HMCIC should remove the category of Suggestions from the tool kit available to HMIC and staff officers when undertaking inspections of any type.**

### **Areas for Review**

- 4.14 Whilst there is no doubt merit in highlighting areas where development work is being undertaken and noting that that work will be reviewed at subsequent inspection, the review team feel that this area should also be outcome focused. Again, there is benefit to all if the work being reviewed can be clearly measured.

**Lesson 4. Areas for Review, like Recommendations, are often too ill defined. Future inspection procedures should result in SMART Areas for Review that have an outcome focus.**

### **Scottish Executive**

- 4.15 HMCIC reports to the Scottish Executive via the Justice Minister (since 17 May 2007, to the Scottish Government via the Cabinet Secretary for Justice).
- 4.16 Reports are directed to the relevant chief constable and copied to the Police Board or Police Authority.
- 4.17 Given the tripartite approach, the Scottish Executive, whilst having sight of HMCIC reports rarely provided further comment or offered

direction to Police Boards/Authorities as to how recommendations might be progressed.

- 4.18 Within the tripartite system there is, however, scope for the Scottish Government to re-emphasise the responsibility Police Boards/Authorities have in both supporting the chief officer and ensuring a high standard of policing is delivered within communities.
- 4.19 HMCIC is the senior professional advisor on policing matters to Cabinet Secretaries, Ministers and the Scottish Executive. To this end, it would be in keeping with this role if the Cabinet Secretary were, upon receipt of HMCIC recommendations, to write to the Convener of the relevant Board/Authority seeking assurance that any recommendations were to be implemented and asking for the action plans, from the Board/Authority.
- 4.20 Such a development would ensure that responsibility remained at local level, in the hands of Police Board/Authority members whilst also taking note of the role both the Scottish Executive and HMCIC have in ensuring that high standards for policing are maintained across Scotland.
- 4.21 It is important to highlight that any movement toward this situation would only be possible in the event that recommendations evolve from their current form into an outcome based, measurable format.

**Lesson 5. The Scottish Executive has not routinely played as active a role in following through HMIC reports as it possibly could. HMCIC should request that the Scottish Government engage more actively in the process of Force improvement by seeking Action Plans from Police Boards and Authorities following inspection reports.**

#### **Police Boards and Authorities**

- 4.22 Police Boards and Authorities have a key role to play in the inspection process and may well be regarded as a “critical friend” to the chief constable.
- 4.23 In common with other local authority boards, membership of Police Boards/Authorities is comprised wholly of elected members.
- 4.24 It is salient to note that given the recent local elections, Boards and Authorities established under previous administrations have been dissolved and new Boards are yet to be appointed.
- 4.25 There is strong support for the view that Police Boards/Authorities give serious consideration to HMCIC reports. Boards/Authorities should be aware, via the chief constable, of the issues facing the relevant force.

With this in mind, Police Boards/Authorities should rarely be surprised by any recommendations made by HMCIC. This view is borne out of the financial responsibilities that Boards/Authorities have and their holding of the chief constable to account in respect of capital spending and good governance. An exception to this situation may relate to recommendations that are wholly operational. In such circumstances it is less likely that Boards/Authorities will be fully aware of the issues due to the operational autonomy enjoyed by the chief constable. Indeed the concept of operational autonomy lacks clear definition and a wider understanding.

- 4.26 When HMCIC carries out an inspection of a particular Force it is common that a presentation setting out the findings of that inspection is made to the Police Board/Authority. It is equally common that chief officers are asked to give their view on the recommendations made in HMCIC reports.
- 4.27 The Board/Authority has a crucial role made even harder by the absence of any recent guidance as to how best to discharge their duties. The last guidance was prepared prior to 1997 and so predates the Scottish Parliament. (It is understood that updated guidance is currently being finalised).
- 4.28 Clearly Police Boards/Authorities have key roles to play in assisting Forces to work through the action plans that follow inspections, in order to ensure successful discharge of recommendations. Given the clear lack of guidance available to Boards/Authorities in carrying out this role, and in light of the recent local elections and the subsequent change of Police Board membership, the review team feel that this is an opportune time for new guidance to be issued.

**Lesson 6. Police Boards/Authorities have not been given guidance since devolution in how best to engage with HMCIC procedures. In particular, HMCIC should work with the Scottish Executive to develop new guidelines for Police Boards/Authorities to assist them in responding to HMCIC inspection reports.**

#### **Discharge of Recommendations**

- 4.29 Having made recommendations and suggestions to Forces for improvement it is only right that these areas are revisited by HMCIC and consideration given to the success that a Force has had in reaching a point where HMCIC, the relevant chief constable and the Police Board can regard recommendations as being discharged.
- 4.30 As noted above, a review was previously carried out 18 months after a primary inspection and the same methodology was used in that process as is applied at primary inspection stage. To this end,

recommendations were considered at the options appraisal meeting stage of a review.

- 4.31 At this time a Force reported to HMCIC on progress made in respect of individual recommendations. Forces would have had an expectation that a recommendation would either be discharged or remain as work in progress.
- 4.32 It was the responsibility of the relevant staff officer to then undertake fieldwork in order to confirm the Force position or to provide evidence contrary to the Force view.
- 4.33 Once the fieldwork was completed the staff officer and HMCIC discussed the recommendation and agreed whether to discharge or not. In either event, HMCIC would discuss the findings with the chief constable.
- 4.34 The discharge of a recommendation was, on the face of matters, a fairly clear-cut process. Should HMCIC have felt that sufficient work had been done in respect of the recommendation then it would be discharged. This view did not, however, reflect the work that was done in reaching that position.
- 4.35 It may have been that the staff officer felt the Force had done some work in relation to the recommendation which had led to a degree of improvement. The officer may also have believed that, whilst some improvement had been achieved, the Force was still not attaining its full potential. HMCIC then made a judgement as to whether the improvement was sufficient to merit the discharge of the pertinent recommendation. Discharge might have been made where HMCIC felt there has been sufficient improvement to bring the Force to a position where an acceptable standard was reached. There are no current means available to HMCIC to discharge recommendations on a sliding or graduating scale. Accordingly, a discharge has been absolute and does not reflect how much or how little progress has been made in the area concerned.
- 4.36 This is not a situation that is replicated in many other inspectorates. Partner agencies approach the discharge of recommendations on a sliding scale rather than in absolute terms. This sliding scale reflects the methodology and consideration applied by HMCIC by staff officers but goes on to apply it in a tangible manner.
- 4.37 One partner agency, for example, employs a six-part graduating scale when considering discharge of a recommendation that ranges from "not met" to "excels", with gradings in between that to reflect on-going work and allow for further development. This is generally regarded as a positive tool by partner agencies as they feel that this gives a more realistic view of progress.

**Lesson 7. The range of judgements open to HMCIC when evaluating an inspected body's progress is too limited. HMCIC should move towards a graduating scale when considering progress. This scale would better reflect work done by inspected bodies in achieving their outcome-focussed recommendations.**

### **Timing of Inspections**

- 4.38 Unless in extreme circumstances, HMCIC carried out primary inspections and reviews within set time frames.
- 4.39 A different approach is undertaken by many other inspectorates. It is common for partner agencies to time review inspections in light of their findings at primary inspection. These follow up, or "light touch", inspections are seen by practitioners as a useful tool. They ensure that their own workloads reflect the needs of the bodies they inspect. Where an inspected body is performing well, it is not necessary to undertake another full inspection as regularly as it may be necessary to inspect bodies that are found to be performing less well.
- 4.40 This variance is also seen as something of a reward and sanction power, as adverse publicity both within the relevant profession and beyond often accompanies quick and repeated inspections. The opportunity to avoid this is seen by practitioners as good incentive for the achievement and maintenance of high standards.
- 4.41 In addition to the benefits of perception, such an approach allows inspection bodies to quickly re-engage with all stakeholders where conflict or disagreement arises.
- 4.42 The review team feel that the most recent process of rigid primary and review inspection cycles was too prescriptive and did not adequately consider an assessment of risk.

**Lesson 8. The timing of inspections and reviews has been too rigid and did not necessarily reflect any risk assessment of performance. HMCIC should change the arrangements surrounding the timing of inspections and reviews to one based on an assessment of risk, linked to performance.**

### **Staffing**

- 4.43 HMCIC draws staff officers from serving officers across the UK. While this provides currency it also brings issues of continuity, training and expertise in audit and inspection. Developing the skills and experience

in this type of work takes time and it seems reasonable to explore whether permanent posts could supplement the complement of secondees.

**Lesson 9. A high turnover of staff leads to discontinuity and a loss of skills. HMCIC should explore the opportunities to engage permanent inspection staff.**

## **5 Failure to Discharge and Sanction**

- 5.1 It may be the case that HMCIC feels it is inappropriate or premature to discharge a recommendation. Such a situation impacts on both the Force concerned and the relevant Police Board/Authority.
- 5.2 Forces may well feel that any failure to discharge is more an issue of process rather than a lack of diligence on their part. There may be issues surrounding the language in which a recommendation is framed and accordingly Forces may feel they have worked towards a goal, as they, rather than HMCIC, understood it.
- 5.3 Police Boards/Authorities may well seek clarification from the relevant chief constable as to the circumstances surrounding any failure to discharge. It may be that the chief officer is able to assure the Board/Authority that there is no cause for concern, and there the matter would rest. The Board/Authority may also feel it appropriate to refer the specific issue to any relevant subcommittee for further scrutiny.
- 5.4 Following such scrutiny, a Police Board/Authority may feel it appropriate to press the chief officer to implement practices ensuring compliance with the recommendation. Should a chief officer refuse to do this, there is little a Board/Authority can do to direct otherwise.
- 5.5 It is apparent that good relations and interpersonal relationships between chief officer and Board/Authority are essential elements in dealing with recommendations and addressing issues raised. It is submitted, however, that this position would feel strained in the face of disagreement, even over relatively minor issues.
- 5.6 Where disagreement does occur a Police Board/Authority is unable to direct a chief constable. This is a situation arising from the chief constable's perceived operational autonomy and the ability to link the vast majority of issues to operational matters.
- 5.7 Where a Board/Authority believes that a chief officer is ignoring its views or directions there appears little that it might do to address that issue or highlight its disapproval.
- 5.8 The only real step is a drastic and draconian one - for a Board/Authority to seek the removal of their chief officer
- 5.9 It is submitted that this situation makes the role of the Board/Authority a difficult one, and that there is little a Board/Authority can do to ensure that HMCIC recommendations are introduced when it thinks such changes are necessary and the chief constable disagrees.
- 5.10 Whilst a rare occurrence, consideration has to be given to the potential outcome of a chief officer either refusing to implement a particular



HMCIC recommendation or failing to ensure sufficient work is done to achieve the set goal.

- 5.11 It is important to highlight that HMCIC does not have powers of sanction. Indeed, there is a widely held view that it would be unhelpful for HMCIC to assume powers of direction in respect of chief officers. Rather, HMCIC is regarded as the independent, professional advisor to chief officers and the monitor of standards for the Scottish Executive.
- 5.12 Consideration could be given to a power of sanction resting within the Scottish Executive. The review team feel that this would remove ownership of local issues from local representatives and elected members and effectively be too fundamental a shift in power and responsibilities to achieve maximum benefit to the public.
- 5.13 It is felt by the review team that sanction, should it be thought necessary, properly lies within the domain of the Police Board/Authority. This third option highlights the importance local members have in supporting chief officers within communities. Currently, Police Boards/Authorities do not have any powers of sanction over a chief officer other than dismissal nor, in general terms, do they have power to direct a chief constable.
- 5.14 If such powers were to be granted to Police Boards/Authorities, there might be concern that Boards/Authorities across Scotland lack the capacity to fully exercise their functions where sanction may be an option. Police Boards/Authorities are rarely serviced by a full time, independent, secretariat and chief executive. In this respect, there is a perception that there is an "inequality of arms" in the relationship between chief officers and Boards/Authorities. The review team feel it is vital that Police Boards/Authorities have the capacity to support and, if necessary, challenge chief officers. This capacity should exist regardless of the size of the Force or Board/Authority in question.

**Lesson 10. There is no real method of sanction other than measures that are at best draconian. HMCIC should undertake a diagnostic review of the principles and benefits relating to support and sanction within the scope of HMCIC inspection, and thereafter provide guidance and support to Police Boards in respect of their findings.**

# **Appendices**

Appendix A

Remit

Appendix B

Stakeholders

# **Appendix A**

## **REVIEW OF HMIC INSPECTIONS OF THE SCRO SUBSEQUENT TO THE FINGERPRINT BUREAU INSPECTION OF 2000**

### **REMIT**

#### **Introduction**

This review, to be conducted on behalf of HMIC Scotland by Chief Superintendent Bill Skelly of Lothian and Borders Police, is a response to a recommendation of a report by the Justice 1 Committee of the Scottish Parliament into its Inquiry into the SCRO and the Scottish Fingerprint Service, published on 15 February 2007.

The relevant part of the Committee's report (paragraphs 700 and 701) stated:

**700. The Committee concludes that a number of important HMIC recommendations were clearly discharged prematurely. Sir David's review would appear to call into question the diligence with which HMIC carried out its inspections following the HMIC Primary Inspection of the SCRO Fingerprint Bureau in 2000.**

**701. Accordingly, the Committee recommends that HMIC should conduct an internal review of its inspections of SCRO subsequent to Mr Taylor's Primary Inspection of the SCRO Fingerprint Bureau in 2000, in order to consider the lessons to be learned for future inspection procedures.**

#### **Remit**

- 1 To review the 5 inspection reports of the SCRO published since 2000, and any available associated documentation, as well as Sir David O'Dowd's review of 2006, for the purpose of identifying lessons to be learned for future inspection procedures
- 2 Identify any improvements made to HMIC Scotland inspection methodology, report writing and follow-up procedures since 2000, and what is known about the intended changes to these from April 2007 onwards.
- 3 Report on how any lessons learned might be incorporated in to future HMIC work.

## Appendix B

### Stakeholders

<u>Relevant Organisation</u>	<u>Representative</u>
HMCIC	Supt Andrew Allan, Staff Officer
ACPOS	Chief Constable Ian Latimer
Scottish Executive	Bridget Campbell
Police Boards	Mike Blair, Clark, Strathclyde Police Board
SPSA	DCC, David Mulhern, Chief Executive. SPSA
Her Majesty's inspector of Education	Ian Ronald, Inspector
Social Work Improvement Agency	Alexis Jay, Chief Inspector
Police Division	Donny Jack
Scottish Executive	Alison Cook

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