

# **REVIEW**

## **OF THE SCOTTISH POLICE AUTHORITY (SPA) EXECUTIVE**

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## REVIEWERS' FOREWORD



In June 2017, the Cabinet Secretary for Justice asked us to undertake a Review, to consider how the Executive of the Scottish Police Authority (SPA) can most effectively support the Board to deliver its statutory functions. This Review report and recommendations represent our assessment of the evidence gathered during the review process and how we see that the challenges identified here can be addressed.

An essential aspect of the review process was our engagement throughout the process with the SPA's key delivery partners and stakeholders. Acknowledging the collaborative nature of the SPA, we focussed on gathering intelligence and evidence from a wide partnership of organisations within the policing context, including Police Scotland, local authorities, staff associations and unions, criminal justice agencies and the not-for-profit sector, but also highlighting a requirement to reach out further afield in Scottish civic life. We believe that it is essential that the SPA is recognised and acknowledged as a public body that considers the views of wider society when discharging its statutory functions.

Our report acknowledges that there have been a number of significant changes to policing at a national level, in addition to a number of audits and reviews, which have led to a period of transition in the scrutiny and accountability arrangements of policing in Scotland. Aside from the legal requirements, there are many differing models for ensuring accountability and effective scrutiny of policing. Our view is that the model provided by the SPA is fundamentally sound and the grand challenge we have identified and seek to address in this report is ensuring that this model operates effectively and efficiently, as was originally intended. In essence, our findings are that it is timely for the SPA to refocus and refresh itself to ensure that it is operating in an effective and efficient manner and fulfilling its role, as defined in the founding legislation.

We have clustered our findings and recommendations around the following four critical themes:

- i. How the SPA Executive and the SPA Board can best work together;
- ii. The SPA's engagement with its delivery partners and stakeholders, particularly in local government;
- iii. Organisational structures and corporate processes; and
- iv. Ways of working.

In summary, our strategic objective with this report is to seek to ensure that the SPA is standing up for the wider public interest in support for, as well as scrutiny of, policing, progressing the understanding by all key players of the importance of proportionate and effective scrutiny, and lastly the need to create the conditions to support this approach by developing the right organisational framework and leadership capabilities within the SPA.

We believe this report and its recommendations will provide pointers and insights to help the SPA leadership team and leaders in partner organisations to plan more effectively. In addition, this report presents useful background information on the SPA organisational journey so far and therefore a platform for change.

Our recommendations have been developed from stakeholder interviews and we believe that they offer an insight for the new Chair and Interim Chief Officer to consider as they continue to develop the SPA and make inroads in addressing the challenges the SPA has been facing since inception and re-establish the organisation in its rightful place in Scotland's civic life.

Through this review we look forward to this vision being turned into a reality and to this end we have also offered the Cabinet Secretary our support to the new SPA Interim Chief Officer and Chair as they consider our review and recommendations to ensure that development work in this area is contextualised and addresses the challenges we have identified. It will be clearly up to the judgement and discretion of the SPA's new Interim Chief Officer and Chair how to best implement these recommendations either in full or in part through a phased approach, but we stand ready to support.

Lastly, we would like to thank those who have contributed to this Review, first and foremost the SPA Executive staff who have provided unique insights from their experience of working on the ground and for their open and constructive input, and to our Scottish Government colleagues who have assisted us with the organisation and management of the Review process. Our thanks also go to a wide range of organisations in the justice and policing field, and the wider Scottish public sector.



**Malcolm Burr,**  
**Chief Executive,**  
**Comhairle nan Eilean Siar**



**Nicola Marchant,**  
**Deputy Chair of the SPA**

## EXECUTIVE SUMMARY

- 1.** This report is the result of a Review by Malcolm Burr, Chief Executive of Comhairle nan Eilean Siar, the local authority for the Western Isles, and Nicola Marchant, Deputy Chair of the SPA, requested by the Cabinet Secretary for Justice in June 2017.
- 2.** The Review has been structured around six distinct phases:
  - i an initial scoping and fact-finding phase, looking into the current governance landscape, SPA founding legislation, best practice from elsewhere, and exemplar organisations;
  - ii an evidence-gathering phase on the operation of the SPA since inception, and views on how the SPA Board can best deliver its statutory functions and stakeholder engagement with the support of the SPA Executive team through a series of engagement sessions with stakeholders;
  - iii a critical evaluation of the evidence, leading to identification and summary of the key issues and challenges, framed around the remit, from the stakeholder engagement;
  - iv the development of proposals for recommendations to address challenges and to suggest improvements;
  - v re-engagement with key stakeholders, to test assumptions and build consensus where possible around evaluation of evidence and proposed recommendations;
  - vi issuing of the final report to the Cabinet Secretary and Chair of the SPA Board.
- 3.** We have made recommendations in the following ToR (Terms of Reference):
  - i How the SPA Executive and the SPA Board can best work together;
  - ii The SPA's engagement with its delivery partners and stakeholders, particularly in local government;
  - iii Organisational structures and corporate processes; and
  - iv Ways of Working.
- 4.** Our recommendations reflect the suitability of the overall organisational arrangements, whereby a Non-Executive Board holds the responsibility for strategy, resources and scrutiny of an operational service. That is the model which is followed in many other areas of public life and, in respect of police services, the model which other areas and nations are adopting. It is good practice, we think, for there to be a Non-Executive Board with clear statutory responsibilities placed between the Police Service, the Parliament, and the Government.

- 5.** Our report is very much focused on the restoration of what was, in all likelihood, intended at the time of police reform and the creation of the SPA. It recognises that the well-publicised difficulties of both the SPA and Police Scotland have not permitted either organisation to engage with its partners, and indeed the wider civic community, as much as would have been desirable. We have therefore set out a number of recommendations aimed at re-positioning and strengthening the role of the SPA by re-affirming the role it was originally intended to fulfil, in alignment with the founding legislation.
- 6.** In terms of how the SPA Executive and the Board can work better together, we have found that although the SPA has made inroads in securing the necessary experience and skills mix for both staff and Board Members (e.g. a skills-based Board), there are still a number of challenges to ensure that the Board remains sighted to live and up-and-coming issues against the background of a very dynamic policing landscape. The value of a skills-based Board relies on its ability to strive continually towards improvement and maintaining Board members' skills. Our recommendations in this area involve a strengthening of the Board's learning and development needs and governance processes.
- 7.** External stakeholder engagement by the SPA is not as developed or established as it should be for an organisation of such national dimension and status, especially one which supports and scrutinises a service on which the public depends and relies. We have found that a strong focus on operational and internal matters has had the effect that the SPA has been unable, so far, to develop a more outwardly focussed approach or to reach out to partner organisations and key stakeholders. This is particularly true of the SPA's engagement with local government, and that lack thereof was reflected in the evidence that was provided to the Review. The impact of this has been that stakeholders feel that their voices have not been heard prior to Board decisions, nor are they sufficiently aware of the strategic framework and policy context in which the SPA is working. Hence, there is uncertainty as to whether or not the Board is making fully informed decisions. We have therefore set out a number of recommendations around the need for a refresh of the SPA's stakeholder engagement strategy and a more formalised and transparent approach to engagement opportunities and channels of communications with key stakeholders.
- 8.** When evaluating possible future requirements for staff and operating structures, we believe it is essential to start at the top, with the role of the Chief Executive Officer (CEO)/Accountable Officer (AO). A principal accountability of the CEO should be the provision of best advice to the Board, enabling it to make informed decisions, and hence, it is essential that the CEO has the time and support to devote him/herself to this key role. We have therefore made recommendations regarding this essential and business-critical role.

9. As regards to staffing and operating structures, we have acknowledged that both the SPA and Police Scotland were established out of the eight former Police Forces and Joint Boards at some speed, and that certain key skills, particularly in the areas of advice to and administration of the Joint Boards, were not available to the SPA at the onset, since these posts largely remained within local government. We have therefore concluded that improvements should be made to the SPA Executive's understanding of the strategic context in which the Board operates and its ability to provide appropriate support.
10. The recommendations in this area make specific provision for the organisational structures within the SPA, and the processes which the SPA, Police Scotland, and others as appropriate, will require to adopt to ensure that the SPA is best placed to carry out its statutory functions. This will ensure that there is, above all, clarity between and among organisations in providing and supporting a sustainable Police Service and Forensics Service for Scotland. To make this approach fully effective, there also needs to be more formal reporting lines from a limited number of Police Scotland staff within the single Corporate Services function to the Interim Chief Officer, and eventually the CEO, of the SPA.
11. As regards to ways of working, the key issue is that the SPA Executive does not currently have end-to-end processes or standard operating procedures informing its flow of information and data to/from other delivery partners, such as Police Scotland. This has had a knock-on effect on its deliverables and outputs. We feel that the SPA Executive would benefit from more efficient and effective processes, properly mapped out and agreed with Police Scotland, to improve the support to the Board. Our recommendations in this area are around business tools and a much more collaborative approach to the identification of operational challenges and possible solutions by working with partners. Key to improvements in this area will be drawn from best practice and lessons learned in other exemplar organisations.
12. The report identifies 17 recommendations in total. A complete list is provided later in the report. In deriving these recommendations, we have also taken into account developments in other areas such as the Her Majesty's Inspectorate of Constabulary (HMICS) thematic inspection and the recent section 22 Audit Scotland report. These recommendations will need to be developed further by the Chair and Interim Chief Officer followed by rapid implementation. We have also suggested that Her Majesty's Inspectorate of Constabulary would be well placed to consider the delivery of the outcomes highlighted in our report as part of their ongoing support of the wider improvement journey that SPA is continuing to make. We are also open to undertaking an overview of progress made in 12 months' time.

### **KEY THEMES FROM THE REVIEW PROCESS**

13. We held semi-structured interviews with stakeholders over the engagement and validation phases of the Review around a set of open questions:-
  - What worked well
  - What did not work so well
  - Next steps: pointers, suggestions, and possible solutions.

- 14.** This thematic analysis helped us to organise the emerging findings and bring together and integrate these into the multiple strands and Terms of Reference of the Review. More details on the Review process and methodology can be found in Chapter 1C of this report.
- 15.** Through this approach a number of common themes and sub-categories of themes have emerged. These are outlined as follows:-
- SPA model;
    - Still a valid governance and scrutiny model;
    - Challenges from legacy issues such as police reform and the merging and transfer of some functions and staff into new organisations;
    - Need for a change of organisational focus from service delivery to strategic leadership, stakeholder engagement and enabling;
    - A refocus on the role of the SPA in the public sector landscape and wider civic society within Scotland;
    - Need to bench mark and compare against other sector leading and exemplar organisations;
    - Future review of some aspects of the founding legislation would be beneficial in the light of the significant change to policing structures and governance since 2013.
  
  - Scrutiny and accountability of policing
    - Need to foster a new culture of collaboration and information sharing;
    - Focus on shared agendas for joint outcomes with delivery partners and stakeholders;
    - Collegiality in decision-making and responsibility whilst ensuring individual organisational accountability and improved information flow between SPA and Police Scotland;
    - Re-engagement with communities, particularly local authorities and local scrutiny bodies;
    - Functional and informal reporting alongside more formal accountability between the SPA and Police Scotland, as a new working culture develops.
  
  - Leadership
    - Need to secure solid sound leadership and improved management skills allowing discretion and judgement to support current organisational requirements;
    - Ability to see the “bigger picture”, anticipate, prepare for and de-clutter a complex landscape;
    - Visibility across a wide spectrum of delivery partners, stakeholders and the public at large;
    - Networking and support from peers and leaders’ groups.
  
  - Capabilities and staffing
    - Need quickly to enhance internal capabilities and skills in both SPA and Police Scotland;
    - Greater clarity around individual roles, responsibility and expectations;
    - Refresh office/organisational culture;
    - Embrace an outcome based approach, jointly agreed and supported.



## LIST OF RECOMMENDATIONS

### SPA Executive and the Board: Working Together

#### Recommendation 1

The Chief Executive Officer (CEO) will be recognised as undertaking the most important role in the management of the organisation and will be key to the successful repositioning and strengthening of the SPA by re-affirming the role it was originally intended to have. **The CEO should be afforded the required latitude of scope and support from the SPA Executive to be able to operate at the expected strategic level and re-engage the organisation with key delivery partners and networks.**

#### Recommendation 2

By communicating the strategy and vision for the SPA, the CEO should set **the strategic direction for the senior management team, which in turn will set it for the rest of the SPA Executive. With clear directions that everyone understands, the SPA Executive should put in place the necessary support processes for the Board, including effective and efficient working practices informed by best practice from exemplar organisations.**

#### Recommendation 3

Senior management in Police Scotland with responsibility for assisting the SPA in discharging its statutory duties to ensure that the police and forensic service is maintained, resourced, and scrutinised effectively should report in respect of these responsibilities to the SPA CEO/Accountable Officer. These Police Scotland employees should have this reporting requirement reflected in their employment contracts, job objectives, and performance reviews, while continuing to report to the Chief Constable on all other matters.

#### Recommendation 4

The SPA Executive should develop (or refresh as the case may be) its guide/template for supporting papers for agenda items to be considered at SPA Board meetings. This should draw from best practice and experience of other organisations, where available, and detail the general principles which should inform the production/drafting of the papers and structure of the supporting papers.

#### Recommendation 5

The SPA Executive should develop jointly with Police Scotland and the Forensic Services new and refreshed induction programmes for Board Members, including an on going Learning and Development Programme (e.g. CPD type activities) for Board Members, to take account of the dynamic nature of policing. This should include specific and targeted briefings on up-and-coming or live issues, as well as the opportunity to take stock of wider policy developments, such as “strategy days” and workshops.

## Outcome

- The CEO is recognised and acknowledged as the adviser to the Board and the point of contact with the Forensic Services and Police Scotland;
- The CEO provides assurance to the Board regarding accountabilities as the AO;
- The SPA Executive Staff, through the leadership of the SPA Senior Management Team, will have the necessary autonomy and authority enabling them to support the CEO and Board in the delivery of their statutory duties;
- There is a regular communication between the Chair and the CEO which is focused on developing the Board agenda and ensuring the Board's expectations are clearly understood and delivered.

## Stakeholder Engagement

### Recommendation 6

SPA to refresh its stakeholder engagement and communication strategy with the aim of reaching out not only to delivery partners, but also a wider section of Scottish civic life and the public at large. This is to include a mapping exercise of key delivery partners and stakeholders.

### Recommendation 7

SPA to refresh and re-establish channels of communications at senior and strategic level with other key organisations, and especially local authorities, Police Scotland, staff associations and unions.

### Recommendation 8

SPA to formalise and publicise a programme of engagement opportunities through an engagement planner to feature on its website. This should include harmonising and coordinating stakeholder contact events with other key delivery partners, such as local authorities and Police Scotland, and seeking to harness synergies by sharing platforms and engagement opportunities made available by other partners.

### Recommendation 9

SPA to ensure that Committees have routes into engagement and communication channels so that as Board papers are developed the voice of the stakeholder is heard and considered prior to Board decisions being made.

### Recommendation 10

SPA to consider in discussion with key delivery partners the need to reconvene the Joint Liaison Committees, comprising the SPA, Police Scotland, and staff associations, as well as the setting up of a Local Government Liaison Group consisting of SPA Board Members and members of COSLA's Political Management Team, indicatively meeting twice a year. This approach will provide a forum for strategic engagement on Scotland-wide strategic policing issues.

### Outcome

- The Board will be publicly recognised and acknowledged as discharging its statutory functions by proactive engagement strategies, developed by the SPA Chair and CEO, that leverages network and stakeholder resources to access wider insights and knowledge;
- Critical stakeholders and partners will understand and have clarity on processes for providing insight and information to enable the Board to make informed decisions.

## Staffing and Operating Structures

### Recommendation 11

**To ensure that the SPA CEO/AO combined role has sufficient support to enable the primary role of the CEO, to advise and support the Board and manage strategic relationships with key stakeholders to include Police Scotland, Forensic Services, and local authorities, to be discharged and not unduly detracted from by performance of the AO function.** The AO's primary role is clearly defined in The Public Finance and Accountability (Scotland) Act 2000 (PFA Act), and should be primarily in relation to SPA finance. The CEO will require appropriate professional support to discharge the AO function without detriment to the CEO role detailed above.

### Recommendation 12

**The SPA Executive should have 3 main units:**

- CEO/AO Support;
- Board Communications & Insights;
- Board Services.

### Recommendation 13

On an indicative basis, it is recommended that the proposed business areas have the following key features:

- Redefine the role of the CEO/AO as a priority;
- CEO/AO Support – Within the SPA CEO/AO's office, there should be the required experience and skills set to support discharge of the role and the responsibilities associated with the SPA being the employer of staff, and duties associated with Police Scotland's Senior Officers, including appointments and pay, complaints handling, and independent custody visits. The skills set required to support this approach, and the bolstering of the capacity and capabilities available to the SPA leadership team, should feature highly developed management skills, strategic thinking, and strong judgment. This area should also include, amongst other things, more specialist and professional skills such as legal advice and HR. In addition, it is assumed that the CEO/AO themselves will have strong financial and business knowledge;
- Engagement and communication, including insights – Key deliverables of this team should include: provision of information and intelligence to ensure that the SPA can consider properly researched information and high-quality reports in order to make informed decisions; development and review of strategy; produce SPA Annual Reports; partner with Police Scotland and Forensics Services to agree performance indicators and targets; oversee stakeholder engagement of the SPA (including Parliamentary committees); produce briefing papers; and manage the website and all internal and external communications. To deliver this approach, there needs to be research capacity and capabilities within the Executive to construct concise reports and/or have access to analytical resources including a horizon scanning and anticipatory function as appropriate. There should also be strong media, including social media and communication skills;
- Board Services Unit – This Team should provide high quality secretariat and coordination services to the Board ensuring the availability of high quality Board papers; support the CEO and Chair in agreeing the Board agendas; support Committees Chairs in the development of efficient and effective work plans; and provide secretarial support to Committees, the Board and its Members.

## Outcome

- The SPA Executive will have a staff structure with the right skills mix and experience resulting in an engaged workforce;
- The SPA Board will be recognised and acknowledged as providing effective scrutiny of Police Scotland and holding the Chief Constable to account for the delivery of Policing in Scotland;
- The CEO will have the capacity and support from the SPA Board and Executive, Police Scotland, and other stakeholders, to discharge the key elements of their role and function;
- There will be appropriate arrangements within the SPA to enable the CEO to discharge the AO function, without detriment to their principal role.

## Ways of Working

### Recommendation 14

SPA to hold, jointly with Police Scotland, a facilitated staff event/workshop with the aim to identifying challenges and opportunities in their respective business processes and working practices.

### Recommendation 15

SPA to review its business processes and working practices, and working jointly with Police Scotland, develop collaboratively effective and efficient end-to-end processes, as well as identifying business solutions, which will enable the SPA to fulfil its scrutiny role and hold Police Scotland to account, as required. These processes and practices should be agreed formally, within a Minute of Agreement or equivalent, so that there can be clarity between the SPA and Police Scotland as to requirements and expectations, and to complement the formal accountability of Police Scotland employees noted in **Recommendation 3**.

### Recommendation 16

SPA to identify and apply best practice in its business processes and working practices, drawing from other exemplar organisations with a national dimension and public remit, to ensure that the place of the SPA within civic Scotland is restored and secured.

### Recommendation 17

SPA to develop and articulate in a transparent and open way its policy about public Board papers and/or meetings, supported by robust administrative processes, reflecting practice elsewhere in the public sector. With the exception of sensitive and personnel matters, it should be a matter of principle that meetings concerning policing policy and progress towards national outcomes should be held in public.

## Outcome

- Board and Committee papers will be concise and contain required information to enable an informed decision to be made, in public wherever possible;
- The Board and Committees will have access to a broader set of information to enable critical evaluation of proposals from Police Scotland and Forensic Services, ensuring their decisions are informed and evidence based.

**1A – WHY A REVIEW?**

- 16.** The SPA came under considerable parliamentary and media scrutiny in 2017, which focused mainly on openness and transparency in conducting its business. There were allegations of a culture of secrecy in the organisation. The Cabinet Secretary asked HMICS to carry out an inspection of the SPA into openness and transparency. HMICS reported in June 2017, by which time the SPA had already put into place a number of changes to its business arrangements, including publishing papers for meetings in advance and conducting business in public whenever possible. To address one of the key recommendations from the HMICS report, the Cabinet Secretary for Justice commissioned a Review to consider how the Executive of the SPA could most effectively support the Board to deliver its statutory functions, including consideration of:
- how the Executive of the SPA works with Police Scotland to collectively provide the information required to support the Board to take informed, transparent decisions in the context of the guidance set out in *On Board: A guide for Members of Statutory Boards*;
  - how the arrangements for engaging stakeholders in the work of the Authority can be strengthened;
  - the staffing and operating structure that fulfils the aim of providing the most effective support to the Board; and
  - areas where processes could be improved.
- 17.** The Cabinet Secretary also announced that the Review would be jointly led by a Board member and an independent person to be nominated by the Cabinet Secretary, subsequently confirmed as SPA Deputy Chair Nicola Marchant and Malcolm Burr, Chief Executive of Comhairle nan Eilean Siar, the local authority for the Western Isles.
- 18.** Within the scope, the Review leads had the ability to determine their own programme of work, but were expected to engage widely with stakeholders including SPA Staff, the SPA Board, staff associations, Unions, HMICS, Audit Scotland, the Scottish Government, and Police Scotland. In addition, the evaluation and recommendations were also discussed with the newly appointed Interim Chief Officer and Chair.
- 19.** The Review reported its conclusions and recommendations to the Chair of the SPA and the Cabinet Secretary for Justice.

## **1B – Background and Statutory Position**

- 20.** The Police and Fire Reform (Scotland) Act 2012 (the Act) brought about the most significant change in Scottish policing since 1967. The Act brought together the eight police forces, the Scottish Police Services Authority (SPSA) and the Scottish Crime and Drug Enforcement Agency (SCDEA) into the SPA and the Police Service of Scotland (Police Scotland). The two new bodies began operating on 1 April 2013. More than 24,000 people, including over 17,000 police officers, were transferred into the SPA and Police Scotland, along with around £1.1 billion of annual spending.
- 21.** The Scottish Government made senior appointments in advance of the start of the new service. The Chair of the SPA was appointed on 31 August 2012, the Chief Constable was in post on 1 October 2012, SPA Board members were appointed on 17 October 2012, with the first public SPA Board meeting held on 3 December 2012.
- 22.** Before reform, local authorities were responsible for policing, and governance was carried out by six Joint Police Boards (where a police force covered more than one local authority e.g. Lothian and Borders) and two Unitary Police Authorities (where the police force covered only one local authority area e.g. Fife), whose members were elected councillors.

### **The Police and Fire Reform (Scotland) Act 2012**

- 23.** The Police and Fire Reform (Scotland) Act 2012 (“the Act”) established the Scottish Police Authority (“the SPA”) and the Police Service of Scotland (“Police Scotland”) on 1 April 2013. In public body terms, the SPA is classified as an “other significant national body”.
- 24.** The Act sets out the SPA’s main functions, constitution, powers, and relationship with Scottish Ministers. The ones most relevant to this Review are summarised below.

### **The SPA’s Main Duties and Functions**

- 25.** The SPA is responsible for the governance, oversight, and administration of the Police Service of Scotland and the provision of forensic services.<sup>1</sup> The creation of the SPA ensured that the Chief Constable is free from undue political influence in making decisions about the investigation of crime, while also providing strong governance arrangements and clear accountability.<sup>2</sup>
- 26.** The SPA is required to undertake strategic planning and reporting, and to consult stakeholders on the use of its powers.

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<sup>1</sup> Police and Fire Reform (Scotland) Bill: Policy Memorandum, page 9

<sup>2</sup> Police and Fire Reform (Scotland) Bill: Policy Memorandum, page 16



- 27.** The Act<sup>3</sup> sets out five key functions for the SPA. These are:
- i. to maintain the Police Service;
  - ii. to promote the policing principles<sup>4</sup>;
  - iii. to promote and support continuous improvement in the policing of Scotland;
  - iv. to keep under review the policing of Scotland;
  - v. to hold the Chief Constable to account for the policing of Scotland.
- 28.** There is no underlying purpose given to the SPA within the legislation beyond these core functions. However, in his recent thematic inspection report of the SPA, HMICS stated that “effective scrutiny of policing in Scotland is essential in maintaining both legitimacy and public confidence”.<sup>5</sup>

### **The Role of Police Scotland**

- 29.** Police Scotland, directed and controlled by the Chief Constable, is responsible for providing policing services to help improve the safety and wellbeing of people, places and communities in Scotland. The Act requires the Chief Constable to:
- be responsible and accountable to the SPA for the policing of Scotland
  - have direction and control of the police service
  - be responsible for the day-to-day administration of the police service
  - prepare annual police plans
  - seek to secure continuous improvement in the policing of Scotland
  - ensure adequate arrangements are in place for the policing of each local authority area.

### **The Role of Scottish Ministers**

- 30.** Scottish Ministers are accountable to the Scottish Parliament for policing. The Act provides a clear separation between Scottish Ministers and policing by ensuring that their role is primarily a strategic one focussed on:
- appointing members, including the chair, of the Scottish Police Authority;
  - approving the appointment of the Chief Constable;
  - setting national budgets and strategic priorities.
- 31.** The Act also provides Scottish Ministers with a power of direction in relation to the SPA, including in the event of an adverse HMICS report. If applied, this must be published and laid before Parliament.

<sup>3</sup> Police and Fire Reform (Scotland) Act 2012, Part 1, Section 2

<sup>4</sup> (a) that the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland, and  
 (b) that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way which—  
 (i) is accessible to, and engaged with, local communities, and  
 (ii) promotes measures to prevent crime, harm and disorder.

<sup>5</sup> Thematic Inspection of the Scottish Police Authority - Phase 1 Review of Openness and Transparency, page 5

## The SPA's Role in Policing

- 32.** The Act sets out a number of actions and responsibilities relating to policing, which the SPA is required to undertake. These relate to:
- appointments and pay, including: providing police officers with pay, vehicles, equipment and other services; and the Chief Constable with an annual budget; appointing Senior Officers; and employing Police Staff;
  - disciplinary procedures, conduct, and performance, in relation to senior officers;
  - the provision of Forensic Services and Independent Custody Visiting;
  - maintaining suitable complaints handling arrangements;
  - the provision of Scottish Ministers with information relating to the SPA or the Police Service; and
  - the preparation of a Strategic Police Plan and commenting on the draft Annual Police Plan.

## The SPA's Discretionary Powers

- 33.** There are also a number of discretionary powers available to the SPA. These are:
- requesting the resignation or retirement of Senior Officers in the interest of the efficiency or effectiveness of the Police Service. If being used in relation to a Chief Constable, Scottish Ministers must be consulted;
  - provide guidance or recommendations on policing; and
  - charging for police services. The SPA may authorise the Chief Constable to make arrangements, at the request of any person, to provide and charge for police services.

## Scrutiny of the SPA

- 34.** HMICS has wide ranging powers to look into the state, effectiveness and efficiency of both Police Scotland and the Scottish Police Authority. It also has a statutory duty to ensure that the Chief Constable and the SPA meet their obligations in terms of best value and continuous improvement. If necessary, it can be directed by Scottish Ministers to look into anything relating to the SPA or Police Scotland as they consider appropriate. The SPA must assist and co-operate with these inquiries. HMICS also has an established role in providing professional advice and guidance on policing in Scotland.
- 35.** The Auditor General has powers to examine the economy, efficiency and effectiveness with which the SPA has used its resources.
- 36.** The Police Investigations and Review Commissioner (PIRC) is required to ensure that the SPA and the Chief Constable make and maintain suitable arrangements for the handling and examination of complaints about police constables and staff, and to investigate matters relating to the Police Service or the SPA that it considers are in the public interest. They are also responsible for investigating allegations of misconduct in respect of senior police officers.<sup>6</sup>

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<sup>6</sup> The Police Service of Scotland (Senior Officers)(Conduct) Regulations 2013

- 37.** The three organisations are required to co-operate and co-ordinate activity with each other to improve the carrying out of their respective functions in relation to the SPA, including sharing information and preventing duplication.

### Annual Report and Accounts

- 38.** The SPA is required to produce an annual report and keep proper accounts and records in relation to the accounts, which must be audited.

### Governance

- 39.** The Act sets out a number of governance requirements relating to the SPA, including that its proceedings, and those of its committees and subcommittees, are by default, to be held in public with published agendas and papers.
- 40.** There is also a provision for all or part of any proceedings to be held in private, or all or part of any agenda, paper or report need not be published. However, the SPA must publish a statement setting out the circumstances in which this may happen.
- 41.** While the Board will hold its meetings in public wherever possible, the SPA's Corporate Governance Framework details the circumstances in which proceedings will be held in closed session, such as where the information to be discussed consists of or includes the personal data of individuals who have not provided their consent to its disclosure; or where public discussion of the information may prejudice national security, legal proceedings (including misconduct or disciplinary proceedings), or police operations; or where any of the information to be discussed is commercially sensitive, financially sensitive, relates to proposals for significant organisational change or to significant changes to the terms and conditions of staff.
- 42.** The SPA is required to have an Accountable Officer (AO), with personal responsibility for the propriety and regularity of the public finances for the SPA, ensuring that its resources are used economically, efficiently, and effectively. The AO is directly accountable to the Scottish Parliament.

### Role as a Public Body

- 43.** As a public body in Scotland, in the other significant national body category, the SPA has a number of statutory duties, including:
- after every financial year, publish information about **expenditure** incurred in connection with public relations, overseas travel, hospitality and entertainment, and external consultancy. This includes payments which have a value in excess of £25,000 and the number of individuals who received remuneration in excess of £150,000;<sup>7</sup>
  - every two years, to publish a report on **equalities duties**, to include information on equality outcomes, mainstreaming equality, and promoting diversity within the SPA;<sup>8 9</sup>
  - to publish a **Code of Conduct** for Board members based on the Model Code, approved by Scottish Ministers;<sup>10</sup>

7 The Public Services Reform (Scotland) Act 2010 part 3 duties to publish information

8 The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

9 The Equality (Specific Duties) (Scotland) Amendment Regulations 2016

10 The Ethical Standards in Public Life etc. (Scotland) Act 2000

- every five years to produce a **records management plan**;<sup>11</sup>
  - adopting and maintaining a publication scheme and responding to **Freedom of Information** requests;<sup>12</sup>
  - every year to provide a notification of **personal data processing** with the UK Information Commissioner's Office;<sup>13</sup>
  - the **Scottish Public Services Ombudsman** can investigate complaints about how the SPA has carried out its functions (like any other public body). However, it has no role regarding complaints about police officers;<sup>14</sup>
  - every year, to publish a forward-looking procurement strategy and forward-looking **procurement** report;<sup>15</sup>
  - every three years to provide a publicly available report on the actions taken to meet the **biodiversity duty**;<sup>16</sup>
  - every year to publish a report on compliance with **climate change duties**.<sup>17 18</sup>
- 44.** There is also an expectation that the SPA produces a corporate plan every three years and an annual business plan.

<sup>11</sup> The Public Records (Scotland) Act 2011

<sup>12</sup> Freedom of Information (Scotland) Act 2002

<sup>13</sup> The Data Protection Act 1998

<sup>14</sup> The Scottish Public Services Ombudsman Act 2002

<sup>15</sup> The Procurement Reform (Scotland) Act 2014

<sup>16</sup> The Wildlife and Natural Environment (Scotland) Act 2011

<sup>17</sup> The Climate Change (Scotland) Act 2009 Part 4

<sup>18</sup> The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015

## **1C – Methodology**

- 45.** The Review was led by Malcolm Burr, Chief Executive of Comhairle nan Eilean Siar, the local authority for the Western Isles, and Nicola Marchant, Deputy Chair of the SPA. It was supported by civil servants from the Scottish Government, including a contribution to the section of the report on the background and statutory position.
- 46.** The Review was undertaken by a six-stage process in which the involvement of key stakeholders was of primary importance:
- i. an initial scoping and fact-finding phase looking into the current governance landscape, SPA founding legislation, best practice from elsewhere, and exemplar organisations;
  - ii. an evidence-gathering phase on the operation of the SPA since inception, views on how the SPA Board can best deliver their statutory functions, and stakeholder engagement with the support of the SPA Executive team through a series of engagement sessions with stakeholders;
  - iii. a critical evaluation of the evidence phase leading to the identification and summary of the key issues and challenges, framed around the remit, from the stakeholder engagement;
  - iv. the development of proposals for recommendations to address challenges and to suggest improvements;
  - v. a re-engagement with key stakeholders to test assumptions and build consensus, where possible, around evaluation of evidence and proposed recommendations;
  - vi. the writing and issuing of the final report to the Cabinet Secretary for Justice and the Chair of the SPA Board.
- 47.** At the start of the Review process, a very wide range of organisations were informed of the Review as publicly announced by the Cabinet Secretary for Justice.<sup>19</sup> At Stage 2, stakeholders were asked to give their views on the current situation, key challenges, and opportunities, and to explore the various roles and responsibilities. Initial views on what should be improved or changed were also sought. These activities included a number of face-to-face and telephone semi-structured interviews as well as written submissions.
- 48.** The Review team then analysed this information alongside a wide range of information from internal and external sources, including previous reviews and audits. Broad options for change and improvements were then developed, which formed the basis for a second smaller round of discussions with stakeholders, including Police Scotland and HMICS, at Stage 5.
- 49.** A draft report and recommendations were also considered by the SPA Interim Chief Officer, the incoming Chair, and Members of the Board, as the SPA leadership will effectively own the report and use it as the basis to instigate the required transformational changes.
- 50.** The findings and recommendations of the Review and any views expressed are those of the Review Team, although the views of key internal and external stakeholders, including the SPA Interim CEO and Chair have been fully taken into consideration.

<sup>19</sup> [http://www.parliament.scot/S5\\_Public\\_Audit/2017\\_06\\_14\\_CSJ-PAPLS\\_response.pdf](http://www.parliament.scot/S5_Public_Audit/2017_06_14_CSJ-PAPLS_response.pdf)

**2A – SPA Executive and the Board: Working Together****Terms of Reference**

**“1.** How the Executive of the SPA works with Police Scotland to collectively provide the information required to support the Board take informed, transparent decisions in the context of the guidance set out in “On Board: A guide for Members of Statutory Bodies”

**Key Issue**

- 51.** The SPA had to establish itself as a new organisation within a new statutory landscape by bringing together a new approach to the scrutiny and accountability of policing at a national level. This included the resourcing and support for the delivery of policing by Police Scotland as well as undertaking operational functions such as overseeing the provision of forensic services and independent custody visits at a time of significant changes to the policing landscape.
- 52.** The pace and scale of change to the policing landscape and organisational structures, which were previously operating at local level, meant that the SPA and the discharge of its statutory functions have not bedded in as quickly as expected in the new scrutiny and policing landscape.
- 53.** In particular, the SPA leadership and business structures have not operated as smoothly and effectively as they could have done due to challenges with a rapid requirement for the SPA to become operational, and without the time to build the necessary teams and operating culture as well as to assess and develop skills, both old and new.

**Evidence**

- 54.** Our review of evidence has highlighted that since inception the SPA Board has not received the appropriate support from the SPA leadership team to be able to operate at the necessary strategic level and as a result of this adopted a stronger, necessary focus on more operational and business matters.
- 55.** Various challenges have come into play in this area. First of all, there must be a recognition that the CEO fulfils a role which is key to the success of the SPA as an organisation. Although the CEO and the Board play separate and distinct roles they must work together in order to deliver the SPA organisational role and statutory functions. The role of the CEO must be fully understood and valued by Police Scotland, the Forensic Services and the Board.

- 56.** Role clarity is essential to ensure that there is a productive relationship between the CEO and the Board, which the CEO supports and serves. The Board is effectively a key internal component within the SPA, which the CEO needs to support and serve effectively. The CEO should be the primary contact with the Board and have responsibility for and manage the relationship between Police Scotland and the Board, and the Forensics Services and the Board.
- 57.** It is essential that the CEO role has the appropriate support from within the SPA Executive to fulfil these duties as their primary function. Evidence has shown that in the early stages of the formation of the SPA, the CEO was principally focussed on establishing the policy, governance and then more latterly the finance framework for the new organisation, as the post also acts as Accountable Officer (AO).
- 58.** One of the consequences of this lack of support and focus on operational matters has been that some Board Members have necessarily stepped into traditional Executive rather than Non-Executive Board Member roles. At present, the Board is not using the CEO as its advisor but is instead seeking advice elsewhere, sometimes directly from Police Scotland, which has the capacity to blur boundaries. This has resulted in the SPA Executive staff not receiving the required leadership and not being able to focus on the right tasks to support both the CEO and the Board.
- 59.** The Board must ensure that it is able to make informed, evidence-based decisions. This requires the provision of Board papers, not only from Police Scotland and/or the Forensic Services, but an analytical overview of the external landscape, informed by the views of key stakeholders, which in our view should be facilitated by the SPA Executive Team. A recent example can be found in the consideration and critical evaluation of major developments and initiatives in policing, such as cyber issues, and deciding major operational policy issues, which may cause public concern. Other examples are the strategic monitoring and overview of the SPA business and ensuring that there is good governance through focussed and targeted reports on finance, operational activities, complaints and trends, the development of wider plans supporting other strategies, such as stakeholder engagement and communication, and the role of technological innovations and resources.
- 60.** It is also our view that in order for Board Members to operate at a more strategic level, they need to be supported effectively to ensure that their skills are up to date and relevant, especially given the dynamic nature of policing. To this end, Board Members need to be allowed the required space for reflection and a supporting environment to consider its direction and major issues. Notwithstanding the move to a skills-based Board, evidence shows that there have been difficulties in ensuring that the Board remains sighted to live and emerging issues, such as changes to data protection legislation, the introduction of drug driving testing, and the potential impact on policing and forensics.

## **Our Assessment**

- 61.** It is our view that there are essentially no fundamental issues with both the framework and structure of the SPA as originally envisaged.
- 62.** Although the SPA has a broad remit, it is not particularly unique in the Scottish governance context in that there are other statutory bodies fulfilling a wide range of disparate functions (for example the Care Inspectorate combining both regulatory and inspection functions and SEPA combining regulatory functions alongside its role in flood risk management and flood warning).
- 63.** On reviewing the experience in police scrutiny and accountability from other areas of the UK, Ireland and overseas, there is a clear indication that the organisational model offered by the SPA follows arrangements already established elsewhere and actually represents a point of reference within the wider UK landscape.
- 64.** To enable this model to operate effectively, the SPA needs to engage meaningfully with key delivery partners and gain insights into live and critical issues. Over the course of the Review, it has been observed that stakeholders frequently feel that their only opportunity to input to Board decisions is after they have been made at public Board meetings, which can lead to conflict. This has engendered a perception that the Board is not making sufficiently informed decisions during meetings.
- 65.** In terms of the information requirements to support the Board, the SPA CEO/AO should be able to request specific information (e.g. financial, HR, risks, trends etc.) and commission specific work packages of both the Chief Financial Officer and HR Director at Police Scotland so that the SPA Board is properly informed and supported in its role. This approach should not result in undue interference of the SPA in Police Scotland operational matters, but simply emphasise more overtly the fiduciary duty of Police Scotland's CFO and HR Director towards the SPA since, in expending these resources and in managing these employees, Police Scotland is effectively acting as "agents" for the SPA, which holds these statutory responsibilities.



## RECOMMENDATIONS

### Recommendation 1

The Chief Executive Officer (CEO) will be recognised as undertaking the most important role in the management of the organisation and will be key to the successful re-positioning and strengthening of the SPA by re-affirming the role it was originally intended to have. **The CEO should be afforded the required latitude of scope and support from the SPA Executive to be able to operate at the expected strategic level and re-engage the organisation with key delivery partners and networks.**

### Recommendation 2

By communicating the strategy and vision for the SPA, the CEO should set **the strategic direction for the senior management team, which in turn will set it for the rest of the SPA Executive. With clear directions that everyone understands, the SPA Executive should put in place the necessary support processes for the Board, including effective and efficient working practices informed by best practice from exemplar organisations.**

### Recommendation 3

Senior management in Police Scotland with responsibility for assisting the SPA in discharging its statutory duties to ensure that the police and forensic service is maintained, resourced, and scrutinised effectively should report in respect of these responsibilities to the SPA CEO/Accountable Officer. These Police Scotland employees should have this reporting requirement reflected in their employment contracts, job objectives, and performance reviews, while continuing to report to the Chief Constable on all other matters.

### Recommendation 4

The SPA Executive should develop (or refresh as the case may be) its guide/template for supporting papers for agenda items to be considered at SPA Board meetings. This should draw from best practice and experience of other organisations where available and detail the general principles which should inform the production/drafting of the papers and structure of the supporting papers.

### Recommendation 5

The SPA Executive should develop jointly with Police Scotland and the Forensic Services new and refreshed induction programmes for Board Members, including an ongoing Learning and Development Programme (e.g. CPD type activities) for Board Members, to take account of the dynamic nature of policing. This should include specific and targeted briefings on up-and-coming or live issues, as well as the opportunity to take stock of wider policy developments, such as “strategy days” and workshops.

## Outcome

- The CEO is recognised and acknowledged as the adviser to the Board and the point of contact with the Forensic Services and Police Scotland;
- The CEO provides assurance to the Board regarding accountabilities as the AO;
- The SPA Executive Staff, through the leadership of the SPA Senior Management Team, will have the necessary autonomy and authority enabling them to support the CEO and Board in the delivery of their statutory duties;
- There is a regular communication between the Chair and the CEO which is focused on developing the Board agenda and ensuring Board's expectations are clearly understood and delivered.

## 2B – Stakeholder Engagement

### Terms of Reference

“2. How are arrangements for engaging stakeholders in the work of the Authority can be strengthened”

#### Key Issue

- 66.** The engagement and communication processes in place at the moment are not particularly effective or meaningful, especially when it comes to involving key delivery partners with which the SPA should have a highly collaborative relationship around shared agendas and outcomes. By and large, engagement activities by the SPA are patchy and not very well structured.
- 67.** One of the recurrent issues that emerged from our soundings with stakeholders is the poor level of engagement with local government, and particularly elected members. There are invaluable insights that can be provided from local “police” conveners and the SPA Executive would benefit greatly from working more closely with local authorities in the support of their local scrutiny role and use this to inform its oversight of policing.

#### Evidence

- 68.** The issues in this area have manifested in different ways, which are in part operational in nature and often linked to inefficiencies with the SPA Executive business processes, which have not afforded delivery partners sufficient time to have sight of the proposed agenda items for Board meetings and comment on the Board papers.
- 69.** Further, concerns with more day-to-day operational and administrative processes have resulted in both the CEO and Board Members’ limited outward focus and inability to forge collaborative partnerships with key stakeholders to include insights into live and emerging issues. The operational focus of the leadership team has inadvertently acted as a barrier to their taking part fully in Scotland’s civic life and keeping abreast of wider national or local issues.
- 70.** It has also been observed that where arrangements for engaging with stakeholders are in place they are structured more akin to unilateral briefing sessions rather than a genuine collaborative platform for joint working with delivery partners and stakeholders.
- 71.** Where meaningful and targeted engagement opportunities are provided by the SPA these have been much valued by stakeholders. The attendance of Board Members at Local Authorities’ Police, Fire and Rescue Sub-Committees to observe the scrutiny of local plans as well as the availability of Board Members for discussion and/or provide updates from the SPA Board meetings on the strategic issues and direction of the SPA’s work helped a great deal in making elected members feel engaged in a meaningful and constructive way. The Board should work with COSLA to establish coordinated working arrangements for engagement with Councils, which are proportionate and effective, but also manageable for Board members.

- 72.** Despite the challenges with stakeholder engagement, the Independent Custody Visits have proved to be unique within the SPA set up and a clear success story for the SPA. In this area there is a good level and quality of engagement with stakeholder groups. For example, there is an established and comprehensive stakeholder and communication strategy already in place, which includes a variety of channels and platforms (e.g. radio campaign, conferences, and events).
- 73.** Through the Independent Custody Visits Scheme, the SPA reaches far and wide across a wide range of stakeholders, including diversity organisations, and rural and remote communities.
- 74.** The experience with the Independent Custody Visits is evidence of the SPA's potential ability to engage and work effectively across a wide range of constituencies.

### **Our Assessment**

- 75.** It is our view that the SPA's current level and type of engagement, including the infrequency of opportunities for key stakeholders, have effectively denied the organisation the benefit of invaluable insights. This again has led to a concern that the Board may not be making informed decisions based on knowledge of the views of civic Scotland.
- 76.** Our review of the evidence suggests that a strong focus on operational and internal matters meant that the SPA has been unable, so far, to develop more of an outwardly focussed approach and to reach out to both partner organisations and key stakeholders across the spectrum of Scotland's civic life. This had an impact on the SPA's ability to remain sighted, not only to live and emerging issues affecting Scotland as whole, but also local policing issues.
- 77.** We believe that the current stakeholder arrangements need to be improved. The SPA could do more to engage strategically and proactively with key partners at various levels within the organisation, through more informal and formal channels, including networking opportunities and event planning.
- 78.** Going forward, the role of the CEO will be key to the successful repositioning of the SPA in the policing and forensics landscape and more widely within Scotland's civic life by renewing existing relationships and forging new ones.
- 79.** The ability of the Executive to support the Board by linking into existing networks and/or creating new networks or communities of interest will also be key to maintaining the SPA's ongoing engagement with Scotland's public life.
- 80.** This approach will also support and empower the whole of the Executive staff, ranging from senior management to operational roles, by enabling them to engage more confidently with their counter parts in partner organisations and re-establishing more effective and balanced working relationships.

## RECOMMENDATIONS

### Recommendation 6

SPA to refresh its stakeholder engagement and communication strategy with the aim of reaching out, not only to delivery partners, but also a wider section of Scottish civic life and the public at large. This is to include a mapping exercise of key delivery partners and stakeholders.

### Recommendation 7

SPA to refresh and re-establish channels of communications at senior and strategic level with other key organisations, and especially local authorities, Police Scotland, and staff associations and unions.

### Recommendation 8

SPA to formalise and publicise a programme of engagement opportunities through an engagement planner to feature on its website. This should include harmonising and coordinating stakeholder contact events with other key delivery partners, such as local authorities and Police Scotland, and seeking to harness synergies by sharing platforms and engagement opportunities made available by other partners.

### Recommendation 9

SPA to ensure that Committees have routes into engagement and communication channels so that as Board papers are developed, the voice of the stakeholder is heard and considered prior to Board decisions being made.

### Recommendation 10

SPA to consider in discussion with key delivery partners the need to reconvene the Joint Liaison Committees, comprising SPA, Police Scotland, and staff associations, as well as the setting up of a Local Government Liaison Group consisting of SPA Board Members and members of COSLA's Political Management Team, indicatively meeting twice a year. This approach will provide a forum for strategic engagement on Scotland-wide strategic policing issues.

## Outcome

- The Board will be publicly recognised and acknowledged as discharging its statutory functions by proactive engagement strategies, developed by the SPA Chair and CEO, that leverages network and stakeholder resources to access wider insights and knowledge.
- Critical stakeholders and partners will understand and have clarity on processes for providing insight and information to enable the Board to make informed decisions.

## 2C – Staffing and Operating Structure

### Terms of Reference

“3. Staffing and operating structure that fulfils the aim of providing the most effective support to the Board”

#### Key Issue

- 81.** Our findings have highlighted that even though it is now four years since the SPA’s inception, there is still a need for clarity about the role of the SPA. This has had a knock-on effect on the SPA’s business structures as well as the roles and responsibilities of each individual member of staff.
- 82.** The purpose and role that the SPA is statutorily required to fulfil has not bedded down to the extent or within the timescales expected, and this has impacted on the sense of purpose and subsequently effectiveness of the SPA Executive to effectively support the SPA leadership team and the Board.
- 83.** Another issue which has come to our attention during the Review is that a key driver for the work plan and activities of the various teams and units within the Executive has often been the informal affiliation to one or more of the Board Committees (e.g. People Committee, Audit Committee etc.). Affiliation to committees provides focus and purpose for the activities of the Executive and also affords a degree of support and leadership through the Chairs of the various committees. This has effectively resulted in a broad alignment of the skill sets and experience of staff within those of the Committees. This approach to affiliation is, however, patchy and/or not overtly recognised, which has led to the Executive’s collective and corporate inability to target their efforts and resources on the relevant key issues and priorities.

#### Evidence

- 84.** The SPA Executive staffing complement comprises of a mix of staff, ranging from managerial to operational, as well as specialist grades. There is currently provision for the Executive to employ 41 staff, although currently only 31 staff are in post, with this figure including roles which are being covered with time limited inward secondments from other organisations.
- 85.** The SPA Executive staffing complement comprises, in part, of staff formerly employed by the legacy services (e.g. former local police services, local authorities etc.), as well as newly recruited staff who took up employment at the time the SPA was created. A number of experienced staff did not transfer to the SPA and that may have contributed to an imbalance of skill sets and experience within the newly formed SPA. Furthermore, due to a combination of factors including budgetary constraints and several reviews and audits, the original staffing complement and structure envisaged for the SPA has never fully been realised.

- 86.** Whilst the SPA Executive has at its disposal a range of experience and skills, including professional and specialist roles, there is evidence that this capacity and capability is not always used or led effectively.
- 87.** In order for the SPA to discharge its statutory responsibilities effectively, the SPA senior leadership team, including the CEO, the Chair, and Board Members, needs to be operating at a sufficiently strategic level with a primary focus on developing and scrutinising the execution of Police Scotland's long-term strategy. Our review of the evidence indicates that the SPA leadership team is not always able to act at the required strategic level and share that strategic vision with internal and external stakeholders, as well as the SPA Executive staff.
- 88.** There is a clear indication emerging from our findings that the SPA Executive needs to be equipped with the necessary skills and experience to enable the SPA leadership team, and the Board, to review critically the information provided by Police Scotland, to raise pertinent issues and commission intelligence in a proportionate and cost-effective way. Responses from interviewees were also consistent in ruling out the need to replicate Police Scotland's structures within the SPA.
- 89.** The Review also found that, by and large, there is a broad consensus around the need to bolster the capacity and capabilities of the SPA Executive and refresh its skills base to ensure that the SPA is fit to undertake its statutory purposes. However, it has to be noted that some interviewees indicated that this approach will only go some way to address the challenges the SPA is facing and a point was made about the need to look at the SPA's overall statutory position in the light of the significant change to policing structures and governance since 2013.

### **Our Assessment**

- 90.** It is our view that the SPA Executive should be sufficiently empowered and granted the required level of autonomy, as well as authority to oversee and manage all day-to-day operational and administrative process. This will require a restructure and re-evaluation of roles and responsibilities, including the business-critical role of the CEO. This will result in an increased capacity within the SPA leadership team and the Board enabling them to operate at the required strategic level.
- 91.** In order to enable the SPA to reposition itself within the policing landscape and re-engage with key stakeholders as a trusted partner, the CEO needs to be afforded the necessary scope and flexibility to act at a sufficiently strategic level with an enhanced outward focus. It is therefore essential that if the CEO continues to have the additional accountabilities of AO there is adequate and specific support available to ensure this does not detract from their primary accountabilities as CEO. This approach will be key, at least during the transitional period, leading to the SPA re-focussing, and until a new permanent CEO is identified, to lead the SPA into the next phase.

- 92.** Going forward, the SPA Executive's ability to undertake some form of horizon scanning of key and emerging issues will be key to ensuring that the SPA leadership team is properly informed. In addition, it is essential that the SPA Executive has the ability to seek informed views from stakeholders and partners. A combination of both of these activities will ensure that sufficient information is provided to the Board to enable it to form sound judgments and take appropriate decisions. In order to deliver this approach, a mixed skills base would need to be put in place where rounder policy-making and administrative skills would need to sit alongside more specialist and professional skills.
- 93.** It is recognised that the SPA leadership team has attempted to secure wider experience and skills sets, including technical skills, through a number of inward secondments from partner organisations. This has indeed proven a successful resourcing strategy for acquiring new skills, learning best practice from elsewhere and promoting cross-fertilisation of ideas. On the other hand, the Review found that the time limited and transient nature of these appointments has had a few unintended consequences, including an impact on the development and sense of purpose of the core staff of the SPA Executive.
- 94.** With the move to a single service, and following the restructuring of the legacy organisations, a decision was made for corporate services, including HR, ICT, Procurement, and Finance to reside within Police Scotland rather than the SPA. It is recognised that there are sound practical and operational considerations supporting this particular structure as Police Scotland has the operational responsibility on the ground for the vast majority of expenditure, and it has also under its command and control the vast majority of employees and should rightly be accountable for the use of these resources. However, the current approach does not afford the required flow of information between Police Scotland and the SPA to enable the latter to exercise its scrutiny and assurance functions, and to ensure the necessary stewardship of the resources for which it holds statutory responsibilities.
- 95.** There is indeed an appreciation that police reform, the move to a single police service, and the ensuing organisational restructuring has seen an unprecedented level of change. Since inception, the SPA has also been subjected to a high degree of public scrutiny and impacted by other review processes, including the 2015 Review of Governance in Policing by Andrew Flanagan<sup>20</sup> and the initial phase of HMICS' thematic inspection of the SPA.<sup>21</sup>
- 96.** Against this background, the Review will provide an additional opportunity to restate the value of the role of the SPA through an organisational refresh and refocusing. This will allow the SPA to do what it was set up to do with reaffirmed clarity and credibility.

20 <http://www.spa.police.uk/assets/128635/337350/337362>

21 <https://www.hmics.scot/sites/default/files/publications/HMICS20170621PUB.pdf>



## RECOMMENDATIONS

### Recommendation 11

To ensure that the SPA CEO/AO combined role has sufficient support to enable the primary role of the CEO, to advise and support the Board and manage strategic relationships with key stakeholders to include Police Scotland, Forensic Services, and local authorities, to be discharged and not unduly detracted from by performance of the AO function. The AO's primary role is clearly defined in The Public Finance and Accountability (Scotland) Act 2000 (PFA Act), and should be primarily in relation to SPA finance. The CEO will require appropriate professional support to discharge the AO function without detriment to the CEO role detailed above.

### Recommendation 12

The SPA Executive should have 3 main units:

- CEO/AO Support;
- Board Communications & Insights;
- Board Services.

### Recommendation 13

On an indicative basis, it is recommended that the proposed business areas have the following key features:

- Redefine the **role of the CEO/AO** as a priority;
- **CEO/AO Support** – Within the SPA CEO/AO's office, there should be the required experience and skills set to support discharge of the role and the responsibilities associated with the SPA being the employer of staff, and duties associated with Police Scotland's Senior Officers, including appointments and pay, complaints handling, and independent custody visits. The skills set required to support this approach, and the bolstering of the capacity and capabilities available to the SPA leadership team, should feature highly developed management skills, strategic thinking, and strong judgment. This area should also include, amongst other things, more specialist and professional skills such as legal advice and HR. In addition, it is assumed that the CEO/AO themselves will have strong financial and business knowledge;
- **Engagement and communication, including insights** – Key deliverables of this team should include: provision of information and intelligence to ensure that the SPA can consider properly researched information and high-quality reports in order to make informed decisions; development and review of strategy; produce SPA Annual Reports; partner with Police Scotland and Forensics Services to agree performance indicators and targets; oversee stakeholder engagement of the SPA (including Parliamentary committees); produce briefing papers; and manage the website and all internal and external communications. To deliver this approach, there needs to be research capacity and capabilities within the Executive to construct concise reports and/or have access to analytical resources including a horizon scanning and anticipatory function as appropriate. There should also be strong media, including social media and communication skills;
- **Board Services Unit** – This Team should provide high: quality secretariat and coordination services to the Board ensuring the availability of high quality Board papers; support the CEO and Chair in agreeing the Board agendas; support Committees Chairs in the development of efficient and effective work plans; and provide secretarial support to Committees, the Board and its Members.

## Outcome

- The SPA Executive will have a staff structure with the right skills mix and experience resulting in an engaged workforce;
- The SPA Board will be recognised and acknowledged as providing effective scrutiny of Police Scotland and holding the Chief Constable to account for the delivery of policing in Scotland;
- The CEO will have the capacity and support from the SPA Board and Executive, Police Scotland, and other stakeholders, to discharge the key elements of their role and function;
- There will be appropriate arrangements within the SPA to enable the CEO to discharge the AO function, without detriment to their principal role.

### Terms of Reference

#### “4. areas where processes could be improved”

##### Key Issue

- 97.** One of the recurrent issues which has been raised by a number of interviewees are the difficulties experienced by SPA Board Members caused by the very late circulation and frequent poor quality of papers for Board meetings. These have resulted in SPA Board Members not having sufficient time to consider important business items and being afforded very limited opportunities to seek additional information.
- 98.** These operational issues have also had a consequential effect on the ability of local elected members to consider papers and raise any issues with SPA Board Members where local impacts are a concern. There are currently no effective mechanisms for the SPA Board to take into account the valuable input, which can be provided by the local police scrutiny conveners.
- 99.** The issue of lateness of the submission of papers, raised by Board members, has also been compounded by the poor quality and accessibility of some key Board papers. It has often been remarked during our soundings with key stakeholders that the papers for the Board meetings are lengthy and unwieldy documents and are not appropriately tailored for strategic consideration by SPA Board Members.

##### Evidence

- 100.** Our findings suggest that the SPA Executive does not currently have the required capacity and capabilities to support all the functionalities of the SPA and its Board, and where these are available they are not utilised or maximised to their full potential or deployed appropriately.
- 101.** Our review of the evidence also indicates that not only are there challenges with the operational processes of the SPA Executive and their ability to support the Board in taking informed and transparent decisions, but the same considerations also apply to Police Scotland. The SPA Executive needs to be appropriately supported by Police Scotland with quality and timely papers that are targeted and contain focussed information so that the SPA Board can properly scrutinise and hold Police Scotland to account.

##### Our Assessment

- 102.** The SPA's Board meetings should provide a space to discuss collectively and work through issues, gaps, and problems at a strategic level. Supporting papers for the Board should therefore be concise so that the key points are clearly outlined and are available to issue to Board Members, within reasonable and meaningful timescales, to allow for proper consideration, ideally two weeks prior to a meeting. The papers should be able to present questions, challenges, views from partners and/or stakeholders, or pinpoint to specific areas for discussion by the SPA Board as the SPA Board is not about “rubber –stamping” papers.

- 103.** Police Scotland needs to be able to offer the SPA Board more balanced and critical views of its plans and activities. There needs to be a sufficient level of trust in the information Police Scotland and the Forensic Services provides the SPA Board. It is acknowledged that the SPA has made inroads with Police Scotland on improving delivery of quality papers but there is still further work to be done. The appointment of Police Scotland's first Director of Corporate Services, Strategy and Change has begun the process of transformational change across Police Scotland and its corporate functions, which also support the SPA.
- 104.** Police Scotland now has corporate functions with the required skills to provide quality information, which should be trusted. It is now the opportunity for both Police Scotland and the SPA to obtain a better appreciation of their respective corporate and business processes with a view to establishing fit for purpose Board and Committee papers to time and quality.
- 105.** It is important that Police Scotland continues to progress the change and renewal journey brought in by new leadership, skills, and insights. It is expected that this approach will help the further development of a culture of accountability and scrutiny and ensure they are further mainstreamed and embedded more widely at all levels within the organisation.
- 106.** Consideration now needs to be given to how Police Scotland's corporate functions can provide equivalent support to the Forensic Services as they now report directly to the Board. It is our view that a single corporate function is still the right model.
- 107.** Although it is noted that the scrutiny and accountability of policing is an improved and improving picture, it is key that the SPA Board has processes in place to access independent and specialist advice as and when required. The SPA Executive should be able to support the Board with the decoding and interrogating of information of papers from Police Scotland or to access the required advice and expertise out with the Executive where this is not available in-house. This approach should be proportionate and cost-effective with no need for duplication of structures and processes.

## RECOMMENDATIONS

### Recommendation 14

SPA to hold, jointly with Police Scotland, a facilitated staff event/workshop with the aim to identifying challenges and opportunities in their respective business processes and working practices.

### Recommendation 15

SPA to review its business processes and working practices, and working jointly with Police Scotland, develop collaboratively effective and efficient end to end processes, as well as identifying business solutions, which will enable the SPA to fulfil its scrutiny role and hold Police Scotland to account as required. These processes and practices should be agreed formally, within a Minute of Agreement or equivalent, so that there can be clarity between the SPA and Police Scotland as to requirements and expectations, and to complement the formal accountability of Police Scotland employees noted in **Recommendation 3**.

### Recommendation 16

SPA to identify and apply best practice in its business processes and working practices, drawing from other exemplar organisations with a national dimension and public remit, to ensure that the place of the SPA within civic Scotland is restored and secured.

### Recommendation 17

SPA to develop and articulate in a transparent and open way its policy about public Board papers and/or meetings, supported by robust administrative processes, reflecting practice elsewhere in the public sector. With the exception of sensitive and personnel matters, it should be a matter of principle that meetings concerning policing policy and progress towards national outcomes should be held in public.

### Outcome

- Board and Committee papers will be concise and contain required information to enable an informed decision to be made, in public wherever possible.
- The Board and Committees will have access to a broader set of information to enable critical evaluation of proposals from Police Scotland and Forensic Services, ensuring their decisions are informed and evidence based.

**3A – NEXT STEPS: ROAD MAP AND PRIORITIES FOR IMPLEMENTATION**

**108.** The implementation of the Review should be owned by the SPA Interim Chief Officer, who should be accountable for:

- the production of a detailed, appropriately phased and resourced Review Implementation Plan;
- the delivery of year 1 of the Plan, with provision of quarterly progress updates to the Board;
- the managed handover of the Implementation Plan to the permanent CEO/AO on their appointment.

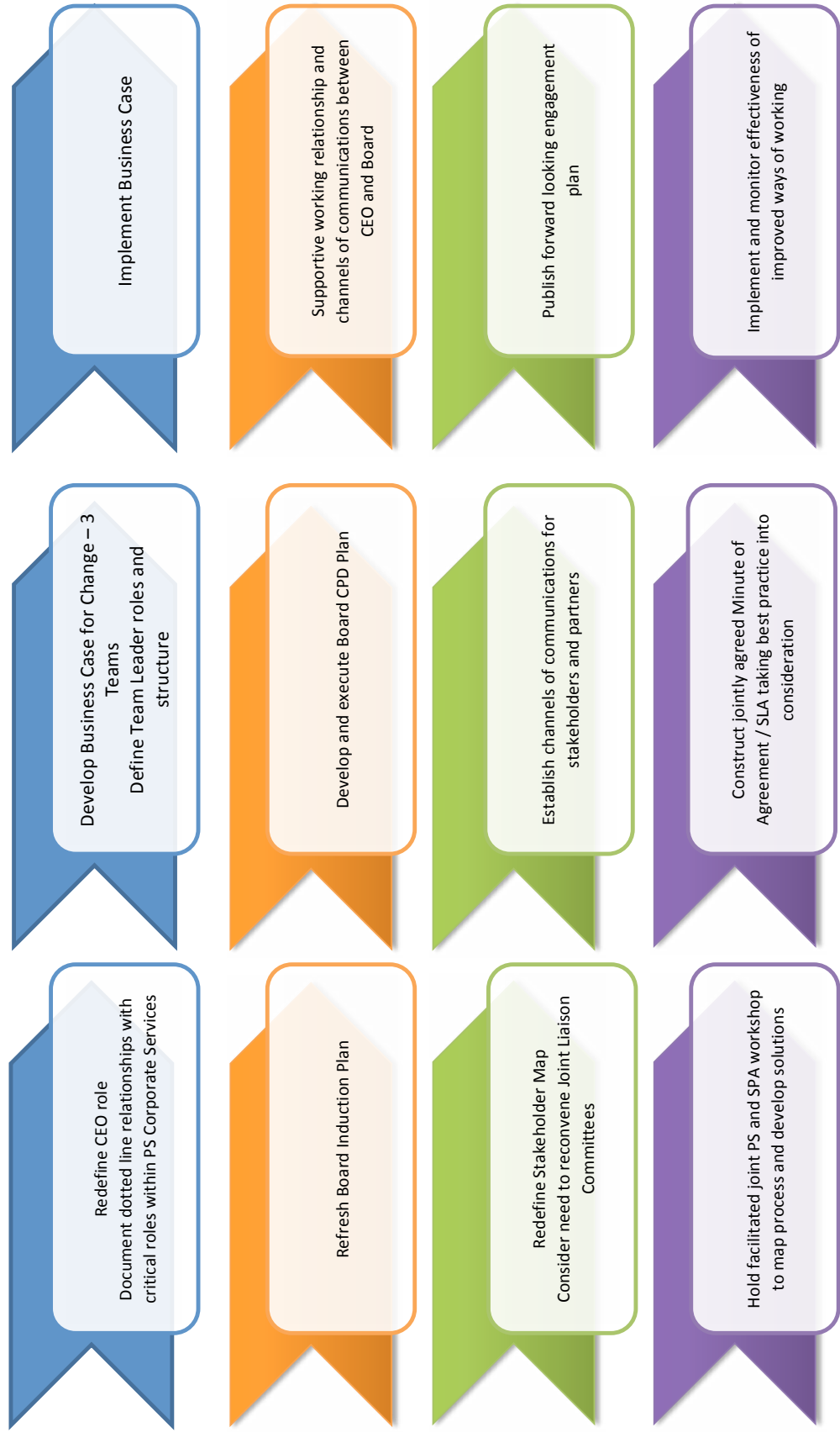
**109.** It is essential that the Interim Chief Officer has senior HR Business Partner support from within Police Scotland for the duration of the implementation phase. Additional HR resources will be required from Police Scotland in support of the:

- development of a Business Case for Change Job Evaluation;
- consultation with staff, staff representative organisations, and other relevant organisations.

**110.** The Review Implementation Plan should be addressed as a priority. It is, however, acknowledged that additional funds may be required to bring in temporary resource to support the SPA during this change. It is suggested that the Interim Chief Officer considers the evaluation of this a priority.

**111.** In support of the next steps, the following implementation road map is proposed:

## REVIEW IMPLEMENTATION ROADMAP



### **3B. CONCLUSIONS**

**112.** Our Terms of Reference specifically required us to assess and make recommendations in the following four areas:

- i. How the SPA Executive and the SPA Board can best work together;
- ii. The SPA's engagement with its delivery partners and stakeholders, particularly in local government;
- iii. Organisational Structures and Corporate Processes, and;
- iv. Ways of working.

**113.** This Review was initiated to consider the concerns raised about the ability of the SPA Executive to provide a strong and robust governance authority to oversee policing in Scotland as it continues to serve and safeguard communities.

**114.** It is our view that the model and framework offered by the SPA for the scrutiny and accountability of policing in Scotland is fundamentally sound and also represents a model, which similar organisations in other parts of the UK and internationally are either adopting or considering.

**115.** Most of the issues we have considered in the course of the Review relate to the need to redefine both roles and relationships, as well as the culture, within the organisation. Our findings indicate that, by and large, the roles and relationships within the SPA and between the SPA and key internal and external stakeholders need to be reset to operate as originally intended.

**116.** This assessment is particularly relevant as regards to the business critical role of the CEO/AO and the Board who, by not operating at a sufficiently strategic level, have not provided the SPA with the required leadership and direction. Hence, they have not supported the strategic positioning of the SPA in the policing and civic landscape in Scotland.

**117.** As outlined in more detail in this report, there are a number of factors as to why this situation has arisen, but chiefly a preoccupation with more operational matters has often been a distraction for the SPA leadership team from wider strategic issues dominating the policing discourse within Scotland. This has also meant that Board members have, necessarily on occasion, strayed into operating as Executives rather than fully operating as non-Executive Board members.

**118.** We have concluded that to reset and restore the role of the SPA, as it was originally envisaged by its founding legislation, the SPA must set in motion a series of changes to allow it to change and adapt the way it is working, including relationships with other key delivery partners and stakeholders. This approach is required both to improve its effectiveness as an organisation by fulfilling its statutory functions and to reposition itself within Scotland's policing landscape and wider civic life.



- 119.** Our analysis of the evidence gathered during the review process and recommendations also form the basis of a road map and priorities that the new Interim Chief Officer should seek to implement and take the SPA into the next phase of its organisational journey.
- 120.** Our expectation is that the recommendations will be fully considered by the Chair, Interim Chief Officer, and the Board of the SPA, and that actions will be agreed, swiftly implemented, and followed through by the SPA working collaboratively with delivery partners.
- 121.** There is, however, an appreciation that progress towards the recommendations will also depend on the availability of resources, and competing priorities. To this end we have outlined the challenges and work streams which should be prioritised to maximise the desired outcomes.
- 122.** One of the possible routes to deliver an approach which will support a more effective scrutiny and ultimately result in delivering better value for money by harnessing existing synergies is to consider the recommendations of this report alongside the HMICS report from June 2017, additional evidence HMICS has gathered through its inspection processes over the last 6 months, Audit Scotland's s.22 reports and any initial findings from the Interim Chief Officer and the Chair. This would allow the SPA leadership to take into account a substantial body of evidence gathered through external scrutiny processes, including this report, and then concentrate its efforts on developing a continuous improvement plan to drive change. This approach would allow for an incremental change at pace – and not be constrained by further unnecessary formal reviews and audits.
- 123.** We have also offered to the Cabinet Secretary to support the new Interim CEO and Chair over the implementation period of the Review recommendations to ensure that development work in this area is contextualised and addresses the challenges we have identified.

## APPENDIX 1 - STAKEHOLDERS CONTACTED AND INTERVIEWED

The Review was publicly announced by the Cabinet Secretary for Justice in June 2017, with a number of key stakeholders informed of the Review.

A number of stakeholders were also contacted by the Review Team for more focussed interviews. The list below represents the organisations with which meetings were held and/or from which written submissions were received.

Association of Scottish Police Superintendents
Audit Scotland
COSLA
Crown Office and Procurator Fiscal Office
Dumfries and Galloway Council
East Ayrshire Council
Gay Police Association
Glasgow City Council
Her Majesty's Inspectorate of Constabulary in Scotland
Members of the Scottish Parliament
Police Investigations and Review Commissioner
Police Scotland
Scottish Chief Police Officers Staff Association
Scottish Police Federation
Scottish Women's Development
SPA Former Chief Executive Officer
SPA Board
SPA Executive Support Staff
SPA Senior Leadership Team
Scottish Parliament Information Centre
Scottish Government SPA Sponsor Team
UNITE
UNISON



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