



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Sub-Committee on Policing

**Thursday 27 August 2020**

**Session 5**



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Pàrlamaid na h-Alba

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**JUSTICE SUB-COMMITTEE ON POLICING**

**7<sup>th</sup> Meeting 2020, Session 5**

**CONVENER**

\*John Finnie (Highlands and Islands) (Green)

**DEPUTY CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**COMMITTEE MEMBERS**

\*James Kelly (Glasgow) (Lab)

\*Fulton MacGregor (Coatbridge and Chryston) (SNP)

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

\*Liam McArthur (Orkney Islands) (LD)

\*Shona Robison (Dundee City East) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Chief Constable Iain Livingstone (Police Scotland)

**CLERK TO THE COMMITTEE**

Diane Barr

**LOCATION**

Virtual Meeting



# Scottish Parliament

## Justice Sub-Committee on Policing

Thursday 27 August 2020

*[The Convener opened the meeting at 12:30]*

### Decision on Taking Business in Private

**The Convener (John Finnie):** Feasgar math, a h-uile duine, agus fàilte. Good afternoon, everyone, and welcome to the seventh meeting in 2020 of the Justice Sub-Committee on Policing. We have no apologies.

Agenda item 1 is a decision on taking in private item 4, which is a review of the evidence heard today. Do members agree to take item 4 in private?

**Members indicated agreement.**

## Policing During the Coronavirus Pandemic

12:31

**The Convener:** Agenda item 2 is an evidence session on policing during the coronavirus pandemic. I refer members to paper 1, which is a note by the clerk, and paper 2, which is a private paper. I welcome Iain Livingstone, chief constable of Police Scotland, and invite him to make a short opening statement.

**Chief Constable Iain Livingstone (Police Scotland):** Good afternoon, convener and committee members. Thank you for the chance to make a few comments in support of the paper that we have submitted.

In my view, policing of the pandemic by the police service in Scotland will be assessed against three broad areas that have remained constant throughout this extraordinary period. They are, first, how the work of our officers and staff to support physical distancing contributes in some way to reducing the spread of the virus and thus protecting life; secondly, whether we can, through our actions, maintain and possibly enhance the very strong relationship of trust that policing has with the public; and thirdly, whether in doing that we are able to protect the health, welfare and safety of all our officers and staff and, importantly, their families.

It has been said regularly, but it merits repetition, that this is an extraordinary time. Policing has been asked, often at extremely short notice, to take on responsibilities to support highly restrictive measures on the personal freedoms of movement and association that have never been seen before. Officers and staff have been very visible in our communities and there have been remarkably high levels of interaction with the public, with a small number of those interactions resulting in enforcement thereafter.

I know that lockdown has not affected everyone in the same way. I have repeatedly expressed my concern and compassion for young people in particular, who have faced significant restrictions at an important time of their lives that contains many important milestones. Those from our most deprived communities have, for a number of complex reasons, often found it more difficult to comply with the restrictions. It has also been important to fully understand the challenges that the pandemic has presented for disabled people and the exemptions that have been built into the regulations. As I have said a number of times, supporting those who are at additional risk when at home or online has also been a significant concern and priority for policing.

It has been encouraging to see that the initial feedback indicates that public confidence in policing has grown during this time. Speaking for myself as chief constable and for the service, I add that we will always value the bond of trust with our fellow citizens, as it is the public's consent from which policing obtains its legitimacy.

The public confidence, trust and consent that exist are down to the work of officers and staff, who have, as well as responding to other significant and critical policing demands, acted with tact, discretion and good sense in policing their fellow citizens. I take this opportunity to publicly reiterate my gratitude and my regard for the commitment to public service and wellbeing that officers and staff have demonstrated.

As chief constable, I seek to support officers and staff at all times. The service has made changes to how we work that, in normal circumstances, would probably have taken far longer to implement. They include quickly providing operational guidance after a change in the regulations; making additional necessary deployments to support the service in parts of Scotland, particularly when localised lockdowns have been introduced; establishing a dedicated programme to source personal protective equipment and provide it on a 24-hour basis with appropriate training; and supplying new technology of the type that we are using in this meeting in order to allow more flexible working and physical distancing. In doing those things, the service has responded quickly, consistently and with composure while also having a key role in supporting broader national co-ordination. In all of that, we have been greatly assisted by the fact that we operate as a single police service.

Of course, during this period, as I have said a number of times and acknowledge again today, the police response will not have got everything right. We do not get everything right; mistakes can and will be made, and have been made. However, when that happens, we will acknowledge the mistake and seek to take appropriate action to rectify it.

I thank everyone who has assisted the Police Service of Scotland with additional external scrutiny during this difficult time. John Scott QC's independent advisory group, the Scottish Police Authority, Her Majesty's Inspectorate of Constabulary in Scotland and this committee have all provided support and challenge to ensure that the Police Service of Scotland has discharged its duties consistently and fairly. Statutory bodies, the Scottish Police Federation and other associations and unions have all helped the operational response, helping to develop guidance and procedures to keep the public as safe as possible.

Crucially, the vast majority of the public have stepped forward and taken personal responsibility, providing the co-operation with and support for the police service that have been required during this public health emergency. As chief constable, I have been and remain hugely grateful for the commitment and forbearance of the people of Scotland, whom the Police Service of Scotland is here to serve and to keep safe.

**The Convener:** Thank you for that comprehensive opening statement, chief constable, and also for your written submission. The committee also thanks the other bodies that have submitted evidence to us—it is always helpful.

We have a range of questions, and I will begin. How does Police Scotland give effect to the extremely wide-ranging powers that it has been given? How have changes to your powers changed how the service has gone about its business?

**Chief Constable Livingstone:** At the outset—I am going back to around 20 or 21 March, after a COBRA meeting that the Prime Minister chaired and the First Minister attended—we were asked to support the closure of pubs. You might recall that Friday night and that first weekend. The regulations did not come into place until about six or seven days later.

Right at the start of the lockdown restrictions, I said that the service would use common sense and work with the public to support them and help them to understand the reasons behind the remarkable restrictions on personal liberty, association and movement, and that we would do so by encouraging and explaining.

Since that time in late March, the regulations have changed. There have been easements. At times, there has been divergence across the four nations of the United Kingdom, and at times there has been localised divergence, as we have seen recently in Aberdeen. However, the overall approach and philosophy of policing has not changed. It has remained one of engaging with the public, seeking its support, seeking to support it in return and, where necessary, taking enforcement action. It has been founded on common sense, on police officers' discretion in working locally with communities that they know and on applying a consistent, composed approach to help the country to get through this difficult time.

I think that we are on the 14th or 15th set of regulations that we have needed collectively to interpret and apply, and I know how confusing that can be for police service officers and staff, let alone for members of the public. In no way do I question whether the changes have been necessary, but people have at times—inevitably—

been a bit confused about what is expected or required. That is why policing has had to exercise discretion and support implementation of the restrictions in a manner that has supported the people of Scotland. Enforcement would be a last resort.

**The Convener:** Sub-committee members might assume that Police Scotland has some input to the updating or amending of the emergency powers. Will you outline the level of input that you have had and let us know of any specific changes that have been suggested by Police Scotland?

**Chief Constable Livingstone:** You are absolutely right. I have contact with ministers and senior officials, and in the early days and weeks we had that contact daily or, often, many times a day. My team liaises daily in conversations, formal meetings, consultation and engagement.

That has improved over the piece. In the early days, the challenge was phenomenal and, perhaps inevitably at a time of immediate emergency, the ability to reach out was a challenge. However, we leaned in; we do not necessarily wait for people to come to us. As a service, we know that we can provide advice and that we have experience.

Proposed changes have been discussed in a number of instances. An example is when the reopening of the hospitality industry was being aligned on a four-nations basis. We could understand the reasoning, in that the pubs and restaurants wanted to reopen, but we did not think that reopening on a busy Saturday in the summer was the best thing to do. That happened in England and Wales, but the Scottish Government listened, I think, to the practical and pragmatic advice from us and moved the reopening to later in the week—to the Wednesday.

In the host of changes that have been made, we have been able to make sure that proposals from public health officials, which are aimed at the public health objectives that we all seek, are put through a filter or a lens of achievability and common sense. We have also benefited from the work of behavioural psychologists on how people are likely to react. Of course, when there are breaches by people who are in senior positions of authority, that massively undermines the common purpose and the common good.

We have been involved on a regular basis. As we speak, the First Minister might be announcing further changes regarding house parties and other matters. My colleagues were involved in discussions late last night—and again first thing this morning, when I was also involved—as those proposals were being firmed up.

12:45

The situation has moved extremely quickly, which is why I think that it is relevant to talk about the number of changes that have been made. However, the police service has been in there, providing professional, composed and practical advice, while recognising that, ultimately, the matter is one for the Parliament to legislate on. We will always uphold parliamentary decisions and act on them, but I think that our voice has certainly been heard during this difficult time.

**The Convener:** Thank you very much for that, chief constable. Our next questions will be from Liam McArthur.

**Liam McArthur (Orkney Islands) (LD):** Good afternoon, chief constable. You have explained very well the way in which Police Scotland has been involved in decision making on policy, and you have mentioned instances in which the advice that you have given has had an impact on the timing of decisions that have been taken. However, have you had any concerns about the way in which we have moved through the route map, as regards either particular sectors or the timing of changes?

Looking ahead to the move towards phase 4, is Police Scotland involved in any proactive work to identify the challenges that will inevitably come, as they have done with previous easings of restrictions? That might better equip you and your officers to deal with those and to help the public to understand the process and comply with it, where appropriate.

**Chief Constable Livingstone:** In the early days, when there was real clarity on what the message was—it was simply that people should stay at home unless there were extraordinary circumstances—and there was consistency across the United Kingdom in broadcasts by the national and Scottish media and by elected leaders and others, it was easier for the police service to work with communities.

Inevitably, and as everybody recognised, when the easements began and there was, for entirely legitimate reasons, divergence between different parts of the United Kingdom or, as we have seen recently, between different localities or jurisdictions, that added to our challenges, especially on people's movements.

A good example of that was the Aberdeen lockdown. People wondered whether it extended to the shire, as they call it in the north-east. The fact that the city of Aberdeen and the shire are so interdependent—for example, many people who work in Aberdeen live in places such as Inverurie, Ellon and Kemnay—required us to have a clear understanding of what was being asked of people.

It also required us to try to help members of the public and businesses.

We knew that the hospitality trade would start to reopen—we knew about the proposals and the indicative times as set out in the route map. However, as you suggest, we did not wait for such businesses to reopen before going round to check up on them and give them advice. Right across the country, we had officers going in and working with licensees, owners, local licensing boards and colleagues in local authorities to provide a high level of advice and support.

As I think I said when I previously appeared before the sub-committee, we have always recognised that the role of policing will inevitably change as we move forward, more people come back into society and there is a greater sense of normality around their work, social lives and social engagement. We have already experienced that.

We see ourselves reverting to our core policing challenges as society starts to regain its normal patterns of behaviour and interaction. The enforcement element of our Covid and public health response will therefore reduce, but it will never be eliminated. In any event, I firmly believe that policing is always about far more than simply being an enforcement mechanism.

I may have said this to you before about my title, but I am chief constable of the Police Service of Scotland, not chief constable of the law enforcement service of Scotland. Policing has always had a far greater role in maintaining community cohesion, community welfare and wellbeing. That is in our statutory purpose and, for me, it goes to the core of what policing is about.

We will enforce when required but, if we can get ahead of things, support preventative measures and help people to understand what is being asked of them and why, that is a better way to do our business. It is about public health imperatives, not criminal justice sanctions. That is consistent with how I want the Police Service of Scotland to develop, and it is based on many of our traditions of policing in Scotland. That is where we have been able to be.

We do look ahead and we will engage with different sectors, following the principles of prevention, early identification and support. It is far better to do those things than to come along later with enforcement measures.

**Liam McArthur:** That is helpful. Is there, to your mind, clear public understanding of what is covered by legislation and what is covered by guidance, and therefore of the extent to which enforcement—as opposed to provision of information and guidance, and persuasion, which you have talked about—can be carried out by your officers? What steps have you been taking to

clarify understanding among the public, businesses and so on?

**Chief Constable Livingstone:** Liam McArthur makes a fair point in his observation. There has been talk about “following the rules” and “doing the right thing”. At times, it has not always been clear what is in guidance and what is in regulation.

In my introductory remarks, I said that we will not and do not get everything right and that we have not always got everything right. In the service, some of our officers—in a handful, or tiny minority, of cases—have in good faith issued fixed penalties for things that have been shown, on review by sergeants and supervising officers, to have breached the guidance, but not the regulations. We have withdrawn those fixed penalties.

Liam McArthur’s observation about the ability to distinguish between regulations and guidance is fair. We have tried to be extremely clear that the aim is to encourage people to do the right thing. For some people, that encouragement might involve seeking their compliance with what has been identified as guidance. The 5-mile limit issue a number of weeks back was a case in point: a person’s going beyond that for exercise would not generate the issuing of a fixed penalty, but it was still right that people should not go beyond their local area, in order to stop the spread of the virus.

I do not have an absolutely clear answer to the question, other than to acknowledge that the situation has been a challenge. It is a product of the unique set of circumstances that we have been in. It underlines to me that we have not been overly focused on enforcement or on taking a transactional approach to dealing with a public health emergency. We see ourselves as being there to encourage everybody to do the right thing, as part of the collective response. We have worked really hard to provide consistent messaging, and we have aligned ourselves with other agencies at various times. Obviously, we work very closely with the Scottish Government, in that regard.

There is legitimacy, however, in the points that Liam McArthur made in his question.

**Liam McArthur:** Thank you very much for that. I turn now to the tracing system under the quarantine orders. You will be aware that the Cabinet Secretary for Justice came before the Health and Sport Committee earlier this week. There appears to be a disparity between the number that was identified by Public Health Scotland, which was that about 700 people needed quarantine and selected spot checks, and the number that was identified by Police Scotland under the travel regulations, which was fewer than two dozen. Have you been raising that as a



concern with the Scottish Government or Public Health Scotland? Can we expect a resolution to that, so that the numbers come into better alignment, and the public can have confidence in the tracing process?

**Chief Constable Livingstone:** The quarantine arrangements have been problematic. As you know—it is a matter of public record—it took Public Health Scotland a number of weeks to set up an appropriate process with Border Force. The starting point was the recording requirements for people arriving at international points of entry to the United Kingdom. The monitoring element was vested in Public Health Scotland.

In the early weeks of those arrangements, for Public Health Scotland's own reasons no information was passed on to us. It felt that it was personal health information; therefore, for reasons of confidentiality it was not passed to us. Direct referral from Public Health Scotland started only in the early part of this month.

Liam McArthur is right—the number of enforcement actions by Police Scotland has been relatively low. That is consistent with what we have seen across the other parts of the United Kingdom. Policing is seen very much as being the backstop in the quarantine requirements. The primary purpose of the arrangements is self-regulation—people doing the right thing—and being monitored initially through Border Force, then by Public Health Scotland. Those processes have improved, but they were slow to get up and running, although not as a result of anything that has happened with us. Police Scotland has come into play in the past number of weeks.

To go back to the point about messaging, I say that when the number of specified countries changes—for legitimate reasons, and sometimes at short notice—that causes a degree of difficulty and confusion. However, our approach will always be to seek to explain to people what is being asked of them. People might not have realised that the country that they have come back from is now on the list as requiring quarantine. The processes have improved, but it took a little bit of time to get them up and running.

**James Kelly (Glasgow) (Lab):** Good afternoon, chief constable. As society has opened up again, there have been a number of local outbreaks. How has Police Scotland responded to those outbreaks in the immediate and short term, and what lessons have you learned as they have developed?

**Chief Constable Livingstone:** Thank you for your question. The easements and the changes have altered public expectations and behaviours. Everybody welcomed the great freedoms that came with those changes, such as being able to see grandchildren and a wider circle of family and

friends, and everything that came from that. We started to see greater movement—as everybody will have seen, the roads got busier, as did public spaces, which gave us challenges at times when the weather was good.

It is difficult when we get a specific spike—or cluster, to use the public health language—such as those that have occurred in Dumfries and Galloway, recently in Coupar Angus, centred on the chicken factory, and in the city of Aberdeen, because we are asking people to roll back, as it were. People get used to those great freedoms, then we say that they cannot go out now, and that the country requires that they go back to a greater state of lockdown.

As I said at the outset, the policing approach has been consistent: we have continued with the approach of working with communities and engaging with people to explain the reasons behind the arrangements. We have worked with local authorities and other key partners that have been central to the public health response. Local incident management teams have been established, and we have participated in them, with local commanders and people who know an area leading on what is required, because circumstances differ in each area. I named three areas in my response to James Kelly.

13:00

In Dumfries and Galloway there was concern that there was a hospital just over the border, and people wondered how that linked in. In Coupar Angus, there were very specific issues regarding the agriculture industry, the nature of which means that a number of the people who work in it have different additional jobs. Therefore there were questions about the contacts that they had had.

All those examples required a localised approach. In Aberdeen, the whole city went back into lockdown. I mentioned the relationship with people in Aberdeenshire, and how the lockdown affected people's lives.

When local commanders have needed additional resource, we have provided it. We are able to do that because we are single service. We have also put more officers on the ground in communities, as required. We have ensured that we have enhanced support in terms of public communications, and that support that requires specialist capability is made available. We always tailor what we do to local needs and requirements, and we always do so in a manner that is consistent with the approach that I was absolutely determined that policing would have in Scotland, which is about support, policing by consent, common sense and looking to help communities rather than imposing restrictions.

**James Kelly:** My next question is about public attendance at sporting events. A test event is to take place tomorrow night at Murrayfield—a rugby match between Glasgow Warriors and Edinburgh Rugby. It has been reported that at a similar test event at Celtic park between Celtic and Motherwell, which is due to take place on Sunday, will not go ahead with public attendance. Does Police Scotland provide advice to the Government in those decisions?

**Chief Constable Livingstone:** No—I have had no discussions about that. We had a number of discussions about reintroduction of professional sport as it relates to the route map. We knew that there would be critical incidents because of the impact—James Kelly knows about this as well as I do—on specific significant matches.

An example is the Rangers versus Aberdeen opening game. There is intense rivalry between those teams, and without supporters being there, we will inevitably have displacement, with supporters being elsewhere. Another example is the unfurling of the championship flag, which happened at Celtic Park. We had a number of discussions before those events; again, we tried to work with supporters' groups and others on trying to discourage people from attending outside grounds, which has been seen elsewhere—Liverpool, Paris and other places for European games. However, we have not had that in Scotland. I pay tribute to everyone who has used good sense. The pubs have played a part in that, too. We have heard people, including Professor Jason Leitch, speaking on sports programmes and communicating the message as widely as possible.

However, I certainly did not suggest that the Government should not start to experiment with football. Those decisions were based on a public health assessment, as opposed to a policing assessment.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Chief Constable, in your opening statement you spoke of the extra responsibility of adapting policing to the needs of vulnerable people with additional support needs. Will that adaptation and way of working continue when we are free of Covid?

On a separate issue, there were press reports last week regarding comments from some people that officers were, in effect, “thrown to the wolves” during the pandemic, and that they felt abandoned and had little support from Government.

Can you please comment on both those issues?

**Chief Constable Livingstone:** Good afternoon Ms Mackay. Thank you for both those questions.

On the first one, I think that the pandemic drew into the spotlight something that we all know: it became very noticeable that a number of people have hidden disabilities. When one sees, for example, an individual who is not wearing a face mask in a shop, one does not always know that there might be a legitimate reason for that, from the person being asthmatic to them suffering from epilepsy or another condition.

One learning point from policing the pandemic has been something that we would always seek to do in policing, and have been doing in dealing with our calls. It is to do with the philosophy that I explained earlier: using common sense, working with people and realising that everybody is different—that families are different and that individuals have different circumstances. We make sure that we engage with people, first. We listen to them and speak to them in order that we understand the reasons for the behaviours that they have manifested, and we do not rush to early conclusions.

We have had very helpful inputs from autism support groups, the Children's and Young People's Commissioner Scotland and others regarding young people. There is an issue, in that people who have a disability, a condition or a particular profile will at times behave in a way that we would not necessarily understand or expect.

We will try to sustain that philosophy. It is part of the overall approach of listening to communities and working with individuals, while realising that everybody has their own challenges. That has been at the heart of my approach of encouraging people to listen and engage: do not immediately walk in and issue a fixed-penalty notice to somebody who is not wearing a face mask, because they might have a very good reason for that.

Overwhelmingly, that is what our officers and staff do, because that is what they want to do. I do not want foolish performance metrics that ask and expect individuals to issue X number of fixed penalties, X this or X that. That is not the way of Police Scotland, and it would not rest well with my personal outlook on the values of policing.

I want the police to engage with people and to listen to and understand them. If enforcement is needed, we will carry out enforcement. We have definitely learned from this extraordinary time.

With regard to the sense that officers had been abandoned, I believe that the Scottish Police Federation wrote that letter in the early days of the pandemic. I do not think that policing has been abandoned, but the comments that were made at that time underlined the anxiety that officers and staff were feeling. The Scottish Police Federation—robustly at times, as committee

members will know—represents the views of the federation, as is right.

There were challenges with obtaining and issuing PPE, but policing was not alone in that and Scotland was not alone in that; it was a worldwide challenge. The Police Service has done remarkably well in that area, with the support of the federation and our health and safety colleagues. In my written report, I underline the fact that something like 15,000 officers and staff were issued with PPE. Our absences are at an all-time record low—the lowest since Police Scotland came into being—which underlines the level of commitment that police officers and staff have brought to their duties. The public narrative around the key role that policing has to play has developed, as well.

I do not think that policing was abandoned. There was a lot of anxiety in the early days and weeks, not only in the country but in the service, but a lot of that anxiety has dissipated. There is now a realisation that policing has a key role to play.

With regard to protecting the NHS, I have always said that, at times, there was not an awful lot that the NHS could do for itself because it was in response mode—it was the people who could help the NHS. In the absence, at that time, of a robust testing regime and any clear prospect of a vaccine, social distancing was the only thing that we, as a country, could do. The people who contributed to that by encouraging the public to comply were the police. We played a crucial role, as I think has been acknowledged.

Anxiety about equipment existed across the whole country and beyond. I hope that a lot of that anxiety has dissipated. I always listen to the SPF's concerns, but I do not think that policing was abandoned.

**The Convener:** Our next questions are from the deputy convener, Margaret Mitchell.

**Margaret Mitchell (Central Scotland) (Con):** To follow up on Rona Mackay's question, in addition to the correspondence to which she referred, the SPF provided a submission to the sub-committee. In its earlier correspondence, as Rona Mackay outlined, the SPF mentioned that the police felt "abandoned" in the early stages of lockdown. However, the SPF submission covers concerns that relate very much to the here and now. Those include concerns about the lack of acknowledgement of issues such as

"the conflicting pressures of child care, home working ... hybrid education",

and the impact on work-life balance for Police Scotland staff and their families.

The submission also states that there has to date been a failure to acknowledge that the new Covid-19 regulations as amended, regarding police powers to enter premises and indoor gatherings, will result in an increased risk of infection and transmission to police officers and their families.

In your opening statement, chief constable, you referred to three broad principles, and you have repeated several times to the sub-committee that you have three overriding priorities in dealing with this emergency. However, it seems that one priority that has not been prioritised in the way that it should be is Police Scotland's objective of ensuring that

"The health, safety and wellbeing of ... officers, staff and their families is protected during the pandemic."

Do you agree that it is hard to say that that assessment is not accurate?

**Chief Constable Livingstone:** It is a wholly inaccurate assessment. We know that policing is a challenging job. Right from the outset, we have worked with staff associations and trade unions. The ability to access and allocate full PPE at a very early stage in many ways put policing ahead of other sectors, and we have been in constant communication with officers and staff and the people whom they serve. I do not think that the narrative from the Scottish Police Federation is fair.

We have always recognised concerns about transmission indoors, and I have always sought to minimise and mitigate risk. We have always followed best practice from Health Protection Scotland and the Health and Safety Executive. We have been robustly challenged by the SPF in a way that has at times gone beyond our own internal processes and, where that has happened, our approach has been shown to be thorough and fair.

As I said to Rona Mackay, those in the SPF executive absolutely hold those concerns in good faith, and they are raised in a robust manner. However, as chief constable, and as the senior constable in the organisation, I personally do not accept the SPF's suggestion that I do not take extremely seriously the safety and wellbeing of officers and their families.

We will always seek to improve that when guidance changes and when practice changes elsewhere, but the nature of policing is that we have to step forward into circumstances that bring potential danger. I acknowledge that and am conscious of it every day, which is why we will continue to try to provide the best support and equipment possible.

13:15

We have seen people stepping forward not only into private indoor dwellings but into situations of extreme danger; we saw that at West George Street in Glasgow at the end of June. That is what the police service does—we are there to protect our fellow citizens, and as chief constable I will do everything that I can to protect officers and staff. When concerns are raised, I will listen to them, but I do not accept that there has been a lack of commitment on my part as chief constable or that of the service to the health and wellbeing of officers and staff. Again, I point out a number of factors in the level of commitment: the very low level of absences and the focus that our officers and staff have brought to their duties during this difficult time.

**Margaret Mitchell:** That is precisely the point, chief constable. We are all acutely aware of the job that the police do and that they are part of the emergency services. You seem to be convinced that priority 3 has been actively and effectively prioritised, but I think that you have a bit of work to do to convince the rank-and-file representatives that that is the case. You mentioned PPE. Can you confirm that response officers and other officers are not put at risk from Covid-19 when they are approaching, arresting, detaining and transporting individuals? You have said that they all have PPE, but can you say how that PPE is sourced and what checks have been carried out to ensure that it is fit for purpose?

**Chief Constable Livingstone:** I disagree that I need to convince the rank and file of my commitment to their health, safety and wellbeing. In relation to the movement of individuals who have to come into custody, as I said, we cannot eliminate all risk, but we seek to minimise and mitigate it. We give our officers and staff full Covid-19 protective equipment so that, if there is any suggestion or indication of risk, or any inference at all, they are entirely free to utilise it. In addition, even when there is no suggestion of such risk, we have issued numerous—thousands—of surgical face masks and protective gloves that officers and staff can deploy.

As I said, the equipment was sourced on the basis of advice from Health Protection Scotland and the Health and Safety Executive as well as best practice from the National Police Chiefs Council. We will of course always look at any other advice or guidance that identifies improved practice. People at the front end of the police service in Scotland, who have done a remarkable job, and people working in health and safety and procurement have worked round the clock.

Time and resources are scarce. I have had to reassure colleagues in the Scottish Government on a number of occasions that the police service

was not accessing PPE for its officers and staff that should have been going to other parts of the public sector, because our procurement arrangements and lines and the discipline and structure that we have brought to bear in issuing and allocating PPE were such that at times we were seen as being ahead of other areas. I am satisfied that we have followed the available best practice and guidance, but we will always change that if better practice or guidance emerges.

**The Convener:** When we met previously, there was a live health and safety equipment issue relating to the safety of officers who were undertaking drink-driving procedures. That issue was referred externally. Time is not on our side, so will you give a very brief update on that?

**Chief Constable Livingstone:** The Health and Safety Executive looked at the practice that we followed for road-side breath testing, at the equipment that was available and at the operational guidance that we had issued. It was satisfied that we were taking all the steps that were required. I reported that matter to the Scottish Police Authority and to colleagues in the Scottish Police Federation who had raised it. The matter was raised in good faith, because the Scottish Police Federation felt that there was concern.

However, in relation to the rank-and-file feedback, not a single road police officer raised any concerns with me about the process or the equipment that had been issued. The Health and Safety Executive supported that view. The process is not wholly without risk, but the evil and mischief of drink driving is such that we need to continue to take steps to combat it. We will continue to do that in a safe manner. The Health and Safety Executive accepted that Police Scotland acted in accordance with the law and in accordance with my ethical and legal duties to officers and staff.

**The Convener:** I asked that question just for completeness, given that the matter was raised at our previous meeting.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** On behalf of my constituents, I thank Police Scotland for all the work that the police have done during the pandemic.

I have questions about spit hoods and testing. The sub-committee understands that the use of spit hoods by officers has increased during the pandemic. Is that correct? Will you briefly outline the circumstances in which such hoods are deployed?

**Chief Constable Livingstone:** Thank you for your comments, which are appreciated.

We provided incorrect data in some of our correspondence with the sub-committee's clerks. I

apologise for that, and we have now provided clarification.

I have seen some of the concerns that Amnesty International has raised about spit hoods. Part of the reason for my initiative of establishing the independent advisory group with John Scott—he then invited Amnesty International and other groups on to it—was to provide a critical eye and to challenge us on some of our practices.

Spit hoods are not there to prevent officers from getting Covid; they are there to stop people spitting on officers. No member of the police service—whether it is a police officer or police staff—should in any way expect to be, or tolerate being, spat on in the course of their duties. I have publicly raised real concerns about assaults and attacks on police officers and police staff, including verbal assaults on people who work in our control rooms. I have recently made a personal pledge that I will do everything that I can to minimise such behaviour.

Spit hoods are available. Officers and staff use them on the basis of their judgment, when it is clear that someone is spitting on them. Over the Covid period, at times, a very small minority of people have been deliberately aggressive and have tried to frighten officers and staff. Instances of spitting have more than doubled over the Covid period so, inevitably, the use of spit hoods has increased.

On average, we take up to about 10,000 people into custody across the whole of Scotland every month. You can see from the numbers that we have presented that spit hoods are used when dealing with significantly less than 1 per cent of those people. Spit hoods are not used regularly at all, but I insist that they are available to officers and staff to use when somebody spits or threatens to spit on them and their colleagues. The use of spit hoods is subject to robust recording measures through the custody system. Further checks and balances also apply to the use of specialist equipment.

I absolutely recognise the concerns about spit hoods, but they are used infrequently and are subject to robust monitoring. Unfortunately, we have seen a significant increase in people either spitting on police officers and staff or threatening to do so. To come back to Ms Mitchell's challenges, which she based on the federation's observations, I would be neglecting my duty if I did not allow officers and staff to have access to such hoods when that is required. However, as I said, they are subject to robust monitoring and are used in only a tiny minority of cases.

**Fulton MacGregor:** I think that we would all agree with your comments. Spitting on a police officer or on any public servant is absolutely

unacceptable, and you need to take the steps that are open to you.

I will move on to ask about Covid testing. How many officers have been tested? Do you feel that the number is right, or do you need to test a bit more or a bit less? Do you have stats on how many officers have been absent with Covid-19?

**Chief Constable Livingstone:** Testing has been another hot topic across the country since the outset of the pandemic. Police Scotland has access to the wider test and protect regime, but in addition we are providing officers and staff with access even where they are asymptomatic. If, for any reason, an officer or member of police staff feels that they have had any level of contact with someone who either claims or is believed to have Covid—even if that officer or staff member is not showing any of the symptoms of which we are all aware—we will provide them with access to testing and would hope to get their results back as quickly as possible.

I could obtain the specific figures and write to the sub-committee's clerks with them, but in general terms I can say that we have had more than 2,000 officers and staff tested. About 10 per cent of those—about 200 individuals—have had positive results, out of a workforce of about 23,000. We will continue to allow asymptomatic individuals to have the access to testing that we have introduced. If any officer or member of staff has concerns, we will provide them with access to such testing and, where necessary, we will also provide support to their families.

**The Convener:** Before we move on, I want to go back to the subject of spit hoods. I should refer members to my entry in the register of members' interests, in that I am a member of Amnesty International, which has raised specific concerns on the subject.

You alluded to an exchange of correspondence between the sub-committee's clerks and Police Scotland, and to a difference in the figures. It is important to point out that it was Police Scotland that drew our attention to the fact that the initial figures with which we had been provided were not accurate. You talked about there being robust recording of the use of such hoods. Will you say how that is done, please?

The concerns raised by Amnesty and others are about the potential for such hoods to be applied to individuals who might have medical conditions, and particularly respiratory problems. What guidance are officers given on that, and are there plans to review it? No one would condone spitting—it is a vile practice, and it is right that you should take robust action against it—but there are genuine concerns about the use of such equipment.

**Chief Constable Livingstone:** The recording aspect is significant. As you will know, when someone who has been arrested is brought into police custody, an independent custody sergeant or supervisor accepts the custody. They will record any requirement for or deployment of a spit hood, the reasons for that and the rationale. They will then satisfy themselves that that is proportionate and necessary.

There is a further check and balance through the recording on a police system of when one would use some specialist equipment. As you will recall, if a police officer ever draws their baton or uses handcuffs, that needs to be recorded independently. There are similar arrangements for spit hoods.

13:30

We are very conscious of the concerns that have been raised, which I think are legitimate. I talked earlier about the awareness of every individual being different and about every individual having different circumstances, not all of which might be visible to police officers and staff. We will continue to ensure that the use of spit hoods is closely monitored and that there is appropriate guidance on the need for proportionality and necessity.

I return to my key point, which is that I would be neglecting my ethical, moral and legal duty to officers and staff if I did not allow the use of spit hoods when a person was determined to spit on someone who was seeking to do their duty. Their use is subject to robust recording. I take on and recognise the concerns, but we need to have that piece of equipment.

**Shona Robison (Dundee City East) (SNP):** I want to ask about an issue that you raised in your opening remarks—that of more vulnerable people who have been even more affected during the Covid outbreak. It has been highlighted that the imposition of restrictions may have had significant impacts on more vulnerable people, including those with learning difficulties and those who have been victims of domestic abuse. That remains a significant concern and priority, so can you outline what steps you are taking to ensure that individuals in those circumstances are being identified and, most important, supported?

**Chief Constable Livingstone:** That was one of the challenges, particularly in the early days and weeks of the outbreak, when the message to stay at home was unequivocal, and everybody was adhering to that. We were very conscious that, for some people, tragically, home is not a safe place to be.

We have worked closely with the third sector, Scottish Women's Aid and other support networks,

and colleagues in local authorities who provide crucial support and interventions. We have done a series of campaigns, and we have encouraged people to be good neighbours, to look out for one another and to call the police if there is any level of concern. I was adamant about the fact that, if people had a concern about a neighbour, they should call the police and trust us to deal with the matter sensitively; if it came to nothing, all well and good. I made it clear that if people had a concern, they should raise it, as that would be the best way to protect and support people who were potentially vulnerable.

In addition to the domestic setting, there is the online setting, which I touched on in my opening remarks. Of necessity, society has had to move more to online platforms, and more of us are having to live our lives there. On a personal level, I think about my own mother in that regard: she had never done anything online or other than through her physical presence. For some people, having to suddenly try to use online banking or to make contact online without necessarily having some of the security habits that many of us have built up over the years was a new world, and it was one that increased levels of vulnerability.

We have seen greater exploitation as children and young people have socialised online at home, sometimes with people who were not who the young people thought they were. We have run a number of online and physical campaigns.

As we come out of the period of more severe restrictions, we are, with partner organisations, visiting people who have been repeat victims, people who have reoffended, people who are subject to conditions and people who have a history of that. We are encouraging people to make use of the existing disclosure schemes if they have a concern about someone. That is handled sensitively. A disclosure is made if that is appropriate; if not, reassurance is given.

The situation has been challenging. The First Minister recognised that asking people to stay at home increased the risks that some people were exposed to. The public health emergency meant that a balance had to be struck. People who required greater assistance and who would usually engage with teachers, social workers and others in the public domain were withdrawn from such engagement, which meant that the opportunities to make preventative interventions were lessened.

From the outset, we have worked closely with partners in the public and voluntary sectors, and that will continue to be a priority.

**Shona Robison:** That is very reassuring. It would be helpful if the sub-committee could be provided with information on the programme of revisiting and following up. You would obviously

have discretion in protecting people's identity, but feedback on any findings from that follow-up work—particularly in connection with victims of domestic abuse—would be helpful.

**Chief Constable Livingstone:** Absolutely. We can do an assessment in relation to not only domestic abuse but child protection concerns and concerns about online behaviour. We can provide the committee with an assessment of our experience and of the reports that we have had, and also of our actions and interventions and of some of the joint work. That would put more meat on the bones of what I have outlined.

**Margaret Mitchell:** Could you include in that information an assessment of the increase in instances of child abuse—specifically, child abuse that is sexual—during lockdown. There are early indications from charitable and third sector organisations that that has increased, which is a huge concern.

**Chief Constable Livingstone:** Absolutely. We will look at the whole area of public protection, which includes child vulnerability and sexual and physical assaults on children, as well as domestic abuse. I will ensure that that is done, and we will liaise with the committee clerks on that.

**The Convener:** We are coming to the end of the meeting, but I have a couple of questions, one of which relates to an issue that you have touched on on a number of occasions—that of the lessons that are learned from the Covid situation, not only now but in the longer term, and the opportunity that we have to embed those.

The Scottish Police Federation indicates in its written evidence that it is not aware of any proactive activity within the service to establish the impacts that the changes have had on working practices. It might be too early to ask about that, although maybe those impacts should be captured on an on-going basis.

Could you comment on that, and on the potential for a staff survey to get views on the matter?

**Chief Constable Livingstone:** I read that comment in the Scottish Police Federation's submission and, to be candid, I was surprised. The federation has representatives that consistently sit on the operation talla silver group and the working groups that we have on operational practice and on PPE. There are representatives on a convened group that I established a number of weeks ago to look at lessons learned and how we would approach the restoration and recovery phase. Although the general secretary has not necessarily been involved, a number of federation representatives have had a significant input into those forums. We

are working with them as we develop our response.

There are comments in the federation's submission that I whole-heartedly agree with, such as those about the need to consider our approach to the police estate and how we work in the future. However, we have made changes, as the sub-committee has—for example, in the way in which it is holding this meeting—and as society has. By way of example, part of our spend on new PPE and other Covid-related purchases has been offset by a significant reduction in travel and petrol outlays, because we are making greater use of remote processes.

We absolutely need to capture some of the changes to practice, such as remote working. It provides greater flexibility for people with caring responsibilities and is better for the environment and people's wellbeing. Sometimes, it results in better decisions, because people are less tired after not having had to drive, as the convener would know, being one of the many who have to drive for two or three hours to get to a meeting that they are required to attend.

I genuinely do not recognise that the representatives of the staff associations and the unions have not been involved in the process; they absolutely are. A lot of that work is on-going. We have not reached significant conclusions but, from the outset, we wanted to capture the improvements that have come about as unintended consequences of the crisis and to make sure that we did not just revert to the way in which business was done before. We wanted to make sure that we used the improved business practices that we have seen.

**The Convener:** Can I ask you directly, given that the issue has been alluded to two or three times, how relations are between you and officials of the SPF? Has there been a breakdown in communication?

**Chief Constable Livingstone:** No, there is never a breakdown in communications between me and the officials of the federation. Over the years, I have spoken to them at every hour of the day.

The federation has its role to play, and I am an enormous supporter of it. I was a member of it. I know that it sounds almost foolish to say it, but that is the case. I was a police officer in Scotland for almost 30 years, so I know that the federation plays a robust role in challenging and bringing its experience to bear. I have a very good personal relationship with the officials. At times, we will have a different perspective on things, but the relationships are good.

**The Convener:** That is good—robust challenge is good.

In the course of this meeting, information has been relayed to me about an announcement, which, clearly, was for the First Minister to make, rather than you. It relates to a change of powers that will take effect from tomorrow; if I am reading correctly, the police will have powers to break up house parties of 15 or more guests. Can you comment on any concerns that you might have about the implications of that change for resources or for engagement with the public, or about the public's response to that change?

**Chief Constable Livingstone:** That touches on an earlier question about our involvement in the development of the regulations. I think that I said to Mr McArthur that I had been involved late last night and again this morning.

I have not heard the specific detail of the changes that the First Minister has announced, which can change up to the last minute, but I completely understand the generality. According to all the public health evidence that has been presented, the most significant threat is of transmission indoors, where groups of people from individual households are gathered together. People who are involved in running public hospitality venues and retail premises are taking steps to minimise that through the use of masks and whatnot, but when people are indoors and they drink too much, that lowers their inhibitions.

13:45

The prohibition is there, and we will continue, as I have said a number of times, with the approach that we have had from the outset: we always seek to engage with people and to encourage them to do the right thing. We tell people to go home, and if they do so willingly, that is good. However, I understand the need to put the powers into regulation.

An issue that had caused me concern—and I am pleased that the Scottish Government has responded—was the need, in extremis, for a power of entry, in order to take any necessary steps. On the vast majority of occasions, that power will not be needed. If we are called, we will be able to engage with people. Overwhelmingly, that is how people are, but in situations in which there is outright refusal—if people know that the police are at the door, refuse to let them in, turn the music up and continue to act in that manner—we need to go in.

We already have a similar power with regard to loud music under the Civic Government (Scotland) Act 1982. My position was that, given the gravity of the threat to public health, a similar power would be proportionate and legitimate. It has been granted—with a number of parameters, I understand—and we will use it very lightly. We will

use it in the same way that we have used all the other powers that have been granted to us. Enforcement will be the last resort, but it is there, because, from what the First Minister and others have said, it is clear that the continuation of house parties remains a significant threat to containing the virus.

**The Convener:** Thank you for that, chief constable. Margaret Mitchell has a brief supplementary question.

**Margaret Mitchell:** Will you acknowledge that, in its submission, the SPF anticipated that change and pointed out that it would increase the risk of infection being transferred not only to police officers but to their families? For whatever reason, it is not satisfied that that has been acknowledged to date. Will you now take that on board?

**Chief Constable Livingstone:** I am not sure that I read that part of the submission in that way, but I do not think that there has been any difference between me and the federation on the dangers of house parties with regard to the transmission of infection. I have been keen to make sure that as much equipment as possible is issued for the protection of officers and staff. Dealing with that danger will be an extra burden, as the convener has alluded to, and we will work with the federation and others to produce operational guidance.

I have never disputed the danger from house parties. I have publicly stated that they should be avoided. The fact that house parties are now subject to specific regulation, with enforceable powers, underlines the gravity of the situation. On that interpretation, I agree with the federation's position.

**The Convener:** As I have had no further requests to ask questions, that completes our questioning and concludes our evidence session. I thank you for taking the time to discuss the situation openly and frankly with the sub-committee.

On members' behalf, I thank Police Scotland and its officers and staff for keeping our communities safe.

**Chief Constable Livingstone:** Thank you, convener.



## Work Programme

13:49

**The Convener:** Agenda item 3 is a short discussion to ratify the decisions that members made at our business planning meeting.

I put it on record that, on Tuesday 11 August, the sub-committee met informally via Microsoft Teams to consider its forward work programme up to the end of the year. I refer members to paper 3, which provides a note of the decisions that were taken. Do members want to make any points, or are they content to ratify those decisions?

As no member has raised any point, it seems that we are agreed. Thank you very much.

The next meeting of the sub-committee will be on 17 September, when we will take evidence on the police budget for the next financial year. In the meantime, any follow-up scrutiny issues will be dealt with in correspondence, which will be published on the sub-committee's web page.

That concludes the public part of the meeting.

13:50

*Meeting continued in private until 13:59.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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