



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Thursday 16 May 2024

Session 6



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Pàrlamaid na h-Alba

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CRIMINAL JUSTICE COMMITTEE

19th Meeting 2024, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)

*Sharon Dowey (South Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Pauline McNeill (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rt Hon Lady Elish Angiolini KC

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Criminal Justice Committee

Thursday 16 May 2024

[The Convener opened the meeting at 10:00]

Police (Ethics, Conduct and Scrutiny) (Scotland) Bill: Stage 1

The Convener (Audrey Nicoll): Good morning, and welcome to the 19th meeting in 2024 of the Criminal Justice Committee. We have received no apologies.

Our business today is to continue our evidence taking on the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill at stage 1.

I welcome to the meeting the Rt Hon Lady Elish Angiolini KC, who joins us remotely. We are grateful to her for agreeing to provide evidence to the committee.

I refer members to papers 1 and 2. I intend to allow up to 60 minutes for this evidence session.

I have an opening question, Lady Elish. Since you produced your review of the police complaints process in 2020, the Scottish Government has introduced the bill that we are currently scrutinising. There have also been high-profile cases involving complaints and matters such as vetting, such as the Gemma MacRae decision in Scotland and the Sarah Everard case in England. Will the bill as it is currently drafted make the difference that you would like to see? Alternatively, do changes or improvements need to be made to it? If so, how?

Rt Hon Lady Elish Angiolini KC: The bill reflects a number of the recommendations from my report, and all of that looks absolutely fine. I am particularly pleased about the inclusion of the code of ethics and the duty of candour, because those aspects have become even more relevant.

The committee will be aware from my report on the case of Wayne Couzens and the murder of Sarah Everard that I found a real issue with police culture in the group that Couzens worked with. There was a dreadful culture among his immediate colleagues, which was evident from the evidence. It is therefore really important that, right from the beginning of the process, the police service recruits the right people for the right reasons. Some people are attracted to the service not for the benefit of the community but because of power, which is quite an alluring factor. The evidence on Wayne Couzens's background showed that he was very much into uniforms,

power, guns and so on. The vetting process is important, but my report recommends that there should also be random vetting thereafter in someone's career.

Good management is also necessary. In the Couzens case, there was a paucity of managers. One sergeant oversaw 20 officers, but did not see them from time to time. Much of Wayne Couzens's disposition came from the fact that he was in uncontrolled severe debt and everything was coming to a head at the end of the month in question. He had also been ill, but there had been scant intervention in relation to his condition. Therefore, the role of sergeants is really important.

With the advent of total quality management, we took out middle layers of management in many organisations, but I feel that having role models and good sergeants is really important in policing. I am not sure that that is really a matter for the bill, but it is relevant for the committee that is considering it at this stage.

The fact that the bill will establish a code of ethics is particularly welcome, as is the introduction of a duty of candour.

One aspect that has come out of the inquiry is that the chief constable should have a power of summary dismissal in the most egregious cases: the police should not have to go through another process. I recommended that, for cases in which an officer is convicted of a serious crime, the chief constable should have such a power, but the police associations would want to make representations about that. Certainly, with the benefit of looking at different circumstances and widening the issues that the committee is considering, it would seem to me to be appropriate, albeit in very few cases, for the chief constable to have such a power.

I will answer the committee's questions, but otherwise that is all that I wish to say at this stage.

The Convener: That is a comprehensive and helpful opening response.

I would like to stay with the statutory duty of candour that is included in the bill, on which you have set out your views. The Scottish Government has chosen to introduce that duty in the bill, but not a duty of co-operation or a duty to provide the Police Investigation and Review Commissioner with a statutory power to compel officers to attend for interview within a reasonable timescale, as your review recommended. Do you agree with the position that the Government has taken? Is the way in which the duty of candour has been laid out in the bill sufficient to ensure the level of co-operation that would be required to allow investigations to be undertaken and concluded timeously?

Lady Elish Angiolini: Can I just read the provision? I am looking at section 3(4), which proposes the wording:

“Constables attend interviews and assist and participate in proceedings ... openly, promptly and professionally”.

I suppose that the duty of candour does carry the expectation that it is part of an officer’s duty that they should do those things. The problem was that there was a particular case involving a group of police officers. What used to happen was that if an event had involved an officer, they would all go into a room with someone from the Scottish Police Federation, and they would group together. That is not the best way to take evidence from witnesses in any circumstances, because of the fact that they have been together, irrespective of whether it is for perfectly good reasons, such as for their welfare after a serious incident.

Nonetheless, officers are professionals. The important point is to ensure that such evidence is preserved and is the evidence of each individual—not what might impliedly be the groupthink or what is expedient for one or two members of that group, which could put pressure on other officers. It goes without saying that such measures should not be necessary because of the oath that officers take, but I can remember some circumstances, way back now, where it concerned me greatly that such a situation could arise and that therefore there needed to be a specific provision to that effect.

However, the bill’s duty of candour provision does sort of cover that in many respects. What the outcome is where that does not happen is obviously another matter, which would have to be dealt with by the chief constable.

The Convener: Thank you. That is an interesting perspective.

I will now open up questions to members. I will bring in Russell Findlay and then Sharon Dowey.

Russell Findlay (West Scotland) (Con): Good morning, Lady Elish.

Lady Elish Angiolini: Good morning.

Russell Findlay: I believe that, when you were conducting your review, you spoke to a number of witnesses, both members of the public and police officers, past and present, and I think that we have heard from some of the same individuals. In many cases involving police whistleblowers, careers have been destroyed, people’s health has been harmed—often for life—and they have suffered huge financial impact. In the cases that we have heard about, much of that was avoidable and good people were lost from policing. Does the bill do enough to protect whistleblowers?

Lady Elish Angiolini: Can you point me to the provision that you think deals with whistleblowing? Section 13 is “Review of arrangements for investigation of whistleblowing complaints”. Can I have a quick look at it to remind myself of what I have read of it?

Section 13 is quite short. It basically says:

“the words from “the Commissioner” to “complaints;” become sub-paragraph (i)”,

so it is inserting into and amending the Police, Public Order and Criminal Justice (Scotland) Act 2006. It also inserts:

“the Authority and the chief constable for the investigation of information provided in a whistleblowing complaint”.

Can I ask you a question, just for clarification, because I have been away for some time?

Russell Findlay: Sure.

Lady Elish Angiolini: What are the current provisions? Do you think that they are defective and that they require to be improved?

Russell Findlay: The witnesses whom we have heard from, some of whom have been whistleblowers, have experienced what has been described as a “weaponisation” of the process—it has been turned against them. We questioned the Scottish Police Federation a couple of weeks ago, and it has issues with the bill. It acknowledged that it was a problem that some of their members were suffering due to attempting to blow the whistle.

Without getting bogged down in the legislation, which you have not had a chance to properly scrutinise, I wonder whether, having spoken to witnesses, you have seen any evidence of a change in culture in Police Scotland in that regard.

Lady Elish Angiolini: It is incredibly tough for police officers, because, in the culture of policing, they depend on each other, so the bonding process is important. That is often why these WhatsApp groups appear: they are part of the bonding process and so on. That can be a good process, or it can turn.

The difficulty with such processes is that, as with any organisation, you might have a dominant individual in the group. If the dominant individual is a decent individual, it is not a problem, but you can have individuals who are bullies, basically, and are quite oppressive to other individuals. For example, the WhatsApp group in the Wayne Couzens case was absolutely horrendous. It was not just body humour—it was absolutely foul humour, with every form of racism, sexism and everything that you could think of.

If you are in such a group and you rely on the people who are in that group to save your life if you are ever attacked when you are out on the

streets, it is a real strain for whistleblowers. They therefore need the best protection possible. It is difficult for police officers to do that, given the power of that fellowship and those bonds.

Russell Findlay: There was an example of that in Scotland recently, with Police Scotland reaching a settlement with a female officer from Moray, in the north of Scotland. She had attempted to report bullying and, indeed, criminality, but she found that others turned against her and her life was made a misery. It took many years.

I suppose that I am answering my own question in that the bill can attempt to remedy it, but the culture needs strong leadership.

Lady Elish Angiolini: It does, and I think that that starts at the very beginning and has to continue. As I mentioned, I think that randomised vetting is important, not just vetting at the beginning, because people can turn and their personalities can change. They can become very cynical after many years, because it is a hard job. We ask a lot of police officers, and life can get to them. Wayne Couzens was in such severe debt and that just occluded everything. Obviously, his conduct was deeply serious, but for many years he operated in plain sight.

It is important to understand that policing culture and how tough it is to be a police officer. We all sit in our armchairs making legislation, but the reality is that they are out there trying to do their job in difficult situations.

Russell Findlay: Absolutely.

Lady Elish Angiolini: That is why it is important that the disciplinary process recognises that and is flexible enough to understand it.

10:15

Russell Findlay: When you were tasked with your role, which led to the proposed legislation that was born out of your report, you were not asked to appraise the costs, but the Scottish Government's financial memorandum for the bill initially put the cost of what is being proposed at £1.4 million, and the Government has now reassessed that at £5.8 million. Some witnesses, including some from the Scottish Police Federation, think that it will be many multiples of that figure.

It is not your job to assess the costs, but is there an argument that whatever the cost of the proposals, within reason, it would be an investment in preserving public trust, protecting good officers and giving them the confidence to raise complaints and blow the whistle if need be?

Lady Elish Angiolini: I do not have to cost my recommendations. I look at what I think is right. It

is for the Parliament to determine what is affordable and in the public interest. It is not a counsel of perfection. We are talking about people who have real power and influence over society, and we imbue them with a huge amount of trust. We cannot have a half-baked version. The provision must be appropriate.

I do not think that the proposals are over the top by any means; this is about what is right as a society in the 21st century. This is your opportunity. I presume that you will not look at this issue again for many years, so you have an obligation to get it right at this stage.

Russell Findlay: Absolutely.

One of your recommendations is for gross misconduct hearings for officers of all ranks to be held in public. The version in the bill covers officers of senior rank only. In its evidence, the Scottish Police Federation described such hearings as being "like a public flogging". The Association of Scottish Police Superintendents said that it was like putting officers "in the stocks". The ASPS also expressed concerns about the sensitivity of personal information. What would your response be to those concerns?

Lady Elish Angiolini: Such hearings are already open in England and Wales, and I am not seeing a storm there. There are no queues outside. It is about the openness of proceedings. We ask a great deal of the police, but they have enormous power and privilege. Where there is abuse, it is good for proceedings to be open. I can understand why those organisations would not like that, but, nonetheless, I think that it is important.

A number of other professional proceedings also take place in a public setting.

Russell Findlay: Yes, such as in medical, legal or social services. If there is sensitive information, the chair or judge can clear the room or put reporting restrictions in place.

Lady Elish Angiolini: Absolutely.

Sharon Dowe (South Scotland) (Con): Good morning. My question follows on from my colleague Russell Findlay's line of questioning. As he said, the amount specified in the financial memorandum has increased from £1.4 million to £5.8 million and it is set to rise substantially, judging from the evidence that we have heard. A number of provisions in the bill require more regulations in secondary legislation. Are you concerned that there is not more detail in the bill, and would you have any concern that the costs of implementing what are unknown measures will add a substantial cost to the financial memorandum, which could eventually risk the act's implementation if the resource is not provided? You said that

“We cannot have a half-baked version”.

Would you have concerns that, if we do not put the right finances in, we will not get the right result?

Lady Elish Angiolini: Undoubtedly. I do not know who costs these things and how they go about it, but some of the requirements are not that onerous and the institutions are already set up.

I do not think that the bill will result in an avalanche of new complaints. We should hope that complaints are already coming in, because we have the PIRC and others dealing with them. The bill should make the process as good as it possibly can be.

Policing is a constitutional issue—it is really a major issue—and you have to make sure that you are funding it correctly and that it is as good as it can be. Retreating from that on the basis of its cost might lead to further problems in the future.

It is quite clear that there are real issues. I am currently looking at police culture across England and Wales. I am not looking at Scotland—I am looking at England and Wales only. Every day, I receive a news printout about horrendous crimes by police officers around the country. Many of them are sexual crimes, but others are to do with corruption and so on. I get that day in, day out.

It is absolutely important that the people to whom we give such power are subject to a framework that ensures that we get the bad uns out effectively. That is not something that can be done on a shoestring. We rightly entrust police officers with formidable power and we need to get the right people in. That is why the vetting is absolutely critical. That is not just vetting when people come in; as I say, there is the potential for people to be corrupted later on in their career. People come in all dewy-eyed and full of the best intentions, but life can change. That is why the structures are important. It is important that they are effective and that they work, and that is why they are value for money.

Sharon Dowey: As I said, the bill requires more regulations. However, we heard from the Scottish Police Federation that current performance and misconduct regulations have never been used. Do we need to look more at performance management within Police Scotland to ensure that it is using the tools that it already has?

Lady Elish Angiolini: In my report, I made a recommendation about reflective practice and that there should not be an immediate referral to a disciplinary proceeding of a matter that, in other circumstances, would really be a management matter. However, the huge privilege and power that police officers have also demands that a really good, effective system for discipline is in place that

can be effective in respect of the quality of its investigations and the process itself.

Sharon Dowey: One witness said that he was placed on restricted duties and told that he was a danger to the public, but he was not informed why that was the case. Yesterday, we heard from the criminal allegations against the police division of the Crown Office and Procurator Fiscal Service that there was no reason why he should not have been told at the time. The Scottish Police Federation has questioned whether some of the legislation is required, or whether the performance management tools and regulations that are already in place simply need to be used. I do not know whether you have had a chance to look at everything that is in the bill, but do you think that some of the legislation is not required and that we need to look at the training in the police to ensure that they are following their own procedures?

Lady Elish Angiolini: That is a slight “Anne of Green Gables” view of it—I think she is obnoxious! [*Laughter.*] We hope that things will work in that way, but the basis of a framework needs to be there—that is the reality. Having that in statute in this form is part of the package of the hierarchy of behaviours.

I accept that we ask a lot of the police, so there should not be an automatic reference to discipline. It may well be that someone is having a breakdown. They might have horrendous problems. There is the management and welfare aspect. That is why I was so keen on ensuring that the stripping out of sergeants was looked at. It is important to have appropriate role models, management and welfare.

I do not think that having a voluntary version is good enough for an organisation that has so much power. It is really important that there is a structure to that.

Sharon Dowey: You mentioned random vetting and the power for summary dismissal. Do you think that that needs to be in police policy and procedure, or is legislation required?

Lady Elish Angiolini: It is a big deal for police officers. They need to be consulted about that. I can imagine what the reaction might be.

You mentioned one officer who was suspended and not told the reasons why. Depending on the circumstances, there might have been a very good reason that he was not to know. It could have been about a witness’s vulnerability. It might have been obvious, and there might have been a need to protect people at that point of the investigation. Obviously, if it became a criminal trial, that would not happen.

There are very often good reasons to be able, at one stage, not to say what is happening in order to

ensure that witnesses are not approached or intimidated in the beginning. That is why in the criminal system you have bail with special conditions—for example, that you are not to go into a particular town, approach a house or go near a particular witness.

The Convener: I will come back to you, Sharon, if we have time, which is very limited.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Two of the main issues that we have heard about from witnesses are the time taken to complete investigations and what they perceive as a lack of transparency in the system. One witness told us that the system does not work for police officers or members of the public, and another said that the time taken was a deliberate tactic used by Police Scotland to wear her down and make her simply go away. Will the bill do enough to tackle those issues?

Lady Elish Angiolini: Those are matters of practice, obviously, as opposed to matters for legislation. You could put time limits on processes, if you want, such as we have for criminal proceedings on indictment. They have to take place within statutory limits; if it is a bail case, it is a year, or at least it was. It may have changed since I left Scotland.

The answer to that question is that it depends. Some of those investigations are complex, and some also require the co-operation of witnesses, so they have to be done in a very discreet manner. It is incredibly difficult—can you imagine?—for someone to complain about a police officer or make an accusation of criminality, so they are sensitive investigations.

The other question could be about the resources of the PIRC. Some complaints are obviously investigated by the police themselves in their units, but others are dealt with by the PIRC or taken over by the PIRC at some point. Therefore, there should be targets and the police should be accountable for them. The chief constable must make sure that he is putting sufficient resources in there, because it is a very important part of the duty of the chief constable to ensure that, if there are allegations, they are investigated properly and that there is no undue delay. That is not just about the alleged victims; it is also about the police officers who are the subject of the investigation. It is a very sensitive area of investigation, as you can imagine. It is very difficult for people to give evidence in those circumstances against people who are in power.

Rona Mackay: The other issue is transparency and lack of communication. People have just been left not knowing what is happening. That is operational as well, I guess.

Lady Elish Angiolini: That is operational, absolutely, but sometimes you cannot tell people about the rest of the evidence, because you cannot contaminate their evidence by saying, “By the way, you should know that we have this now.” Therefore, in a way, you cannot give comfort to another individual. You have limitations as a prosecutor, even when you are investigating a case, about what information you can give out to others about what is happening in the case, because you cannot do a criminal investigation, or even disciplinary investigations, in a goldfish bowl.

There is a point where you have to be absolutely open and transparent, but the early stages of an investigation are very often very sensitive.

Rona Mackay: I will ask one more question if I may, please, convener.

You mentioned the PIRC, and I wanted to ask you about concerns around the independence of the PIRC in relation to the number of ex-police officers in the organisation. You make a recommendation that it should be PIRC policy to replace former police officers with non-police officers on their retirement from the PIRC.

Do you think that the PIRC is truly independent from Police Scotland? Should the bill set out more about the formation of who makes up the PIRC? Again, we have heard some concerning evidence from witnesses about their experience with the PIRC—people have told us that they felt that the PIRC was covering their pals’ backs, if you know what I mean.

10:30

Lady Elish Angiolini: The one thing that is true when you are a prosecutor or an investigator is that nobody likes you, basically. There will always be someone who is unhappy with what you are doing—either the victims or the person who is being investigated. Sometimes, you are investigating a really bad case, but you have got insufficient evidence and have to take no proceedings, and there is a lot of speculation about why you are not doing so.

I have forgotten the title of the head of the PIRC, but the person who is currently in that post is Michelle Macleod. She was a very senior prosecutor and is utterly aware of the importance of the independence of an investigation. If you have people of that calibre leading your organisation, you are not going to have any room within it for people who might be of a disposition to be corrupt.

There should be people from different backgrounds in the organisation, because you need a mix to ensure that there is a balance.

However, I do not know what the current balance is or what the profile of the staff is.

Rona Mackay: Obviously, the PIRC can investigate only senior officers, and Police Scotland investigates the level below that. We also heard concerns that, at that level, they were all pals together and the police would not be objective in the investigations. Is there anything that could be done about that?

Lady Elish Angiolini: I looked at the way that the police investigate complaints against police officers and I was impressed by the people who conduct the investigations. If anything, they are very energetic about the investigations into their colleagues. If the Scottish Police Federation were asked to give evidence about them, I think that it would say that it considers them to be overzealous and that what they do is far from the actions of people who are all pals together.

In any organisation, it is difficult to know whether someone is corrupt, so there have to be checks and balances. That is why there has to be supervision of what officers do, with people pulling back papers to check them and so on. I made recommendations in that regard based on what I saw when I went to Dublin, where there are random periodic checks of papers. Such random checks are quite an effective way of deterring people from doing things that they should not.

Having considered systems across Europe and systems in America and elsewhere, I think that the system in Scotland is possibly nearly as good as you can get it. It is always possible to improve the system, and to incorporate good ideas that could enhance it, but, generally, it is significantly better than it was when I started as a young fiscal depute.

Pauline McNeill (Glasgow) (Lab): Good morning. Thank you for your evidence; it has been helpful to hear it.

You have partially answered some of my questions, which are around time limits and getting the balance right. The committee does not have a lot of information about the categories of complaints against police officers—we are a wee bit in the dark—but there are two scenarios that I can think of. If we insisted that the Government attach time limits, would that undermine the provisions in the bill?

The idea of extending proceedings against former police officers up to 12 months, or beyond if the PIRC thought it was proportionate to do so, seems to be generally welcomed. However, those police officers might have sought other employment and gone on to new lives during that time. Notwithstanding what you said about the possible complexity of the cases, would setting some time limits undermine the new provision?

Lady Elish Angiolini: I note that the criminal justice system has time limits fixed in it as well. The time limits that you are talking about run from the point at which the proceedings start, not the investigation. If there is undue delay, people can pursue that point. However, in terms of the serious stuff, I would say that Scotland's justice system moves more rapidly than probably any other jurisdiction that I know, which is particularly relevant with regard to the custody time limit.

In answer to your question, you would have to look carefully at the pattern of the types of cases that are coming in. There are cases in relation to which you would have to have a provision to allow an extension of that time limit, and then you would have to decide who was going to adjudicate that, so the process could become quite complex.

However, by their nature, these are very difficult inquiries. They are sensitive and it is hard to get evidence about a police officer. As you can imagine, witnesses can be reluctant and can decide halfway through the process that they will not give evidence. All sorts of things can cause problems, because of the nature of those who are under investigation.

If you were going to have time limits, you would have to be very careful and you would have to consult. You would also have to have a power of extension, and then the question would be who would decide when an extension should happen. I am sure that the PIRC has targets for its cases and that it is accountable to the Parliament for how it performs against those targets. The Parliament's Criminal Justice Committee could have an annual look at how the prosecution service and the PIRC are performing in relation to their targets. However, there will always be exceptional and very complex cases that can take years to investigate.

Pauline McNeill: We heard from the PIRC yesterday that it has a target of up to 90 days, and it seems to be meeting that.

Lady Elish Angiolini: Well, that is fabulous.

Pauline McNeill: It is when a case goes to the procurator fiscal that it can take up to six months, although the times are getting better.

I am thinking that complaints of assault against police officers must be quite common.

Lady Elish Angiolini: Yes.

Pauline McNeill: I would have thought that those were quite simple matters to deal with, although I do not know. I am thinking about serving police officers. We have heard about many instances in which it has taken up to two years to deal with such matters. To me, as a layperson, it seems a simple matter that should not take two years. We are trying to strike the balance of

fairness. Despite what you have said about the power of police officers, it seems an awful long time to have a case hanging over them, so time limits might be appropriate in simple cases.

Lady Elish Angiolini: Yes, but again, it depends. An assault sounds like a straightforward case, but you just do not know. You do not know whether there are witnesses who are vulnerable, which is difficult. A witness might be ill, so you cannot approach them because they have a soul and conscience certificate from their doctor saying that they cannot give evidence for a particular period. However, there has to be fairness and, yes, police officers are out there doing a really hard job, so it would be reasonable to look at time limits, although those time limits would have to be capable of extension for particularly complex cases.

The one thing that helps a great deal is police cameras, which is why I made a recommendation on that in my report. A lot of police officers worry about the effects of having cameras. I think that cameras are great, because they make other people behave better. Also, police officers are conscious of them, so fewer officers get into difficulties. I do not know what the federation's view is, but I think that, when police officers are doing their job properly, cameras are a good protection and a good deterrent in relation to other individuals. Obviously, cameras do not always work. I think that they are much more effective than any other provision that we can look at, but they cost money.

Pauline McNeill: Thank you.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning, Lady Elish, and thanks for joining us. In an answer to Rona Mackay a couple of questions ago, you indicated that the system in Scotland is actually pretty good, and that it has got better over the years since you were a prosecutor. That is great to hear, but I was a wee bit surprised by that. I have a general question. I am wondering in what areas you think the bill will make a difference. Is the bill big enough in its scope? Is it doing enough, or is it, to coin a phrase, tinkering round the edges? Is tackling the cultural issues that you have identified as a problem one of the things that the bill is trying to do? I apologise, as that is quite a general question.

Lady Elish Angiolini: I am not sure that I can be entirely objective about it, as many of those things are recommendations that I made in the report in 2020. Some of the measures implement those recommendations, so it is a bit like appraising your own homework. It is a matter for others to assess.

For instance, there is a recommendation in the report on a duty of candour, ethics and so on. That is important because, more than anything, the culture in policing is what keeps the police off the disciplinary aspect or produces a cynical, difficult environment for police officers, particularly young police officers, coming in. They might be told, "Now, you have to forget everything they taught you at college," or, "This is the way we do it." Some officers gave me evidence about that.

I made a recommendation regarding the police advisory list and barred list in my report, as well as on procedures for misconduct. There is a lot in the report on that. For me just to say that the provisions in those areas look great would therefore sound a bit odd. It is for others to determine what is needed and what is in the public interest. I have done my report and I have made my recommendations.

The additional aspect that I mentioned concerned the power of summary dismissal for a chief constable in egregious cases. That is being introduced in England, and it is something that would help.

Apart from that, I think that the bill looks good.

Fulton MacGregor: That is very helpful.

I have one other question—and you have already talked about this in response to Pauline McNeill. You made a recommendation on body-worn cameras, and we have heard about the issue from others, too. There seems to be a general consensus that they would be a good thing. When you were speaking to police officers and doing your research, did you get any sense of how much churn the use of body-worn cameras could prevent within the complaints system? I am not looking for figures, but did you get any sense of how transformational or otherwise they could be?

Lady Elish Angiolini: The bottom line is that they are running all the time, but officers have the power to switch them on and off. They are not bullet-proof—that is an inappropriate analogy; rather, they do not provide 100 per cent proof that officers are going to behave better. If there are people who are going in with that disposition, they will find ways around it. They will switch off the cameras, although they would probably have to give an explanation at the time or afterwards as to why they switched them off, so it would not be particularly helpful for them.

I do not know what the attitude of police officers in Scotland is, but I did some research here in Oxford, as the police here have body-worn cameras. There was a group of about 10 of them down on the main street at a big event. They were having a chat, and I went up to ask them what they thought about having the cameras, which they all had. They said that they thought that they

were great. They said that it made a difference, and they just had to point to them. That is not the case in all cases, however, as some people are drugged or so inebriated that it would not matter whether the officer was bristling with cameras. They said that they thought that the cameras had a positive impact. They added that they had not liked the idea of them at the beginning, but they got used to having them and they thought that they were effective for them.

That was from questions that I asked at the coalface: the officers were responding to a strange lady who came up and asked them about it; they were not giving evidence to an inquiry or anything. That was an interesting view from them, I thought. They all agreed, saying that they would not want to go back to not having the cameras.

The Convener: I wonder whether I could follow up a line of questioning from Pauline McNeill about misconduct proceedings relating to former officers. In its review of the process of police officer dismissals in 2023, the Home Office notes that the process of continuing misconduct proceedings against former officers

“is an expensive, time-consuming process which draws forces’ resources away from dealing with those individuals who are still serving.”

I am interested in your views on that conclusion and your reflections on why it is important that there is a provision in the bill on misconduct proceedings against former officers.

10:45

Lady Elish Angiolini: When you talk about former officers, I assume that you mean those who leave while the process is going on. I think that such a provision is important. In some cases, proceedings might not be in the public interest, and that depends on how serious the matter is. A serious matter might give you pause for thought about whether the officer should be employed as a police officer elsewhere. People can move house or move down to England, which is why, as part of my review, I made a recommendation for the establishment of the Scottish police barred and police advisory lists. Such lists are already kept by the College of Policing in England because, in England and Wales, there are 28 police forces, so people can go from one to the other, and some of the history can get lost.

Wayne Couzens was one of those individuals. He moved from one police force to another, and the information about him on the police national database was not checked. He got employed despite the fact that he had a record of indecent exposure on the police national database. It is important to have information about people who

are applying for jobs and moving forces, and that is why I made that recommendation.

If it is a relatively minor matter, of course, the police can just dump the proceedings once the officer has gone. However, we can rely on people’s common sense, and the senior officers who lead the complaints sections have common sense. It is about what is proportionate, and I agree that not all cases require further action. If someone is out of the force, that might resolve the issue, and it should not be something that haunts them for the rest of their days. Certainly, for more serious cases than that, it is necessary to have those lists.

The Convener: The Home Office review, which I mentioned in my first question, also notes that the introduction of legally qualified chairs for all ranks has introduced delays into the system. It has also left chief constables with “insufficient responsibility” or oversight

“over proceedings relating to their own workforce”.

Do you have any comments on that? Would that finding shift your view on recommending the introduction of independent, legally qualified chairs for all ranks of officers?

Lady Elish Angiolini: Most senior officers want that independence, and many disciplinary matters can be dealt with by the senior reporting officers. They do not have to go before any of the boards, and the threshold for that is important as well, because the sergeant or chief inspector has powers of discipline at the very beginning.

However, it is particularly important for there to be an independent chair for serious complaints, because officers should have that protection. Being a police officer is a privileged and important office and, if officers are going to be removed from it, they need sufficient protections.

The Scottish Police Federation does a very good job at making sure that there is good legal representation for police officers, but you also need people who are au fait with the complaints process. In some places, people are taken from non-forensic backgrounds, so they are not used to dealing with the process, and it can be quite overwhelming. It is a really difficult decision to make. A police officer will have gone into a force to do good, and that decision maker has the power to end or significantly damage that person’s career. We need people with confidence, and that is part of the process.

The Convener: As we have been considering the bill, I have found myself becoming interested in what brings a police officer or member of staff into the process, whether it is in relation to a complaint against them or an allegation of misconduct. What is it about the demands of the job, the environment

or the circumstances that results in them ending up in that conduct space?

Pauline McNeill spoke about a relatively high number of incidents involving allegations of police assault. Given your longevity in the world of justice, I am very interested in your observations on what is pressing down on police officers or staff that puts them in a position where they are facing a complaint or an allegation of misconduct. It is a big question, but I am interested in what the societal factors might be.

Lady Elish Angiolini: Principally, I think that we sometimes forget that we ask a huge amount of police officers. I said in the report that we ask them to go into situations that the rest of us run away from. I am not talking about a terrorist situation; I am talking about a breach of the peace, which is one of the lower-level crimes. If you are walking along a pavement and there is a breach of the peace, it is terrifying—it can be very frightening. Many police officers are young and have only their own experience of life. Having to come in and deal with such a situation is asking a lot of people, and we forget that.

Therefore, the way in which the disciplinary system works has to include an understanding of the pressures and the provocations. When I was a deputy fiscal in Airdrie, I went out with the police and saw those situations. Quite frankly, you want to punch one of them. That is a natural human reaction, although you do not do that. It is very difficult and frightening. The noise level is frightening. It is difficult to replicate that in a courtroom, where it is quite sterile and everybody is giving evidence about what happened.

That is one of the good things about the cameras; they capture some of the anxiety that police officers, no matter how well trained they are, must feel as human beings. That is part of the problem. Year on year, going out there and being subjected to that must have an effect and create some underlying anxiety. You could be going out on a pretty ordinary patrol that turns into a disaster.

I have prosecuted police officers over the years but, overwhelmingly, I think that the public in Scotland are served brilliantly by the police service in Scotland. I think that they are genuinely motivated to do good, but having a system that makes sure that the bad uns are weeded out is in the police's interest as much as the public's interest.

The Convener: That is interesting. I have a final, quick question from Rona Mackay, and then we will have to draw the session to a close.

Rona Mackay: I want to ask you briefly about vexatious complainers. The bill does not contain any reference to that, and the Government has

said that it will monitor that and bring it in as secondary legislation if it is required. What is your view on that?

Lady Elish Angiolini: Vexatious complainers need an effective deterrent, because police officers are very vulnerable. The most vexatious ones can be prosecuted as an attempt to pervert the course of justice or a false accusation of crime, if they make an accusation against a police officer. There should be a balance. Police officers experience enough pressure without being the subject of false accusations, and it is in the public interest that when that takes place it is dealt with seriously.

The Convener: We are just coming up to time. Thank you, Lady Elish, for joining us today. That was a very interesting and informative session, and I very much appreciate it.

10:55

Meeting continued in private until 11:03.

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

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