



**Mr Derek Penman QPM**  
HM Chief Inspector of Constabulary

Mr Andrew Flanagan  
Chair  
Scottish Police Authority  
1 Pacific Quay  
Glasgow  
G51 1DZ

9 December 2016

Dear Andrew

## **Governance Review and Corporate Governance Framework**

I refer to our previous discussion in respect of your Governance Review and the implementation of your recommendations. As you are aware, HMICS previously supported the Authority in developing an improvement plan and had received assurances that a number of the outstanding recommendations would be taken forward through your review and included in the new Corporate Governance Framework. We have therefore been keen to follow the progress of your review, offer comment on your framework and assess whether the previously identified improvements in governance will be addressed.

Although we were initially engaged with your officers and commented on an early draft, we did not receive a revised copy of the framework and supporting documents until late last week. I now understand that the framework has been discussed in private session with members and will be formally agreed at next week's Board meeting. While this curtails the opportunity for HMICS to offer detailed comment, I thought it would nonetheless be helpful to share my initial observations.

In general terms, I welcome the framework and the clarity it provides in terms of individual roles and responsibilities and the proceedings of the board. I also welcome the detail contained in the attached protocols and in particular the identification of key deliverables with timescales. These are all helpful to HMICS in terms of our scrutiny role and holding the Authority and Police Scotland to account against the standards you set.

However, I do have some observations in relation to your intention to hold committee meetings in private. This approach seems at odds with your key principle of transparency and your commitment that the Authority should be open and transparent and operate to the highest standards of public sector administration and management. Effective scrutiny of policing in Scotland is essential in maintaining both legitimacy and public confidence and the Authority should endeavour at all times to demonstrate its competency in performing its statutory functions.



Having reviewed your draft terms of reference, I note that Audit Committee, Finance Committee and Policing Committee all focus on providing *oversight* and *scrutiny* and I would question the need for their important work to be conducted in private. These committees will all perform an important governance function and undertake detailed examination of critical issues. The new Policing Committee in particular will deal with a range of business that would previously have been heard in public, specifically operational performance and complaints handling.

I accept there will always be a need for some proceedings to be held in private, although I would have thought the measures and safeguards outlined in Paragraph 29 of your Framework could apply equally for committees as they will for the full board.

Although not explicit within your framework, it would seem that supporting papers will also be kept private. This has the potential to further weaken scrutiny and reduce transparency in board proceedings, especially as members will be relying upon the information contained within these papers to inform their views and make recommendations to the full board. I am certain there will continue to be legitimate media interest in committee meetings and you may wish to consider your approach to the publication and disclosure of agenda and committee papers that will inevitably become the subject of FOI requests.

While the framework states that members of Authority staff and police Scotland representatives may be invited to attend committee meetings, it not clear whether you will invite representatives from staff associations and others who may have an interest in the welfare and efficiency of policing in Scotland. I am aware that the exclusion of staff associations from private sessions under the current committee structures has previously drawn criticism and I would suggest you consider addressing this issue explicitly within your framework. Regardless of your decision on whether committee meetings should be held in private, I believe there is considerable value in allowing access to staff associations. They should only be excluded where there are specific items where their attendance would present a conflict.

With the exception of a single reference in the section for Members' Business Meetings, it is not clear whether there would be an invitation for HMICS to attend your committee meetings or receive copies of agenda and papers. While it may be helpful for the sake of clarity to consider including this within your framework, it would be my intention to rely on my statutory powers if necessary to provide scrutiny over committee meetings and private sessions.

As you are aware, I previously provided a Professional Advice Note in relation to the leadership and governance of the Authority's forensic service. This was brought forward from our planned statutory inspection of forensic services later this year and was intended to assist with your consideration of this issue as part of your governance review. Having now seen your proposals for the Forensic Services Management Advisory Board, I am unclear how the governance issues raised in our advice note will be fully addressed . Clearly an opportunity exists for us to review the governance arrangements for forensic services and comment on operation of this committee in more detail during our statutory inspection.

I also have some reservations over your proposal that committees will not, in general, have decision- making powers. Although you have committed to a minimum of eight scheduled board meetings per year, I would question whether this will be sufficient to meet the volume of business and formal decision making required, taking into account the need to provide some degree of public scrutiny. Notwithstanding your proposal that in practice much of this scrutiny will take place in private committee meetings, there is a real risk that proceedings at formal



board meetings will become truncated and perceived by some as perfunctory. This was one of the enduring criticisms of the legacy police Authority meetings, even where there was a significant volume of business conducted out with public meetings, and something that the creation of the Authority was intended to remedy. It is my strong view that scrutiny in policing not only needs to be effective - it in needs to be seen to be effective.

My final observation relates to the current maturity of both the Authority and Police Scotland and whether on the basis of past experiences, you have sufficient credibility and confidence amongst politicians, public, stakeholders and your own staff to support your proposal that much of your scrutiny should be conducted in private. I would have thought it more beneficial for the Authority to implement its new governance structures in public, not only demonstrating increased competence over its statutory functions, but demonstrating its commitment to openness and transparency in holding the Chief Constable to account for the policing of Scotland.

I accept that it will properly be a matter for the Board to approve the Corporate Governance Framework and my comments are intended solely to inform members ahead of their decision next week.

On the basis of our previous discussions and given that you will be implementing your new governance arrangements in 2017/18, I have decided that it would be timely for HMICS to schedule a statutory inspection into the state, efficiency and effectiveness of the Authority. This will provide an opportunity for an evidence led review of the new governance arrangements and supporting protocols, as well as a wider review of the Authority, the work of its officers and the services it provides. We will also seek evidence of improvement in those areas we previously identified and were being progressed through your improvement plan. This will complement our forthcoming statutory inspection of forensic services and should combine to provide a holistic assessment of the Authority. Our timing for this inspection will be dependent upon when you choose to implement your new governance arrangements and will involve discussions with you and the Chief Executive. However, it would be my intention to start planning for this in March 2017 with a view to conducting the inspection during 2017/18.

I trust these comments are helpful and I look forward to meeting with you in early course to discuss both your Governance Review and our proposed inspection.

Yours sincerely



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