

## Memorandum of Understanding

For cooperation between HM Inspectorate of Constabulary in Scotland (HMICS) and HM Inspectorate of Prosecution in Scotland (IPS)

### Introduction

1. The Police and Fire Reform (Scotland) Act 2012 and Criminal Proceedings etc. (Reform) (Scotland) Act 2007 place a duty on HM Chief Inspector of Constabulary in Scotland and HM Chief Inspector of Prosecution in Scotland respectively, to inspect the state, efficiency and effectiveness of the Scottish Police Authority (SPA) and Police Service of Scotland (Police Scotland) and the operation of the Crown Office and Procurator Fiscal Service (COPFS). The Public Services Reform (Scotland) Act 2010 requires scrutiny bodies to secure continuous improvement in user focus and cooperate and coordinate relevant activity with regard to the exercise of their scrutiny functions.
2. This Memorandum of Understanding sets out how we intend to fulfil these duties. It describes our respective powers and responsibilities and proposes a framework for collaborative working that embodies the principles set out in the Crerar Review and priorities to support the development of effective and sustainable public services contained in the Christie Report. This framework is designed to optimise the skills and experience involved in audit and inspection, avoid duplication of effort and minimise the burden of scrutiny.

### Statutory Role of HM Inspectorate of Constabulary in Scotland

3. The statutory role of HMICS, as set out in Sections 71 to 82 of the Police and Fire Reform (Scotland) Act 2012, is to make inquiries about any matter relating to the SPA or Police Scotland as they consider appropriate about the state, efficiency and effectiveness of the Authority and the Police Service, and arrangements made by the SPA and Chief Constable to secure best value. Its work is all conducted with the aim of improving policing in Scotland.
4. HMICS fulfils its statutory purpose independently of the police service, the SPA, local committees and the Scottish Government. HMICS discharges this duty by inspecting and advising Police Scotland and the SPA, and by inspecting how Best Value is achieved. HMICS also provides advice to Scottish Ministers.
5. The emphasis of HMICS as an Inspectorate is predominantly on inspection activity, and as a technical inspectorate and repository of technical expertise in relation to policing matters in Scotland.
6. HMICS can be directed or commissioned by Scottish Ministers to undertake research or inspection activity in relation to any aspect of policing in Scotland. HMICS also has the power to do anything which it considers necessary or expedient for the purposes of, or in connection with, the carrying out of their functions. The SPA and Chief Constable have a statutory duty to assist and co-operate with HMICS.

7. HMICS must prepare and publish a plan setting out its priorities for inspection and how these will be carried out. This plan must be subject to consultation with interested parties and must be reviewed regularly.
8. HMICS must provide copies of its reports to Scottish Ministers, the SPA and the Chief Constable, and lay them before Parliament.

### Statutory Role of HM Chief Inspector of Prosecution in Scotland

9. The statutory role of HM Chief Inspector of Prosecution in Scotland, as set out in Sections 78 and 79 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, is to inspect the operation of COPFS. HM Chief Inspector must also submit a report to the Lord Advocate on any particular matter connected with the operation of COPFS which is referred by the Lord Advocate and must submit to the Lord Advocate an annual report on the exercise of HM Chief Inspector's functions which must be laid before Parliament.
10. The 2007 Act makes clear that, in the exercise of any of the functions conferred by the Act, HM Chief Inspector of Prosecution in Scotland acts independently. When inspecting COPFS, HM Chief Inspector may require any person directly involved in the operation of the service to provide her with information.
11. HM Chief Inspector of Prosecution selects issues for inspection based on risk and intelligence and following consultation with the Law Officers, COPFS and other stakeholders. Priorities for inspection are set out in IPS's annual report. IPS's vision is to promote excellence and confidence in Scotland's prosecution service through independent, evidence-based scrutiny. IPS focuses on the quality of the service being delivered to the public, highlighting what is working well as well as areas for development and improvement. IPS often works in partnership with other inspection bodies, to facilitate scrutiny of justice system-wide issues.

### A Framework for Collaborative Working

12. In fulfilling our duty to co-operate, we are committed to:
  - Joint discussions on planning our inspection work, including sharing any relevant risk assessments
  - Sharing relevant information and respecting confidentiality of shared information
  - Maintaining effective communication and liaison
  - Working together where appropriate
  - Sharing knowledge, skills, expertise and experience
13. Joint discussions on planning. HMICS and IPS are committed to sharing information and discussing their draft future work programmes; these discussions will also consider opportunities for working in partnership to improve the criminal justice system.

14. Sharing relevant information. HMICS and IPS will operate an open and transparent approach to sharing information. HMICS and IPS will share, where relevant, strategic documents relating to Police Scotland and COPFS, and documentation relating to scrutiny and inspection activity. This will adhere to data protection legislation and any information passed between HMICS and IPS will not be disclosed to a third party without prior discussion.
15. Maintaining effective communication and liaison. HMICS and IPS staff will meet regularly to ensure effective communication between the two organisations. Senior level meetings will be held at least twice a year to discuss strategic issues and progress of agreed work programmes. It is also envisaged there will be ongoing informal communication at all levels.
16. Working together where appropriate. HMICS and IPS have different statutory responsibilities and different reporting arrangements. While we will continue to deliver the majority of our scrutiny activity independently of one another, we are committed to working in partnership with a view to supporting improvement across the justice system. We are committed to making the best use of our collective skills and expertise and to providing mutual advice and support.
17. Sharing knowledge, skills, expertise and experience. We believe there is much to be gained by both organisations in sharing our respective knowledge, skills and expertise. We will investigate different approaches for doing this, for example, through shared training on inspection methodology and work shadowing. Future audits or inspections may use findings from HMICS and IPS audits and inspections. It is important therefore that both organisations have confidence in the quality of the inspection work being undertaken, the evidence used and the published assessments and recommendations. Sharing knowledge and expertise will contribute towards building mutual confidence in the quality of our inspection work.

### Joint Inspections


18. HMICS and IPS are committed to ensuring that our joint inspection work contributes to providing assurance that the SPA, Police Scotland and COPFS are operating efficiently and effectively, and our recommendations lead to demonstrable improvements in service delivery. We will also work to ensure our joint inspections are risk-based and proportionate, delivered efficiently and effectively and do not place an unreasonable burden on the SPA, Police Scotland or COPFS.
19. When HMICS and IPS work together on joint inspections, mutual agreement at the outset of the inspection will be sought on the following areas: lead organisation, scope, methodology, information sharing, report writing and associated publication processes, communications, storage of documents, records management and regularity of meetings. These areas are not exclusive and will vary dependent on the topic of the inspection.
20. Both HMICS and IPS are committed to working together on joint inspections in an environment of mutual trust and respect and promoting a culture of openness. This approach should minimise the risk of disagreements. Should disagreements arise, they should be resolved amicably between the people concerned and failing that, through discussions between relevant senior managers.

## Reviewing the Memorandum of Understanding

21. We will formally review this Memorandum every three years to ensure both organisations are working within the agreed framework and consider whether the framework needs to be revised to meet changing circumstances.

Signed: 

HM Chief Inspector of Constabulary in Scotland  
in Scotland

Signed: 

HM Chief Inspector of Prosecution