



HM Inspectorate of Constabulary in Scotland
Improving Policing across Scotland

Wednesday, 25th September, 2024

PRESS RELEASE

HM Chief Inspector of Constabulary calls for new misconduct in public office law

Police officers in Scotland who abuse their position should face a similar criminal charge to their colleagues south of the border.

His Majesty's Chief Inspector of Constabulary in Scotland, Mr Craig Naylor, has used his annual report to call on the Scottish Government to consider new legislation relating to misconduct in public office.

He said a recent HMICS inspection of the vetting regime in Police Scotland had led to improvements concerning both the recruitment of new, and re-vetting of existing officers and staff.

He said Police Scotland had separately responded to review recommendations made by Lady Elish Angiolini in relation to the way it dealt with misconduct.

But Mr Naylor said while police constables in England and Wales can face a charge of committing misconduct in public office, no such offence exists for officers in Scotland.

Officers in English and Welsh services have recently faced misconduct in public office charges in relation to offences including the inappropriate sharing of information, or unauthorised access to police systems.

Mr Naylor would like to see a new misconduct in public office law introduced in Scotland, to help strengthen public trust in the professional standards of Police Scotland's officers and staff, and in the policing system.

Launching the HMICS Annual Report for 2023-24, Mr Naylor said: "One aspect of this area of policing that is missing in Scotland is the concept of misconduct in public office.

"This charge has a high evidential test but is used, sparingly, in England and Wales, where it exists as an option when there is misuse of the office of constable.

"This test, and the case law associated with it, provides options that could strengthen public protection from officers or staff who misuse their position for personal gain.

"Establishing a code of ethics based upon a legislative position as proposed in the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill, will put the service in a strong position.

"I support this legislation and hope that it progresses through the parliamentary process to allow for the changes needed to assure the public."

HMICS was set up to help improve policing in Scotland.

It does this through rigorous assessment and analysis, providing valuable insights into the effectiveness and efficiency of policing services, highlighting both areas for improvement and innovation.

Over the past 12 months HMICS has carried out reviews in areas including the organisational culture of Police Scotland and the wellbeing of its officers and staff.

Following disclosure that cases of drug driving had been marked as 'no proceedings' by the Crown Office and Procurator Fiscal Service, it carried out an assurance review of the Scottish Police Authority's forensic toxicology provision – making 25 recommendations for improvement.

It also worked with key scrutiny partners on four custody inspections, four children at risk of harm inspections, and seven adult support and protection inspections.

As a result of the reviews HMICS conducted in 2023/24, Mr Naylor has raised concerns including that too much of frontline officers' time is being taken up responding to mental-health related incidents.

He said these should be managed primarily by health and social care services.

Work is now ongoing across government, health and other partners to ensure those who experience a mental health crisis get the most appropriate response to improve their wellbeing.

A further HMICS report revealed low staffing levels, disruption of rest days and the poor state of many police buildings were among issues making officers feel vulnerable and at times unsafe.

The report called on Police Scotland to develop a cohesive wellbeing strategy that addressed what really impacted on the physical and mental health of their officers and staff.

The HMICS annual report for 2023/24 is the first to be published since new Police Scotland Chief Constable Jo Farrell took up her post in October last year.

Mr Naylor said there was strong evidence that Ms Farrell's early commitment to refresh the organisation's vision and devise a new performance framework, were "being worked on at pace."

He praised Police Scotland's "exceptional workforce" of officers and staff, who he said were deeply committed to protecting the vulnerable, supporting victims of crime and helping keep people safe across the country.

Mr Naylor said HMICS had also been working closely with Audit Scotland to ensure best value in policing.

He agreed with recent comments made by the Auditor General for Scotland, Mr Stephen Boyle, that 'significant reform of the public sector – including its workforce – was needed to protect services over the long term'.

He said while budgetary challenges would play a role in any future redesign of Police Scotland, improved integration of services across the public sector was key.

Mr Naylor said: “The need for a further reform of policing is widely acknowledged, but this must focus on defining the organisation that the future public of Scotland will need and can afford.

“This includes ensuring that wider systems are joined up and that responsibility for service delivery is apportioned fairly to relevant expertise across the public sector, since failing to deliver reform in other services defeats the benefits delivered by Police Scotland.”

He added: “Police Scotland has been on a reform journey for the past 11 years and – while there remain opportunities to redesign the organisation to meet future budgetary challenges – I am clear that such reform cannot simply be a further reduction of capability within policing.”

Ends

Notes

HM Inspectorate of Constabulary in Scotland (HMICS) was established under the Police and Fire Reform (Scotland) Act 2012 and has wide ranging powers to look into the ‘state, effectiveness and efficiency’ of both the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA).

HMICS has a statutory duty to inquire into the arrangements made by the Chief Constable and the SPA to meet their obligations in terms of best value and continuous improvement.

In 2018 Lady Elish Angiolini LT DBE PC KC was commissioned by the Scottish Government to undertake an independent review of complaints handling, investigation and misconduct in relation to policing in Scotland. Her final report was published in November 2020.

The Scottish Parliament's Criminal Justice Committee is currently considering proposals for the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill.

Ends notes

NOTES TO EDITORS

The HMICS Annual Report 2023-24 will be available to download at the [HMICS website](#) from 0001hrs, Wednesday, 25 September 2024.

For any media enquiries please contact:

Jenny Morrison

HMICS Communications and Media

hmic@hmic.gov.scot

X: [@hmics](#)

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