

John McNeill, Police Complaints Commissioner for Scotland
Future of Policing Conference
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Thank you for inviting me to address the conference today. I have found the speakers and audience involvement very interesting and I hope that my contribution adds another element to the debate.

Before looking forward, I've always found it useful to check what I have learned from the past. So, for those of you who don't know me yet as Scotland's Police Complaints Commissioner - I have been involved in the criminal justice system here in Scotland, in England and Wales, and in Northern Ireland for nearly 40 years. I have witnessed and been part of changes that have reshaped entire sections of the system and changed public perceptions of how it operates. An important feature of these changes has been how public bodies are held to account, and specifically how they deal with complaints.

I learned the hard way **the importance of taking complaints seriously** when I was a Governor responsible for a number of compounds in Long Kesh and had to deal with politically motivated prisoners; I realised **the need to treat everyone who complained as an individual in their own right** during the dirty protests in the Maze Prison; In Scotland, I recognised **the necessity of having an independent element in**

complaints handling when I was the Governor based in Prisons Headquarters responsible for dealing with complaints brought by prisoners against colleagues; I developed **a restorative approach** when in SACRO than allowed all involved to move beyond traditional battle lines; I gained an appreciation of **the assurance provided** to staff and visiting professionals by adopting a rights based approach to managing risk when I returned to SPS. Finally, my work with Non Departmental Public Bodies and Commissions confirmed **the need for transparency** in holding officers to account, and embedding complaints handling in corporate governance.

These experiences of working across professional boundaries in a range of criminal justice contexts taught me that there is no such thing as a trivial complaint. It's how you deal with a complaint and the person making it, which determines whether it escalates into an incident that sucks in resources of time, money and personnel; whether it causes reputational damage or is mediated or explained in a way that allows everyone to learn from the experience and move on.

I had been Police Complaints Commissioner for four months now and am more than ever convinced of the benefits of setting complaints within

the overall governance of a public body. And of adopting a rights based approach when holding public bodies to account.

Every meeting I have called or attended, every review I have published and every time I discuss the future of complaints handling with the police, police authorities, Scottish Ministers or the public, I have been listening intently for common themes and ideas coming through that I could use to bring about positive changes and improvements in how the police handle complaints. We learn from each others experiences. And we can benefit from best professional practices adopted in other jurisdictions. You see, striving for change represents one aspect of my vision of "the future" for PCCS. I believe that it will be best accomplished if we start with the things that unite us rather than divide us. For me, dealing with complaints against the police is a shared agenda. It's all about confirming public confidence in policing. And we are more likely to be successful in securing the confidence of the public if we adopt an approach that recognises and respects the rights and responsibilities of all concerned.

For those of you who know me as a former Human Rights Commissioner this view, which is the main theme for the rest of my talk, will come as no surprise. But human rights generally is such a broad canvas that I am

going to restrict myself to a single area that I consider key, the need for the police and policing bodies to adopt a human rights based approach and its role in providing assurance when dealing with complaints. This is more likely to be achieved if it is grounded in strong governance.

Wherever you are – whoever you are –you need to be treated consistently and fairly.

So what would a rights-based approach applied to holding policing to account look like? Here I draw heavily upon the work of my former colleagues in the Human Rights Commission who have articulated this model for application across public services in Scotland.

A Human Rights based approach was initially developed to put people at the centre of international developments. However, it is now widely applied to a range of public services. In essence, it integrates the norms, standards and principles of the international human rights system into policy formulation and day to day operational practices. It goes beyond the Human Rights Act 1998 and includes other, international human rights treaties ratified by the United Kingdom which are legally binding in Scotland. A Human Rights Based Approach is simply a means of putting people and their rights at the centre of all policies and practices. It's a way of operating that is designed to increase the ability

of those with responsibility for fulfilling rights, to recognise and respect the rights of others, and ensure they can be held accountable for their actions. In summary, it empowers right holders (the public) and increases the accountability of duty bearers (the police and policing bodies).

An excellent example of a rights based approach is that developed and applied by the Northern Ireland Policing Board. The Policing Board monitors the Police Service Northern Ireland's compliance with the Human Rights Act. It does so against the backdrop of a comprehensive Code of Ethics that is binding on all police officers and police staff, and against criteria set out in a Human Rights Monitoring Framework. These were developed by its Human Rights Advisors, most prominently Keir Starmer QC, the current Director of Public Prosecution for England and Wales. This triple check – Code, Framework and Advisors – allows the Human Rights and Professional Standards committee of the Policing Board to review complaints and disciplinary matters brought against police officers. It enables them to hold the police to account for their acts and omissions. This committee also liaises with the Police Ombudsman and the Human Rights Commissioner for Northern Ireland on a regular basis. Finally, it checks on the effectiveness of the training provided and the application of this in practice, as part of the Annual

Performance Review appraisals. Consequently, the assurance that the Northern Ireland Policing Board provides to the public is substantial.

On leaving Northern Ireland to take up his appointment as President of ACPO, Sir Hugh Orde acknowledged the powerful impact of a human rights based approach, combined with the oversight of the Police Ombudsman, in securing the confidence of the public in policing. He freely conceded that this combination of accountability provided a high degree of assurance to him in his role as Chief Constable, and to his officers in their exercise of policing. Not surprisingly, he sees the future of policing inextricably bound up with the adoption of a human rights based approach.

Consider also the guidance published by the Association of Police Authorities (the APA), a body that covers England and Wales and Northern Ireland. This enables members of police authorities to monitor the compliance of their police forces with the Human Rights Act – a statutory duty in England and Wales - and strengthens the accountability of the police to the public.

The APA recognise that professional standards go to the heart of policing, affecting trust and confidence in the police, the cooperation of

the public with policing, and the experience of policing as service provided to communities. This guidance reflects the approach of Scottish bodies, but has the benefit of being codified. Here I quote from the guidance. “Effective policing depends on the consent and co-operation of the public. The manner in which professional standards are dealt with is central to preserving the trust and confidence on which this depends. The scrutiny of this area is therefore a key responsibility of police authorities, and is fundamental to their role in ensuring that police forces are efficient and effective, and uphold the trust invested in them by communities”.

What is common to both the examples I have cited is recognition that policing needs to be held to account, and that the adoption of a human rights based approach is crucial to securing the confidence of the public.

Whatever changes are introduced in response to criticism of the current composition and governance of Police Authorities and Policing Boards in Scotland, this is the direction of travel. Other European policing bodies are adopting a Human Rights Based Approach. The Council of Europe adopted a European Code of Police Ethics in 2001. Earlier this year, its Human Rights Commissioner, Thomas Hammarberg, confirmed the fundamental importance of an independent and effective complaints

system to the practice of policing in a democracy. He stressed the need for an inclusive approach, one that ensured that no barriers were placed in the way of anyone – whatever their status – who wished to bring a complaint. Not surprisingly, he reinforced the importance of a rights based approach.

In Scotland, this whole area is very much work in progress. It's an area that I as Commissioner am committed to developing, building upon the ACPOS Statement of Ethics and the interest of the Convenors Forum in enhancing the scrutiny of complaints against the police. We will also add value by working with the Scottish Human Rights Commission and other public bodies whenever possible. You may have seen the publicity that attended our publication of the Annual Statistical Return of complaints against the police last week. It shows an overall increase in the number of complaints received, perhaps not surprising given the scale and range of police operations and the growing tendency to question standards of service. However, our experience is that the demographical make up of the complaints we receive at the Commission is narrow. Accordingly, we have commissioned some research that will be published next year.

I mentioned the Code of Ethics that every police officer in Northern Ireland carries. They are held accountable for behaving in accordance

with its principles. The Code emphasises the importance of non discrimination. Non discrimination and equality are core aspects of international human rights law. I want to ensure that as far as is possible Scotland takes seriously Thomas Hammarberg's requirement - that the police complaints system is "understandable, open and accessible, and has positive regard to and understanding of issues of race, gender, ethnicity, religion, belief, sexual orientation, gender identity, disability and age". And that it is efficient and properly resourced.

I want to ensure that if you have a complaint or issue with any policing body in Scotland, the PCCS is there to provide assurance that you are treated in accordance with a rights based approach.

In the years ahead I have no doubt that the range of police cap badges and agency warrant cards will reflect the challenges of balancing neighbourhood and national interests. However, I can assure you that no matter where in Scotland you live - and no matter which policing body you come into contact with - there is a single, independent body that can review how your complaint was handled. Whether it's an officer on patrol in any city, town or village in Scotland, a member of SOCA or the British Transport Police, whether it's a complaint about community or counter terrorism policing, PCCS can hold them to account if necessary using

the same powers and approach consistently across each organisation. To that end, I expect to conclude discussions with the UK Borders Agency, the Ministry of Defence Police and Revenue and Customs in the year ahead, to extend our oversight of complaints handling to these bodies.

I believe that we need to ensure that the principles of a Human Rights Based Approach are embedded from day one in any police officer's career; from the first day of training and continuing throughout every day of operational duty. Only in this way can we realize the potential to create a virtuous circle that meets both the letter and the spirit of the Human Rights Act.

If the police respond positively to complaints and those who make them, it can have a beneficial effect on their role, leading to increased confidence and trust, making police work easier to do.

Where the challenge emerges is in balancing the complex and multiple functions of modern policing with the rights of the individual, as enshrined in the Human Rights Act and articulated in the Scottish Government's goal of a safer, stronger and fairer Scotland.

As I have said, public confidence in the police is linked to how they handle complaints made about them and strong internal governance provided by police authorities and joint policing bodies goes a long way towards that. However, the assurance provided by the existence of an independent body with strength and powers to hold the police to account where necessary, is also fundamental to securing that confidence.

That's why I have emphasised the need to recognise the constitutional guarantee to the people of Scotland - provided by the statute that established the PCCS - in my submission to the Committee dealing with the Public Service Reform Bill.

I've said that this is a shared agenda. We all need to raise our game. At PCCS we are getting ourselves into shape for the future. In the last three months we have invested in training for our case officers to ensure that they have the right skills to be able to talk to the public about their complaints, and that they have the analytical skills necessary to understand the complex issues and threads of accounts that make up every complaint we receive. And we have advised ACPOS and the Convenors Forum that we are willing to share our experience with the police and policing bodies. Indeed, just a few days ago I hosted my second seminar for PCCS staff and representatives of all of Scotland's police forces.

We must be fit for purpose. And balanced in our approach. We also need to keep up to date with policing practices. And to remember that the rights of those who complain need to be balanced against the rights of those police officers who are subject to complaint. To that end, we are well on the way to agreeing with ACPOS the secondment of serving police officers to the team, where that can be shown to add value to my work and help secure public confidence in policing.

I've said that much of my role can be defined as providing assurance – assurance to those who bring complaints, assurance to the police and policing bodies dealing with complaints, and assurance to the public and to the Scottish Ministers that we have a system that represents best professional practice.

For the public, this means that anyone with a complaint about the police has a place to go that sits outside the police framework of Divisional Command or the Police Authority. The PCCS also assists those who don't have a complaint, providing tacit assurance simply through our existence that there is someone checking that the police have the right procedures in place and that they are following them.

This holds true for the politicians too, I send regular reports direct to the Cabinet Secretary for Justice and his Department to advise them of the results of my office's reviews and audits of the police in Scotland. This provides assurance to Scottish Ministers that the police have robust processes and procedures in place to deal with complaints. Also, if I have identified an issue so important or widespread that I believe it warrants greater scrutiny, my powers allow me to bring this to the attention of the Scottish Ministers.

For the police there is the assurance of knowing that their systems are being scrutinised and evaluated independently by PCCS, and that there is a mechanism within PCCS to acknowledge and share best practice amongst Scotland's police.

I see partnership working not just within the police but within oversight bodies as part of the future. We don't exist in a vacuum here in Scotland, the pressures and demands that the police are facing, and the concerns and issues that the public have, are mirrored not just in the UK and Ireland but elsewhere in Europe.

Next year I am hosting a conference in Scotland for the UK and Irish oversight bodies – Police Ombudsman of Northern Ireland, Garda

Siochana and Independent Police Complaints Commission to discuss ways of working together, as well as sharing experience and expertise.

Just last month, one of my team attended the European Partners against Corruption (EPAC) conference to progress the draft principles for a pan-European approach to complaints about the police.

Those two events sum up the future of police oversight as I see it: Scotland's own effective, independent and strong Police Complaints Commission with powers to hold the police and policing bodies to account, sitting alongside and working with similar bodies in the UK and elsewhere in Europe.

If I am persuaded that I need additional powers to ensure that I can deliver impartial oversight and reform in Scotland's police complaints handling, that the statute needs to be revisited, then that's what I will push for. Already after just a first few months in office, I can see how you could put forward an argument for the role of the Commissioner to change and expand just as policing itself is changing. In the year ahead I will evidence the need for such additional powers to the Scottish Government and the Cabinet Secretary for Justice.

Thank you.

