

## **Lothian and Borders Police Board**

**Haddington, 15 November 2010**

**Present:**

**City of Edinburgh Council** – Councillors Whyte (Convener), Dawe, Dundas, MacLaren, Milligan, Mowat and Tymkewycz.

**East Lothian Council** – Councillors MacKenzie (Vice-Convener) and Mackinnon.

**Midlothian Council** – Councillors Moffat and Russell.

**Scottish Borders Council** – Councillor Logan.

**West Lothian Council** – Councillors Cochrane, Day and Muir (Vice-Convener).

### **1 Implementation of Regulation A19**

#### **(a) Deputation – Scottish Police Federation (SPF)**

The Board heard a deputation from David Grady, Chairman and Jackie Muller, Secretary, Scottish Police Federation (SPF) (Lothian and Borders Branch) on the proposals.

The SPF expressed concerns about the negative impact implementation of Regulation A19 would have on the ability of the Force to retain experienced police officers and ultimately to continue to be able to deliver an effective policing service within Lothian and Borders.

The deputation urged the Board to retain the status quo in terms of policy and procedure and not to implement Regulation A19.

The Convener thanked the deputation for their comments and invited them to stay for the debate on the matter.

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**(b) Deputation – Association of Scottish Police Superintendents (ASPS)**

The Board heard a deputation from Chief Superintendent Common on behalf of the Association of Scottish Police Superintendents (ASPS) supporting the views expressed by the Scottish Police Federation delegation. ASPS were concerned that the implications of implementing Regulation A19 had not been fully considered by the Force. The loss of experienced officers would undoubtedly have an adverse effect on operational risk and command resilience.

The Convener thanked the deputation for their comments and invited them to stay for the debate on the matter.

**(c) Report by the Chief Constable**

The Chief Constable had put forward proposals regarding implementation of Regulation A19 of the Police Pension Regulations 1987. The legislation would allow the Board to compulsorily retire any police officer with at least 30 years pensionable service up to and including the rank of Chief Superintendent in the general interests of efficiency.

The Board was also asked to consider delegating powers to the Chief Constable to facilitate implementation of Regulation A19 with the Board's Appeals Sub-Committee acting as the appeals body.

**Motion**

- 1) To approve the policy and associated procedures relating to implementation of Regulation A19 as detailed in the report by the Chief Constable.
- 2) To delegate authority to the Chief Constable to facilitate implementation of Regulation A19 but that the Chief Constable and the Board Solicitor report to the next meeting of the Board clarifying the process by which the Chief Constable would make recommendations to the Board (and the role of the Convener in that process) as detailed in paragraph 4.10 of the Chief Constable's report.

- moved by Councillor Whyte, seconded by Councillor Muir

**Amendment**

- 1) To continue consideration of the matter until after the Scottish Government Budget announcement on 17 November 2010 and to allow the Chief Constable to hold further discussions with the Scottish Police Federation.

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- 2) To ask the Chief Constable to report to the next meeting of the Board on the potential effect implementing Regulation A19 would have on the future delivery of the policing service in Lothian and Borders.
- moved by Councillor MacLaren, seconded by Councillor Tymkewycz

**Voting**

For the motion - 6 votes  
For the amendment - 9 votes

**Decision**

To approve the amendment by Councillor MacLaren.

(Reference – report by the Chief Constable 2 November 2010, submitted)

## **2 Minutes**

**Decision**

- 1) To approve the minute of the Police Board of 30 August 2010 as a correct record.
- 2) To note the minute of the Sub-Committee Dealing with Complaints Issues (Dip Sampling) of 27 September 2010.
- 3) To note the minute of the Sub-Committee Dealing with Complaints Issues of 27 September 2010.
- 4) To note the minute of the Police Liaison Group of 11 October 2010.
- 5) To note the minute of the Sub-Committee Dealing with Complaints Issues of 21 October 2010.
- 6) To note the minute of the Sub-Committee Dealing with Complaints Issues of 25 October 2010.
- 7) To note the minute of the Audit and Scrutiny Committee of 1 November 2010.
- 8) To note the minute of the Appointment and Remuneration Committee of 2 November 2010.

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### **3 Audited Statement of Accounts 2009-2010**

The Audited Report and Accounts for the financial year 2009/10 were submitted.

There were no qualifications to the Auditor's opinion in the Audit Certificate and it was concluded that the financial statements presented fairly the Board's position and that they had been properly prepared in accordance with relevant legislation and accounting requirements.

Councillor Russell, Convener of the Audit and Scrutiny Committee advised that the Committee had considered the Audited Report and Accounts in detail and had made no additional recommendations to the Board.

#### **Decision**

- 1) To note the audited statement of accounts for 2009-2010.
- 2) To note the comments by Councillor Russell.

(References – Audit and Scrutiny Committee 1 November 2010 (item 3); report by the Treasurer 4 November 2010 and audited statement of accounts for the year ended 31 March 2010, submitted)

### **4 External Audit - Report to Members on the 2009/10 Audit**

The External Auditor's report to members and the Controller of Audit on the 2009/10 Audit was presented. The overall conclusion of the Auditor was that the financial stewardship of the Board in 2009/10 was satisfactory. Key risk areas and planned management action were detailed in the Action Plan appended to the Auditor's report.

Councillor Russell, Convener of the Audit and Scrutiny Committee reported that the Committee had considered the External Auditor's Report in detail and had made no additional recommendations to the Board. Update reports on progress made towards achieving the targets set out in the Action Plan would be presented to the Committee as appropriate.

#### **Decision**

- 1) To note the External Auditor's report on the 2009-2010 audit.

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- 2) To note the comments by Councillor Russell.

(References – Audit and Scrutiny Committee 1 November 2010 (item 4); report by the Treasurer 4 November 2010, submitted)

## **5 Revenue and Capital Monitoring Report 2010/11**

The Revenue and Capital Budget position of the Board for the period to 30 September 2010 was submitted. The overall surplus on the revenue budget for the period under review was £3.761m. The Board had incurred gross expenditure of £107.835m resulting in an underspend of £0.300m. It was anticipated there would be a surplus of £0.218m compared with the budget set by the Board on 25 January 2010.

A total net expenditure on capital projects for the six-month period was £1.716m with the full year planned expenditure totalling £5.541m.

### **Decision**

- 1) To note the report.
- 2) To note that the Chief Constable intended to report to a future meeting of the Board with details of the costs and impact associated with policing the Climate Camp for Action 2010 and the State Visit of Pope Benedict XVI.

(References – Audit and Scrutiny Committee 1 November 2010 (item 7); report by the Chief Constable 2 November 2010, submitted)

## **6 Budget Planning 2011-12 to 2013-14**

The Board had previously noted that a medium term financial plan would be prepared for 2011/12 and beyond.

An update was given on the financial planning being undertaken to present a budget proposal and financial plan to the Police Board meeting on 31 January 2011.

### **Decision**

- 1) To note the financial planning process and assumptions being adopted.
- 2) To note that the budget proposal to be presented to the Board on 31 January 2011 would provide members with a three-year financial plan together with a strategy in respect of the use of general fund reserves.

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- 3) To agree that the Chief Constable, in consultation with the Convener and Treasurer, be authorised to approve costs arising from the acceptance of voluntary redundancy measures to release police staff on the basis that these costs could be met from the Board's revenue budget for 2010-11.
- 4) To note that voluntary redundancy costs would be reported to the Board meeting on 31 January 2011.

(References – Police Board 25 January 2010 (item 8); report by the Treasurer 4 November 2010, submitted)

## **7 Policing Performance – 1 April 2010 to 30 September 2010**

The Chief Constable provided members with an update on major operational issues and events currently being progressed locally and at a national level by the Force. The Force had also been honoured with five awards at the Scottish Policing Awards in the following categories:

Making Justice Work – “A” Division Serious and Organised Crime Unit  
Making Communities Safer – Operation Algebra  
Making Communities Safer – Operation Focus, West Lothian  
Making Communities Safer – Moving Midlothian Forward  
Making Justice Work – Delphinus, Edinburgh

The Scottish Parliament had passed new legislation in relation to access to a solicitor for people held in police custody. This was in response to the decision by the UK Supreme Court on the Cadder case.

A summary was also provided of key areas of performance in respect of the Force's operational priorities for the period 1 April 2010 to 30 September 2010 including terrorism, drugs, violence, public protection, serious organised crime groups and antisocial behaviour.

The statistics showed a decrease in overall recorded crime compared to the same period in 2009.

The Audit and Scrutiny Committee had considered the policing performance report in detail and had asked the Chief Constable to provide further information to their next meeting on the issue of antisocial behaviour and fixed penalty notices.

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**Decision**

- 1) To note the Policing Performance report for the period 1 April 2010 to 30 September 2010.
- 2) To agree that future performance information would be examined in detail at the Audit and Scrutiny Committee and that any key issues emerging from those discussions along with a summary report and dashboard would be submitted to the Board for consideration.
- 3) To recognise the exceptional work undertaken by the local policing team in East Lothian and, in particular, the professional and caring manner in which they dealt with the recent fatal road traffic accident in Gullane.
- 4) To congratulate the Force for the overall reduction in recorded crime and to note the contribution by community based police officers in tackling anti-social behaviour.
- 5) To note that the Chief Constable intended to provide a breakdown of data by local authority area in future performance reports.

(References – Audit and Scrutiny Committee 1 November 2010 (item 9); report by the Chief Constable 2 November 2010, submitted)

**8 Investigation of Complaints About the Police – Statistical Return 1 April 2010 to 30 September 2010**

An analysis was provided of the numbers and types of complaints received for the period 1 April 2010 to 30 September 2010 including comparable figures for the equivalent period in the previous year. A total of 415 formal complaints had been recorded compared to 468 for the same period in the previous year.

A breakdown of the complaints by category and geographical division and the reasons for the fluctuation in the numbers of complaints recorded was also submitted.

**Decision**

To note the information.

(Reference – report by the Chief Constable 2 November 2010, submitted)

## **9 Transforming the Service Update**

The Force had established the Transforming the Service (TTS) Programme to identify changes required to prepare the Force for financial challenges in the future.

An update was provided on progress being made with the individual work-streams within the Programme.

Arrangements had been made to hold a seminar for elected members in Force Headquarters on 2 December 2010. The aim of the seminar was to enable members to engage in further discussions with the Force Executive, influence priority setting and contribute to the development of the Force budget. Members would also be given the opportunity to discuss the principles and rationale behind the TTS Programme.

### **Decision**

- 1) To note the update.
- 2) To note the seminar arrangements.

(References – Police Board 30 August 2010 (item 11); report by the Chief Constable 2 November 2010, submitted)

## **10 Career Break Scheme for Police Officers – Monetary Incentive**

Details were given of proposals to amend the Force's Career Break Policy for Police Officers to include provision for a monetary incentive for officers granted a career break of between three and five years.

It was also proposed to set aside the restriction on an officer's ability to undertake non-casual employment during a career break.

### **Decision**

- 1) To set aside that part of the Career Break Policy restricting an officer's ability to undertake non-casual employment during a career break as detailed in paragraph 2.5 of the report by the Chief Constable.
- 2) That the Chief Constable submit a further report to the Board on family-friendly policies and procedures available to officers on a career break.

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- 3) That the Chief Constable report to the next meeting of the Audit and Scrutiny Committee exploring further options for financial incentives and how these could be applied within the Career Break Policy.

(Reference – report by the Chief Constable 2 November 2010, submitted)

## **11 Corporate Risk Register**

The Risk Management Group had reviewed the Force's Corporate Risk Register. The updated Register would be used to develop improvement plans to control risk and increase confidence in meeting identified objectives. There would also be an annual audit of the implementation of the actions outlined in the Register.

### **Decision**

To note the updated Corporate Risk Register.

(References – Police Board 16 November 2009 (item 8); report by the Chief Constable 2 November 2010, submitted)

## **12 Chief Constable's Bi-Annual Property Report – 1 April 2010 to 30 September 2010**

The Chief Constable's bi-annual property report for the first half of the financial year 2010/11 was submitted. The report detailed information on income and expenditure in relation to contracts for works and contracts for property dealt with by the Chief Constable under his delegated powers.

### **Decision**

To note the property related matters addressed by the Chief Constable under delegated powers for the first half of the financial year 2010/11 as detailed in Annex A to the report by the Chief Constable.

(Reference – report by the Chief Constable 2 November 2010, submitted)

### **13 Partnership Working – East Lothian Community Planning Partnership**

Details were given of the work being undertaken by East Lothian Community Planning Partnership. Six thematic groups with representation from across the Partnership worked together to agree and deliver action plans for their specific areas of responsibility as follows:

- Children, young people and education
- Housing, environment and places
- Community safety
- Enterprise and skills
- Health and social care
- Tackling poverty

Information was also given on various successful initiatives and projects undertaken by the Partnership in East Lothian.

#### **Decision**

To note the report.

(Reference – report by the Chief Constable 2 November 2010, submitted)

### **14 Provision of Information**

Information was given on procedures in place and ongoing work within the Force to ensure that all relevant information and communications with members of the public were provided in appropriate languages and formats.

#### **Decision**

To note the report.

(Reference – report by the Chief Constable 2 November 2010, submitted)

### **15 Healthcare for People in Police Custody**

Details were submitted of negotiations currently taking place between the Force and NHS Lothian with a view to providing a new medical service based within the custody suites in Edinburgh and the Lothians. Contact had also been made with NHS Borders in this regard.

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**Decision**

To note the information.

(Reference – report by the Chief Constable 2 November 2010, submitted)

**16 Custody Visiting Scheme – Appointment of Custody Visitors**

Approval was sought to appoint two Custody Visitors from the list of reserve candidates.

**Decision**

- 1) To appoint Gary Ward and Angas Wilson as Custody Visitors for a three year period to 15 November 2013, subject to receipt of acceptable references and full background checks.
- 2) To delegate authority to the Chief Executive and Clerk, in consultation with the Convener, to confirm their appointments following the successful completion of the probationary period and the receipt of satisfactory references and successful background checks.

(References – Police Board 30 August 2010 (item 21); report by the Chief Executive and Clerk 1 November 2010, submitted)

**17 Chief Police Officer Appointments**

The Cabinet Secretary for Justice had written to police authorities and boards asking them to discuss upcoming chief officer vacancies with the Scottish Government in advance of initiating a recruitment process. Police authorities and boards were also asked to agree contracts of no more than three years, in the first instance, when appointing chief constables and deputy chief constables.

**Motion**

To note the terms of the letter from the Cabinet Secretary for Justice.

- moved by Councillor Mackenzie, seconded by Councillor Tymkewycz

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**Amendment**

That the Convener write to the Cabinet Secretary for Justice noting the terms of his letter but indicating that Lothian and Borders Police Board wished to retain the right to discuss contract terms for chief officer appointments with the Scottish Government prior to the advertisement stage of the recruitment process.

- moved by Councillor Whyte, seconded by Councillor Mowat

**Voting**

For the motion - 3 votes  
For the amendment - 12 votes

**Decision**

To approve the amendment by Councillor Whyte.

(Reference – report by the Chief Executive and Clerk 28 September 2010, submitted)

**18 Review of Policing Structures in Scotland**

A Project Team had been established by the Association of Chief Police Officers in Scotland (ACPOS) to carry out a fundamental review of policing structures in Scotland. The Team aimed to examine existing structures and identify options which would allow the police to operate more efficiently whilst ensuring that the service continued to be delivered locally in an accountable and community focussed way.

Further work would now be taken forward by the Scottish Government in consultation with other stakeholders and would be reported to the Scottish Policing Board in December.

**Decision**

- 1) To note the ongoing review work.
- 2) To ask the Chief Executive and Clerk to consider ways in which the Board could be kept informed of the ongoing work at national level.

(Reference – Police Board 30 August 2010 (item 10); report by the Chief Executive and Clerk 8 November 2010, submitted)

## **19 Best Value – Recent Developments**

The Board had been invited to comment on the Accounts Commission and Her Majesty's Chief Inspectorate of Constabulary (HMICS) consultation document "Characteristics of a Best Value Police Force". A summary of the joint consultation response prepared on behalf of the Board and the Chief Constable was submitted.

Audit Scotland and HMICS had also issued guidance entitled "Best Value Audit and Inspection of Police" setting out the process by which the audit and inspection would be conducted.

### **Decision**

- 1) To note the joint consultation response submitted on behalf of the Board and the Force on "Characteristics of a Best Value Police Force".
- 2) To note the Best Value Audit and Inspection of Police Guidance document issued by Audit Scotland and Her Majesty's Inspectorate of Constabulary for Scotland.

(References – Police Board 30 August 2010 (item 15); report by the Chief Executive and Clerk 4 November 2010, submitted)

## **20 Appointment of Her Majesty's Inspector of Constabulary for Scotland**

The Scottish Government had appointed Andrew Laing, currently Deputy Chief Constable of Fife Constabulary, as Her Majesty's Inspector of Constabulary for Scotland with effect from 1 December 2010.

### **Decision**

To note the appointment.

(Reference – report by the Chief Executive and Clerk 12 October 2010, submitted)

**21 Her Majesty's Inspector of Constabulary for Scotland – Annual Report 2009-10**

**Decision**

To note that Her Majesty's Inspector of Constabulary for Scotland (HMICS) had published his Annual Report for 2009-10.

(Reference – report by the Chief Executive and Clerk 4 November 2010, submitted)

**22 Scottish Police Authorities Conveners Forum - 31 August 2010**

**Decision**

To note the minute of meeting of the Scottish Police Authorities Conveners Forum of 31 August 2010.

(Reference – minute of meeting of the Scottish Police Authorities Conveners Forum 31 August 2010, submitted)

**23 Retirement of Tom Aitchison, Chief Executive and Clerk**

The Convener and members thanked Tom Aitchison for his contribution and commitment as Chief Executive and Clerk to the Police Board and wished him a long and happy retirement.

**24 Police Pensions Regulations 1987 – Regulation C8 (Payment of Widow's Requisite Pension) and Regulation C9 (Termination of Widow's Pension on Remarriage/Cohabitation)**

The Board resolved, in terms of Section 50(A)(4) of the Local Government (Scotland) 1973, that the public be excluded from the meeting during consideration of the following item of business on the grounds that it involved the disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 7(A) of the Act.

The Board was asked to consider the circumstances around applying Regulation C8 or Regulation C9 of the Police Pensions Regulations 1987 in the case described in the report by the Chief Constable.

The Solicitor to the Board had provided legal advice on the matter.

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**Decision**

To agree that Regulation C9 of the Police Pension Regulations 1987 applied in this case as detailed in the confidential statement signed by the Convener relative to this minute.

(Reference – report by the Chief Constable 6 September 2010, submitted)