

Oversight, scrutiny and review workstream report

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Independent advisory group on emerging
technologies in policing

Oversight, scrutiny and review workstream report

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Executive summary

Work stream 4 focused on the Oversight, Scrutiny and Review of projects and initiatives that look to achieve benefits to communities through the implementation of new and emerging technology in Policing.

The Policing of Scotland gains its legitimacy through the principle of policing by consent. That consent is based on the decisions of the Chief Constable and the Police Service of Scotland being legal, explainable, justifiable, and proportionate whilst being subject to the oversight of the Scottish Police Authority who do so with a focus on the public interest.

It is acknowledged that ambiguity and uncertainty will often feature when considering novel policing technology and deployments. When faced with this ambiguity, assessing the available evidence, identified risk and associated mitigation and ensuring transparency will contribute to an informed assessment of the benefits and potential dis-benefits with the potential implementation of any new technology.

In justifying decisions and making them explainable, the policing system must be able to demonstrate that it has taken into account legal, ethical and human rights considerations in arriving at those decisions, balancing the rights of the individual with the need to protect all citizens in their communities. It is this balance that must be judged in taking forward proposals for the adoption of new technologies that assist policing in its primary function of ensuring safety and wellbeing.

The introduction of new and emerging technology in policing should be guided by the 'proportionality principle' in approaching the challenge of uncertainty when considering a public interest assessment of a proposed new technology or deployment. The 'proportionality principle' is based on what is legal, legitimate and democratic, but take cognisance that many operational policing scenarios involve the need to carefully balance the rights of individuals to address threat, risk and harm.

Police Scotland and the Scottish Police Authority, through the personal commitments of the Chief Constable and Chair, have published a memorandum of understanding that outlines the principles through which decision making and engagement will be conducted to ensure the principles of policing by consent are safeguarded, this includes any decisions on the introduction of new and emerging technology. There has been a great deal of progress since 2019 to establish robust processes and mechanisms to underpin this ethos.

Workstream 4 has identified several key considerations that look to build on, and solidify, the recent progress that has already been made in the oversight, scrutiny and review of new technology initiatives. These considerations are:

Key Consideration 1: The SPA and PS should continue to use and enhance the arrangements set out in the MoU to ensure any future implementation of technology has had the widest possible appropriate and early engagement and consideration.

Key Consideration 2: SPA Committees may consider to inform their consideration of proposals by inviting external subject matter experts or representation from professional reference or ethics advisory panels to provide evidence or advice on the impact that a specific technology may, or is, having on society.

Key Consideration 3: Following the above process the SPA should continue to require assurance that external evidence and advice has been sought and considered and that engagement with partners and the public has been undertaken to inform the approach to embedding specific technologies in Policing.

Key Consideration 4: The SPA and PS should continue to use, embed and continually improve the processes set out in the above sections. The SPA and PS should work to develop a sixth ethics and human rights case in Business Cases underpinned by a suitable framework which would inform decision making through consideration of data ethics and wider consideration of equality, privacy and human rights issues. (See Appendix 3 – Draft proposals for Oversight of Ethical Considerations in Policing)

Key Consideration 5: The SPA and PS should develop a wider framework which sets out a suitable process for all ethical considerations, this should serve to guide the creation of a sixth ethics and human rights case which would be included in Initial and Full Business Cases. (See Appendix 3 – Draft proposals for Oversight of Ethical Considerations in Policing)

Key Consideration 6: The process to gain approval to adopt the Data Ethics Framework across the policing system continues and that a light touch review is undertaken 12 months after the roll out to quantify the benefits realised.

Part One – Oversight, scrutiny and review

Introduction

Technology now touches every corner of our lives. Policing is no different, with police services across the globe increasingly looking to technology to support them in their role to keep people and communities safe. However, the adoption of technology is not always straightforward, and may pose ethical dilemmas that need to be taken into account in decision making.

In June 2019 the then Cabinet Secretary for Justice announced the formation of an Independent Advisory Group (IAG) to scope the possible legal and ethical issues arising from emerging technological developments in policing. The purpose of the IAG is to ensure Police Scotland and the policing system's use of emerging technologies in relation to their role to keep people and communities safe through operational policing is compatible with equality and human right legislation and best practice.

Work stream 4 is focused on the Oversight, Scrutiny and Review of projects and initiatives that look to achieve benefits to communities through the implementation of new and emerging technology in Policing.

The Policing of Scotland gains its legitimacy through the principle of policing by consent. That consent is based on the decisions of the Chief Constable and the Police Service of Scotland being legal, explainable, justifiable, and proportionate whilst being subject to the oversight of the Scottish Police Authority who do so with a focus on the public interest.

It is understood that ambiguity and uncertainty will feature regularly when considering novel policing technology and deployments. When faced with this ambiguity, assessing the available evidence, identified risk and associated mitigation and ensuring transparency will contribute to an informed assessment of the benefits and potential dis-benefits with the potential implementation of any new technology.

In justifying decisions and making them explainable, the policing system must be able to demonstrate that it has taken into account legal, ethical and human rights considerations in arriving at those decisions, balancing the rights of the individual with the need to protect all citizens in their communities. It is this balance that must be judged in taking forward proposals for the adoption of new technologies that assist policing in its primary function of ensuring safety and wellbeing.

Given this balance of the rights of the individual with the need to protect citizens in their communities there must be avoidance of an overemphasis on the 'precautionary principle' as the basis for decisions in the face of uncertainty. Some may interpret the principle as having a default position of change only when there is persuasive evidence that the introduction of a novel policing technology process or deployment has no risk of causing future harm. That means favouring a presumption against innovation on the grounds of uncertain evidence and potential however small, for causing future harm. Decision makers should have regard to the

precautionary principle but should not rely on a narrow interpretation for their final assessments. If this was the dominant principle it is unlikely there would be any positive decisions to support the introductions new technologies.

Instead the introduction of new and emerging technology in policing should be guided by the 'proportionality principle' in approaching the challenge of uncertainty when considering a public interest assessment of a proposed new technology or deployment. The 'proportionality principle' is based on what is legal, legitimate and democratic, but take cognisance that many operational policing scenarios involve the need to carefully balance the rights of individuals to address threat, risk and harm. Decision makers should have particular regard for the following:

1. Intended purpose and benefits realised under the policing purposes as defined under section 32 of the Police and Fire Reform (Scotland) Act 2012 regarding the duty to improve the safety and wellbeing of individuals and communities.
2. Lawfulness and regulatory compliance with particular regard to intrusion into citizens privacy and private lives such as surveillance techniques. The introduction of novel technologies by police services will regularly be the subject of challenge in the media and the courts. Open and transparent debate is a crucial aspect of public confidence.
3. Balance of evidence of future benefits offered and/or harm prevented with potential future dis-benefit or harm caused. Decision makers should exercise a 'public interest' approach with great care and with a clear view to protecting citizens safety and wellbeing and preventing harm while preserving all individual civil and human rights.
4. Affordability and best value.
5. Mitigating actions to reduce potential harms. This aspect is critical and in the hands of the Policing System in Scotland to ensure appropriate planning is in place.

Considered innovation is an essential component of the 'proportionality principle', allowing Police Scotland to continually improve its ability to address threat, risk and harm.

Police Scotland and the Scottish Police Authority, through the personal commitments of the Chief Constable and Chair, have published a memorandum of understanding that outlines the principles through which decision making and engagement will be conducted to ensure the principles of policing by consent are safeguarded, this includes any decisions on the introduction of new and emerging technology.

There has been a great deal of progress since 2019 to establish robust processes and mechanisms to underpin this ethos. Her Majesty's Inspectorate of Constabulary (HMICS), the inspection body for Policing and the Scottish Police Authority (SPA) have stated:

“HMICS considers the governance arrangements, which the Scottish Police Authority (SPA) and Police have in place, are continuing to mature and evolve to meet the ongoing needs of both organisations.”¹

“HMICS found evidence of genuine progress at the Scottish Police Authority over the previous 18 - 24 months. The appointment of experienced and talented individuals to both the Police Scotland senior leadership team and to the SPA Board, was a significant achievement. A new governance framework with a focus on transparency and accountability was put in place in May 2018 and is now being reviewed to address a number of areas for improvement and reflect the ever-changing policing landscape.”²

The following document provides an overview of the existing decision making, oversight and scrutiny framework that is in place to support the assessment of the potential adoption of new technology across the Policing System in Scotland.

The document is structured so as to follow the consideration and decision making pathway of technology adoption from initial idea/concept to business as usual adoption of the technology.

Overview of existing governance and assurance framework

The following diagram details the current process that any new and emerging technology project would now adhere to.

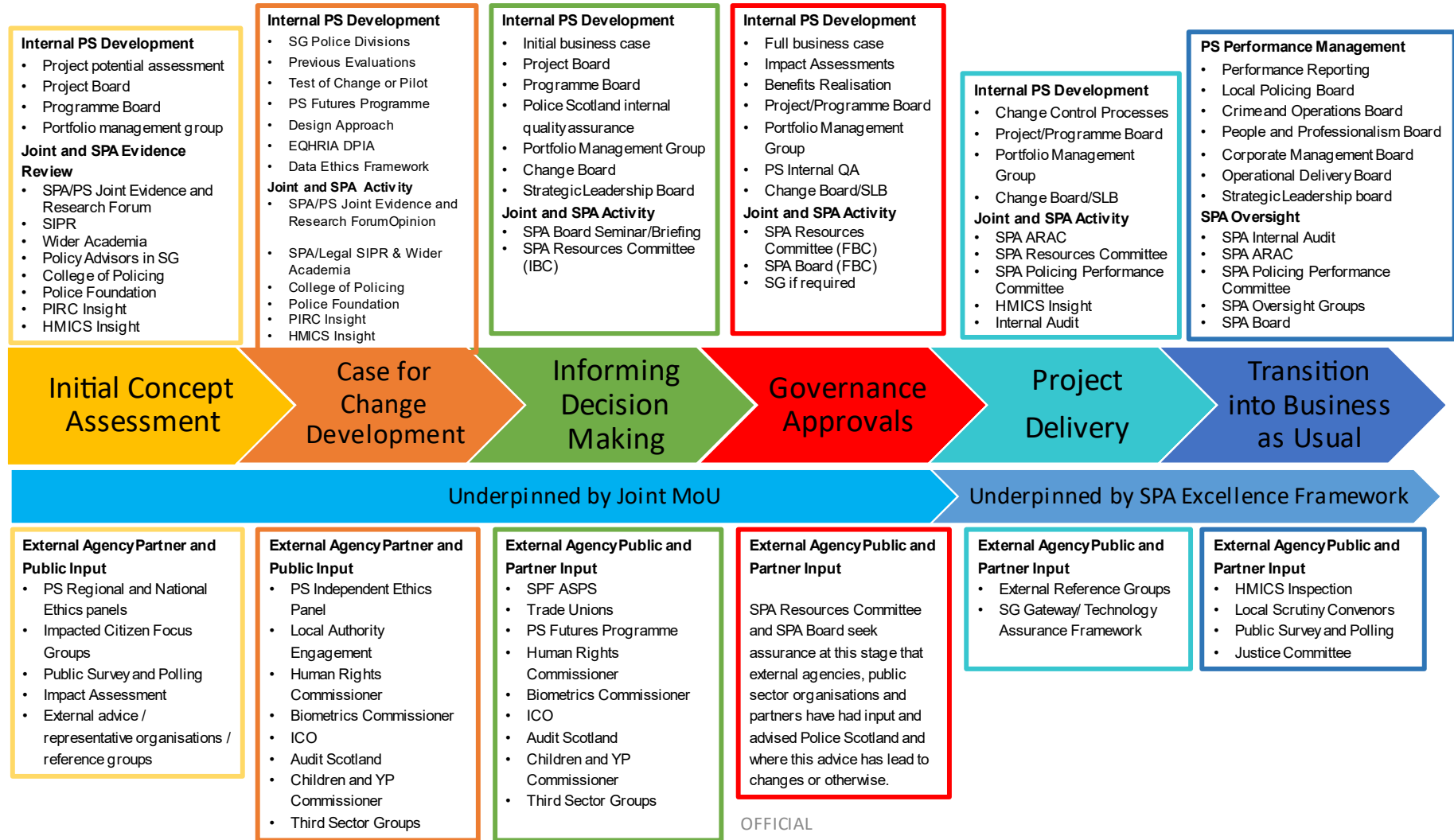
Although this diagram describes the process for a proposal originating and being developed by Police Scotland and that example is carried through this document for illustrative purposes, a similar process would be followed for any proposal being originated and developed through SPA Forensics Services. It should be noted that this process is able to be scaled depending on the size of the project.

It should also be noted that the consideration of new and emerging technology often commences prior to the formal governance route that is detailed below. An example of this would include during the development of strategies which will often involve complimentary research to identify a direction of travel and ambition for policing. These considerations can begin ahead of project initiation however will need to progress through the governance process detailed below.

¹ HMICS – Assurance Validation of Police Scotland Transformation Benefits 2020-211 (November 21)

² HMICS – Annual Report 2019 – 2020 (October 2020)

Figure 1. Programme and Project Lifecycle Process



Memorandum of understanding

The Authority's approach to the oversight of new and emerging technology is focused across the widest possible interpretation of change and continues to mature in partnership with Police Scotland and SPA Forensic Services. This partnership approach has benefited from early engagement between the Authority and the Policing System in a number of key areas.

The refreshed oversight approach, focused on the content, progress, pace and impact of change, will be driven and underpinned by a recently adopted [Memorandum of Understanding \(MoU\)](#) – developed jointly by the Authority and Police Scotland - which aims to ensure early visibility and oversight of any new and emerging strategy, policy or practice under consideration by Police Scotland or SPA Forensic Services. It is anticipated the adoption of new and emerging technology will be an area of significant consideration. The Authority's main focus will be on significant equalities, human rights, privacy or ethical concerns raised, or where the issue will have a significant impact on public perceptions of, or confidence in, policing. It also seeks to ensure the intended benefits of any new and emerging strategy, policy or practice is clearly set out by Police Scotland and that the adoption of technology improves the ability of operational policing to address threat, risk and harm.

The MoU provides appropriate opportunities for public discussion, local engagement and formal oversight and review. It aims to ensure that potential impacts on the public's rights, for example rights to safety and privacy, are considered, and that there is sufficient engagement by Police Scotland or SPA Forensic Services with stakeholders and the public to inform the development process.

This process is further enabled by an early assessment and prioritisation approach to innovations which will deliver impactful change, ensuring new innovations, such as new and emerging technologies, are planned and trialled in an engaging and inclusive way, which considers a wide range of views and opinions in order to inform decision making based on robust and transparent impact assessments.

The establishment of the MoU represents a significant step forward in the oversight of policing. Specifically, the MOU commits to early engagement between the SPA and Police Scotland 'when Police Scotland is considering a new and emerging strategy, policy or practice to improve the safety and wellbeing of persons, localities and communities in Scotland, and which are likely to be of significant public interest'. Previously only cases for change beyond certain financial thresholds would be presented to the SPA for consideration.

Given how recently the MoU has been adopted the full impact that this new way of working will have on the oversight and scrutiny of new and emerging technology remains to be assessed. As this approach is embedded over the coming months, case studies and lessons learned will be compiled.

Key Consideration 1: The SPA and PS should continue to use and enhance the arrangements set out in the MoU to ensure any future implementation of technology has had the widest possible appropriate and early engagement and consideration.

Underpinned by SPA Excellence Framework

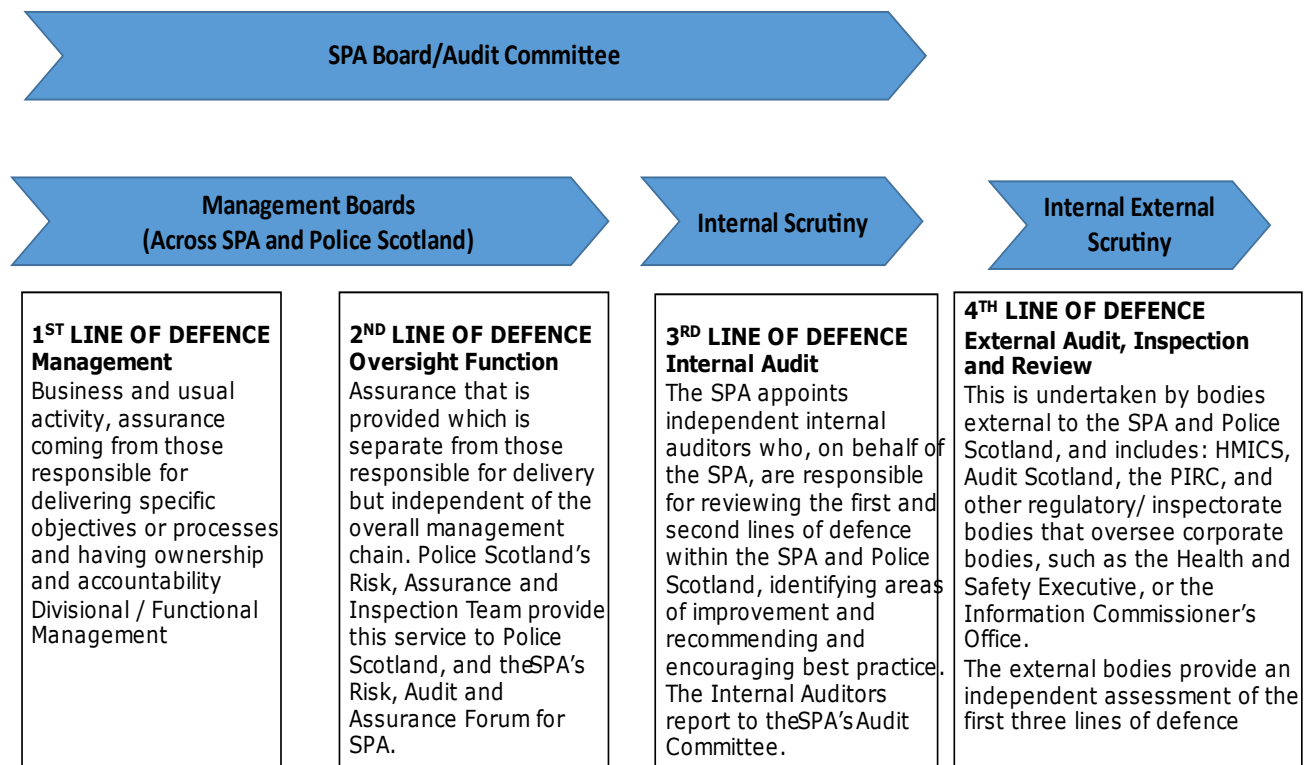
SPA excellence framework

Effective Scrutiny and oversight are key elements that ensure that policing retains the trust and confidence of Scotland. The SPA Excellence Framework is part of the SPA's overall Governance Framework. It provides a conceptual structure intended to serve as a guide for the building, and ongoing development, of an Audit, Risk and Assurance Programme to deliver excellence within SPA, and derive assurance around excellence within Scottish policing.

Practically, 'excellence' means ensuring that organisations have a clear understanding of their stakeholders, they develop ways to achieve or exceed expectations, they achieve excellent results today and in the future, and they communicate assurance effectively.

Recent experience has highlighted that this is particularly important when it comes to the adoption of new and emerging technology within policing.

A core component of the Excellence Framework is the 'Four Lines of Defence' model which is designed to assure effective and transparent management of control and risk by making accountabilities clear. The below diagram outlines how the four lines of defence model is applied by the SPA and other oversight functions.



OFFICIAL

First line of defence

Within the SPA there are many arrangements already in place that are used to derive assurance on how well objectives are being met and risks managed.

This form of assurance is produced by staff and management within or managing operations at a functional level, using business as usual activities such as good policy, performance data, risk registers, reports on routine system controls and other management information. Functional areas report into a Director, who in turns reports into the Chief Executive Officer.

Assurance in SPA Forensic Services operates through a separate Quality Management Framework that governs practices across the first two lines of defence, and reports into the SPA's Audit Committee and Forensic Services Committee.

This level of assurance provides indication that performance is being monitored, risks are being identified and addressed, and objectives linked to SPA plans such as the long term Strategic Police Plan Forensics Strategy and SPA Corporate Strategy are being achieved, however it may lack independence and objectivity. It does ensure that functional teams have ownership, responsibility and accountability for controlling and mitigating risks through their processes and day to day activities.

Second line of defence

The second line of defence is a within-organisation oversight function. It is a step away from those who are responsible for delivery, but still not independent of the SPA. The SPA's Risk, Audit and Assurance function falls into this level of defence responsible for conducting compliance assessments and reviews to determine that policies and procedures are being met in line with the expectations obligations. This line of defence assures, monitors and facilitates the effective implementation of the first line of defence activity. In Police Scotland, a Risk, Assurance & Inspection team carries out assurance activity at the second line of defence stage.

Third line of defence

This is objective and independent assurance, with the SPA's internal auditor forming SPA's third line of defence. An independent internal audit function will, through a risk-based approach to its work, provide assurance to the SPA, senior management, and our stakeholders. This assurance will cover how effectively the organisation assesses and manages its risks and will include assurance on the effectiveness of the first and second lines of defence.

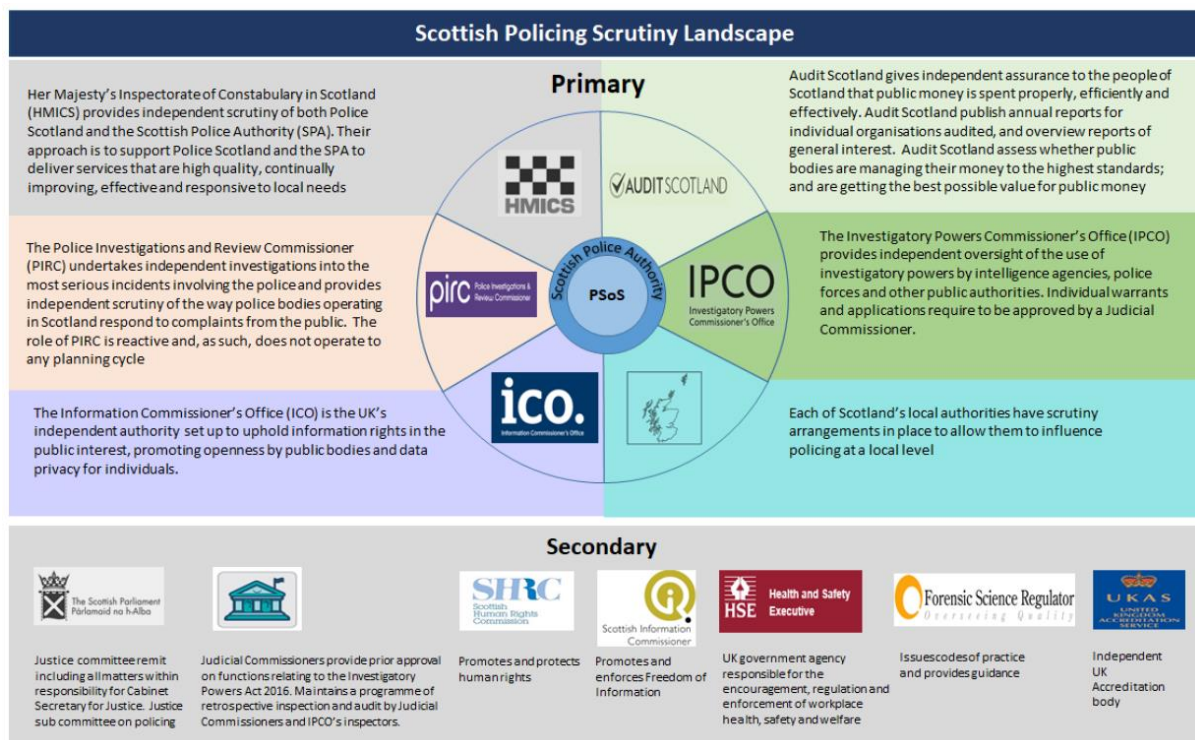
Importantly, in the context of SPA's role and its relationship with Police Scotland, the Third Line of Defence (Internal Auditors) extends and acts as a Third Line of Defence for Police Scotland.

Fourth line of defence

Assurance from external independent bodies, such as the external auditors Audit Scotland and other external scrutiny bodies form the fourth line of defence.

External bodies may not have the existing familiarity with the organisation that an internal audit function has, but they can bring a new and valuable perspective. Additionally, their outsider status is clearly visible to third parties, so that they can be independent, and also seen as being independent, for example HMICS, Audit Scotland, the Health and Safety Executive and the Information Commissioner's Office. The below figure summarises the key organisations that provide external assurance of Police Scotland activity. Some of these bodies such as the ICO will have greater involvement in activities related to new and emerging technology.

Figure 2. Scottish Policing Scrutiny Landscape

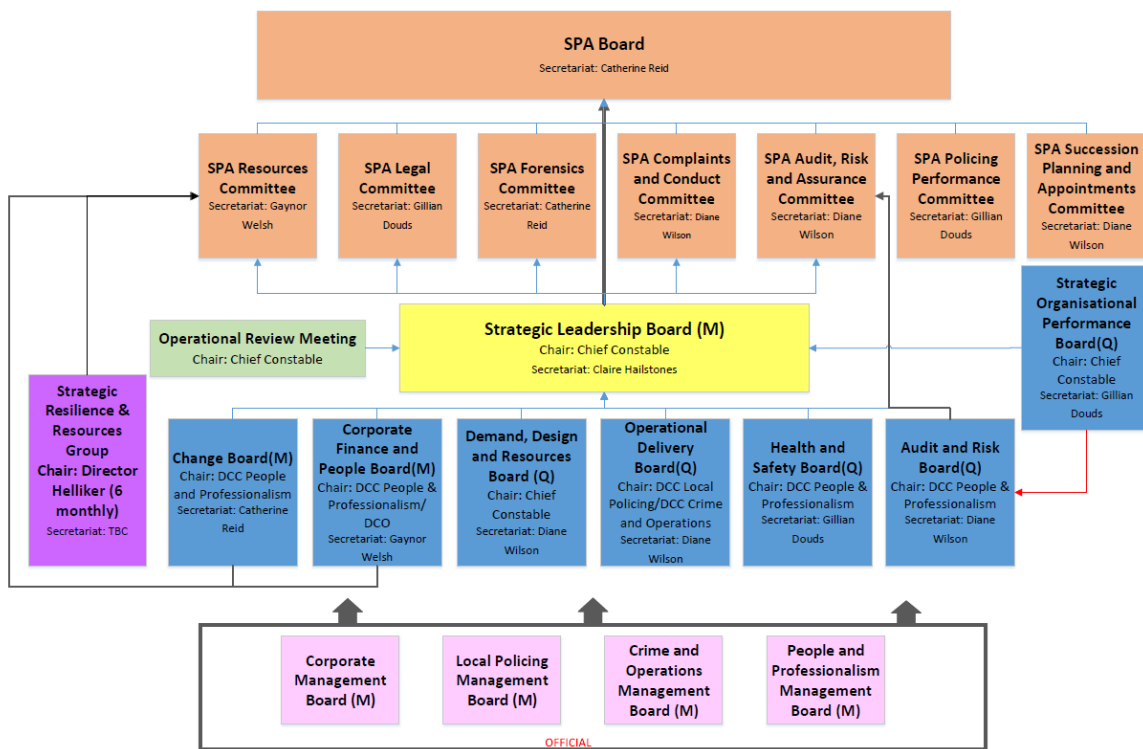


Decision making governance, oversight and scrutiny

The MoU described above is an addition, and does not replace any component, of the existing governance system that is in place across Police Scotland and the SPA.

The following section outlines the decision making governance framework that exists in Police Scotland and the Scottish Police Authority.

Figure 3. Police Scotland and Scottish Police Authority governance framework



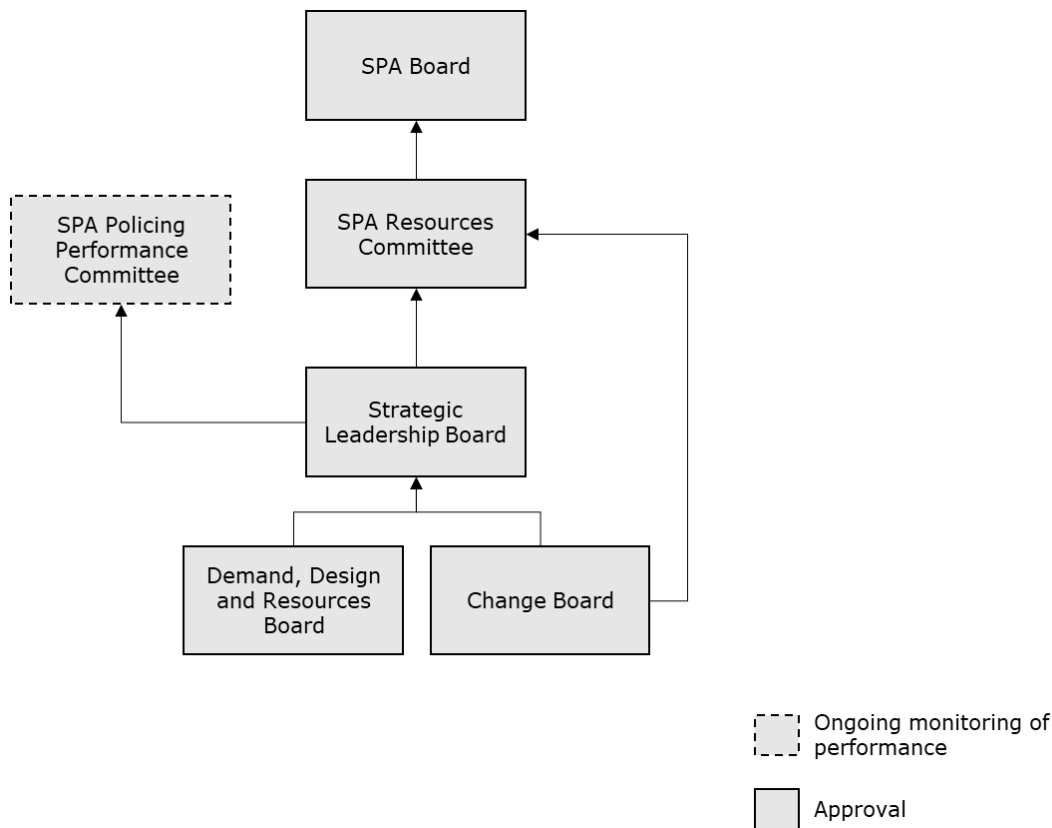
Although neither Police Scotland nor the SPA have a specific Board for consideration of new and emerging technology or ethics alone, many of the Boards detailed above will have a role to play in ensuring the highest standards are maintained.

For example, in the Terms of Reference (ToR) of the Corporate Management Board the ‘purpose’ includes:

- National consistent and equitable access to police services
- Improved outcomes for communities in Scotland

Figure 4 below outlines the most likely governance route that would be followed when considering the adoption of new technology.

Figure 4. Governance route for new and emerging technology



The role and remit of each of these boards is laid out in the Terms of Reference. The following section highlights any aspects of the ToR that are particularly pertinent to new or emerging technologies.

Change Board	To ensure all change activity aligns to Police Scotland's long term strategy To provide scrutiny and ensure accountability is being maintained by Senior Responsible Officers To consider, scrutinise and where appropriate, authorise requests for transformation budget spend
Demand, Design and Resources Board	To enable Police Scotland to strategically (re)align resources & develop capabilities to address threat, risk and demand in the short, medium and long term and progress from its current operating model to its Target Operating Model (TOM)
Strategic Leadership Board	To review and consider brief updates from Primary Boards and where relevant, ratify Primary Board decisions To discuss other relevant matters affecting the Force and approve, where appropriate, an agreed course of action
SPA Policing Performance Committee	Policing Performance Committee will not approve the adoption of new technology, however it will oversee

	<p>and scrutinise the performance and implications of any adoption.</p> <p>The purpose of this Committee is to provide oversight and scrutiny of continuous improvement in policing. It will do this through scrutinising policing performance against agreed strategies, plans and statutory requirements. The Committee will seek to continuously improve the way in which policing performance is measured and reported. The Committee will also consider any proposed changes to operational policing which may have particular public interest, ethical or human rights implications.</p>
SPA Resources Committee	<p>The Resources Committee will review and scrutinise business cases for adoption of technology and make recommendations to the SPA Board</p> <p>The purpose of this Committee is to provide oversight, scrutiny and assurance to the Board on all significant resources matters, including financial planning, performance and financial stewardship, and on significant people-related matters. The Committee will provide advice and assurance to the Board on these matters and any other specific items which the SPA Board requests of it in relation to financial sustainability, employee-related and other resourcing aspects of Police Scotland and the SPA. In addition the Committee will seek to ensure that continuous improvement is embedded within financial and people-management and development processes and procedures in line with Best Value principles, and will seek evidence of Police Scotland and SPA operating as responsible employers and of progress being made towards mainstreaming of equality, diversity and human rights.</p>
SPA Board	<p>As described above, the SPA's Resources and Policing Performance Committee will oversee and scrutinise situations where new and emerging technology meet certain thresholds or are of significant public interest. However, certain matters which may have implications for technology adoption are reserved for the SPA Board. These include, but are not limited to:</p> <ul style="list-style-type: none"> - Recommendation the Strategic Police Plan to SG for approval - Approval of local police plans - Approval of the strategic performance framework - Approval of organisational / transformational change proposals

Initial concept assessment

Initial Concept
Assessment

Internal police Scotland development

A proposal for a Project can arise from many different avenues and the organisation supports ideas from all parts of the organisation.

When a new concept or potential project is identified, including one containing a new and emerging Technology aspect, a Project Potential Assessment (PPA) is completed. This is a template and process for assessing whether or not an idea is a Programme, Project, Business as Usual, Continuous Improvement or Small Change Activity.

The PPA will ask high level questions regarding the idea on the following topics:

- Whether or not the idea has Business Change, Technology, Property, Construction
- Fit to Strategic Aims
- Benefits the idea may accrue
- Potential Risks the idea will manage
- Impact on business areas and the organisation
- Any high-level dependencies or stakeholders
- Initial/Potential timescales for delivery
- Any initial or potential costs known at this time
- Any initial or potential resources needed

The PPA is then submitted to an internal Project Board, Programme Board and ultimately the Portfolio Management Group. Portfolio Management Group is an internal forum where the Senior Responsible Owner for the Portfolio, Programme Managers, Project Managers and Change Staff give approval, challenge and appraise papers and business cases prior to them being submitted.

Evidence that may inform the PPA could come from a variety of different sources including the SPA and PS Joint Evidence and Research Forum, Scottish Institute for Policing Research, wider academia, Policy Advisors in Scottish Government, the College of Policing, Police Foundation, Police Investigation and Review Commissioner (PIRC) insight and HMICS insight. At this early stage of the project the information would already be available and it is expected that more bespoke research would form part of future phases in the project lifecycle.

A number of external agencies, partner and public input may also be gathered at this initial stage, this information could come from: PS Regional and National Ethics Panels; Citizen Focus Groups; Public Survey and Polling; Impact Assessments; External Advice from representative organisations or reference groups. As per the above at this early stage of the project the information would already be available and it is expected that more external agency, partner and public input would come at a later stage.

Case for change development and informing decision making

The Case for Change Development and Informing Decision Making steps should be detailed together. These two stages are connected and will ultimately lead to the creation of the Initial Business Case. The purpose of the Initial Business Case is to expand on the idea and to start exploring how the idea can be delivered as well as assessing the ethical, human rights, data privacy, equalities and other impacts of the proposed idea. The Initial Business Case should still be high level and should not identify the final method by which the idea will be delivered, instead it should touch on several options for delivery.

Case for
Change
Development

Informing
Decision
Making

The Initial Business Case will focus on a few main areas:

- High-level Benefit Identification
- Risks to the organisation the project will help manage
- Impact assessment and consideration
- Dependencies that BAU activity or other projects have on the project delivering and where the project would be dependent on another project or BAU activity
- Incorporating any previous lessons learned by the organisation
- An indication of any cost associated with the project and its potential options
- An indication of any resources needed to complete the next stage in the governance process: The Full Business Case.

The governance route for the Initial Business Case is Project Board, Programme Board, Police Scotland internal quality assurance, Portfolio Management Group, Change Board and Senior Leadership Board internally. The Initial Business Case is then presented to the SPA Resources Committee and may also appear at a SPA Board Seminar or briefing session. At this stage the Initial Business Case is for discussion only and is an opportunity for members to express their views and seek that these are addressed as part of the Full Business Case (please see the Governance and Approvals section).

There are clear expectations that as part of the Case for Change Development and Informing Decision Making stage that PS should have undertaken several steps to assess the idea. From an internal perspective these would include where appropriate: engagement with SG Police Division; assessing previous evaluations on the same topic, potential test of Change or Pilot; Design consideration, EqHRIA and DPIAs, assessment through the Data Ethics Framework and consideration through Ethics Advisory Panels (please see section on Ethics Panels).

The new concept could be discussed/appraised through joint PS and SPA activity, for example: the joint evidence and research forum; legal opinion from the SPA legal team, Scottish Institute for policing research and wider academia, College of Policing, Police Foundation, PIRC Insight and HMICS Insight. External stakeholder engagement would also be undertaken as part of any wider strategy development activity.

The new concept could also be subject to several external agency, partner and public input, for example: Independent Ethics Panels (See Ethics Panel section);

Local Authority Scrutiny Convenors; Human Rights Commissioner; Biometrics Commissioner; Information Commissioner's Office; Audit Scotland, Children and Young People Commissioner; Scottish Police Federation and the Association of Police Superintendents. Furthermore, input could also be gathered from frontline officers – this will be important in terms of demonstrating an organisationally just approach and supporting meaningful organisational change at the implementation stage.

The output from external and internal engagement should be incorporated into the Initial Business Case prior to presentation to the Scottish Police Authority.

Governance and approvals

Governance
Approvals

This stage in the process requires the Scottish Police Authority to make a decision on funding the Project. It seeks assurance and evidence that the appropriate engagement has been undertaken with external agencies, public sector organisations, partners and the public as appropriate. It also seeks assurance that the previous steps have been undertaken and research and an evidence base is presented to the SPA. It is expected that the main document associated with this stage, the Full Business Case, detailed this engagement and what advice was given and what impact or substantial changes this has made to the proposed approach.

The purpose of the Full Business Case is to expand the IBC, develop further the options identified within the IBC and recommend a preferred option for the appropriate governance board to consider.

The template for the FBC is based on the key UK Government project management guidance document The Green Book (also known as The Five Case Business Model – see *Part two of this report*).

The Full Business Case will focus on these main areas:

- **The Strategic Case** – the FBC must clearly indicate how the project will align with the organisations strategy
- **The Economic Case** - the main purpose of the Economic Case is to demonstrate that the spending proposal optimises public value/interest
- **The Financial Case** - the Financial Case demonstrates that the preferred option will result in a fundable and affordable deal
- **The Commercial Case** - the Commercial Case demonstrates that the preferred option will result in a viable procurement and well-structured deal.
- **The Management Case** - the Management Case demonstrates that the preferred option is capable of being delivered successfully.

The FBC should also be accompanied by key assurance documents including:

- Impact Assessments (EqHRIA, DPIA, CRIA etc).
- Project Management Plan.
- Benefits Realisation Plan and Profiles
- Risk Register

The FBC then goes through internal PS governance, requiring approval at: Project Board, Programme Board, Portfolio Management Group, Change Board, Senior Leadership Board.

The FBC is then submitted for external approval to SPA Resources Committee, SPA Authority Board and SG if required. At this stage the SPA should ensure it is content that the appropriate impact assessments have been undertaken and that the previous steps of initial concept design, case for change development and information decision making have undertaken the appropriate engagement, input and assurance from key stakeholders, subject matter experts and the public. It should ensure that appropriate consideration has been given to equalities, human rights, privacy or ethical concerns raised.

At this stage the project can be approved to proceed to implementation. SPA Officers seek to brief members on the initiative prior to consideration. These briefings where possible highlight any good practice, gaps or areas for concern that are present in the Full Business Case. This then allows members to scrutinise the FBC and ask for additional information and assurance where necessary. This approach could potentially be strengthened by having SPA committees inform their consideration of proposals by inviting subject matter experts to provide advice to the members.

Key Consideration 2: SPA Committees may consider to inform their consideration of proposals by inviting external subject matter experts or representation from professional reference or ethics advisory panels to provide evidence or advice on the impact that a specific technology may, or is, having on society.

Project
Delivery

Project delivery

During the Project Delivery phase there are still a number of checks and balances that projects require to have in place, especially if the project seeks to introduce novel or contentious technology.

The project is subject to Change Control Processes and has to report to Project Board, Programme Board, Portfolio Management Group, Change Board and Senior Leadership Board if certain thresholds are breached, for example if there were a projected 10% overspend.

Beyond this the project may be subject to an external reference group which has independent and external advisors which offer guidance to Police Scotland in delivery. The project can also be subject to Scottish Government Gateway Reviews and Scottish Government Technical Assurance Framework Reviews, both of these are conducted by individuals completely independent to Police Scotland and the Project and offer red, amber and green status on a number of categories including cost, benefit, resource, timescale, or increasing risk.

The project should still be engaging with external experts, the public and academia where appropriate in the design and implementation of the technology to ensure equalities, human rights, privacy or ethical concerns raised are being addressed in the design of the solution.

Transition into business as usual

Transition into
Business as
Usual

When a project transitions into business as usual a number of boards and performance reporting mechanisms assess the impact that it is having on service delivery. The internal PS forms that could consider the impact of the project are: Local Policing Board, Crime and Operations Board, People and Professionalism Board, Corporate Management Board, Operational Delivery Board, Senior Leadership Board.

The impact on service delivery is then also monitored through external groups and agencies, including: SPA Internal Audit, Audit Risk and Assurance Committee, Policing Performance Committee, SPA Oversight Groups where appropriate, the SPA Board, HMICS inspection, local scrutiny convenors, public survey and polling and Justice Committee.

Key Consideration 3: Following the above process the SPA should continue to require assurance that external evidence and advice has been sought and considered and that engagement with partners and the public has been undertaken to inform the approach to embedding specific technologies in Policing.

Ethics panels

Many of the challenges in the adoption of new and emerging technology can be considered 'ethical'. For the purposes of this document, the term 'ethics' should be considered as the moral principles that guide decisions or activities. This will include consideration of aspects such as (i) human rights; (ii) equalities and (iii) data privacy.

In addition to the formal governance channels outlined above, Police Scotland have introduced Ethics Advisory Panels (EAPs) to provide an opportunity for staff, officers and external participants to come together and discuss ethical dilemmas within Police Scotland.

Police Scotland's operating model includes a four tier structure of panels. Ethics panels are not decision making bodies, but are instead advisory in nature and provide advice and support to the decision maker. The decision maker (or dilemma holder) remains responsible for taking the decision with due consideration of the panel's views within their rationale.

Ethics panels have a number of objectives. These include: (i) improve service delivery; (ii) support police officers and staff; (iii) support police leaders; (iv) develop and enhance visible ethics culture and (v) support organisational learning.

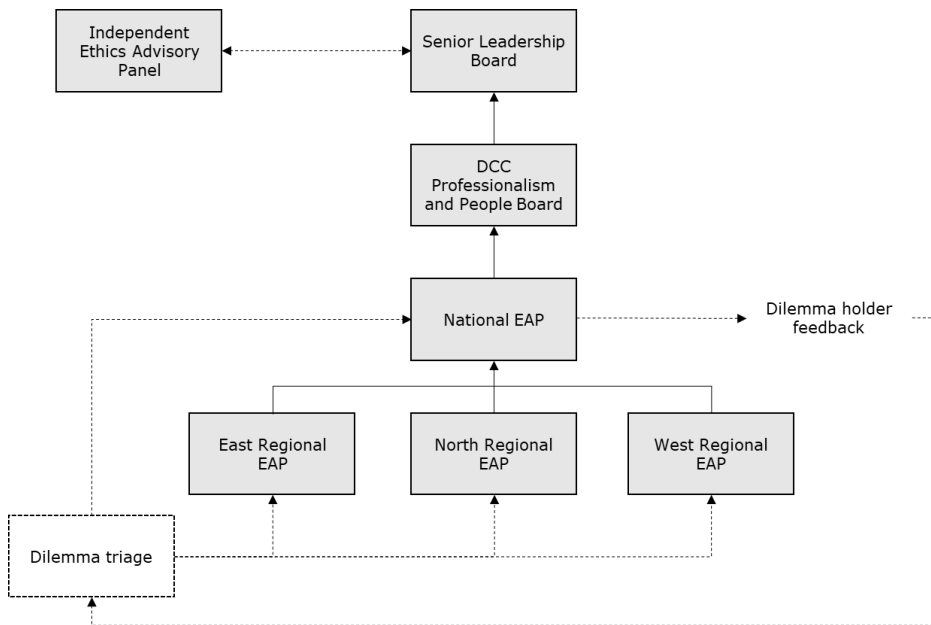
It should be noted that Ethics Advisory Panels will consider a whole range of ethical dilemmas, not just those posed by the adoption of new and emerging technology.

Below is a brief description of the four tier structure of panels:

- **Regional Panels** - 150 staff and officers across Police Scotland are trained to sit on Regional Panels. These panels are planned to meet every three months in the East, North and West Regions. Each panel will comprise 15-20 staff and officers and are chaired from a cadre of senior officers and staff members trained for the role. Regional Panels ordinarily consider ethical dilemmas which impact upon local and/or operational decision making with Subject experts (if required), staff associations, unions and human resources represented. Recent examples of subjects discussed at a Regional Panel include Body Worn Video and Gifts, Gratuities, Hospitality and Sponsorship.
- **National Panel** - 50 senior officers and staff members are trained to sit on National Panels. Membership includes those who have a national remit, representatives from staff associations, unions and human resources in addition to representatives from the Regional Panels. As the last tier of panels yet to formally sit, their timetable will align with Regional Panels sitting quarterly, chaired from a cadre of senior officers and staff members trained for the role. The National Panel is intended to consider ethical dilemmas which impact upon national, strategic and tactical decision making across most, if not all of Police Scotland. National panels will also act as a governance route for potential further discussion around dilemmas discussed at Regional Panels.
- **Independent Panel** - Currently 30 members are drawn from a broad spectrum of society in Scotland, with development ongoing to establish a cadre of 35-50 individuals. The Independent Panel will consider dilemmas that impact public service and confidence, providing external consideration, scrutiny and advice to the decision maker. Panels can be convened with 4 weeks' notice on a demand led basis and are chaired by an Independent Member with DCC Professionalism holding the position of co-chair. Recent examples of subjects discussed at the Independent Advisory Panel include Remote Piloted Aircraft Systems (RPAS), the Domestic Abuse Scotland Bill and Body Worn Video

- Youth Panel** - Working in partnership with the Scottish Youth Parliament (SYP) the Youth panel was established in April 2021 with a trained cadre of 15-20 MSYP's engaging the voice of Scotland's young people in police decision making. The panel is scheduled to sit 3 times a year and will consider dilemmas that impact public service and confidence. The Youth Panel sits parallel to the Independent Panel, ensuring that the diverse and representative democratically elected voice of Scotland's young people is heard. Youth panels are independently chaired by the Convener of the SYP's Justice Committee with CI Ethics and Preventions holding the role of Police Scotland Delegate on the panel. The first subject discussed at the Youth Advisory Panel was the policing of COP26 with a future dilemma around the implementation of the UNCRC Bill scheduled.

Figure 5. Ethics advisory panel governance



It should be noted that the Regional and National EAPs described above have only internal Police Officers or Staff in attendance, the organisation would benefit from ensuring that externals are present at these to ensure variety of opinion and subject matter expertise.

The introduction of Ethics Advisory Panels will help Police Scotland to improve service delivery and consider the ethical implications when considering the implementation of new technology. The findings, advice and how this helped shape the solution, planned implementation, preferred option for the new technology or how these were considered should be demonstrated in the Full Business Case presented to the Authority. It is not clear where the most appropriate section within the FBC template would be for these considerations.

Key Consideration 4: The SPA and PS should continue to use, embed and continually improve the processes set out in the above sections. The SPA and PS should work to develop a sixth ethics and human rights case in Business Cases underpinned by a suitable framework which would inform decision making through consideration of data ethics and wider consideration of equality, privacy and human rights issues. (See Appendix 3 – Draft proposals for Oversight of Ethical Considerations in Policing)

Additional Oversight – Scottish Government, Parliament and HMICS

The Authority is accountable to Scottish Ministers who are in turn accountable to the Scottish Parliament for the activities of the Authority and its use of resources. The Authority must also comply with any direction (general or specific) given by the Scottish Ministers. The SPA Chief Executive, as designated Accountable Officer is answerable to the Scottish Parliament for the exercise of their functions.

The Scottish Parliament is responsible for scrutinising the policy and legislative proposals of the Scottish Government, and the Criminal Justice Committee fulfils much of the scrutiny in relation to criminal justice. The remit of the Justice Committee is to ‘consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.’

A Justice Sub-Committee on Policing was established following the establishment of Police Scotland. The key role of the Sub-Committee was to consider and report on the operation of the Police and Fire Reform (Scotland) Act 2012 as it relates to policing. The 2012 Act established the Police Service of Scotland (“Police Scotland”) and the Scottish Police Authority, which is charged with oversight of Police Scotland.

A significant focus for the Justice Sub-Committee on Policing was on new and emerging technology in policing. Subjects such as remotely piloted Aerial Vehicles (RPAS), Body Worn Video, Digital Triage devices and facial recognition technology received significant attention from members of the sub-committee.

In 2021 it was announced that the Justice sub-committee on policing would be discontinued and that matters relating to policing would be considered by the Justice Committee.

Additionally, Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) has powers to look into the "state, effectiveness and efficiency" of Police Scotland. The Chief Constable must provide the inspectors of constabulary with such assistance and co-operation as they may require for the purposes of, or in connection with, the carrying out of their functions (and must, in particular, comply with any reasonable request made by the inspectors of constabulary in that regard). These powers would allow HMICS to investigate the effectiveness of the use of new and emerging technologies should it be deemed appropriate.

Part Two - Ensuring that ethical considerations are central to decision making in Scotland's policing system

As described in the previous section, Police Scotland and SPA Forensics Services operates in a highly complex and rapidly evolving environment. The demand for police services continues to increase, resource pressures grow, criminals continue to deploy new methods and exploit our most vulnerable and cybercrime continues to accelerate at unprecedented pace. In order to keep pace with these changes, Police Scotland require to adopt new ways of working, deploy resources flexibly and exploit new technological advancements to ensure that they remain on the front foot.

For these reasons, the need for Policing Scotland and SPA to innovate and make informed decisions about the need to adopt new technologies has never been greater. However, unlike many organisations these decisions cannot be based solely on value for money, rather these decisions must be made with the highest possible regard to ethical standards, ensuring that Police Scotland and the SPA's commitment to policing by consent is continually reinforced.

Police Scotland and the SPA already have a robust decision making process in place, however following the work of the Independent Advisory Group work stream it is recognised that there is an opportunity to formalise this process to ensure that ethical considerations are placed at the heart of the decision making process. Any future approach should be flexible and scalable and make use of a range of existing tools that can be applied proportionately to provide clarity in the decision support process. It should also provide a clear audit trail for purposes of public accountability.

What are ethics?

At its simplest, ethics is a system of moral principles. They affect how people make decisions, lead their lives and carry out their work. Ethics is concerned with what is good for individuals and is also described as moral philosophy.

Police Scotland's [Code of Ethics](#) sets out the standards expected for all those who contribute to policing in Scotland. The Code is a practical set of measures, which reflect the values of the Police Service of Scotland. This Code sets out both what the public can expect from Police Scotland and also what staff and officers should expect from each other.

The Code of Ethics is focussed on four key values. These are: (i) integrity; (ii) fairness; (iii) respect and (iv) human rights. For the purposes of this document some examples of the standards set out in the Code of Ethics are provided below. These ethical standards apply to all officers and staff as well as organisational decision making.

Integrity

- Recognition that policing is a symbol of public faith and trust and the obligation this places upon Police Scotland to act with integrity, fairness and respect
- Act as a positive role model in delivering a professional, impartial service, placing service to communities before personal aims
- Behave in a way which reflects the values of policing in Scotland

Fairness

- Ensure that people have fair and equal access to police services according to their needs
- Ensure policing is guided by the principles of impartiality, non-discrimination
- Maintain an open attitude and continue to improve understanding and awareness of cultural, social and community issues

Respect

- Respect and uphold the law in order to maintain public confidence
- Show respect for all people and their beliefs, values, cultures and individual needs

Human rights

- Ensure that policing respects the human rights of all people and officers

The five case model

As described in Part one of this report, Police Scotland and the SPA employ the [Five Case Model](#) to appraise business cases. This is recognised as best practice across the UK public sector. The Five case model is not only applied to business cases relating to new and emerging technology, but is instead used when considering the full suite of policies, strategies, programmes and projects. The Framework enables a thorough assessment of business cases to ensure proposals demonstrate an appropriate utilisation of public funding. The following dimensions are considered in the framework:

- The Strategic Case
- The Economic Case
- The Commercial Case
- The Financial Case
- The Management Case

The **Strategic Case** requires demonstration of how the business case provides strategic fit with existing projects and programmes, as well as the organisation as a whole.

The **Economic Case** considers whether the business case provides best public value to society, including wider social and environmental effects.

The **Commercial Case** requires demonstration as to how the preferred option will result in viable procurement between service providers and the public sector.

The **Financial Case** assesses whether the business case is affordable and able to be funded.

Finally, the **Management Case** considers whether there are suitable arrangements in place to ensure the delivery, monitoring and evaluation of the scheme.

The Framework details the contents of each individual case as well as guidance on developing the business case appropriately to cover the individual criteria.

Whilst the current Framework is comprehensive and considers wide-reaching implications of business cases, there is currently limited opportunity within it to assess the ethical implications of a project business case.

It is therefore recommended that the present framework be enhanced to enable it to assist in determining, evaluating and balancing the ethical impacts of a business case. This presents an opportunity for the sixth case: the Ethical Case. This would consider the impact of change on a variety of aspects of ethics, including human rights, the impact on individuals, society and on public confidence. A 'sixth case' approach must be proportionate and make best use of resource. It is therefore suggested that an independent triage process is introduced to understand whether there are ethical implications that need to be discussed and addressed. A specific proposal has been developed to triage issues regarding data ethics across the policing system which is presented in detail in a following section on the *Data Ethics Framework*. The benefit of a triage approach is that it will focus effort on the areas of high risk, rather than every project needing to complete a sixth case. If the initial triage determined that there was low risk at IBC stage then no other work would be required but this assessment would inform the final decision.

It is important to consider the ethical, social and human rights impacts of future business cases for the adoption of new technology to ensure the SPA and Police Scotland are cognisant of upholding and improving public confidence. Furthermore, by calling attention to any ethical impact, this ensures it receives appropriate consideration. This could involve leveraging positive ethical impacts, or putting in place appropriate mitigations in the instance that negative ethical implications are raised.

As such, when assessing future business cases, it is proposed that existing governance tools are utilised to ensure appropriate consideration is given to the ethical impact of future business cases.

Key Consideration 5: The SPA and PS should develop a wider framework which sets out a suitable process for all ethical considerations, this should serve to guide the creation of a sixth ethics and human rights case which would be included in Initial and Full Business Cases. (See Appendix 3 – Draft proposals for Oversight of Ethical Considerations in Policing)

Data ethics framework

Following the establishment of the IAG on new and emerging technology, Police Scotland have developed a data ethics framework which can be used across the Policing System. The framework sets out how Policing should govern its development and deployment of data driven technology. The framework proposes new checks and governance tools embedded into the existing change process and will seek both internal and independent advice to ensure that the adoption of new technologies is proportionate, ethically justifiable and aligned with Police Scotland and the SPA's commitment to policing by consent.

The Data Ethics Framework has been endorsed by Police Scotland and will be considered by the Authority for use across the Policing System in the coming months.

Key Consideration 6: The process to gain approval to adopt the Data Ethics Framework across the policing system continues and that a light touch review is undertaken 12 months after the roll out to quantify the benefits realised.

In order to provide assurance to the IAG, that the proposed data ethics framework addresses the identified gaps, the following sections of this report will summarise the proposed framework and highlight areas that are expected to significantly enhance the oversight and scrutiny of the adoption of new and emerging technology across Policing.

Purpose

Data and data-driven technology provides new opportunities and the potential for innovation, but the Scottish Policing System need to get this right by driving the responsible use of data and technology. Data ethics is not about constraining this potential, but about the responsible and trustworthy use of data.

The proposed data ethics framework will guide Scottish Policing in the responsible use of data and data-driven technology, and provide the governance required to identify and address ethical challenges posed by novel uses of data and data-driven technology. The framework has been developed in collaboration with the Centre for Data Ethics and Innovation (CDEI) and through engagement across the police service and externally, with academics, civil society and Scottish Government. Delivery of this framework will support the Scottish Policing System in meeting its ambition to become “organisations driven by effective and efficient use of data, in an ethical way.”

It should be noted that although the focus of the data ethics framework is on ‘data’ and ‘data-driven technology’, the methodology can equally be applied to

technologies that either have limited or no data collection element, such as conducted energy devices or TASER as part of a wider sixth case approach.

Alignment with the memorandum of understanding

Police Scotland and the Scottish Police Authority have recently formally agreed a Memorandum of Understanding (MoU) which aims to ensure early visibility and oversight of any new and emerging strategy, policy or practice under consideration by Police Scotland. The MoU will apply to all novel deployments and technologies. The Authority's main focus will be on significant equalities, human rights, privacy or ethical concerns raised, or where the issue will have a significant impact on public perceptions of, or confidence in, policing.

The aim is to provide early recognition of the public importance, a focus on understanding the public interest around it, and a shared critical pathway for assessment and anticipated outcomes. The MoU will use existing Police Scotland management controls and advisory mechanisms, and SPA governance systems, to achieve the aim.

It is proposed that the Data Ethics Framework provides a methodology and mechanism to ensure that the goals of the MoU in relation to data ethics are implemented in a consistent and repeatable way. The same methodology can be scaled to cover a wider consideration of equality and human rights issues. An outline proposal is presented at Appendix 3.

Approach to the framework

The proposed framework is principles based and considers how these principles apply in the context of the decision being made. At the heart of policing in the UK is consent and legitimacy in the eyes of the public. Practically applying these principles should ensure that the Policing System in Scotland take a trustworthy approach to the use of data-driven technology as the service looks to innovate.

Underpinning this trustworthy approach must be a commitment to asking the right questions and developing robust, evidence-based and acceptable responses to them, which are open to internal and external scrutiny and challenge.

Guidance questions have been developed, structured by key themes, which are related to the responsible development and use of data and data-driven technology, including:

- **Value and impact:** The use of data and data-driven technology should provide value and benefit to individuals or society that is measured and evidenced.
- **Effectiveness and accuracy:** Data-driven technology in policing should be reliable and improve the accuracy of existing approaches. This should be monitored, audited and for particularly sensitive projects independently evaluated. Good quality data is required to ensure the data-driven technology is reliable and effective.

- **Necessity and proportionality:** Any potential intrusion arising from police use of data must be necessary to achieve legitimate policing aims and proportionate in relation to the anticipated benefits.
- **Transparency and explainability:** The project's purpose, details of the data it uses, and notice of its deployment should be made public and open to scrutiny. Data-driven technology should be understood by relevant individuals using and affected by it.
- **Reliability and security:** Data-driven technology in policing should be reliable and measures should be in place to ensure data is used securely and protects privacy.

This approach to governance is designed to help the Policing System in Scotland identify potential harms, risks, and challenges and weigh these up with potential benefits and opportunities. Ultimately, being able to answer these questions should help Police Scotland deliver on their ambition to use data ethically.

Data ethics governance framework

The Framework sets out how the Policing System in Scotland should govern its use of data and data-driven technology. It outlines mechanisms for internal input and challenge along with ways to inform decision making with independent advice. It also sets out practical guidance and repeatable processes for identifying the key ethical considerations when developing a data-driven project.

The Framework recommends the governance required to identify and address ethical challenges posed by novel uses of data and data-driven technology. It is an enabling Framework, designed to ensure a consistent approach to making decisions and is not intended to constrain responsible innovation.

The Framework suggests an approach to ensure that clear, robust governance supports decision making for any data and data-driven technology associated projects. Such governance arrangements should be established before Police Scotland makes significant steps to invest in new technologies so as not to risk undermining public confidence.

In the context of a responsible approach to the use of data and technology in Scottish Policing, good governance means:

- **Establishing robust mechanisms** for internal input and challenge, and external advice, on decision-making. This should include ensuring that risks and harms are properly understood and weighed up.
- **Establishing clear responsibility and accountability** for new uses of data and data-driven technology. This should include identifying the key decision-makers and decision points along the project lifecycle, within the existing policing chain of command.
- **Putting in place repeatable processes** to identify, address and test ethical considerations and ensure consistency of approach and auditability.

The approach to good governance in the Framework will also drive other benefits which will overall contribute to building confidence in the Policing System in Scotland as a trusted steward of data. Embedding the Framework will help Scottish Policing raise the bar in the following ways:

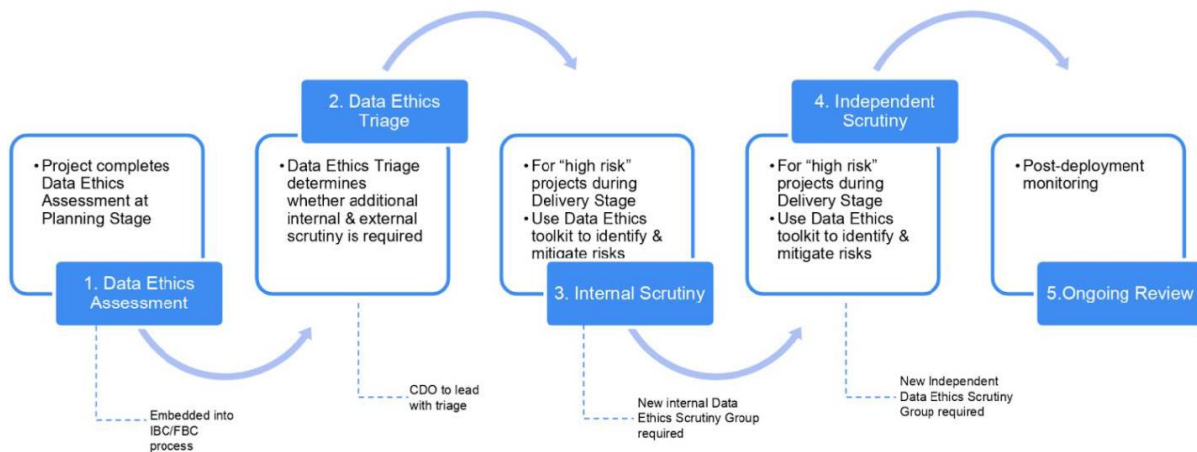
- **Being transparent and open** about its use of data and data-driven technologies, communicating such uses clearly, accessibly and, where possible, proactively.
- **Engaging with diverse views** and collecting input on its uses of data and data-driven technologies and, where appropriate, demonstrating the path to impact such engagement has.
- Drawing, and building on, **specialist and multi-disciplinary expertise** to ensure the use of data and data-driven technology is robust, evidence-based and effective.
- Clearly **articulating the purpose and value** of the use of data and data-driven technologies and ensuring these are measured and met. This should include identifying the trade-offs and considering what is publicly acceptable.
- **Identifying and mitigating potential harms** that may arise from novel uses of data.
- Creating an **environment for responsible innovation**, whereby new approaches can be explored within frameworks of rigorous oversight, evaluation and transparency.

The below diagram summarises the proposed ethics governance framework and details how it will work in line with the project and programme methodology employed by Police Scotland and the SPA:

- The Ethics Advisory Panels discuss whether Scottish Policing *should* use data in a particular way or develop a new data-driven technology at the Problem Identification stage. They should also be identifying the ethical challenges and sorts of mitigations needed if the Police or Forensics Service was to go ahead with the project.
- The Data-driven Technology Oversight Group provides internal input and oversight through the project lifecycle.
- At this stage it is proposed within the data ethics framework that projects that fit the criteria set out in the Introduction will be reviewed and scrutinised externally by the Independent Data Ethics Group from the Design stage through to deployment (it is proposed this group is facilitated by the SPA).
- The Technical Design Authority will provide input specifically at the Design stage.

Ethical questions or challenges associated with a project may be raised by the Policing System or by these bodies as a project progresses. Should a new and sensitive ethical challenge emerge midway through the project lifecycle, it may be necessary to refer it back to a National Ethics Advisory Panel or Independent Ethics Advisory Panel.

A detailed description of the role and remit of each governance body/group has been provided in *Appendix 1*.



Triage of risk – Data ethics risk assessment

As the use of data and technology become more common, it can be challenging to determine the level of risk associated with a given project and the subsequent levels of governance and oversight that should be invested.

To address this, the Data Ethics Governance Framework contains a set of eleven common triage questions to be used when considering a new project. Those projects which have been identified as carrying particularly high risk (as an outcome of the triage), will go through the detailed Framework process, thereby ensuring effort is focused only on those with the highest risk.

The triage questions consider a number of dimensions, including the scale and breadth of project, the data being used, the outcome/effects, and potential disproportionality. The detailed questions have been provided in *Appendix 2*.

While the Triage questions have been designed to carry out a risk assessment on projects, they could easily be applied to non-project initiatives and/or standalone decisions.

Recognised best practice and benchmarking

The proposed roll-out of a Data Ethics Governance Framework is aligned with current recognised best practice in UK policing. Most notably, work by West Midlands Police to establish an Ethics Committee has been recognised by the NPCC and numerous international policing bodies as cutting edge and public sector best practice. The West Midlands Police (WMP) Ethics Committee functions to advise the Police and Crime Commissioner and Chief Constable on data science projects being proposed by the West Midland Police Data Analytics Lab.

The Data Analytics Lab is led by specially recruited data scientists and will develop programmes of work that use data more intelligently to help WMP prevent crime, allocate resources more efficiently and help it to do its job of keeping the public safe. The Ethics Committee has now been operating since April 2019 and helps ensure

that ethics and people's rights are put at the heart of the Lab's work. Using the Committee' expertise, it is regarded that West Midlands Police are in a better position to help people avoid crime and support the communities of the West Midlands.

Although broader in scope, the Data Ethics Governance Framework has ensured that the experiences and learning from West Midlands Police are reflected in the Framework. In particular the establishment of an independent external consideration and advisory mechanism, aligns closely with the Ethics Committee that is now tried and tested in the West Midlands. Going forward, it is recommended that Scottish Policing continues to share experiences with partner agencies, both nationally and internationally and within the network of the NPCC to continually share lessons learned and refine approaches.

Main considerations - Data ethics framework

The Policing System in Scotland recognises that there is significant opportunity for data and technology to support progressive policing, however it is also recognised that the adoption of such technology can present significant organisational and ethical risks. This calls for greater levels of scrutiny, oversight and transparency of particular uses of data and data-driven technology.

As such, it is recommended that Police Scotland continue to seek approval to adopt this approach and implement key aspects of their Data Ethics Framework across the Policing System in Scotland:

- 1. Data/technology Ethics Triage** - Set up a policing system Data/technology Ethics Triage process, which would provide a data ethics risk assessment for all new project submissions, and also be used for relevant standalone operational initiatives/decisions.
- 2. Internal Scrutiny** - Set up an internal Data-Driven Technology Oversight Group, which would provide internal support and challenge for high-risk data-driven technology projects (as identified by the Triage process) throughout the project lifecycle.
- 3. External Scrutiny** - Set up an external scrutiny mechanism, jointly with the Scottish Police Authority, to provide external review and advice to the SPA and Police Scotland and Forensics Services senior leadership teams on data-driven /technology projects being proposed.
- 4. Design Authority** - Accelerate the development of the internal Digital & Data Design Authority, with Data Design embedded in the scope. This would support, review and provide challenge at the 'Design' phase of a data-driven project.
- 5. Alignment to Change process** - The guidance and controls laid out in the Data Ethics Governance Framework should be embedded into the Policing System BAU Change Governance process, and align with the existing PMO Stage Gates.
- 6. Transparency** - Maximum transparency and engagement is encouraged and should be foundational to the Scottish Policing System's use of data and data-driven

technologies, both internally and externally. Whilst transparency in practice will necessarily look different across different use cases and the confines of the specific policing context need to be understood, in principle it should involve clear, comprehensive and accessible communications, tailored to the needs of different audiences. Where possible, transparency should be a proactive rather than a reactive process

7. Future extension - Although beyond the scope of the IAG work stream, it is also recommended that the SPA considers the implementation of the MoU principles with the further enhancement of how ethical dilemmas across all policing policy and practice are addressed. This consideration should seek to learn from and build on the Data Ethics Framework. The independent data ethics group proposed by the Data Ethics Framework could in time be broader in scope and use external expertise to advise Scottish Policing's development of changes to police, practice or strategy and provide assurance and advice to Authority members to support their decision making through thorough consideration of human rights and ethical issues presented by new initiatives.

Initial outline considerations of a wider ethical assessment of new strategies policies and practices aligned to the principles of the MoU are detailed at Appendix 3.

Workstream membership

- Scott Ross, Scottish Police Authority
- Elaine Galbraith, Her Majesty's Inspectorate of Constabulary in Scotland
- Naomi McAuliffe, Amnesty International
- Diego Quiroz, Scottish Human Rights Commission
- Dr Genevieve Lennon, University of Strathclyde
- Dennis Hamill, Police Scotland Chief Data Officer
- Sam Curran, Scottish Police Authority

Appendix 1 – Internal and external governance bodies

Internal bodies

Data-driven technology Oversight group - This will be a 'project level', advisory group involved throughout the lifecycle of a project. It will provide input, oversight and challenge specifically on proposed data-driven projects⁶. The Group will comprise internal Police Scotland data analysts, data scientists, the Chief Data Officer, the Data Protection Officer, the legal advisor, and leads in the Professional Standards Unit.

Digital ad Data Design Authority - The Authority will be an advisory group, responsible for supporting and reviewing ideas for data-driven projects at the 'Design' stage of a project, and providing a foundation for responsible innovation. It will provide an internal forum for experimentation and testing in a controlled environment.

Existing Internal groups - These groups will work alongside the relevant governance bodies that already exist including the Data Governance Board, the Strategic Design Authority and groups like the Cyber Resilience and Digital Capability Board and Biometrics Oversight Board.

External bodies

Independent Data Ethics Group - The Group should be advisory, not a decision-making body, however the advice should be sought before decisions are made. In setting up a Group, Police Scotland should carefully consider its function and ways of working. The Group will need to operate independently from Police Scotland and with the right structures in place to support and enable it to be challenging and effective. A ToR will need to be carefully considered to ensure that the Group has the greatest possible impact and to determine how Police Scotland will feedback to the Group.

Appendix 2 – Triage questions

1. How large in scale is the project (i.e. how many people will the full rollout impact, and what is the depth of that impact)? Will the full rollout directly affect members of the public, and how?

- High:** The project will affect members of the public across Scotland, and will affect them directly (e.g. it will affect how they personally interact with or experience the police).
- Medium:** The project will affect members of the public within a specific city, county or other limited area. Alternatively, the project will affect members of the public across Scotland, but will affect them indirectly (e.g. it will affect how their data is stored or processed).
- Low:** The project is not intended to affect members of the public, i.e. it is an internal-only project. will only affect Police Scotland personnel. (Note that some internal-only projects may still have a significant public interest element, because they signify a major step-change in Police Scotland's capabilities, or how Police Scotland interacts with the public. Question 2 is designed to pick up these projects. Other internal projects may still be controversial, because they have an intrusive, coercive or punitive dimension, such as workplace surveillance projects. The cluster of questions on risks and implications is designed to pick up these projects).

2. Does the project signify a major step-change in Police Scotland's capabilities, or how Police Scotland interacts with the public?

- High** The project signifies a major step-change (e.g. it might impact the core principle of policing by consent; it requires the collection of sensitive data which Police Scotland has not previously captured, it involves a significant financial investment).
- Medium:** The project signifies a medium step-change (e.g. it requires the aggregation or analysis of sensitive data which Police Scotland has previously collected but not subjected to this type of analysis; it involves a medium financial investment).
- Low** The project does not signify a major step-change.

3. Where does human decision-making sit within the outcomes of the project?

- High:** The project/ tool will make predictions or recommendations which are automatically implemented.
- Medium:** The project/ tool will make predictions or recommendations which are used to inform human decision-making.
- Low:** The project/ tool will collect or visualise data, but humans will then harness and interpret that data.

4. How novel is the project?

- High: The project is totally novel - no other police service has implemented a similar project, and Police Scotland has not worked on a similar project before. Alternatively, another police service or services have implemented or are piloting similar projects, but have experienced substantial operational problems or controversies.
- Medium: Another police service or services have implemented or are piloting similar projects, without substantial operational problems or controversies. Alternatively, such problems or controversies have been mitigated, and Police Scotland is confident in its abilities to learn from and avoid these.
- Low: Similar projects have been implemented by multiple other police services, with no significant operational problems or controversies.

5. What kind(s) of data are to be used in the project, and for what purpose?

- High: Highly sensitive personal data or highly controversial data. And/ or purposes which are particularly challenging or complex to achieve, or likely to ignite significant controversy. For example, sensitive personal data such as health data, data gathered through stop and search, or using historic data to make predictions about individuals' future behaviour.
- Medium: Medium-sensitive data and/ or purposes which may be considered controversial or which might raise public concerns. For example, anonymised, aggregated data on crime patterns in a particular area.
- Low: Data and purposes which are not associated with particular controversies or public concerns, and which are not personally identifiable.

6. How would you categorise the quality and availability of the data required for the project?

- High: Poor. The project involves data which is likely to be poor-quality, incomplete, badly labelled or categorised. And/ or accessing the data in question is likely to be highly challenging.
- Medium: Acceptable. The project involves data which is likely to be of average quality or straightforward to get to an acceptable level of quality. And/ or accessing the data in question is likely to be relatively straightforward, or challenges should be easily mitigated.
- Low: Good. The project involves data which is likely to be complete and high-quality, with little or no issues such as duplication or lack of labelling. Police Scotland already has access to the data.

7. Does the project involve data-sharing with other organisations? Is there clear governance in place for data to be shared with third parties/ What does the governance of data-sharing look like?

High: Yes, multiple organisations, and this will incorporate new or one-off data-sharing agreements. Or, one organisation but the data will be shared for a new purpose for which the data was not originally collected/ for which there is not a data-sharing agreement.

Medium: Yes, one organisation. Or, multiple organisations but within the terms of an existing/ regular data-sharing agreement.

Low: No.

Note that for the purposes of this question, other police services and/ or law enforcement agencies should be considered as one organisation. That is, sharing data with multiple other police services should be considered as sharing data with one organisation.

8. How intrusive, punitive or coercive are the interventions which could result from the project? Consider two dimensions - both the output or resulting action of the tool/ project itself, and policing interventions which could follow from its use e.g. follow-up police actions.

High Very (e.g. in-person police interviews or interventions; levels of surveillance which are dramatically different from the existing situation, either in terms of the number of people targeted, or the depth of intrusion; significant alterations in public behaviour).

Medium: Slightly (e.g. similar levels of surveillance to the current situation in terms of the number of people targeted or the depth of intrusion, but with new levels of automation, or new in-person elements; minor alterations in public behaviour).

Low: Barely/ none. The interventions will not substantially differ from existing approaches.

9. To what degree could the project encroach on individuals' or groups civil liberties, privacy or human rights?

High: Significant punitive encroachment, and/ or the encroachment may take place with minimal human intervention (e.g. automated targeted intrusions).

Medium Medium punitive encroachment, and the encroachment will always be controlled by a human decision-maker.

Low: No encroachment, or the project is intended to support/ uphold individuals' civil liberties, privacy or human rights, and judgements around this will always be held by a human decision-maker.

10. Does the project involve objectives that academics, civil society, the Government, media or members of the public have voiced concerns about in the past, which in turn suggest that there might be problems with public acceptability of the project?

High: Yes, concerns have been raised from multiple sources (e.g. similar projects run by other police services have generated media criticism, academics have published research highlighting potential problems, social media discussion is heated, there is significant attention but the technology itself is not well-understood).

Medium: Yes, concerns have been raised by one (reputable/ high-profile) source.

Low No concerns have been raised which Police Scotland is aware of (assuming a reasonable level of effort to identify such concerns).

11. Is there reason to believe that the project will affect certain groups more than others, including groups with protected characteristics under the Equality Act?

High: Yes. The project may be specifically designed to target particular groups.
Alternatively, multiple sources (academic research, reports, Police Scotland analysis) may suggest that certain groups will be affected more than others.

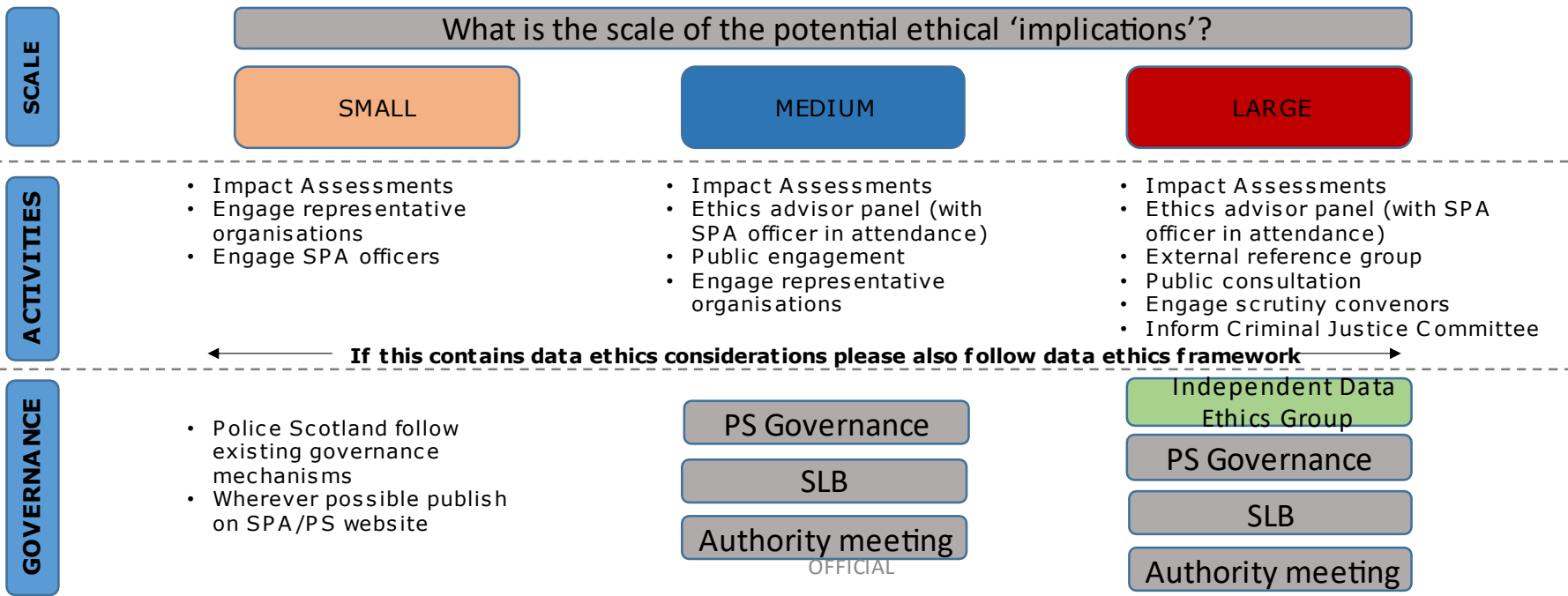
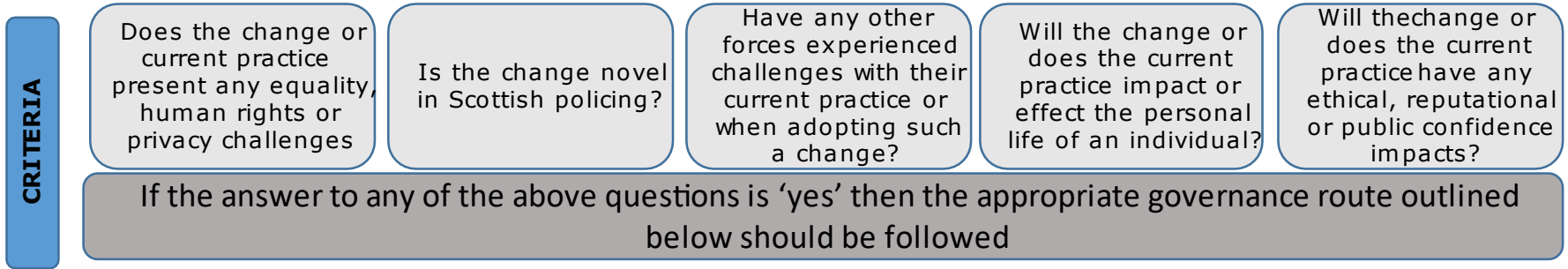
Medium: Potentially. The project may not be specifically designed to target particular groups, but there is a risk that it will affect some more than others. One or more sources may suggest that certain groups will be affected more than others.

Low: No, there is no evidence to suggest that certain groups will be affected more than others (assuming a reasonable level of effort to identify such concerns), and the project has not been designed to target specific groups.

Appendix 3 - Draft proposals for oversight of ethical considerations in policing

A proposed
framework for
oversight of 'ethics'

Ethics Triage



HMICS engagement

Quantifying the risk – Opportunities and Threats

Ethical Risk Assessment (High, Medium, Small)

A product/tool which has been created to understand the opportunity and threats associated with a proposed change in a range of identified risk areas relevant for policing.

The assessment is worked out by selecting an opportunity statement and a threat statement for each risk area which most relates to the proposed change.

The totals of both the *opportunity risk score* and *threat risk score* are calculated to determine an overall *ethics risk score*.

The ethics score determines what the most appropriate action to take is (depending on the thresholds).

Scoring Matrix

Risk form and Area	Opportunity			Threat		
	1	2	3	1	2	3
Equality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Human Rights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Data Ethics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Novelty Factor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Impact on individuals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ethical challenges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental considerations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reputational	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public confidence /interest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Total ethics score Opportunity risk score: Threat risk score:

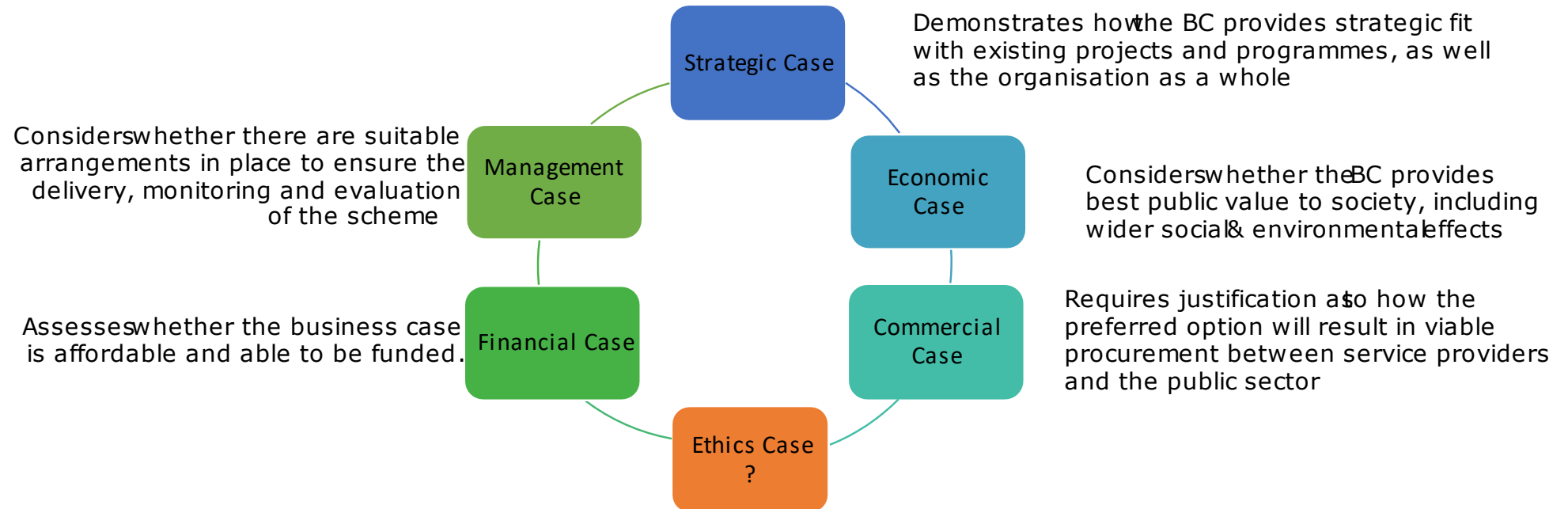
Equality Assessment

- OP 1 Change will have no adverse impact on any of the protected characteristics identified in the Equality Act 2010
- OP 2 Presents itself as a positive opportunity to promote equality
- OP 3 There are opportunities to reduce inequalities of outcome caused by socio economic disadvantage (Fairer Scotland Duty)
- TR 1 Potential indirect and/or low adverse impact on the lives of people with protected characteristics; Evidence of 1-2 protected characteristics implicated
- TR 2 Potential direct impact on the lives of people with protected characteristics; Potential adverse impact on equality of opportunity and/or good relations; Differential treatment or discrimination of individuals may occur (whether intentional or not) as a result - relates to unconscious bias; Evidence of 3-5 protected characteristics implicated
- TR 3 Will have a direct and/or major impact on the lives of people with protected characteristics; Change is likely effect a large number of people (potentially in just one protected characteristic category) in a disproportionate way; Implementation could lead to harassment or victimisation (whether it be direct or indirect); Evidence of 6-9 protected characteristics implicated

Human Rights

- OP 1 No human rights are infringed or impacted in any way (articles as outlined in the Human Rights Act 1998)
- OP 2 Positive opportunity to promote the human rights
- OP 3 Individuals' human rights would be strengthened as a result of the proposed change activity
- TR 1 Potential indirect interaction with rights; Minimal breaching or protection; 2 or less human rights are impacted upon
- TR 2 'Qualified rights' are likely to be restricted or interacted with; Significant breaching/intrusion or interaction with rights; Citizen's rights are impacted beyond an individual level (e.g. certain groups of people will be impacted, community level impacts or intervention); 3-4 human rights are directly interacted with
- TR 3 Any activity where there is potential for necessity or proportionality issues to arise; Both 'qualified rights' and 'limited rights' are likely to be interacted with; Citizen's rights are impacted that likely will change how social/political/economic activities are conducted for significant populations of people; Potential high scale impacts on engagement in democratic society, or life in the public sphere; 5+ human rights are directly interacted with

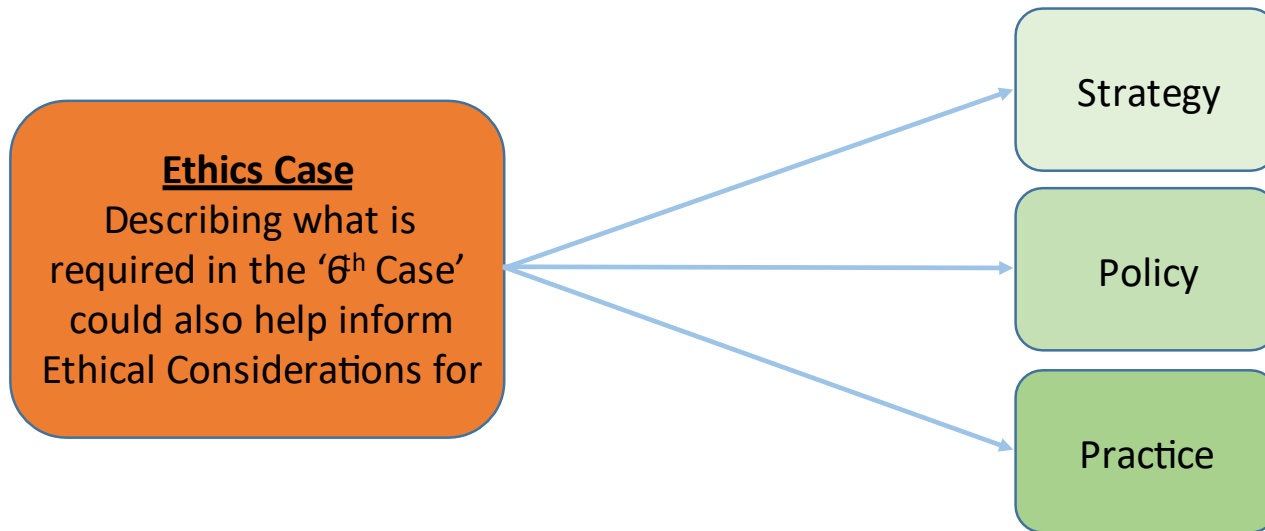
The 5 case model and business case assurance



Whilst the current Framework is comprehensive and considers wide -reaching implications of business cases, there is currently limited opportunity within it to assess the ethical implications of a business case. We are suggesting the addition of a 6th Case – The Ethics Case

The 6th Case

Whilst the current Framework is comprehensive and considers wide -reaching implications of business cases, there is currently limited opportunity within it to assess the ethical implications of a business case. We are suggesting the addition of a 6th Case – The Ethics Case.





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