

31st July 2017

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Dear

**Tenth Programme of Law Reform - Consultation on Possible Law Reform Projects**

Thank you for the opportunity to contribute to the Law Commission's consultation on possible law reform projects for the forthcoming year. I also note the offer of a meeting with Lord Pentland and yourself, in support of our submission.

Please find below a summary of our key points and, whilst grateful for the opportunity to discuss these, I am satisfied that a written submission (attached) is sufficient.

The key elements of our internal consultation are:

- A review of the legislation regarding child deaths and, in particular, the evidential threshold for those responsible for co-sleeping/overlying whilst under the influence of alcohol/drugs.
- A review of the provisions for the service of Orders granted by Sheriffs in Summary Applications.
- To consider reform to the Sexual Offences (Scotland) Act 2009 in respect of suspects refusing to consent to undergo forensic medical examinations, involving the taking of intimate samples.
- To introduce legislation to control the possession and supply of adulterants used for illicit drugs or any other criminal purpose.
- A project to review the age of a "child" across different areas of legislation to seek consistency in the protection of children.
- To review Schedule 8 certification and the impact on financial investigations and under the Regulation of Investigatory Powers Act 2000.

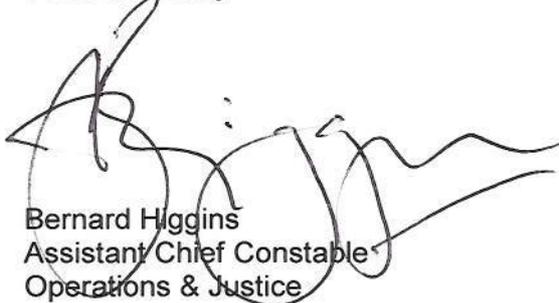
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We also take the opportunity to make some general comments:

- To further streamline case progression. Summary justice must be exactly that and the Evidence and Procedure Review may well address some of the issues involved.
- Greater flexibility for the police to carry out evidential search without recourse to the warranted process. As crime becomes more complex and fast-moving such powers could mirror those available to policing in Northern Ireland, Wales and England, and changes would maximise the potential for securing better evidence, earlier.
- Telecommunications data requires authorisation at Superintendent level and this could be devolved to Inspector level for routine enquiries, where the rationale to proceed is clear.
- The Psychoactive Substances Act 2016, has no criminal offence for personal possession outwith a custodial institution. Officers who recover NPS on an individual have no power of seizure and disposal, nor an offence to report. This is an area of concern given that the Misuse of Drugs Act 1971 itself is worthy of review.

Clear legislation is critical to effective enforcement activity, for the protection of victims and witnesses, and Police Scotland is grateful for the opportunity to contribute to this consultation. I hope that our comments are helpful in your work.

Yours sincerely



Bernard Higgins  
Assistant Chief Constable  
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