

Policing Sheffield's Trees Protests

Report produced by:

Advisory Panel on Policing Protests

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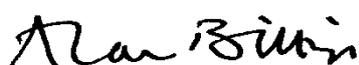
1. Foreword

Sheffield City Council's 'Streets Ahead' contract was a bold policy to deal with highway maintenance in a time of austerity. All citizens welcomed the filling in of potholes. But not all welcomed the felling of some trees, which was part of the contract. When protests took place the police found themselves having to keep in mind two sets of rights – the right to peaceful protest and the right to go about one's legitimate business. The number of officers needed to do this increased significantly at the beginning of 2018.

I am not operationally responsible for policing – that is a matter for the Chief Constable. But I do hold the police to account for what they do on behalf of the public. This is why, when I began to receive complaints from a growing number of people about the policing of the protests, I went to see for myself, but also asked my independent Advisory Panel on Policing Protests to observe and report on my behalf. I needed to be reassured that what the police were doing dealt properly with those different rights and was proportionate. I wanted to know whether there were any lessons to be learnt.

The report was subsequently overtaken by the decision of Sheffield City Council to pause the programme. Local elections then intervened. At the time of my writing this the highway maintenance programme is still being paused. I am hopeful, therefore, that the Council may have found a way forward that will not result in the type of protest that we saw in the first few months of this year. But whatever the outcome, the report offers the view of an independent group of people and includes recommendations that I hope all of us to whom they are addressed will want to accept.

I thank Andrew Lockley, the Chair, and the Panel members for their work.



Dr Alan Billings

South Yorkshire Police and Crime Commissioner

2. Introduction

- 2.1 The Police and Crime Commissioner for South Yorkshire (PCC), Dr Alan Billings, announced on 6 March 2018 that he had asked us, his Advisory Panel on Policing Protests (APPP), to review the policing of tree protests in Sheffield. The issue had been attracting national attention – much of it critical – in the media and from politicians. There was concern that the reputation of South Yorkshire Police (SYP) was again at stake.
- 2.2 The PCC said: *“Last week I commissioned my Advisory Panel for Policing Protests to undertake observation and assessment of South Yorkshire Police’s approach to the ongoing protests. I have specifically asked them to provide me with an independent report as to whether the policing is fair and proportionate and whether the force is effectively engaging with all parties to explain their actions, including with the wider community.”*
- 2.3 Our full terms of reference are set out at Annex 2.

3. A Brief History

- 3.1 Sheffield used to be known as ‘Pothole City’. There had been a lack of investment in its highways over a period of 30 years or more. On 30 July 2012, Sheffield City Council (SCC) entered into an agreement with Amey (in fact its subsidiary Amey Hallam Highways Ltd) for highway maintenance for a period of 25 years. The contract is worth £2.2 billion and is known as the ‘Streets Ahead’ contract.
- 3.2 Sheffield is often described as ‘the greenest city in England’. There are some 36,000 trees on the highway network in Sheffield. Around 6,000 were identified after surveys as requiring removal. The contract (recently disclosed by order of the Information Commissioner) provides for up to 17,500 to be removed within the agreed contract price, but SCC’s public position is that it expects around 10,000 to come down and be replaced.

- 3.3 SCC uses a six category breakdown – ‘the 6 Ds’. The ‘Ds’ stand for Dangerous, Dead, Dying, Diseased, Damaging and Discriminatory. Some of those identified for removal are accepted to be generally healthy, mature and attractive, but they are said to be ‘damaging’ or ‘discriminatory’. ‘Damaging’ trees are those which have caused, or may cause, damage to the highway or adjacent properties. ‘Discriminatory’ trees are those which impede the use of the highway by particular groups such as the disabled, the visually impaired or those with pushchairs. There have been disputes about whether, as SCC argues, these should nevertheless be felled.
- 3.4 It appears to be accepted that there may be engineering solutions which might obviate the need to remove some trees, but these are not funded under the contract. SCC maintains that it cannot fund these alternative solutions without diverting money from other budgets. In a time of extreme financial stringency, it is not prepared to do this.
- 3.5 Opposition to the tree-felling programme is not universal. Some citizens support it, whether because their own properties have been affected by the lack of highway maintenance, or perhaps because they favour improvements to the neglected highway network. It is fair to say however, that we are not aware of any protest activity in favour of the tree-felling programme, although local press has carried some supportive letters.
- 3.6 Opponents of the programme have been loosely brought together under the umbrella of Sheffield Trees Action Group (STAG). Its Facebook pages offer information about the progress of the felling programme, and identify roads where felling is expected to take place.

4. The Injunction

- 4.1 SCC’s public statements have presented tree felling and replacement works as part of the Council’s long-term strategy to improve the street environment. It

has been emphasising that replanting where trees have been felled forms a part of that strategy. The Council has asserted that the 'majority' of Sheffield residents surveyed supported the strategy. We are not aware of any information as to how many residents have been surveyed, or what about, or in which parts of the city, and at what stage of the 'Streets Ahead' programme.

- 4.2 However, there was sufficient active opposition to the programme for the Council to issue a statement on 18 July 2017, announcing that it was seeking a High Court injunction to prevent trespass which was disrupting the programme. This statement clearly distinguished between peaceful protest and unlawful trespass, and emphasised that it was a last resort.
- 4.3 On 18 August the High Court granted that injunction in favour of SCC, to last from 22 August 2017 until 25 July 2018. The effect of this was *'to prevent any member of the public from entering, preventing the erection of, or remaining within, any safety zone erected around any tree within the City of Sheffield'*. Disobedience of the order would place an individual in contempt of court and liable to a civil penalty of imprisonment and the payment of costs.
- 4.4 A series of briefings – headed 'myth busting' statements - were issued by the Council to 'remove misconceptions' about the programme. There were at least 20 of these. The Council restated that the injunction had been a last resort and not a position it wanted to be in. It set out its duties and responsibilities under the Highways Act. The 'myth busting' statements contain lots of detail about the programme and the numbers of trees replanted already in parks and woodland and restates the attempts made by the Council to engage with the public and the protesters.
- 4.5 However, neither the injunction nor the 'myth-busting' statements succeeded in calming the protests.

5. Policing the Protests

- 5.1 Until February 2018, the involvement of South Yorkshire Police (SYP) could for the most part be fairly described as low level. Police in the UK have a legal duty not to prevent the exercise of rights under the European Convention of Human Rights (ECHR). Articles 10 and 11 are engaged here – the right of freedom of expression and the right of assembly. Together these Articles protect UK citizens' right to protest and to express views publicly which are in opposition to policies pursued by the authorities. It is important to underline that nobody is challenging the right to exercise those rights in Sheffield, least of all SYP. However, these rights are 'qualified' rather than 'absolute', and a public authority may lawfully interfere with them where to do so is necessary, for example, in the interests of public safety or for the prevention of disorder or crime. Article 1 of the First Protocol to the ECHR is also engaged. This protects the right to peaceful enjoyment of possessions, which is taken to include the right to work and earn a living.
- 5.2 However, a widely criticised action by SYP in November 2016 put the police on the wrong side of the argument. At this stage, there was no injunction in place. SCC and Amey apparently hoped to minimise protest and disruption in Rustlings Road, Sheffield, S11, by starting work on tree-felling very early in the morning. Some residents were woken at 5am by police at their doors, asking them to move vehicles. SCC's statement about this incident claimed that work was carried out very early in the morning on the advice of the police as this was considered the best option for the safety of the public, protestors and the workforce.
- 5.3 The ensuing media publicity gave the impression that SYP was actively engaged in supporting the felling work, rather than holding the ring. The PCC attempted to correct this impression. In a statement on 17 November, he said: *"The decision to fell trees was taken by SCC. The police can offer advice, but decisions around timing and the closure of roads are likewise matters for the City Council. The only role of the police is to ensure that law and order is*

upheld and the public are protected, which is an operational decision for the Chief Constable.”

- 5.4 SYP made a poor judgement call on that occasion in warning residents; that should have been a job for SCC/Amey. Although a number of arrests were made, all charges were subsequently dropped. SYP’s subsequent tactics show that they learnt from this unfortunate episode.
- 5.5 In the following period, there was considerable liaison activity with protest groups media and interested individuals. Factual accounts appeared on the SYP website of when and where arrests were made.

6. A Change in Policing Approach

- 6.1 An incident on 22 January 2018, in Meersbrook Park Road, Sheffield, S2, was the trigger for a change in policing approach. It would not be right to go into these events in detail at this stage because they are subject to investigation and potential criminal proceedings. What can be said, however, is that Amey’s security team used force to remove protestors from inside the safety zone, and in the process, a security officer’s wrist was broken. Work on the tree-felling programme was then suspended for a period.
- 6.2 On 21 February 2018, SCC announced that work had to be abandoned the previous week, at Nether Edge, Sheffield S7.*
- 6.2.1 The statement from SCC on 23 February said that protestors appeared to be using dangerous tactics. These tactics were expanded upon in the Force’s Communications Plan, which was supplied as part of the review process. This explained that the ‘dangerous tactics’ involved pulling and cutting safety ropes, studding trees with nails and glass and using oil which could cause chain saws to slip.**

**Paragraph 6.2 has been amended on 18 October as it incorrectly referred to the work being abandoned on 21 February when in fact the statement of 21 February referred to this happening the previous week.*

***This paragraph has been expanded following a review of the statements issued on the 21 February and 23 February to clarify where this information was obtained.*

6.3 On 26 February, SYP implemented Operation Quito. Although Operation Testate had been in place since the beginning of the 'Streets Ahead' programme, and had evolved, Op Quito represented a change in the level of police involvement. Assistant Chief Constable David Hartley (now SYP Gold Commander for tree protest operations) has explained to us that threat and risk are constantly being formally assessed and the change in policing approach resulted from an assessment of heightened threat and risk.

6.4 We have had access to the tactical plan for Op Quito. The objectives of the operation are focussed on the safety of all involved, while discharging core policing responsibilities of:

- The protection of life and property
- The prevention and detection of crime and disorder
- The maintenance of the Queen's Peace.

6.5 These core responsibilities for public order policing, are defined by the National Police Chiefs Council (NPCC) and are set out in *Authorised Professional Practice*. They are effectively national standards. The balancing of the rights of protestors with those impacted by any protest is emphasised.

6.6 We have also seen a Memorandum of Understanding (MoU) drafted by SYP. It sets out the respective responsibilities of SCC and of SYP. In addition to specifying that '*SCC will be responsible for the overall safety of the operation, the stewarding and security of the operation, and all issues affecting the safety of persons employed on the operation*', it lists the information which SCC is required to produce in its 'full deployment plans'. This specifically includes details of:

- Occupants of any affected premises
- Any other premises likely to affect response or influence situation
- Operational tools being used, including likely effect on spectators/campaign groups

- Staff involved on operation, including roles and responsibilities of all concerned
- Contingency plans for reasonably foreseen expectations

6.6 The plans should, under the MoU, be submitted by SCC in a timely manner. SYP's responsibilities under the MoU are considerably more limited. They are to work with SCC representatives, contractors and protestors 'to minimise the likelihood of criminal activity and anti-social behaviour', and to 'respond lawfully and proportionately to properly assessed threats and risks necessitating police action'. 'Deployment or the use of any of these police powers are at the discretion of SYP'.

6.7 We understand (at the time of finalising this report) that SCC has not signed the MoU. This is disappointing. SYP has however been working to the principles contained within it.

7. The Implications of the Civil Injunction

7.1 That then is the basis of SYP's engagement post on 26 February 2018. The existence of the civil injunction is also seen by SYP as a trigger for its new approach. In the tactical plan for Op Quito, SYP draws attention to the lawfulness of SCC's highway maintenance programme, drawing on the findings of Justice J Males when he granted SCC its High Court injunction. Distilling the thinking both explicit and implicit in the tactical plan, we have obtained the following chain of logic:

- a. The High Court has found that the highway maintenance programme is lawful;
- b. Therefore Amey's work in carrying out that programme, is lawful;
- c. Therefore, its operatives are entitled to go about that lawful business;
- d. Therefore, they are entitled to protection from the police, in doing that;
- e. However, the police must also facilitate the right to peaceful protest.

- 7.2 Actions which breach the civil injunction are unlawful – though not necessarily criminal. The distinction between civil and criminal is important in this context. It is not the role of the police to enforce civil injunctions, and SYP briefs its officers on that point. Police are involved (says SYP) not because it is enforcing the injunction (only SCC/Amey are empowered to do that through the High Court) but in pursuit of the three core duties set out at 5.4 above.
- 7.3 However, because it is a criminal offence (s 303 Highways Act 1980) to obstruct a person in the execution of a duty under that Act, such as maintenance of the highway, officers have been using s303 to remove protestors who are said to be obstructing contractors maintaining the highway. This affects particularly those who are in breach of the order not to remain inside the safety zone. *[Footnote: A power of arrest only arises if the alleged offender fails to give their name and address; otherwise the police would only be able to issue a summons, rather than arrest. In other words, a protestor who gave his or her name or address could not be arrested by police if s303 were the only alleged offence which was being committed].*
- 7.4. Although SYP is clear that its actions are a proportionate response to the competing requirements of minimising the risk of harm to contractors going about their lawful business, while protecting the rights of protestors, some others have found it difficult to distinguish the police role from enforcement of the injunction. Certainly there have been many comments on social media which have blurred those functions. To the extent that police action results in the removal from a felling site of somebody who appears to be in breach of the civil injunction, the confusion is probably inevitable. However, the removal is not in itself enforcement of the injunction; it has taken place in fulfilment of the well-recognised public order duties set out by the National Police Chief's Council (see 5.4 above).
- 7.5 SYP made 25 arrests at tree protest sites between January and March 2018. Whether charges are pursued is a matter for the Crown Prosecution Service. Civil enforcement proceedings have been brought – separately by SCC - against persons said to be in breach of the injunction.

7.6 It should be acknowledged that not everybody accepts the finding of Justice J Males, when he made the injunction, that the tree-felling programme is lawful. Those who hold the contrary view would go on to argue that if the programme is not lawful, no force (not even 'reasonable' force) used by Amey or SYP to remove protestors can be lawful, and assaults have therefore been committed against protestors during the course of their removal. This alternative approach to what is lawful depends upon a belief in the ability of higher ethical principles to trump orders of the High Court. It is of course in contrast to the analysis set out in 6.1 above, which explained why SYP's role is in our view lawful.

8. Observation of Policing

8.1 Two of us observed the policing of protests in Kenwood Road, Sheffield 7, on 8 March. Police activity and intervention on the day were in line with the tactics explained at briefings given that morning to the officers who would be involved, at which we were present. The PCC and a member of his staff were also present for part of the day, as were local media.

8.2 Police and contractors arrived together at 12 noon. Notices had been erected of intention to close the road. A fenced area was erected around a tree designated for felling. This constituted the 'safety zone'. Approximately 30 police officers were deployed, though not all of them for all of the time.

8.3 A small crowd quickly gathered outside the safety zone. Early on, a small number of individuals went inside the safety zone to discuss the proposed works with contractors, and then came out. A few attempts were made by masked protestors to gain access to the safety zone. Two succeeded, and declined to come out. One had lain down on the pavement, and was eventually removed by security staff and handed over to police. The other was under a cherry picker and, after being given ten opportunities to come out, was removed by police, wearing reinforced headgear. No tree work could take place while these were inside the safety zone, so contractors and their security staff

stood around. Evidence gatherers were on site to ensure that activity was recorded.

- 8.4 Both individuals were taken away in police vans. Once it was safe to do so, contractors felled two trees, and that was the total work carried out during the day. They had waited about three hours since their arrival to carry out any work. After the removal of the masked protestors, the crowd, which had swelled to about 80 people, dwindled.
- 8.5 SYP pioneered the use of Protest Liaison Officers (PLOs) in 2011. Their role is to keep channels of communication open between protestors and police. It is a role which has been copied in other forces, and requires considerable sensitivity and communication skills. PLOs who are present at the trees protests, have maintained dialogue with the crowds. On 8 March, in a good example of their usefulness, one of the PLOs at the scene explained to protestors outside the safety zone, prior to removal of the individual under the cherry picker, that police would be changing from standard helmets to reinforced headgear. He explained that this was for their own safety when going under the cherry picker to remove the protestor. During negotiation the protestor was also offered a hard hat, which he refused.
- 8.6 Photographic and film images of the police in what appeared to be riot headgear removing the masked protestor, appeared on social media, without, so far as we know, any explanation of why that headgear was being worn, nor any mention of the advance warning given by the PLO.
- 8.7 Meanwhile during the day, and coming to a crescendo during the removals, many in the crowd chanted in unison: *'Whose Streets? Our Streets. Whose trees? Our Trees. Whose police? Amey's police'*. Sometimes, the chanting was accompanied by references to the 1984/5 miners' strike and comparison with the Battle of Orgreave. In reality there is no credible comparison to be made, but Orgreave still triggers strong emotional reactions in many South Yorkshire people, so to link policing of the trees protests to policing of the miners' strike stirs up feelings against the police.

9. Criticisms Made of Police

9.1 There has been a great deal of activity on social media, most of it critical of the trees programme, and some of it focussing on SYP's involvement. There, in the print and broadcast media, and in correspondence to the PCC and SYP, the criticisms cluster round three themes.

9.2 **First criticism: 'Lack of Police impartiality'**

The first theme is that the police are alleged not to be impartial as between SCC/Amey and the protestors. For example, in tweets, pictures make it appear that there is a heavy presence of force. The broad point made by those who object to the tree-felling is that Amey would not be able to carry out its contract without a strong police presence, so SYP is facilitating the tree-felling. The perception has taken hold that the police are 'Amey's police'. Attention has been drawn to police vehicles travelling in convoy with those of the contractors, and to clear co-ordination of policing action with Amey and SCC. There are claims that police are there before any protest has taken place.

9.3 There have also been complaints that police support to Amey to carry out its work, is not matched by support for protestors wanting to report incidents. By way of example, people told one of us that they wanted to report alleged criminal conduct by the contractors, but there was nobody on site to whom to report these issues, and complainants had to ring 101.

9.4 On the day of the observation, there was an allegation that the fence round the safety zone had been moved roughly by contractors and onlookers had been bruised in the process. It was said that this constituted an assault. We are not in a position to say whether the Security Industry Authority (SIA) badged security staff used reasonable force to enforce the injunction; that would be a

matter for police investigation. Another complaint was that a 'bat box' had not been checked for confirmation that no bats (protected species) were present, before sawing of that tree began. Both individuals making those complaints to us expressed anger about the difficulty in reporting incidents.

9.5 Evaluation of first criticism

The presence of the police is based upon the need to keep all parties safe, so that the right to protest is respected while SCC's contractors carry out their business. The judgement that increased involvement was necessary from 26 February onwards was made by the police, following an assessment of threat and risk according to a recognised analytical framework. Putting it simply, the police's objective is to minimise the risk of death or serious injury to those involved. That objective is the same as in many other police operations, whether on the streets, in football grounds or on other occasions when a large number of people gather. The tactics are planned after detailed consideration of a number of factors, including intelligence and legal advice, and briefed to every officer involved in the operation.

9.6 However, it is easy to see how, from the protestors' point of view, police involvement appears to be facilitating the controversial tree-felling programme. Indeed there is no escape from the conclusion that Amey would not be able to fulfil its contract without a police presence. The Chief Constable acknowledged as much when, in a statement to the PCC's Public Accountability Board on 27 March, he said that senior officers had experimented with holding all police back from policing an area where Amey contractors were operating, but work had been brought to a halt by protestors within five minutes. The conclusion we draw is that, without the intervention of SYP, operating according to the tactical plan for Op Quito, the tree-felling programme could not be carried out.

9.7 We consider it imperative that SYP must avoid any unintentional appearance of partiality. While coordination with SCC/Amey is essential, in order for hard-pressed police resources to be deployed most effectively, this should be handled carefully. For example, SYP needs to know where works are to be carried out, and to be aware of any residents on the relevant roads who have

particular vulnerabilities, as required by the MoU. But In order to underline police impartiality, **we recommend** that police vehicles avoid travelling in convoy with the contractors' vehicles, except to the extent that the police have intelligence (eg) that contractors' vehicles are at risk of attack, or an obstruction of the highway is likely to occur.

9.8 Furthermore, it would evidence the police's commitment to impartiality if there were **always** an Officer on site to whom complaints could be made about any allegations of criminal conduct, and **we recommend** that this be put in place as soon as possible. This could be a designated PLO. We understand that it was planned to identify such an individual, but on the day of our observation, it was not possible to find that individual. Tempers became frayed. It would not matter if the allegations proved to be unfounded; the need is to demonstrate a real impartiality as between the parties. Providing an accessible channel is a way of containing bad feeling, particularly on the part of the protestors. A minor incidental benefit is that these complaints would not add to the demand on the 101 number.

9.9 **Second Criticism: The police response is disproportionate**

The second theme is of disproportionality. The criticism is that the level of police involvement is more than is necessary to meet any threat posed by protestors. It is said that to deploy 30+ officers per tree-felling site is a heavy-handed response, bearing in mind that the great majority of the protestors are law-abiding individuals who know where to draw the line. See for example pictures on Twitter of police and security in their high-vis jackets; it is commented that this looks quite intimidating.

9.10 **Evaluation of the second criticism**

The PCC stated on 6 March that he would expect the police to make a prudent judgement about numbers but that it is an operational matter for the police to decide how many officers to deploy. We agree. It is difficult for those who do not bear senior operational responsibility, to make a judgement about the number of officers to be deployed. That applies to us too, even though we have had access to the Tactical Plan for this operation.

9.11 SYP's risk assessments for public order operations are constantly being updated according to circumstances, experience and intelligence. That has been the case here. The consequences of getting it wrong may be tragic for an individual whom police are unable to protect, and may lay the police open to serious criticism. On 8 March, for example, it took six officers to remove the masked protestor from under the cherry-picker. Failure to deploy enough officers for that task might have resulted in injury to the protestor, who had refused a hard hat for the protection of his head.

9.12 The police will also be vigilant for reports of intimidation of residents by protestors. There have been few but if they happen, they are of concern. An incident (before Christmas 2017) of intimidation of an elderly resident in Banner Cross, Sheffield, S11, who had recently undergone heart surgery, was reported to the PCC by a neighbour. It was said that in the absence of police, the neighbour was shouted at and harangued by a group of up to 10, one of whom was masked, when the resident made it clear that he wanted work carried out on a tree directly outside his home. We have not been able to investigate this independently, but the allegation is of concern.

9.13 We believe that the general public would expect SYP to arrange sufficient deployment to discourage incidents of intimidation. However, **we do recommend** that every effort be made to deploy the smallest number of officers compatible with maintaining a steady state protest, and that remaining officers are held in reserve nearby. Whether this is feasible on any given occasion is a matter for the senior officer on the ground.

9.14 **Third criticism: policing the tree protests is a waste of public resources**
Policing the trees protests is a waste of precious public resources, it is said, and carries risks for other police work. This was graphically expressed by *The Star* on its front page on 11 March which reported the presence of 30 officers at a trees protest 'as a young father of 3 was murdered on the street'. It has also been a focus for comment on social media. A typical tweet: '*Police force is being utilised to help Amey complete their job, however this means that*

criminals are left at free reign (sic) as less police is out to stop them. Is policing to this extent and so heavily for 'peaceful' protesting justifiable?'

9.15 But the challenge is also taken to a more general level, and is articulated thus: in persisting with the programme throughout March against a backdrop of vigorous protest, SCC took advantage of the duty of the police to maintain order and protect its contractors. Policing is paid for out of the public purse so the consequence is that the policing budget is subsidising the performance of a commercial contract.

9.16 Evaluation of the third criticism

This criticism is a development of the second one. While that focusses on what is said to be an exaggerated assessment of risk, this criticism targets the impact on other activities in the public space if the police's limited resources are eaten up by the tree protests.

9.17 We can say without risk of contradiction that neither SYP nor the PCC would choose to be spending the limited policing budget in this way. To the extent that resources are being expended on tree protests, they are clearly unavailable elsewhere. Furthermore, while officers are on duty at the protests, other tasks are piling up in their in-trays or their Inboxes, or they are forgoing rest days or leave, with the inevitable risk of consequences for their wellbeing.

9.18 We consider that the more general challenge (which is in reality a challenge to SCC) - namely the reliance of SCC on policing to secure the performance of a commercial contract – is well founded. It was noteworthy that at the end of February and through March, SCC appeared to step back from public engagement in the media and elsewhere, leaving SYP in the eye of the storm. On the day of our observation, no official representative of SCC was visible, although one of the local councillors for that ward visited the site for part of the afternoon. It will have appeared to those attending that SCC had simply washed its hands of the issue and left Amey to it, and the police on the front line of enforcement as a result of its positive obligation to uphold the right to carry on lawful activity.

9.19 It may be asked why the cost of policing the protests is not re-charged to SCC and Amey. The answer is that the law does not allow it. At present, there is a strong presumption that the police are carrying out duties to protect life and property when they police public land. In those circumstances, the law does not allow the police to charge for policing services. Policing a football match or a concert is different; the activity takes place on private land, and the football club or organisers can be charged for what are known as ‘special police services’. The cost of policing the roads around a football ground on match days, cannot be recovered. The distinction was re-stated by the Court of Appeal in October 2017 in *Ipswich Town FC v Chief Constable of Suffolk*, and SYP’s Deputy Chief Constable Mark Roberts has very recently asked the Home Office to review this distinction.

9.20 In the context of the tree protests, the law does not appear to have caught up with the outsourcing of local authority functions. In an age in which private organisations carry out public functions for commercial gain, it is unclear in policy terms, why the cost of policing which facilitates the performance of a commercial contract, should come at nil cost to the contractor. In our view, the activity of police in support of a private contractor on *public* land needs review, and **we recommend** that the PCC invites the Home Office to undertake such a review. The spread of fracking, with attendant demands on police resources on the public highway, lends such an urgency to such a review.

9.21 However, there is another part of fracking-related activity which will place pressure on policing in South Yorkshire. As in other parts of the country, SYP resources will no doubt be required to police fracking activities on *private* land. In the light of the expense of policing tree protests, **we recommend** that SYP develops a policy for charging for policing services on private land where these are provided to commercial entities (eg engaged in fracking and related activities) insofar as this is permitted by the present law.

10. Community Engagement

- 10.1 Is SYP engaging effectively with all parties to explain its actions? The first point to be made is that it does not follow from the criticisms which have been made of SYP that it has not engaged effectively. Engagement does not of itself head off criticism.
- 10.2 SYP drew up a detailed and comprehensive Communications Plan (Comms Plan) to sit alongside the Tactical Plan. It aimed to provide a pro-active and transparent commentary on the policing response. It aimed to inform the media and interested parties of the reason for the change in tactics and to provide regular proactive updates as well as reassurance to local residents.
- 10.3 The Comms Plan proposed that SYP should take a more pro-active approach, providing briefings, interviews, a video, selected release of SYP footage and invitations to media to observe Silver Command activity. So far as we can ascertain, not all of this has taken place.
- 10.4 A standard response from the Chief Constable was prepared as a reply to all general public enquiries through email and other media. The key messages were the police's position of impartiality, taking a balanced and reasonable approach, respecting the right to peaceful protest but acting as expected in response to criminal activity. These key messages have been repeated throughout all communications.
- 10.5 The key messages were also contained in a public statement from ACC Hartley on 23 February 2018, which was 'welcomed' by SCC. The statement affirms respect for the right to peaceful protest which is to be balanced against the rights of SCC to carry out its lawful business. ACC Hartley acknowledged that the police had previously adopted a low key presence with officers only responding where incidents required intervention, i.e. where disorder and violence had resulted in injury. He clearly stated that it was the police's prerogative to move to a different policing style if required. He also made a commitment in a spirit of openness and transparency to meet all parties and

explain the police strategy. A video message containing the same messages has also been recorded by ACC Hartley.

- 10.6 The PCC's statement of 6 March 2018 confirmed that the police's role is to keep the peace and uphold law and order, but that it is the responsibility of SCC to implement the injunction which it had decided to seek. The PCC repeated his earlier statement that this is a political issue and is a dispute between the Council and some of its residents.
- 10.7 There has been extensive coverage of the story by the local print and broadcast media. There has also been some national coverage, and the *Yorkshire Post* gave prominent coverage during the week beginning 5 March. The events of 8 March were widely covered in local media, and there was a lengthy feature in *The Guardian* shortly afterwards.
- 10.8 The Comms Plan recognised that persistent and significant protester footage was being released on social media. SYP took the view that such footage offers a one-sided view and illustrates a lack of understanding of the law, particularly in relation to the use of reasonable force and the respective roles of the police, the Council and its contractors.
- 10.9 SYP did not post much on its own Twitter account or Facebook page, but it has been tagged in numerous posts by protestors, journalists and observers. It has however been posting news of arrests of protestors.

Evaluation of Communications

- 10.10 It is apparent to us that the police are very aware of the sensitivities involved in this operation and the potentially negative press and public response. The Comms Plan approach is sensible and comprehensive, though as already stated, it may be that the Plan has not been implemented in full.
- 10.11 It is undoubtedly very difficult for SYP to 'win' on social media, particularly on Twitter, which can be an aggressive forum. Many protestors have tweeted their

unhappiness (see section 8 above for the main criticisms) with the potential to damage SYP's reputation, and public trust and confidence. The STAG Facebook page is used to communicate with those concerned about trees. It is regularly updated and followers are kept abreast of activity to ensure a co-ordinated approach is formed.

10.12 There is always a balance to be struck when dealing with the media, particularly when pictures of activities are instantly available across social media. That being said, the SYP response still seemed to be lacking from a public perspective. For example, on 12 March the latest reference on the SYP website and Twitter account was 6 days old, and was a very short statement about an arrest and a summons under the Highways Act. **We recommend that** SYP ensures its media responses are quicker and tailored to public debate.

10.13 Allowing for the care which must be exercised by public bodies with information they publish online, we take the view that there is more scope for SYP to show that it is seeking to do its best for the public in this dispute. There may be a number of ways in which this could be done, but, for example, SYP should consider posting some photos of PLOs talking to tree protestors. **We recommend** that this is put in hand as soon as possible if the protests resume. At present it is easy to find footage of SYP arresting members of the public.

10.14 Going beyond media communications, there may be room for more personal engagement within the communities affected by the tree felling programme. We understand that Amey has posted leaflets out, but **we recommend** that SYP should consider distributing leaflets explaining the distinct role of the police in areas selected for tree felling. Such a leaflet might refer readers to ACC Hartley's video-message and to a 'Frequently Asked Questions' sheet to be published on SYP's website.

10.15. We noted above the absence of any representative of SCC or Amey at tree felling sites when we observed on 8 March. We understand that this has been the position on other occasions. That absence thrusts the police into the front line of protestors' objections, when they should not be the target. **We**

recommend that SYP, supported on a political level by the PCC, should invite SCC and Amey to deploy senior representatives to talk to protestors when tree-felling is taking place.

10.16 We also noted above that SCC had not – when the felling programme was active – signed the MoU which set out the respective responsibilities of itself and SYP. We **recommend** that SYP, supported on a political level by the PCC, renew pressure on SCC to agree the MoU in the event that the felling programme is renewed.

11. Conclusions and Summary of Recommendations

11.1 Until February 2018, the involvement of South Yorkshire Police (SYP) could be fairly described as low level, although there were days of more intense activity. On 26 February, SYP implemented Operation Quito, which represented a change in the level of police involvement. It was explained to us that threat and risk are constantly being formally assessed and the change in policing approach resulted from an assessment of heightened threat and risk.

11.2 The tactical plan for Op Quito focusses on the safety of all involved, while discharging core policing responsibilities of:

- The protection of life and property
- The prevention and detection of crime and disorder
- The maintenance of the Queen’s Peace

11.3 SYP has based its actions on an assessment of risk and threat. It has had regard to the need to hold the balance between the rights being exercised by protestors, and the lawfulness of SCC’s highway maintenance programme, as found by Justice J Males when he granted SCC its High Court injunction. SYP is clear that its tactical plan is a proportionate response to the competing requirements of minimising the risk of harm to contractors going about their lawful business, while protecting the rights of protestors; we agree.

11.4 A MoU with SCC defines SYP's responsibilities in relation to the policing of the trees protests. Although this has not been signed by SCC, SYP has been acting as if it were in force. We consider that the limited role for SYP under the MoU is evidence of the proportionate approach which SYP has adopted.

11.5 The limited role of SYP is briefed to officers, e.g. that it is not the role of the police to enforce civil injunctions. So far as we are aware, officers have acted within the roles briefed to them.

11.6 There has been a great deal of activity on social media, most of it critical of the trees programme, and some of it focussing on SYP's involvement. There, and in the print and broadcast media, and in correspondence to the PCC and SYP, the criticisms cluster round three themes. We have evaluated those criticisms, and do not think that they are well-founded, but we have made a number of recommendations to SYP and to the PCC which will have the effect of clarifying the police's role and of underlining where responsibility for the situation lies.

11.7 We have also considered SYP's approach to communications, and made a number of recommendations. All our recommendations are summarised in the following paragraphs.

11.8 Recommendations

- a) In order to underline police impartiality, **we recommend** that police vehicles avoid travelling in convoy with the contractors' vehicles, except to the extent that the police have intelligence (eg) that contractors' vehicles are at risk of attack, or an obstruction of the highway is likely to occur (para 8.7).
- b) It would evidence the police's commitment to impartiality if there were **always** an Officer on site to whom complaints could be made about any allegations of criminal conduct, and **we recommend** that this be put in place as soon as possible. This could be a designated PLO (para 8.8).

- c) **We recommend** that every effort be made to deploy the smallest number of officers compatible with maintaining a steady state protest, and that remaining officers are held in reserve nearby. Whether this is feasible on any given occasion is a matter for the senior officer on the ground (para 8.13).
- d) In an age in which private organisations carry out public functions for commercial gain, it is unclear in policy terms, why the cost of policing which facilitates the performance of a commercial contract, should come at nil cost to the contractor. In our view, the activity of police in support of a private contractor on public land needs review, and **we recommend** that the PCC invites the Home Office to undertake such a review (para 8.20).
- e) Extrapolating beyond the trees protests, SYP resources will no doubt be required to police fracking activities on private land. In the light of the expense of policing tree protests, **we recommend** that SYP develops a policy for charging for policing services on private land where these are provided to commercial entities (e.g. engaged in fracking and related activities) insofar as this is permitted by the present law (para 8.21).
- f) There is always a balance to be struck when dealing with the media, particularly when pictures of activities are instantly available across social media. That being said, the SYP response still seemed to be lacking from a public perspective. **We recommend that** SYP ensures its media responses are quicker and tailored to public debate (para 9.12).
- g) We take the view that there is more scope for SYP to show that it is seeking to do its best for the public in this dispute. There may be a number of ways in which this could be done, but, for example, SYP should consider posting some photos of PLOs talking to tree protestors. **We recommend** that this is put in hand as soon as possible if the protests resume (para. 9.13).
- h) There may be room for more personal engagement within the communities affected by the tree-felling programme. **We recommend** that SYP should consider distributing leaflets explaining the distinct role of the police in areas

selected for tree felling. Such a leaflet might refer readers to ACC's video-message and to a 'Frequently Asked Questions' sheet to be published on SYP's website (para 9.14).

- i) The absence of any representative of SCC or Amey at tree-felling sites thrusts the police into the front line of protestors' objections, when they should not be the target. **We recommend** to SYP that – supported on a political level by the PCC - it invites SCC and Amey to deploy senior representatives to talk to protestors when tree-felling is taking place (para 9.15).
- j) SCC had not – when the felling programme was active – signed the MoU which set out the respective responsibilities of itself and SYP. We **recommend** that SYP, supported on a political level by the PCC, renew pressure on SCC to agree the MoU in the event that the felling programme is renewed.

12. Where now?

12.1 SCC announced a pause in tree-felling as the Easter holidays began. Its long-term intentions are unclear. The bird nesting season is underway, and the law gives some protection against activity which interferes with nesting birds. This pause provides an opportunity to improve engagement. Although national politicians have made disapproving noises, nobody – at the time of preparing this report – has publicly identified any intervention which might gain general support. However, it is clear that police officers are unhappy about performing this role, and it is difficult to believe that the morale of Amey staff, and security staff, is not being sapped. Furthermore, SCC and Amey must be suffering reputational damage.

12.2 If the tree-felling programme continues in its most recent form, it seems inevitable that the police will be required to continue to perform the role which they played before the pre-Easter suspension of the felling programme, with the consequential challenges to resourcing. The protestors cannot be 'policed

away'; policing will never be a solution. We judge that this part of the Streets Ahead programme of SCC can only be implemented if the police remain in place.

12.3 However, just because something is lawful does not mean that it has to be done. No court has ordered SCC to continue with its tree-felling programme. Continuing with it is a political decision, just as not doing so is a political decision. Our judgement is that only if SCC takes steps to modify the controversial aspects of the programme, will policing return to the low-key levels seen before February. It is important that SCC recognises that if policing at pre-Easter levels is still required, that will impact on policing resources with the consequences explored earlier in this report.

12.4 We understand that, if there is no initiative by SCC and Amey which would have the effect of reducing the call on policing resources, the PCC is prepared to convene a meeting with SCC and Amey to explore whether there is scope for a change to the programme which would result in a return to low key policing, or better still, no policing at all.

ANNEX 1

STATEMENT OF THE PCC ON 6 MARCH 2018

Policing of Tree Protests

South Yorkshire Police and Crime Commissioner, Dr Alan Billings, said: “The police response to tree felling in Sheffield has not changed. They must allow for peaceful protest on the one hand and enable people to go about their lawful business on the other. They must keep the peace and uphold law and order.

“What has changed is the decision by Sheffield City Council to take out an injunction against the protestors, which they, and not the police, implement. This has raised the temperature.

“However, in this changed situation I expect the police to remember their responsibilities towards both protestors and contractors and respond proportionately. How many police are deployed at any time is an operational matter for the force. They will make a prudent judgement since an over stretched force will not want to take officers from other duties unnecessarily.

“Last week I commissioned my Advisory Panel for Policing Protests to undertake observation and assessment of South Yorkshire Police’s approach to the ongoing protests. I have specifically asked them to provide me with an independent report as to whether the policing is fair and proportionate and whether the force is effectively engaging with all parties to explain their actions, including with the wider community.

Once complete this report will be publicly available on my website.

“My view remains as it always has been that this is not, or should not be, a dispute with the police. It is a matter between Sheffield City Council and some of its residents - a political matter. As such it should be resolved politically and I see no reason why it should not.”

Ends



Advisory Panel on Policing Protests

Terms of Reference - Sheffield Trees Assessment of Policing

To observe and assess South Yorkshire Police's (SYP) approach to the policing of the ongoing protests in relation to the Sheffield City Council / Amey 'Streets Ahead' programme. Specifically:

1. To provide independent support and challenge to SYP in its handling of the protests.
2. To make an assessment as to whether SYP's approach to policing the protests is fair and proportionate in relation to balancing the policy of Sheffield City Council (delivered through its contractor 'Amey') with the right to peaceful protest and the rights of residents to go about their day-to-day business.
3. To report to the PCC about SYP's policing of the ongoing protests and in particular:
 - a) whether the policing is fair and proportionate; and
 - b) whether SYP is effectively engaging with all parties to explain their actions, including with the wider community.

Membership

Chair – Andrew Lockley
Saghir Alam OBE
Sahir Ali
Linda Christon

Dr Alan Billings

South Yorkshire Police and Crime Commissioner

1 March 2018