

The logo for the Police Investigations & Review Commissioner (PIRC), consisting of the lowercase letters 'pirc' in a white, sans-serif font.

Police Investigations &  
Review Commissioner

RAISING THE STANDARD

**COMMISSIONER'S  
ANNUAL REPORT  
2016-17**

# Police Investigations & Review Commissioner

COMMISSIONER'S ANNUAL REPORT FOR THE YEAR ENDED 31 MARCH 2017

This report is prepared in accordance with and meets reporting obligations under Part 1 of the Police, Public Order and Criminal Justice Act (Scotland) 2006 as amended by the Police and Fire Reform (Scotland) Act 2012.

It presents highlights of the PIRC's achievements for the financial year 2016-17 and details the organisation's performance against its objectives.

The report (SG/2017/216) was laid before the Scottish Parliament in December 2017 under section 43 (5) of the Police Public Order and Criminal Justice (Scotland) Act 2006.



To independently investigate incidents involving the police and independently review the way police handle complaints from the public.



To secure public confidence in policing in Scotland by supporting continuous improvement, promoting positive change and thereby driving up standards.



To carry out our functions detailed in the Police, Public Order & Criminal Justice (Scotland) Act 2006, the Police Investigations & Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013 and the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013.

## Contents

The Commissioner's Foreword	06
The Commissioner and her role	08
Our Objectives	10
The Executive Team and Heads of Department Group	12
Our Values	14
The Work of the Investigations Team	16
Investigation Case Studies	18
The Work of the Review Team	22
Review Case Studies	24
The Work of the Corporate Services Team	26
Key Statistics 2016-17	28
Relevant Legislation and Regulations	34
Policing Bodies operating in Scotland	34
Glossary	35

# The Commissioner's Foreword

## Raising the Standard

It is now three years since I was appointed as the Police Investigations and Review Commissioner and as I look back over this time, I am struck by the persistence of two prevailing and reciprocal themes: one, increasing demand for our services; the other, our commitment to adapt to meet that demand without compromising the quality of what we do.

Taking the matter of demand first. Throughout the past year we saw a further rise, of 34%, in the number of independent investigations carried out by our Investigations Team. Significantly, an increasing proportion of these cases are now being referred to us by the Crown Office and Procurator Fiscal Service (COPFS). During 2016 - 17 the COPFS referred 32 cases in total, involving 3 deaths in police custody, 19 deaths following police contact and 10 allegations concerning the possible criminal conduct of police officers.

This is a conspicuous upswing, of 52%, on the figure for last year and is significant because it marks a considerable shift not just in the volume but also the nature of this work. These investigations referred by the COPFS tend to be complex and resource-intensive. They require that all the evidence gathered in the course of our investigations be presented in a manner that not only allows the COPFS to decide whether to institute criminal proceedings or hold a Fatal Accident Inquiry, but also to withstand the rigour of any subsequent judicial process. Additionally, these investigations very often call for the services of our family liaison officers, whose role it is to support the affected families during the investigative process.

Increasing workloads have also been a defining feature of the past year for our Review Team, which had to deal with 903 Heads of Complaint, a rise of 23%. This upward trend is to be welcomed, reflecting as it does our joint efforts with policing bodies to improve the capture of complaints from the public. Moreover, in spite of the additional work, the team continues to improve its turnaround times, achieving a 96% completion rate within our three-month target. This has been aided in no small part by the introduction of our new streamlined review process, designed with the express purpose of improving our efficiency in this area of business.

Unsurprisingly, the growth in workloads of both teams had a concomitant impact on our Corporate Services Team, straining the capacity of both its general and specialist support functions. Thanks to a £455,000 boost in funding by the Scottish Government, we have now relieved some of that pressure by recruiting new members of staff, enabling us to maintain our characteristically high levels of output.

"...I firmly believe that through the dedication of the staff in all our departments to promoting learning and best practice, we are demonstrating our commitment to raising the standard of policing throughout Scotland."

Of course, in order to achieve our aim of securing public confidence in policing, the public must be able to see the work we are doing and the outcomes we are achieving. The task is undoubtedly easier for the work of the Review Team. Most of their Complaint Handling Reports, complete with any recommendations or directions to reconsider, are publicly available through our website. Throughout the year, the Review Team issued 420 recommendations, of which all were accepted by the relevant policing bodies and at the time of writing this report, 92% have been implemented.

The impact of these recommendations is evident from the increasing number of complaints that are being handled to a reasonable standard by policing bodies in Scotland. In 2016 - 17 this rose from 48% to 55%.

The situation is a little less straightforward for our Investigations work. While I am able to publish most reports of investigations referred to me by the Chief Constable of Police Scotland, the legislation limits my ability to publish those I prepare for the COPFS.

However, I am pleased to be working towards securing an agreement with the COPFS which will allow me to release details of some of these reports, together with our recommendations to the police, in 2017-18. I trust that by doing so, the public will be assured by the depth of our investigations and the learning flowing from them, that we are making a positive and vital difference to policing.

Indeed, I firmly believe that through the dedication of the staff in all our departments to promoting learning and best practice, we are demonstrating our commitment to raising the standard of policing throughout Scotland.



**Kate Frame,**  
Commissioner



## Who is the Commissioner and what is her role?

The role of the Police Investigations & Review Commissioner (PIRC) was established in 2013 at the same time as the single Police Service of Scotland.

The Commissioner, who is appointed by Scottish Ministers, is independent of the police and delivers a free and impartial service. Her role is to independently investigate incidents involving the police and independently review the way the police handle complaints from the public.

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Police Investigations &  
Review Commissioner

INDEPENDENT  
AND EFFECTIVE  
INVESTIGATIONS  
AND REVIEWS

### The Police Investigations & Review Commissioner can investigate:

- Incidents involving the police, referred by the Crown Office and Procurator Fiscal Service (COPFS). These may include deaths in custody and allegations of criminality made about police officers.
- Serious incidents involving the police, at the request of the Chief Constable or the Scottish Police Authority (SPA). Reasons for requests for investigations from the Chief Constable may include the serious injury of a person in police custody, the death or serious injury of a person following contact with the police or the use of firearms by police officers.
- Allegations of misconduct by senior police officers of the rank of Assistant Chief Constable (ACC) and above, if requested by the SPA.
- Relevant police matters which she considers would be in the public interest.

At the conclusion of an investigation, the Commissioner can recommend improvements in the way the police operate and deliver services to the public in Scotland.

### The Police Investigations & Review Commissioner (PIRC) can review:

- How the police in Scotland handle complaints made to them by the public.

Before the PIRC can consider a request for a Complaint Handling Review (CHR), the complainant must first make their complaint to the Professional Standards Department of the police body concerned to give that body the opportunity to address it. Only once the police body has informed the complainant of the outcome of that process can the complainant apply to the PIRC for a CHR if they are dissatisfied with the way the police have handled the complaint. Applications for CHRs must be received by the PIRC within three months of the date on which the police body sent their decision on the outcome of the complaint to the complainant.

The PIRC cannot carry out CHRs in relation to complaints of criminality or complaints made by individuals serving, or who formerly served, with the police about the terms and conditions of their service.

The purpose of the CHR process is to determine whether or not the complaint was handled to a reasonable standard by the police. The review may examine whether the police undertook sufficient enquiries into the complaint or whether the police response was supported by available information.

At the conclusion of a CHR, the Commissioner can recommend improvements in the way the police handle complaints made by the public.

The PIRC also ensures that the SPA and Police Scotland's Chief Constable maintain a suitable system for handling complaints.

## Our Objectives

To independently investigate incidents involving the police and independently review the way the way police handle complaints from the public, with the aim of increasing public confidence in policing in Scotland.

1

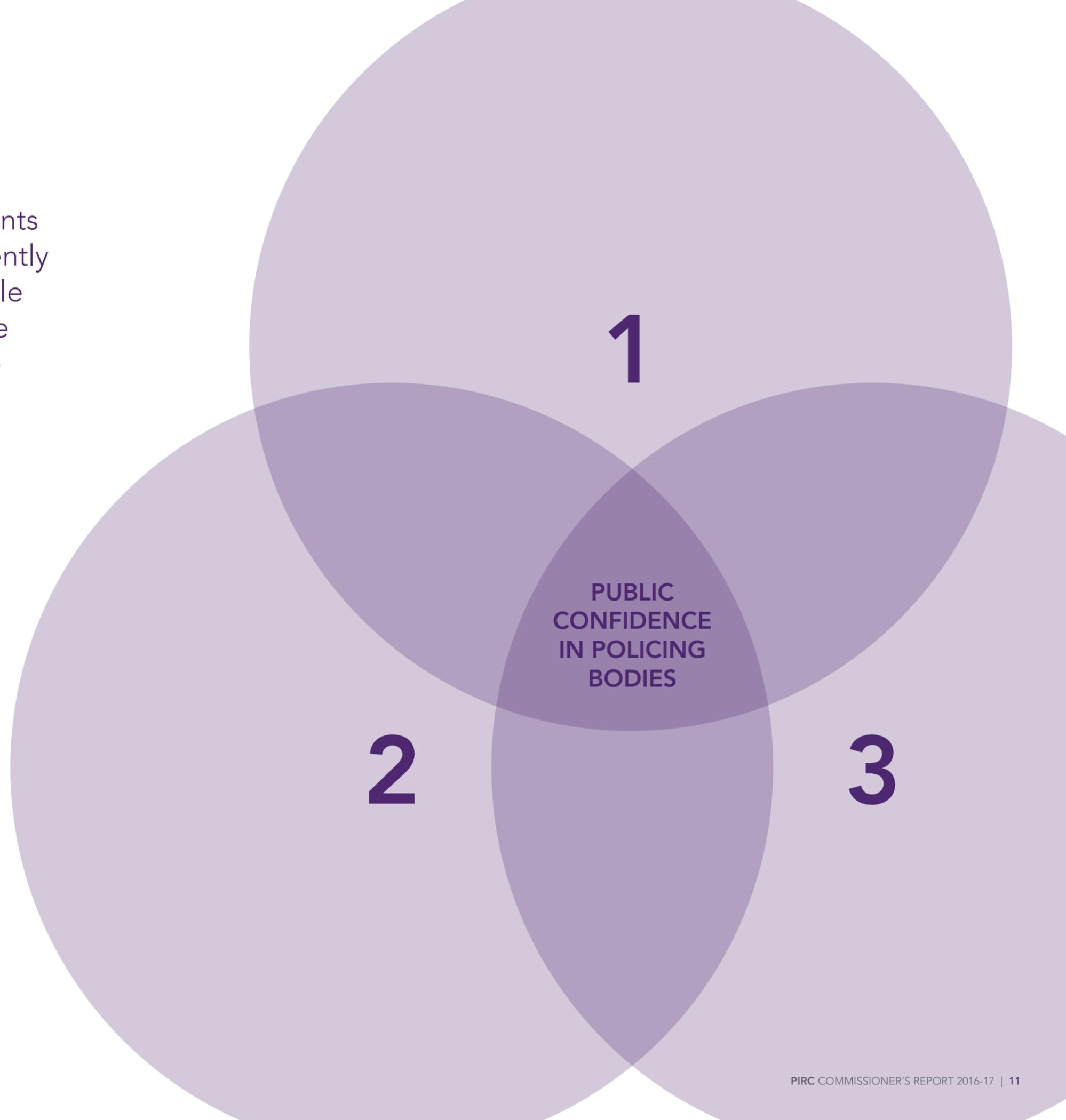
To carry out independent, thorough and timely investigations into serious incidents involving the police, with the aim of improving police procedures and increasing public confidence in policing in Scotland.

2

To carry out independent reviews of the way the police handle complaints, with the aim of increasing public confidence in policing in Scotland by making recommendations and ensuring that policing bodies have suitable complaints procedures.

3

To demonstrate a high level of governance and business effectiveness in accordance with best practice for Scottish Public Sector Bodies.



## Senior Management Team

The Commissioner's senior management team is responsible for the day-to-day running of the office. She and the Director of Operations form the Executive Team and are supported by the Heads of Department Group, which comprises the Head of Investigations, Head of Reviews and Policy and Head of Corporate and Human Resources.



**Kate Frame**  
COMMISSIONER



**John Mitchell**  
DIRECTOR OF OPERATIONS

### The Heads of Department Group



**John McSparran**  
HEAD OF  
INVESTIGATIONS



**Ilya Zharov**  
HEAD OF REVIEWS  
AND POLICY



**Sharon Smit**  
HEAD OF HR AND  
CORPORATE SERVICES

## Our Values

Our values guide, inspire and are reflected in all aspects of our work. The Commissioner is committed to ensuring all staff are guided by these values in carrying out their work.

### INTEGRITY

We will be trustworthy, honest, open and accountable for our actions.

### IMPARTIALITY

We will act fairly and independently, ensuring that our work is objective and reflects a rigorous analysis of the evidence. Our actions and decisions will be based on professional judgement and free from bias and discrimination.

### RESPECT

We will treat everyone with courtesy and dignity, openly demonstrating respect for diversity and equality, irrespective of an individual's background, beliefs, values, culture and needs.



## The Work of the Investigations Team

To carry out independent, thorough and timely investigations into incidents involving the police, with the aim of improving their procedures and increasing public confidence in policing in Scotland.



The number of incidents involving the police that we are asked to investigate continues to grow. This year our Investigations Team carried out 39 new investigations, an increase of 34% on last year. 32 of these cases (82%) were referred to us by the Crown Office and Procurator Fiscal Service (COPFS):

- 3 deaths in custody
- 19 deaths following police contact; and
- 10 investigations into allegations of criminal behaviour of police officers

This reflected a 52% increase in the number of COPFS referrals and mirrored the increasing seriousness and complexity of the cases undertaken by our Investigations Team.

A further 358 incidents were referred to us by the Chief Constable of Police Scotland. This too is an increase on last year's figures, of 25%. In most instances the referrals were made because they involved the presentation or discharge of CS/PAVA Spray, Taser or conventional weapons – all such incidents must by law be referred to us and independently assessed.

In all cases, regardless of where the referrals have come from, the Investigations Team will interview relevant witnesses and examine the available evidence. The resulting investigation report presents our objective assessment of the actions taken by the police; we may find them to be appropriate or justified in the circumstances, or we may recommend areas for improvement.

This year, we either published or submitted to the COPFS, 23 investigations reports. We look forward to publishing more of these reports next year, following agreement with the COPFS. This will present a number of benefits, not least those of bringing greater transparency to our work and extending the reach of our recommendations and advice, to support effective policing and ultimately increasing public confidence.

The Investigations Team has continued its programme of stakeholder engagement, providing training inputs on the role, purpose, functions and powers of the PIRC to various groups and organisations: all probationer, first-line manager and senior investigating officer courses at the Scottish Police College; the Scottish Police Authority (SPA), clinical forensic nurses, independent custody visitors, British Transport Police and the Ministry of Defence Police.

The team also regularly meets with the Scottish Fatalities Investigation Unit and Criminal Allegations Against the Police Division of COPFS, the Professional Standards Department of Police Scotland and the Scottish Police Federation to discuss ongoing and emerging matters with the aim of identifying, evaluating and securing any necessary improvements in policing in Scotland.

This is further supported by the Executive Team's programme of strategic engagement with the Cabinet Secretary for Justice, the Lord Advocate, the Crown Agent, the Chief Constable of Police Scotland, the Chair and Chief Executive of The Scottish Police Authority (SPA) and Her Majesty's Inspectorate of Constabulary and the Scottish Government.

# Investigations Case Studies

## 1. DISCHARGE OF FIREARMS BY POLICE

### Background

The incident took place on 12 February 2016 after a serious and organised criminal gang had been involved in the theft of a cash machine in Carnoustie.

A vehicle, suspected of being involved in the incident, was spotted parked in Westway Retail Park in Arbroath later that day and police responded by dispatching armed officers.

The officers discharged three shotgun tyre deflation rounds (TDRs) to disable the suspects' vehicle when they used it to ram a police car in an attempt to escape.

Police then arrested the occupants of the vehicle. This led to the conviction of seven men at Liverpool Crown Court for various offences including burglary and conspiracy to cause explosions. They received sentences ranging from 10 years to 19 years.

### Referral to the PIRC

Police Scotland referred the incident to the PIRC in accordance with the terms of the Police and Fire Reform (Scotland) Act 2012 and the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013, which provides that the Chief Constable must refer certain incidents involving the police to the PIRC to allow for an independent investigation.

### PIRC Investigation

As part of its enquiries, PIRC investigators interviewed members of the public and police officers and examined CCTV evidence including helicopter footage and police radio communications, firearms and surveillance logs and intelligence summaries.

### Conclusions

The PIRC investigation concluded in May 2016 found that intelligence and information available to police indicated that the persons responsible for the theft had access to firearms, a history of extreme violence and had previously used high powered stolen vehicles to ram police vehicles and evade capture.

The report concluded that:

- Examination of the police firearms response provided that the officers, including the operational and tactical commanders, managed the incident professionally;
- There was clear information indicating that the suspects had access to firearms, a history of violence and posed a high risk to the public and police;
- When the suspects used their vehicle to ram the police vehicle in an attempt to escape arrest, the use of Tyre Deflation Rounds (TDRs) was wholly justified in the circumstances and a necessary and proportionate tactic, which enabled the police to maximise the safety of the public and officers.

## 2. MISSING PERSON ENQUIRY: DEATH OF ELDERLY AND VULNERABLE WOMAN

### Background

The body of 88-year-old Janet McKay was found on Thursday 24 September 2015, in the area of Rothesay Docks, Clydebank. Mrs McKay, who suffered from a number of health problems including advanced dementia, had been missing from her home in Glasgow for 8 days.

She was reported missing to Police Scotland on the afternoon of 16 September 2015 and because of her advanced age and deteriorating health she was immediately classified as a 'high-risk' missing person, meaning that because of her vulnerability there were substantial grounds for believing that she was in danger and that the risk posed was immediate. Police Scotland instigated a full-scale missing person enquiry, including ground and air searches, house-to-house enquiries, searches of previous known addresses and places of work, media alerts and notifications to bus and taxi companies.

### Referral to PIRC

The Crown Office and Procurator Fiscal Service (COPFS) referred the matter to the PIRC to investigate how Police Scotland had managed the missing person investigation because of what appeared to be a number of procedural and investigative shortcomings. In particular, these included the apparent failure to:

- act upon a number of vital investigative leads.
- follow effective briefing and debriefing processes that would keep officers informed of new information and developments during the enquiry.

### PIRC Investigation

As part of its enquiries, PIRC investigators interviewed members of the public, police officers and staff. They examined police statements, CCTV evidence, telephone calls and police radio transmissions. Investigators scrutinised police files including missing person forms, command and control logs, standard operating procedures and policies, and other evidence gathered by the police. Following an extensive investigation, the PIRC submitted a report to the COPFS in April 2016.

### Conclusions

The PIRC investigation concluded that Police Scotland reacted swiftly to the report of Mrs McKay as a missing person. It correctly assessed her as a high risk missing person and allocated significant local and specialist resources for the duration of its missing person enquiry. However, the PIRC identified a number of procedural and investigative failings in how Police Scotland managed its enquiry.

Procedural failings:

- Many of the police officers involved in the enquiry had not read or were not fully aware of guidance contained in Police Scotland's Missing Person Standard Operating Procedures (SOP) and therefore did not follow standard missing person enquiry procedures.
- The form used by Police Scotland to record information about the enquiry had a number of weaknesses, including the inability to quickly identify lines of enquiry that had not been completed.

- Although Police Scotland conducted a timely search for Mrs McKay, officers did not properly record all the information available to them, in particular:
  - Officers failed to obtain initial statements from key witnesses or to accurately record some of the initial information they had obtained.
  - A number of supervisory officers failed to properly record various items of information on the missing person enquiry form.
  - Some items of evidence taken by police officers were not always properly processed or recorded.
- On 17 September 2015, one day after the elderly woman was reported missing, police supervisors failed to act promptly in response to a reported sighting of Mrs McKay on the day she had gone missing.
- On 18 September 2015, two days after the elderly woman went missing, police officers failed to inform a relevant officer or supervisor of significant information about Mrs McKay being seen by another witness on the day she went missing. On 22 September 2015, when this failure was eventually recognised, there was a further delay when an officer failed to pass on the address of this witness to other officers, thus causing further delay in obtaining a statement from the witness.

There were other procedural failings identified by the PIRC in Police Scotland's management of the investigation which, while they may not have materially affected the time taken to find the elderly woman, are shortcomings that it was recommended Police Scotland should resolve without delay.

#### Investigative Failings:

- Police Scotland held relevant information about Mrs McKay on its Vulnerable Persons Database (VPD) but it was several days before police supervisors were notified of information that:
  - On previous occasions when Mrs McKay had gone missing she had used buses.
  - Earlier that year she been found in a confused state on a bus bound for Clydebank.
- Officers failed to take a statement from a key witness, Mrs McKay's home carer, who was known to have visited the elderly woman's home on the day she went missing and who would have been able to describe what Mrs McKay had been wearing.
- On 19 September 2015, three days after the elderly woman went missing, a witness told Police Scotland that he had seen Mrs McKay boarding a bus to Clydebank near to her home. Despite holding information on its VPD about Mrs McKay's previous use of buses and specifically her use of a bus to Clydebank, Police Scotland did not follow up this vital information until six days after the woman went missing, on 22 September 2015.
- Although Police Scotland did carry out enquiries with local bus companies, the enquiries were not as focused and timely as they should have been. Some briefings given by police supervisors to officers about lines of enquiry were not adequate.
- Some police supervisors failed to check that lines of enquiry had been properly completed – for example, failing to obtain relevant CCTV footage showing the elderly woman on board the bus to Clydebank on the day she went missing.

#### Recommendations

The PIRC investigation highlighted a number of investigative and procedural shortcomings by Police Scotland in conducting a missing person enquiry for a vulnerable, elderly woman who suffered from dementia.

A number of recommendations were made:

1. That, in order to effectively manage and co-ordinate missing person enquiries, at the start of all investigations involving high-risk, vulnerable missing persons Police Scotland should:
  - consider setting up an electronic or manual Major Incident Room overseen by an appointed senior investigating officer, and
  - follow standard and well-established major incident management protocols.

2. That Police Scotland should ensure that all its officers and staff are fully aware of the procedures to be followed in high-risk missing person enquiries.
3. That Police Scotland should examine and take action on the failings highlighted by this investigation and put in place measures to ensure that such failings do not happen again in future high risk missing person enquiries.
4. That Police Scotland should ensure that any items seized as evidence in missing person enquiries, particularly CCTV evidence, are properly recorded, prioritised and where identified as important, reviewed immediately.

The Commissioner's report was shared with the Chief Constable of Police Scotland at the same time as the Commissioner submitted her report to the COPFS. She did so to enable the Chief Constable to take immediate corrective action and to ensure that future missing persons enquiries are not subject to the same failings.



## The Work of the Review Team

To carry out independent reviews of the way the police handle complaints, with the aim of increasing public confidence in policing in Scotland by making recommendations and ensuring that policing bodies have suitable complaints procedures.

Last year saw a gradual but sustained increase in the number of complaints which were handled to a reasonable standard by policing bodies in Scotland. The rise, from 48% to 55%, aptly demonstrates the value and impact of the work of the Review Team. This includes making policing bodies aware of both good and poor complaint handling practices. Sharing these findings through regular discussions and our 'Learning Point' bulletin allows policing bodies not just to focus on improving what is poor about their processes but to celebrate and capitalise on what is good too.

In the past year there was a 23% increase in the number of Heads of Complaint examined by the Review Team, rising from 735 to 903. Nevertheless, as a result of rising standards in police complaints handling, the number of recommendations resulting from these complaints rose by just 14%.

In spite of these increases in workload, the Review Team achieved its best ever average turnaround time for Complaint Handling Review (CHR) reports—just 1.6 months—in the second quarter of the year. This was largely due to our new streamlined process which, although introduced only recently, is already improving our efficiency. Once a review is completed, a copy of the CHR report, setting out the team's deliberations, findings and any recommendations, is sent to the relevant policing body and the applicant making the complaint. The majority of these reports are also publicly available through our website. On occasions, reports are not published to protect the identity of those involved.

The Review Team also ensures that policing bodies go on to implement our recommendations. Of the 420 complaint handling recommendations we made in 2016-17, 92% had been implemented as of 31 March 2017. Those recommendations implemented include the following:

- Revision of Police Scotland's outdated Standard Operating Procedures for dealing with sexual offences (PIRC/00476/16).
- Amendments to the Police Scotland Training Manual (PIRC/00373/16).
- Revision of Police Scotland's Investigation Manual on fatal road traffic collision investigations (PIRC/00157/15).
- A recommendation to Police Scotland to investigate and identify reasons behind a delay in the supervision and monitoring of registered sex offenders (PIRC/00278/16).

Finally, where the Review Team identifies significant failings or shortcomings in the way a policing body has handled a complaint, the Commissioner has the legal authority to direct the body to reconsider the complaint.

During 2016-17 the Commissioner issued 13 such directions.

## Report of a Complaint Handling Review in relation to Police Scotland

# Review Case Study

## 1. ESTABLISHING FOREIGN CRIMINAL CONVICTIONS

### Background

The case concerned a woman whose husband, an EU national, was the subject of four reports submitted to the Crown Office and Procurator Fiscal Service (COPFS) by Police Scotland between August 2013 and May 2014. In relation to each report, a reporting officer made a request to the UK Central Authority for Exchange of Criminal Records (UKCA-ECR) to establish whether the man had any foreign convictions.

In June 2014, the UKCA-ECR received confirmation that the man had previous convictions in another country for sexual offences involving a child. Police Scotland thereafter obtained a Notification Order in terms of the Sexual Offences (Scotland) Act 2003 placing the complainer's husband on the Sex Offender's Register and thereby allowing police to supervise him and monitor him in the community.

### Complaint

The woman initially submitted the three following complaints to Police Scotland: -

That they:

1. failed to timeously establish the man's previous foreign criminal convictions;
2. failed to establish that he had regular access to a step-grandchild having been made aware that he had relevant previous convictions of a sexual nature involving a child; and
3. did not share his conviction with her.

She was dissatisfied with the response which she received from Police Scotland and asked the PIRC to carry out a review of how the police had handled her complaints.

### Conclusions

The PIRC Complaint Handling Review (CHR) concluded that Police Scotland had dealt with complaints 1 and 3 to a reasonable standard but had not dealt with the second complaint to a reasonable standard. The CHR concluded that there was a significant delay between the court granting the Notification Order and the follow up by Police Scotland's Offender Management Unit which potentially could have contributed to the delay in establishing that the complainer's husband had access to a step-grandchild.

### Recommendations

In its findings, the PIRC recommended that further enquiry be conducted by Police Scotland to establish the cause of the delay between the granting of the Notification Order and the follow up by the Offender Management Unit. The PIRC additionally recommended that Police Scotland send a further letter to the complainer explaining:

1. the reason for the delay between the granting of the Notification Order and this being followed up by the Offender Management Unit;
2. whether or not Police Scotland considered that the correct procedures were adhered to in this case; and
3. whether Police Scotland concluded that it had failed to act within reasonable timescales to identify that the woman's husband had access to a named child, and therefore whether or not Police Scotland should have upheld the woman's complaint.

The recommendations were implemented and in a further response to the complainer, Police Scotland established the reasons behind the delay, assessed that the delay directly impacted upon Police Scotland's ability to establish whether the complainer's husband had access to his step-grandchild and offered an apology.

## DEALING WITH INDIVIDUAL WITH MENTAL HEALTH ISSUES

### Background

In this case police were responding to a call from a woman concerned about the well-being of her husband, the applicant, who had mental health difficulties and was under investigation for an alleged Breach of the Peace. She reported that her husband was suffering from depression and had left the house indicating that he may not return. Due to concerns for his well-being, the Police Scotland control room issued a look-out instruction to local officers to try and trace the applicant's motor vehicle. Two officers located the applicant's car by the roadside and as they tried to speak to him, he became abusive and aggressive and was subsequently arrested for contraventions of Section 38 of Criminal Justice and Licensing (Scotland) Act 2010 and taken into custody.

### Complaint

The applicant submitted a very large number of complaints. The PIRC identified 35 individual complaints from the correspondence submitted to Police Scotland by the applicant. Most notably, the applicant complained:

1. that arresting him in these circumstances was a wrong course of action and that the officers showed little or no regard to the appropriate mental health legislation; specifically that they should have checked the availability of an appropriate place of safety before taking him into custody, and
2. that officers at the custody suite failed to provide the applicant with an Appropriate Adult.

The applicant was dissatisfied with the response which he received from Police Scotland and asked the PIRC to carry out a Complaint Handling Review (CHR).

### Conclusions

The PIRC CHR concluded that Police Scotland had handled 22 out of 35 complaints to a reasonable standard. The review found that it was not clear whether officers who arrested the applicant had been appropriately briefed as to his mental health condition or whether they considered using the powers available to them under the Mental Health Act. In considering

the applicant's complaint, Police Scotland did not explore whether utilising provisions under mental health legislation was more appropriate in these circumstances than arresting the applicant for a crime. In addition, the review established that custody staff were fully aware of the applicant's mental health condition and that Police Scotland's current relevant Standard Operating Procedure for provision of Appropriate Adult services was not followed in this instance.

### Recommendations

The PIRC made a number of recommendations and directed Police Scotland to reconsider the above two complaints in their entirety. Specifically, the PIRC directed Police Scotland to ascertain what information was provided to the officers who arrested the applicant about his mental health, whether the arresting officers were fully aware of the mental health legislation and powers available to them and to also reassess whether arresting the applicant for contravention of Section 38 was the appropriate course of action.

In relation to the second complaint, the PIRC directed Police Scotland to reconsider whether the applicant should have been provided with Appropriate Adult services to assist him during his time in custody, in line with Police Scotland's current relevant Standard Operating Procedure.

In response, Police Scotland established that neither of the police officers who arrested the applicant were informed about his mental health condition by the control room. It was also ascertained that this lack of information had a direct effect on the officers' decision-making and accordingly, the applicant's complaint was upheld.

In relation to the second complaint, Police Scotland recognised that there was a lack of understanding of the procedures in relation to the provision of Appropriate Adult services by the custody staff involved in this case. Police Scotland issued the applicant with an apology and all the staff involved received corrective advice in respect of their responsibilities in relation to persons suffering from poor mental health.

# The Work of the Corporate Services Team

To demonstrate a high level of governance and business effectiveness in accordance with best practice for Scottish public sector bodies.

Since the organisation was established in its present form in April 2013, we have seen a consistent and significant rise in demand for our services. In view of the pressure this has placed on us we submitted a business case for additional funding to the Scottish Government. The outcome has been a welcome uplift to our annual budget, of £455,000 from 1 April 2016, which has allowed us to strengthen our staffing resilience and relieve some of the stress on our services.

Not surprisingly, this additional demand has had a knock on effect on our Corporate Services Team. The rise in activity experienced here has affected both general and specialist functions such as human resources, procurement, finance and communications. Indeed part of our additional funding has been applied to strengthen specialist functions in particular.

As well as responding to internal demand in the organisation, the Corporate Services Team handles a considerable number of external requests. This year it dealt with 641 enquiries from members of the public about our complaint handling reviews (CHRs). Statistics reflecting other aspects of the team's work are as follows:

- The number of Data Protection (DPA) requests rose just slightly, from 34 to 35, with the team handling 94% within the statutory timescale of 40 days.
- The number of Freedom of Information (FOISA) requests fell, from 68 to 50, with the team processing 100% within the statutory timescale of 20 working days.
- The number of complaints made to the organisation also fell, from 28 to 13.
- The percentage of payments to suppliers made within 10 days was 95% (95% being our target for the year).

We recognise that whether we are successful in meeting our business objectives ultimately depends on the commitment and professionalism of our staff. At 97.2%, this impressively high attendance rate epitomises their drive, determination and enthusiasm to provide the best service possible.

Public awareness of who we are and what we do is an essential part of increasing public confidence in policing. The considerable rise in the number of investigations carried out in 2016-17, particularly those referred to us by the Crown Office and Procurator Fiscal Service (COPFS), generated a great deal of media activity and interest in the organisation. Regular news updates on our website highlighting the work of our Review Team, as well as more proactive use of social media, have without doubt contributed to this greater interest and awareness too. Our Communications Team continues to liaise with the media to ensure that journalists are informed about our role and functions as well as our activities and findings.

The launch of our new website in the coming months presents further opportunities to raise public awareness, while also making it easier for complaint handling review applicants, job applicants and those using mobile devices in general to interact with us online.

# Key Statistics 2016-17



## Independent Assessments

1. Firearms referrals by Policing Bodies for independent assessment



**Assessment Type of Firearm**

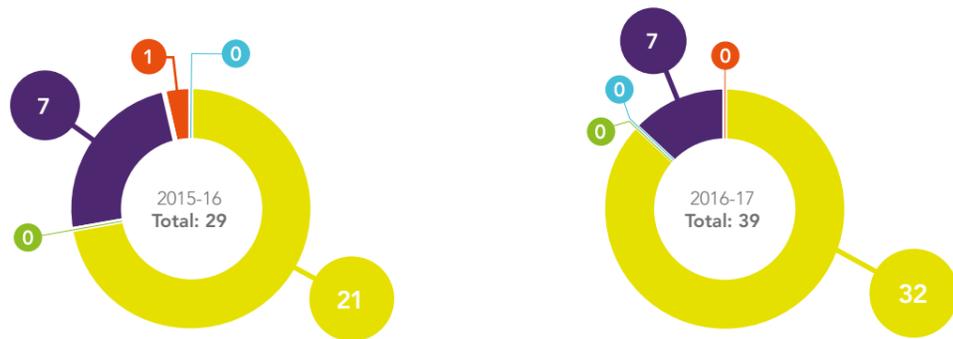
- Conventional
- CS/Pava
- Taser/other

2. Non-Firearm referrals by Policing Bodies for independent assessment



# Independent Investigations

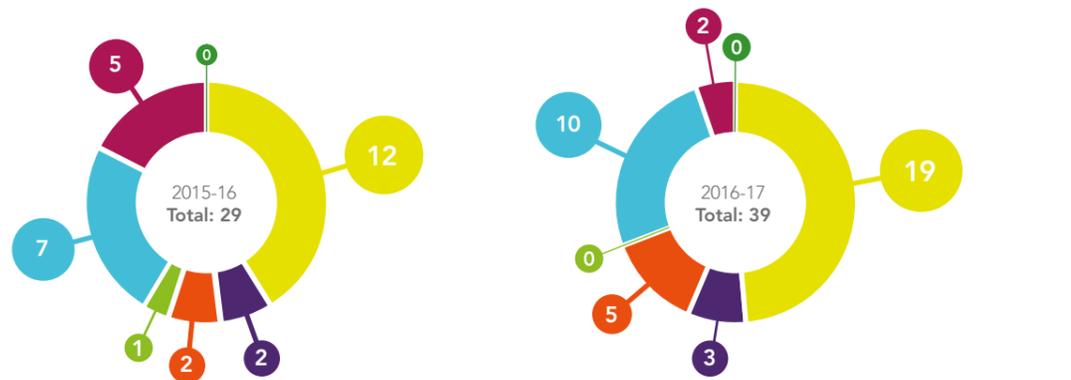
3. Investigations by referring body:



**Referring Body**

- Crown Office and Procurator Fiscal Service (COPFS)
- Police Scotland
- Scottish Police Authority (SPA)
- Other policing bodies
- Public interest

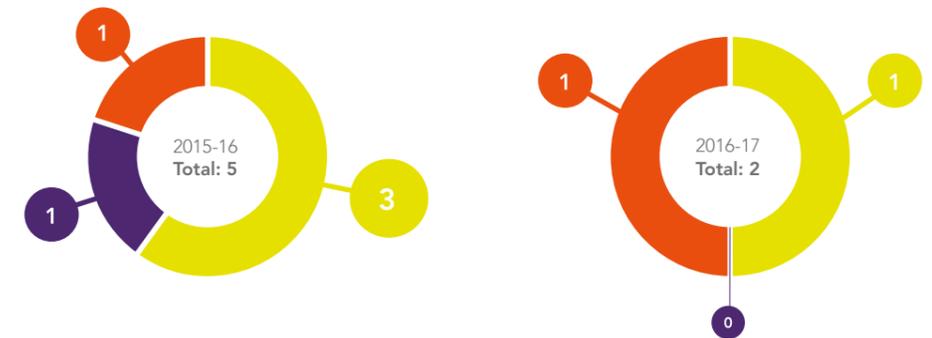
4. Investigations by type:



**Category**

- Death following police contact
- Death in police custody
- Serious injury following police contact
- Misconduct by a senior police officer
- Criminal allegations about police officers
- Use of firearms by police officers
- Public interest enquiry

5. Firearms Investigations by type of firearm:



**Type of Firearm**

- Conventional
- CS/PAVA spray
- Taser/other

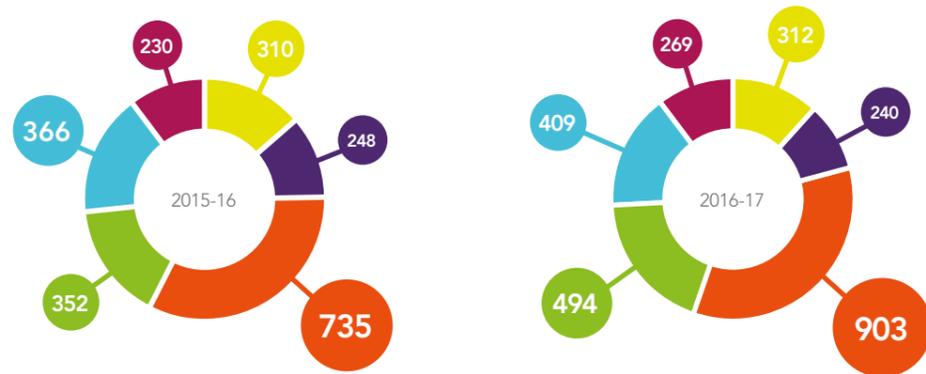
6. Reports published or submitted to the Crown Office and Procurator Fiscal Service (COPFS) or the Scottish Police Authority (SPA):



**Reports**

- Published
- Submitted to COPFS
- Submitted to SPA
- Ongoing

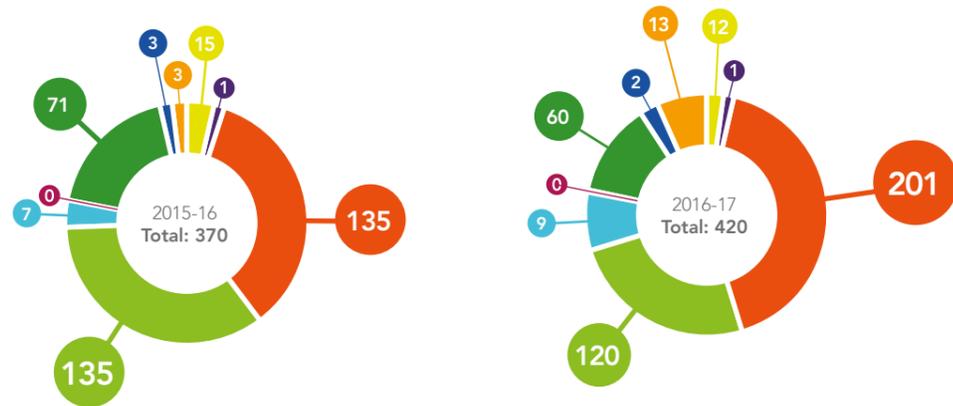
# Independent Complaint Handling Reviews



### Reviews

- Applications received
- Applications accepted
- Total number of Heads of complaint
- Heads of complaint handled to a reasonable standard
- Heads of complaint not handled to a reasonable standard
- Cases concluded

### Complaint Handling Review



### Recommendation to police body

- Apologise
- Change SOP/Policy/Procedure
- Provide fuller/further response
- Undertake further investigation
- Other
- Reclassify complaint
- Record and/or respond to complaint
- Review SOP/policy/procedure
- Reconsideration direction

### Recommendations Accepted



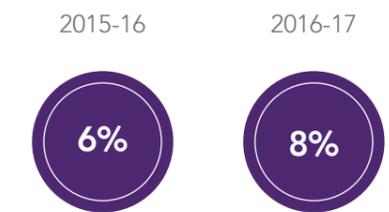
### Recommendations Not Accepted



### Recommendations Implemented



### Recommendations Not Implemented



# Corporate Services

### FOI Requests



### DPA Requests



### Complaints against PIRC



### Relevant Legislation and Regulations:

- The Police, Public Order & Criminal Justice (Scotland) Act 2006
- The Police and Fire Reform (Scotland) Act 2012
- The Police Investigations & Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013
- The Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013.

### Policing Bodies Operating in Scotland:

- Police Scotland
- The Scottish Police Authority
- British Transport Police
- British Transport Police Authority
- The National Crime Agency
- Civil Nuclear Constabulary
- Civil Nuclear Police Authority
- Ministry of Defence Police
- UK Visas and Immigration
- HM Revenue & Customs

## Glossary

CHR – Complaint Handling Review: Heads of Complaint - Complaints identified by the PIRC and confirmed with the complainer following assessment of the application form and case papers.

COPFS – Crown Office and Procurator Fiscal Service.

DPA – Data Protection Act 1998.

FOISA – Freedom of Information (Scotland) Act 2002.

**Heads of Complaint:** Complaints identified by the PIRC and confirmed with the complainer following assessment of the application form and case papers.

PIRC – Police Investigations & Review Commissioner.

**Senior Police Officer** – Police Officer of rank of Assistant Chief Constable or above.

SOP – Standard Operating Procedure.

SPA – Scottish Police Authority.

# pirc

## Police Investigations & Review Commissioner

The Police Investigations &  
Review Commissioner (2017)

The Commissioner's Annual Report presents highlights of the PIRC's achievements for the financial year 2016-17 and details the organisation's performance against its objectives.

Copies can be downloaded from our website:  
[pirc.scot](http://pirc.scot)

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