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Police Investigations &
Review Commissioner

**COMMISSIONER'S
ANNUAL REPORT
2017-18**

Police Investigations & Review Commissioner

COMMISSIONER'S ANNUAL REPORT FOR THE YEAR ENDED 31 MARCH 2018

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

It presents highlights of the PIRC's achievements for the financial year 2017-18 and details the organisation's performance against its objectives.

The report (SG/2018/200) was laid before the Scottish Parliament in November 2018 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
Who is the Commissioner and what is her role?	08
Our Objectives	10
Senior Management Team	12
Our Values	14
The Work of the Investigation Team	16
The Work of the Review Team	24
The Work of the Corporate Services Team	30
Key Statistics 2017-18	32
Glossary and list of relevant bodies	38

The Commissioner's Foreword

2017/18 was a year that strained our capacity and tested our resolve, requiring us to deal resolutely with matters that struck at the very heart of public confidence in Scottish policing.

A large part of this was prompted by the unprecedented level of referrals we received from the Scottish Police Authority (SPA) concerning allegations of misconduct by senior officers. These allegations were forwarded to me over a concentrated six-month period, and were both serious and demanding in their nature and sensitivity.

The subsequent investigations were high profile and attracted intense media and political commentary. This, together with stretched resources and the 'drip feed' effect of additional allegations, placed considerable demand on our investigators at a time when they were already dealing with a high volume of cases, some of which involved allegations of criminal behaviour by other police officers and deaths. In spite of this, the Investigation Team maintained its professionalism, tenacity and impartiality in seeking the truth behind the allegations. Our reports on these matters were then submitted to the SPA, which is responsible for deciding what action to take in such cases.

Another unexpected test for us arose from this year's extensive audit of the SPA's complaints handling procedures. This was the third such audit carried out by the Review Team and it revealed a number of areas for improvement. I made several recommendations designed to improve the SPA's processes and at the time of writing I am aware that it is making good progress in responding to them.

At the outset of the audit I made it clear that I intended to publish my report in December and my decision to proceed with its publication as scheduled, allowed me to re-emphasise the independence of my office and role as Commissioner in relation to these matters.

In terms of our day-to-day business, overall the trend throughout the year was one of sustained demand.

Most notably, the complexity of the investigations carried out by the Investigation Team has increased significantly in the five years since the PIRC was established. In 2013-14, only three per cent of our investigations were classed as Category A (major investigations). This year, 42 per cent fell into this resource-intensive category, a rise of 29 percentage points on the previous year alone.

We also saw a shift in the origin of these investigations. Whilst the Crown Office and Procurator Fiscal Service (COPFS) directed investigations fell, the number referred by Police Scotland doubled. Additionally, as highlighted above, the SPA directed six investigations to us having referred none the previous year.

One particular case that struck me this year involved an application for a complaint handling review. Upon closer examination it appeared that the police actions at the core of the man's complaint amounted to potential criminal behaviour and therefore merited a full independent investigation rather than a review. The COPFS confirmed our assessment and duly directed us to investigate a number of the police officers involved.

This case re-emphasised to me an inherent weakness in the current police complaints system: it allows serious complaints like this one to pass through Police Scotland's internal system, with no independent check. It is of concern to me that, when presented with the opportunity to recognise and address certain issues, Police Scotland's Professional Standards Department failed to do so.

Without doubt, all the high-profile investigations that we carried out this year combined to put staff under a great deal of pressure. This, together with expanding workloads in other areas of our business, meant that the need for additional resources to bolster our operational capability became inevitable.

Following the submission of a number of business cases to the Scottish Government, I am pleased to report that the Cabinet Secretary agreed to increase our budget for next year to £4,254,000. Looking to the future, I believe that it is crucial that Government remains responsive to further justifiable calls for additional resource if we are to cope with growing demand for our services.

Turning to the Review Team, although this year saw a seven per cent reduction in the number of new requests for complaint handling reviews, the level has now simply reverted to the number received on average annually over the past five years.

On the back of these reviews, the Team issued 266 recommendations to policing bodies in Scotland. Staff continue to work closely with these bodies to ensure that the recommendations are fully implemented. At the time of writing, 83.8% of those recommendations have been put into effect and I expect this number to rise in the coming months.

To complement the review side of the business, the Team sought to supplement its guidance to policing bodies by extending its series of best practice guidance presentations throughout Scotland. It is hoped that this outreach work, which was well received by Police Scotland, will help to improve the quality of Police Scotland's response to complaints from members of the public.

The Corporate Services Team supports the operational areas of the organisation. Not surprisingly, therefore, it too experienced significant growth in its workload this year.

This included a considerable boost in recruitment activity following the receipt of additional monies from the Scottish Government, as well as all the extra work that accompanies the introduction of new staff. Furthermore, the heightened media attention around a number of our investigations had a concomitant effect on our Communications Team, at a time when they were also working towards the launch of our new website in October 2017. Corporate Services staff also worked hard to make us ready, and compliant, for the new General Data Protection Regulations.

As well as welcoming new staff to the organisation, this year we also bid farewell to our Director of Operations, John Mitchell, who retired in March. John joined the organisation in December 2012, during the transition period from the Police Complaints Commissioner for Scotland (PCCS) to the PIRC.

"Looking to the future, I believe that it is crucial that Government remains responsive to further justifiable calls for additional resource if we are to cope with growing demand for our services."

He was instrumental in establishing the Investigations function during his initial four years with us as Director of Investigations. In his role as Director of Operations, he oversaw all aspects of operations while also acting as Accountable Officer. During his time with us John was an invaluable member of our management team and we will miss his astute leadership and, of course, his good humour. We wish him many happy and relaxed years ahead in his retirement.

Despite the various challenges we faced this year, all three teams continued to deliver a high standard of service. I wish to record my thanks to all staff for their continuing dedication and commitment to increasing public confidence in policing in 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.

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 complainer must first make their complaint to the policing body concerned to give that body the opportunity to address it. The policing body will inform the complainer of the outcome of that process, and the complainer can then apply to the PIRC for a CHR. Applications for CHRs must be received by the PIRC within three months of the date on which the policing body sent their decision on the outcome of the complaint to the complainer.

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, amongst other things, 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 give reconsideration directions, make recommendations and identify learning points for the policing body.

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

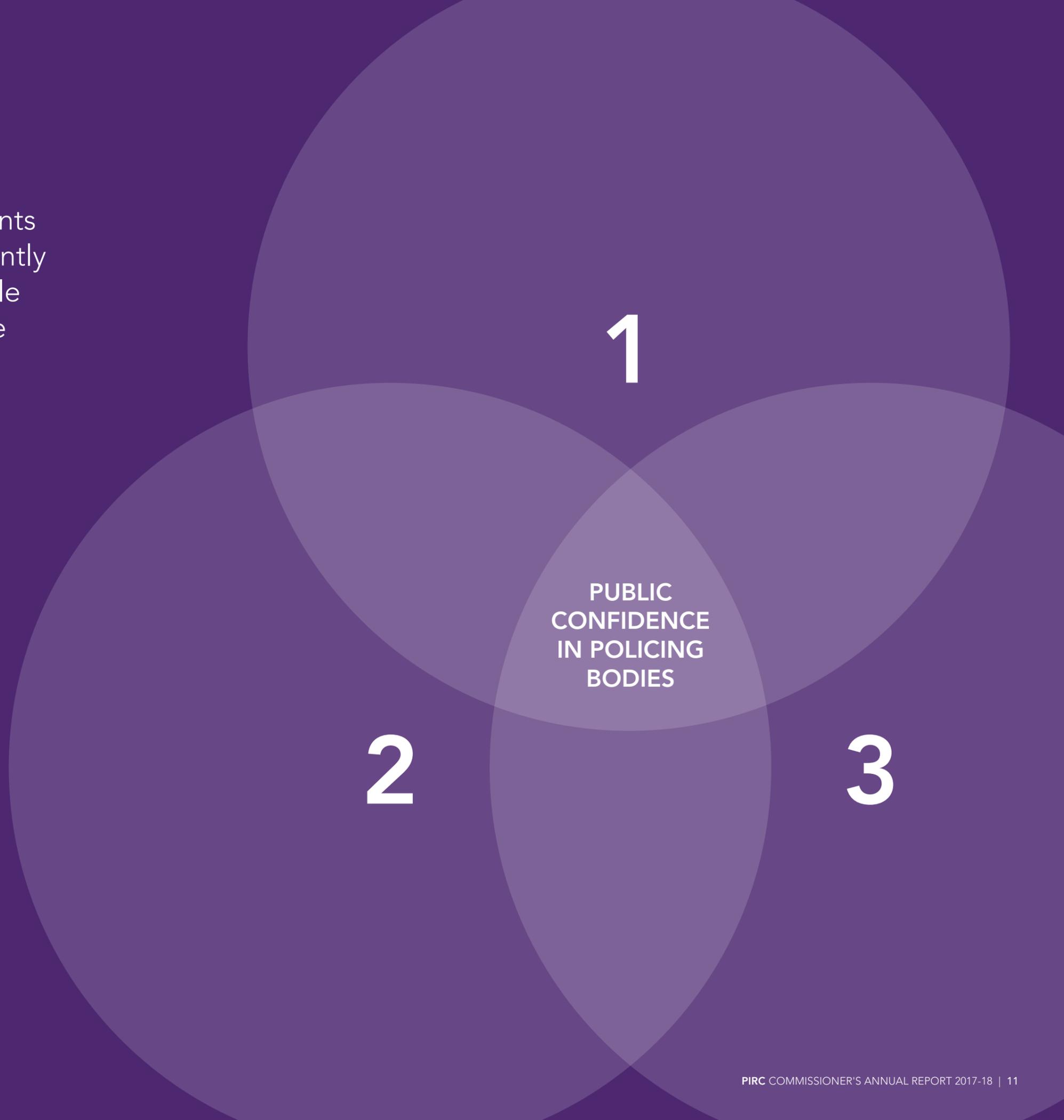
To carry out independent, thorough and timely investigations into serious incidents involving the police, with the aim of improving police procedures and increasing public confidence in policing in Scotland.

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 HR and Corporate Services.



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

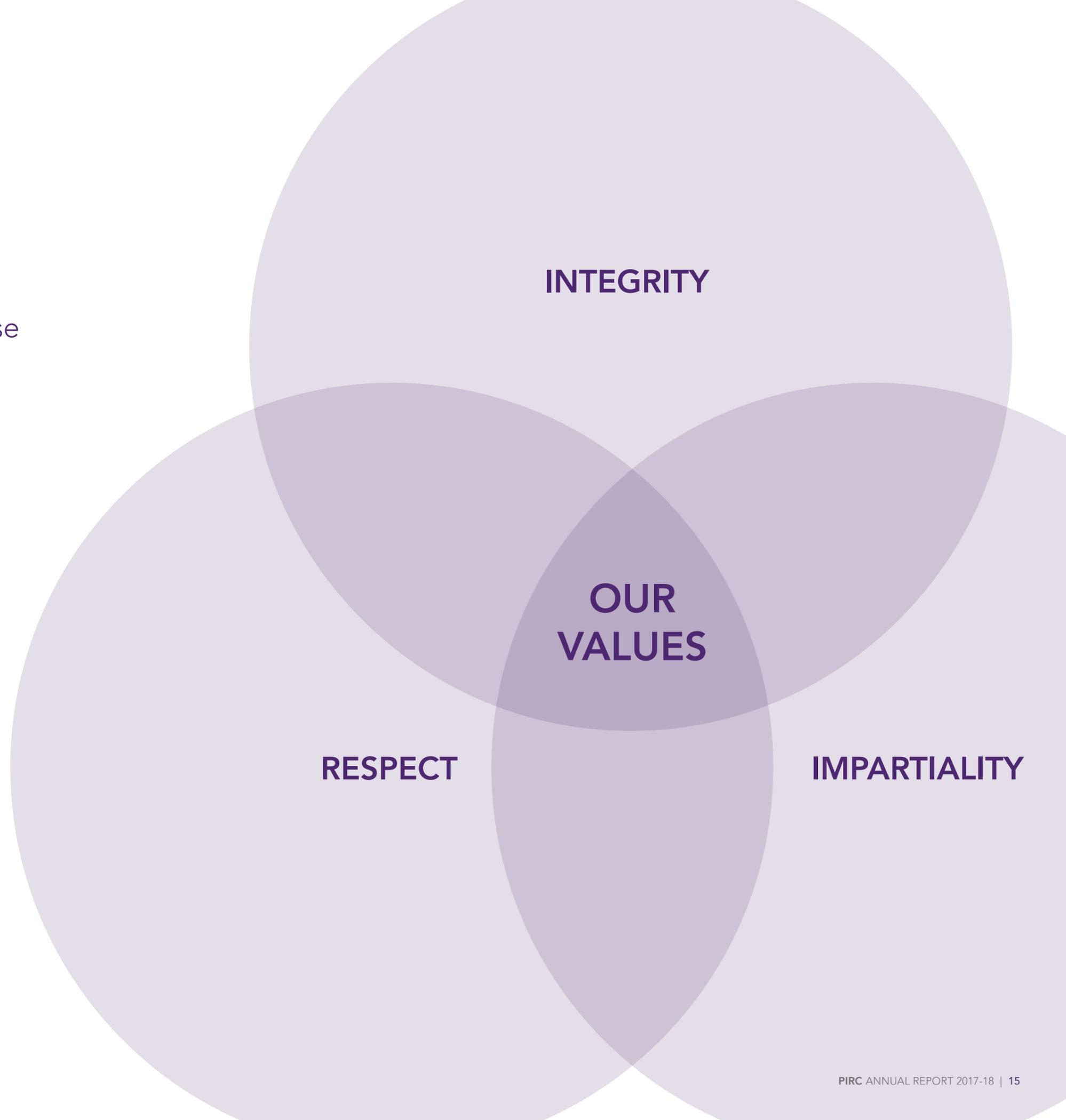
We will be trustworthy, honest, open and accountable for our actions.

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 Investigation Team

This year, policing bodies, the Crown Office and Procurator Fiscal Service (COPFS) and the Scottish Police Authority (SPA) referred 422 incidents to our Investigation Team. These arose from a wide variety of circumstances, including the presentation/use of firearms by police officers, deaths in custody and deaths and serious injuries following police contact, as well as criminal allegations about the police and allegations of misconduct about senior police officers.

In addition to carrying out assessments of all 422 referrals, we completed 36 new, substantive investigations. Whilst this is three fewer than the number of full investigations conducted last year, it quickly became clear that the matters being referred to us were of an increasingly complex nature.

Sixteen (44%) of these 36 cases were directed to us by the COPFS:

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

This is a decrease on last year and can be attributed to a change in COPFS policy that has resulted in fewer referrals of investigations into deaths following police contact.

Conversely, at 14 (39%) the number of full investigations referred to us by Police Scotland was double that of last year:

- 1 death following police contact;
- 4 conventional firearms cases;
- 1 CS/PAVA spray discharge case; and
- 8 serious injury following police contact cases.

The overall number of incidents referred to us by Police Scotland also increased, by almost 10% on last year, to 393. Most were directed to us because they involved the presentation or discharge of CS/PAVA spray, taser or conventional weapons – incidents that by law require to be referred for independent assessment.

As the above figures show, the main sources of our investigations continue to be the COPFS and Police Scotland. However, this year saw a significant increase in referrals from the SPA. In total, six (17%) of our full investigations came from the Authority. All were high-profile cases concerning allegations of misconduct by senior police officers.

This unprecedented level of SPA referrals was also largely behind the 29 percentage point increase on last year in the proportion of Category A investigations carried out by the Investigation Team this year. Category A investigations are major investigations or investigations of particular public concern requiring significant resources.

Not surprisingly, this placed considerable demand on our investigators at a time when they were already dealing with a high volume of investigations, in some cases involving deaths and allegations of criminal behaviour by police officers. The consequent need for additional resources to strengthen our capability, ultimately led to the Scottish Government increasing our budget.

In all our investigations, regardless of who refers them, the role of the Investigation Team is to interview relevant witnesses, seize productions and examine the available evidence. The resulting investigation reports present our objective assessment of the actions taken by the police. We may find that those actions are appropriate or justified in the circumstances or we may recommend areas for improvement.

Following our agreement with the COPFS to publish details of our investigation reports in cases where there are no court proceedings, this year, we published six such reports. Doing so brings greater transparency to our work, extends the reach of our recommendations and advice and thus strengthens our ability to support effective policing and ultimately increase public confidence.

Stakeholder engagement remains an integral part of the work of the Investigation Team. We continue to give 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; clinical forensic nurses and nurse practitioners working in custody centres; and, Ambulance Service and Fire and Rescue Service staff. The team also has regular meetings with the COPFS' Scottish Fatalities Investigation Unit and Criminal Allegations about the Police division, Police Scotland's Professional Standards Department and the Scottish Police Federation. Their purpose is to discuss current and emerging matters with the aim of identifying, evaluating and securing any necessary improvements in policing in Scotland.

The above 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, Her Majesty's Inspectorate of Constabulary and the Scottish Government.

Investigations Case Studies

1. POLICE CONTACT WITH MAN PRIOR TO TOWER BLOCK DEATH

Background

On 19 July 2016, a 56-year-old man jumped to his death from the 12th floor balcony of a tower block in Aberdeen following the arrival of the police.

Officers had gone to the tower block in response to reports of a woman screaming and a man who had been seen with blood on his hands. After speaking to witnesses, they identified the flat where they believed an incident was taking place. On entering the flat they found Keith Taylor, 43, lying on a sofa in the living room. He had been stabbed and there was blood on his chest and face.

Officers then saw Hugh Gallacher, 56, standing on the balcony of the flat. He leaned into the living room through an open window and shouted comments indicating that he was responsible for inflicting injuries on Keith Taylor and Tracy Gabriel. His hands appeared to the officers to be bloodstained.

Two of the officers carried out CPR on Keith Taylor, while the other two attempted to calm Hugh Gallacher and persuade him to come back inside. However, Mr Gallacher said, "If they're dead, I'm joining them" before slamming the window shut and jumping from the balcony.

The officers found Tracy Gabriel, 40, the occupier of the flat, lying on the balcony with stab wounds to her chest. They assisted her while other officers carried out first aid on Hugh Gallacher on the ground outside the tower block.

All three died from their injuries.

Referral to the PIRC

The Crown Office and the Procurator Fiscal Service (COPFS) instructed the PIRC, in terms of Section 33A(b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, to investigate the circumstances surrounding the death of Hugh Gallacher, and in particular to examine the interaction and conversation between him and the police.

PIRC Investigation

As part of their enquiries, PIRC investigators interviewed and took statements from members of the public, police officers and civilian staff. They also examined police statements, Command and Control (STORM) logs, police reports, telephone and radio communication recordings, briefing papers, photographs, police standard operating procedures and seized productions.

Findings

The PIRC investigation found that:

- the police officers who attended the incident acted appropriately and professionally in very difficult circumstances in which they had limited opportunity to prevent Hugh Gallacher from completing his stated intention of suicide;
- the call to Police Scotland was categorised correctly and officers were dispatched to the scene within the required five-minute timescale;
- the officers attempted to persuade Hugh Gallacher to come back into the flat from the balcony; and
- officers were confronted with very difficult circumstances but dealt with them appropriately and with a high degree of professionalism.

2. POLICE RESPONSE TO REPORTS OF CONCERN FOR VULNERABLE WOMAN LATER FOUND DEAD

Background

On 20 February 2016, following reports of concern for a 52-year-old woman from Dumfries, police forced entry into her home and found her dead.

The daughter of the woman first contacted Police Scotland late at night on 19 February 2016. She was concerned for the safety of her mother, who had not visited her home earlier that day as arranged and was not answering her calls or text messages.

The daughter gave staff in the Area Control Room (ACR) her mother's details, including her name, age, physical description and address.

The call was classed as a Grade 2 incident and officers were instructed to attend within 15 minutes. However, they were mistakenly given the wrong address. Nor did the officers receive information identifying the woman as a vulnerable person.

On arriving at the wrong address, the officers roused the 84-year-old woman who lived there, from her bed. Although they noted her name, they failed to realise that it was different from the name they had been given. The officers, wrongly assuming the woman to be the one they were looking for, then informed the ACR that they had found her.

The police did not duly update the daughter, who became increasingly concerned for her mother's safety. She, her husband and a neighbour all phoned Police Scotland for an update on their enquiries. They were all assured that the woman was safe and well and that she would phone her daughter in due course.

When she did not receive a call, the daughter went to her mother's home. Upon receiving no reply, she again called Police Scotland. One of the officers who had attended the first call at the wrong address was sent to speak to the daughter. While en route, he discovered the mistake of having attended the wrong address.

Four and a half hours after the first call from her daughter, police officers forced entry at the correct address and found the 52-year-old woman dead.

Referral to PIRC

The Crown Office and Procurator Fiscal Service (COPFS) instructed the PIRC to investigate the circumstances of the police involvement in the death, and in particular to:

- establish a time of death and narrow its parameters as much as possible to help determine whether they would have been too late had they attended the correct address on the first occasion;
- investigate the reasons why the Police Gazetteer system gave an incorrect address;
- investigate the actions of Force Control and in particular the information they gave officers about the address, the deceased and her vulnerability, and whether they should have called the woman's daughter back following the officers' first house visit; and
- investigate the actions of the attending officers, and in particular whether they should have confirmed the details of the elderly lady they spoke to and the apparent discrepancy in the address.

PIRC Investigation

In undertaking this investigation, PIRC investigators interviewed members of the public, police officers and police staff. They examined police statements, Command and Control (STORM) logs, police reports, telephone recordings, briefing papers, Scottish Police Authority (SPA) photographs, standard operating procedures and seized productions.

Findings

Our investigation found that the cause of death was established as an overdose of prescribed medication, which it was suspected the woman had taken accidentally. It is likely that she was already dead when the police were originally contacted.

The investigation further identified a series of failings in how Police Scotland dealt with the matter:

- the inputting of certain addresses was known to be a problem with Police Scotland's ACR Gazetteer system. In this case it resulted in the address being transposed in such a way that it was misinterpreted and thus officers were sent to the wrong address;
- ACR staff did not give the officers attending the call all the relevant available information, such as the age or a description of the woman they were looking for;
- there appeared to be confusion between ACR staff and the officers attending the call as to who was responsible for updating the woman's daughter;
- the officers who attended the call did not carry out basic checks to establish that the elderly woman at the wrong address was not the woman they were looking for. Had they done so, then the series of subsequent errors, including informing the woman's daughter that her mother was safe and well, would not have been made; and
- there was disagreement between ACR staff and operational officers as to who was responsible for conducting additional enquiries and, in particular, for updating the person who had reported the incident. We have found this to be the case in a number of other investigations, where often the person reporting the incident is not contacted and opportunities to identify errors sooner are missed.

Recommendations

As a result of our investigation, the Commissioner recommended that Police Scotland:

- take steps to fix the fault in the ACR Gazetteer system;
- ensure that ACR staff give front-line operational officers all the relevant information available; and
- examine problems within command and control relating to managing incidents and provide clear guidance to ACR staff and operational officers on who is responsible for undertaking particular lines of enquiry and investigation, including updating those who report the incident. These details should be recorded on the police command and control system.

The Commissioner's report was shared with the Chief Constable at the time, in July 2016, to allow him to take immediate action to ensure that similar enquiries would not be subject to the same failings.

3. POLICE RESPONSE TO REPORTS OF CONCERN FOR VULNERABLE MAN LATER FOUND DEAD

Background

On 23 March 2016, 37-year-old Andrew Bow, who suffered from Asperger's Syndrome and had learning difficulties, was found dead in his home in a block of flats in Edinburgh.

Mr Bow, who was recorded on the police database as a vulnerable person, was last seen by police officers on 12 March 2016 in Edinburgh when they found him in a confused and paranoid state. They took him to hospital for treatment and after being examined he was deemed fit to go home. The incident was recorded on police systems.

Subsequent enquiries revealed that Mr Bow's bank card was last used on 15 March 2016, suggesting strongly that he was alive at that time.

However, later that night, one of Andrew Bow's neighbours made a report to the City of Edinburgh Council informing them that the windows of Mr Bow's flat were broken. As a result of the area's confusing street and house-numbering system, the neighbour gave an incorrect address for Mr Bow's flat.

On 16 March, Council staff concluded that the report of damage to Mr Bow's property should be investigated. They therefore sent a report to the police requesting that checks be carried out, but took no further action themselves.

In the early evening of 21 March 2016, a local shopkeeper called 999 to report that the windows of Mr Bow's flat were broken. Believing that no police resources were available at that time, Area Control Room (ACR) staff at Bilston Glen did not send officers to attend the call.

Late that night, some five and a half hours after receiving the call, ACR staff attempted to call the shopkeeper to ask when he might be available to help officers find Mr Bow's flat. On receiving no response, ACR staff updated the police system to show that the shopkeeper's premises were now closed and that no officers were available to attend the incident.

On the morning of 22 March 2016 the shopkeeper again contacted ACR staff, by calling 999, to reiterate his concerns.

Despite linking the shopkeeper's call from the previous day to this second call from him, ACR staff again did not send officers to Mr Bow's flat, again determining that no officers were available to attend.

In the early evening, another neighbour contacted the ACR to report her 'concerns' for Mr Bow's welfare. At this point, ACR staff were aware of the two previous un-actioned 999 calls and of concerns being expressed that Mr Bow may have 'hurt himself' or 'committed suicide'. Again, no officers were sent to his flat.

On 23 March 2016, a police sergeant read about the incident on the police system and decided to send officers to Mr Bow's flat. They forced entry and found Mr Bow dead inside.

Referral to PIRC

The circumstances of Mr Bow's death were referred to us by the Crown Office and Procurator Fiscal Service (COPFS) in terms of Section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended.

The investigation focused on Police Scotland's handling of the telephone calls about Mr Bow's welfare, received between 21 March and 23 March 2016, and the subsequent events leading to the discovery of his body.

PIRC Investigation

PIRC investigators interviewed members of the public, police officers and civilian staff at the Bilston Glen ACR and examined police statements, telephone calls and police radio transmissions. They also scrutinised police resource levels for the City of Edinburgh to determine the availability of officers to attend the calls, as well as examining command and control logs, standard operating procedures, policies and other evidence.

Findings

Our investigation identified a number of failings in how Police Scotland responded to the reports of concern for Mr Bow and found the following:

- the police officer who received the first report of broken windows at Mr Bow's flat on 16 March 2016 did not raise an incident report. Had he done so, this would have given the police an opportunity to send officers to check on his welfare;
- despite receiving three calls between 21 and 22 March 2016 from members of the public either expressing concern for Mr Bow's welfare or reporting damage to his house, staff at Police Scotland's Area Control Room (ACR) at Bilston Glen failed to send officers to follow them up. The calls were categorised as Grade 3 calls, requiring officers to be dispatched within 40 minutes. However, reports of 'concerns for a person' merit a higher priority response that requires officers to be dispatched within 15 minutes of the call;
- police officers and civilian staff working in the ACR stated when interviewed that it was not uncommon for Grade 3 calls, which require police officers to be dispatched within 40 minutes, to remain un-actioned for days before being referred to the relevant division. Some ACR sergeants confirmed that a significant percentage of Grade 3 incidents are not responded to within the required timescale; and
- ACR staff told PIRC investigators that no officers had been available at the time the calls were received. This was found to be inaccurate. Our enquiries, as well as an internal review by Police Scotland, showed that community police officers had been available. However, ACR staff appeared to be considerably reluctant to send these officers to calls.

As it is not possible from the medical evidence to establish precisely when Mr Bow died, it is not known whether an earlier response from Police Scotland could have led to his life being saved.

Recommendations

As a result of the investigation, the Commissioner recommended that Police Scotland:

- take action to improve the handling and management of calls by staff at their Area Control Room (ACR) at Bilston Glen
- ensure that ACR staff use all available operational officers for priority calls, particularly those involving concern for the safety or security of the public.



The Work of the Review Team

This year was another challenging one for the Review Team. Demand for our independent oversight of the way policing bodies handle complaints remained high throughout, despite a small overall decrease in the number of requests we received.

Specifically, there was a slight reduction in the number of requests for our complaint handling reviews (CHRs), down 7% on last year, to 291. This figure is more or less consistent with the average annual number of requests received over the past five years.

The number of heads of complaint* that we dealt with also fell, by 22%, from 903 in 2016-17 to 708 this year. This is similar to the level recorded in 2015-16.

Regrettably, we also saw a reduction by two percentage points (to 53%) in the proportion of complaints we considered policing bodies to have handled to a reasonable standard.

Furthermore, this year we took the decision to increase our use of reconsideration directions. We issue these directions when we find more significant failings or shortcomings in the way a policing body has handled a complaint and we require that body to reconsider the complaint. Last year we issued 13 such directions whereas this year we issued 52.

As well as these reconsideration directions, we also identified 36 learning points and made 266 recommendations touching on specific areas for improvement.

The Review Team in fact performs a wide range of activities to help policing bodies improve their complaint handling practices. For example, throughout the year we worked with Police Scotland's Professional Standards Department to share examples of both good and poor practice.

We also organised a series of seven presentations for senior police officers and police complaint handlers across Scotland. These highlighted the most common shortcomings identified in our reviews and presented guidance on how they should be resolved.

In addition, in June 2017 we produced a special edition of Learning Point, our best practice bulletin. This particular issue contained extensive practical advice for police complaint handlers on the proper application of the "balance of probabilities"* test. Future issues will contain further topic-specific guidance and advice on best practice in complaint handling.

Once we complete a review we set out our deliberations, findings and any further action required in a report which we then send to both the policing body concerned and the person who made the complaint.

The majority of these reports are publicly available through our website. However, on occasion, to protect the identity of those involved some are not published.

Making sure that policing bodies go on to implement our reconsideration directions and recommendations is another vital role of the Review Team. Of the 266 recommendations we made in 2017-18, 83.8% had been implemented at the time of writing. When we issue a reconsideration direction the complaint must be re-examined by police officers not involved in dealing with the original complaint. These are usually issued in more serious and complex cases and police must also provide a report to us on the action taken. Reconsideration directions can take longer to implement and at the time of writing, 26 of the 52 have been completed. The recommendations and reconsideration directions issued this year include the following:

- recommendations to Police Scotland to issue an apology and examine further complaints relating to an allegation of non-recent sexual abuse (PIRC/00163/17);
- an amendment to Police Scotland procedures to ensure that custody CCTV footage is seized when complaints are made (PIRC/00453/16); and
- a direction to Police Scotland to reconsider a complaint about a person being told by the police not to protest at a particular location, contrary to the European Convention on Human Rights (PIRC/00642/16).

Finally, we continue our work with Police Scotland and the Scottish Police Authority (SPA) to ensure that both organisations maintain suitable arrangements for handling complaints. In July 2017, we conducted a comprehensive audit of the SPA's procedures. Our report, published in December 2017, identified a number of areas of concern and made 12 recommendations intended to improve, simplify and streamline the Authority's complaints procedures.

*See glossary on page 39

Review Case Studies

1. QUALITY OF INVESTIGATION AFTER ELDERLY WOMAN STRUCK BY VEHICLE

Background

An elderly woman was struck by a vehicle as she crossed a road near her home, sustaining a broken ankle and laceration to the back of her head. She spent three weeks in hospital as an in-patient, after which she went to live with her sister for a further six weeks until she recovered from her injuries.

Two months after the incident, the woman wrote to Police Scotland seeking an update on their enquiries and pointing out that she had heard nothing from them since the accident. Police Scotland advised her that her case was closed. The woman subsequently wrote to Police Scotland on four separate occasions, expressing her dissatisfaction at what she saw as the lack of investigation into the accident. In her last letter she specifically stated that she was making a formal complaint. Eight months later she received Police Scotland's final response letter dealing with her complaints.

Complaints

The woman complained to Police Scotland that:

1. police did not carry out a full, or indeed any, investigation into the road traffic accident;
2. police did not speak to her after the incident to establish her version of events;
3. during a meeting at the woman's home in relation to her complaints, the police officer gave her misleading information; and
4. the quality of service provided by Police Scotland was "contradictory".

Police Scotland did not uphold any of the woman's complaints. She subsequently asked the PIRC to review how Police Scotland had handled her complaints.

Conclusions

Our review concluded that none of the complaints had been dealt with to a reasonable standard.

In respect of the woman's first complaint, we found that during the police investigation, the officers:

- did not take any statements from civilian witnesses who witnessed the accident;
- did not seize and preserve CCTV footage capturing the accident;
- miscategorised the woman's injury as "slight" rather than "serious";
- did not provide operational statements concerning the initial incident or the complaint enquiry; and
- failed to follow Police Scotland's standard operating procedure on road traffic collisions.

With regard to her second complaint, Police Scotland did apologise for its lack of direct contact with the woman. However, in its final response letter, Police Scotland determined that it had conducted a "full and thorough" investigation that had established that she was at fault for the road traffic accident. On this basis, Police Scotland concluded there was no need for the officers to speak to the woman to establish her version of events.

Concerning the woman's third complaint, our review established that there was no auditable record of what was said to her during a meeting she had with officers to discuss her complaint and that none of the officers had provided statements about the complaint enquiry. As such, it was not clear on what basis Police Scotland had decided not to uphold this complaint.

In addressing her fourth complaint, we found that the enquiry officer who recorded the woman's complaints had failed to establish what she meant when she stated that the quality of service she had received was "contradictory".

Outcomes

In light of the significant shortcomings identified during our review, we issued reconsideration directions for all four of the woman's complaints.

In relation to the first two, we directed Police Scotland to re-assess the quality of its initial investigation into the road traffic accident with specific reference to the five bullet points listed above.

In relation to the third complaint, we directed Police Scotland to take statements from the officers involved. Furthermore, in light of its re-assessment of the first two complaints we directed Police Scotland to determine whether the information given to the applicant during her meeting with the officers was accurate.

In relation to the woman's final complaint, we directed Police Scotland to ascertain what she had meant by "contradictory". Thereafter, again depending on its re-assessment of the first two complaints, Police Scotland was directed to reconsider the entire complaint.

We also observed that the length of time the police had taken to deal with the applicant's complaint was excessive. We therefore directed Police Scotland to both acknowledge this in future correspondence with the woman and resolve the situation so that similar delays do not occur in future.

The reconsideration directions have now been completed by Police Scotland. The complaints were reassessed and a further response was issued to the applicant, with the majority of her complaints now upheld.



2. CLAIMS OF WRONGFUL ARREST AND OF BEING SUBJECT TO EXCESSIVE FORCE

Background

A man was detained, charged or arrested on at least eight separate occasions between September 2014 and May 2016. The charges related to a variety of offences, including domestic incidents, disorderly conduct aggravated by racial prejudice, drug offences, breaches of special bail conditions and failure to attend court.

In April 2016 and February 2017 the man submitted numerous complaints about these incidents. Police Scotland responded to his complaints in May and July 2017 respectively. The applicant was not satisfied with the responses he received and asked the PIRC to review how Police Scotland had handled nine of his complaints.

Complaints

In seven of the nine complaints, the man alleged that on various occasions between 2014 and 2016 he had been wrongly, unlawfully or unnecessarily arrested, detained or charged with various offences.

He also complained that his former partner, whom he alleged had assaulted him, had not received severe enough punishment from the court.

His final complaint was that in May 2016, police officers used excessive force during his arrest.

Conclusions

Our review found that Police Scotland had carried out a very detailed and thorough enquiry into the man's complaints.

We determined that in relation to each of the seven alleged wrongful or unlawful arrests or detentions, Police Scotland had provided a very well-reasoned response that accurately reflected the available evidence. Furthermore, it had explained not only the procedures applicable in each case but also the legal basis for the officers' actions.

In relation to the complaint concerning the man's former partner, we found that Police Scotland's final response letter accurately explained both the different functions of the court and the police and that the final outcome lies with the presiding sheriff rather than the police. During its enquiry into this complaint, Police Scotland identified an additional allegation made by the man against his former partner that had not been recorded or dealt with appropriately. For this, Police Scotland issued an apology, advising the man that the allegation would be considered. Police Scotland went on to uphold this complaint and advised the man that the relevant officer would receive corrective action.

Police Scotland did not uphold the man's final complaint, that of excessive force. Our review found that Police Scotland's response letter accurately reflected the statements of all officers involved in the incident. We therefore concluded that the police finding was justified on the evidence available.

Outcomes

We determined that Police Scotland had handled all nine complaints to a reasonable standard. Police Scotland had carried out a thorough enquiry into the man's complaints and accurately presented the available evidence in its final response letters. Furthermore, we found that during its complaint enquiry Police Scotland had uncovered shortcomings in its investigations of the man's allegations that he had not complained about. Not only did Police Scotland acknowledge those shortcomings but it also made efforts to rectify the situation, upholding the man's complaint, offering him an apology and taking corrective action concerning the officer responsible. We believe that this demonstrated a high standard of complaint handling that was open, transparent and focused on resolution.

Overall, we found that Police Scotland had handled the complaints very well and accordingly we made no recommendations.

The Work of the **Corporate Services Team**

Demand for our services was particularly high throughout 2017-18. Although the impact was felt particularly by our Investigation Team (see page 16), all operational areas of the organisation found themselves having to cope with the additional pressure this incurred.

As a consequence, we submitted business cases to the Scottish Government for additional resources.

In response, we received an initial, one-off sum of £100,000, to be supplemented by an increase to our annual budget, which next year will stand at £4.2 million.

The additional monies received so far have allowed us to initiate a recruitment exercise for specialist staff and begin work on improving facilities for all our staff. By doing so, we will be able to substantially strengthen resilience across the organisation and ease some of the pressure on our services.

Understandably, both increasing demand on services externally and the growth of the organisation internally had a concomitant effect on our Corporate Services Team. General and specialist support functions such as human resources, facilities management, procurement, finance and communications all experienced significant increases in workloads as a result.

In addition to performing the functions above, the Corporate Services Team handles a considerable number of requests from other bodies and individuals. This year, it dealt with the following:

- 44 data protection (DPA) requests, handling 93.1% within the statutory timescale of 40 days;
- 59 freedom of information (FOISA) requests, processing 93.2% within the statutory timescale of 20 working days;
- 12 complaints made to the organisation; and
- payments to suppliers, 98.4% of which were made within 10 days (95% being our target for the year).

Success in meeting our business objectives ultimately depends on the commitment and professionalism of our staff. Once again, we are proud to report an impressively high attendance rate of 98%, which epitomises our dedication and determination to provide the best service possible.

Public awareness of who we are and the work we do to secure continuous improvement in police services is critical to raising public confidence in policing. This year, a number of high profile investigations generated a great deal of media activity and further interest in the organisation.

In addition, our Communications Team continues to liaise with the media to keep journalists informed about our role and functions, as well as our activities and findings. We also post regular updates on our work on social media.

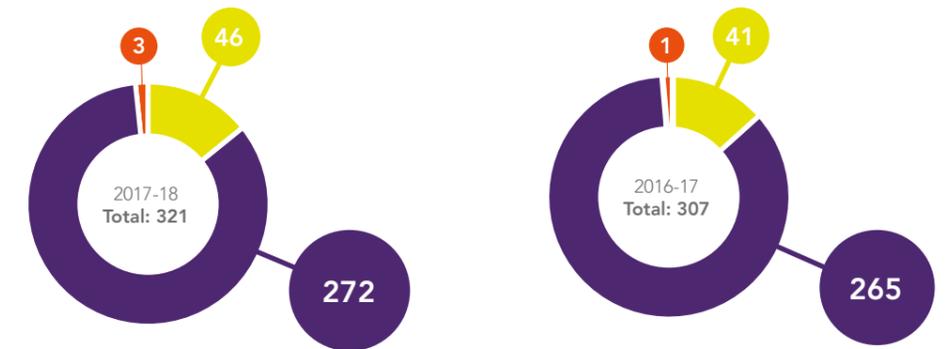
Greater public access and insight into what we do is now also possible thanks to our new website, which was launched in October.



Key Statistics 2017-18

Independent Assessments

1. Independent assessments of police firearms incidents:



Assessment Type of Firearm

- Conventional
- CS/Pava
- Taser/other

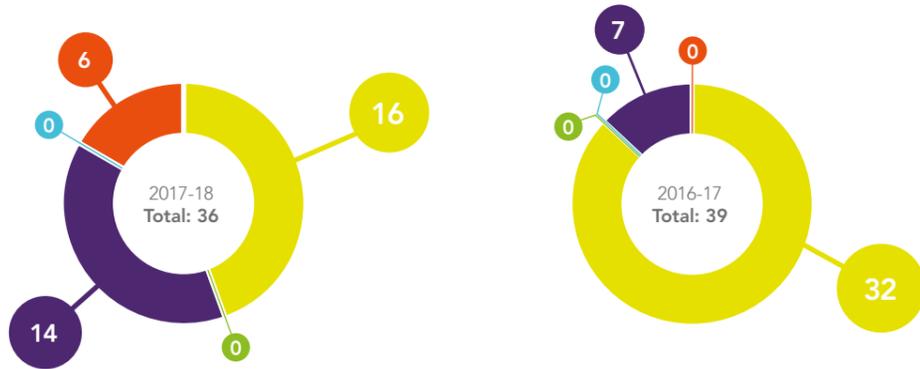
2. Independent assessment of other matters:



*This figure now includes assessments that progressed to full investigation.

Independent Investigations

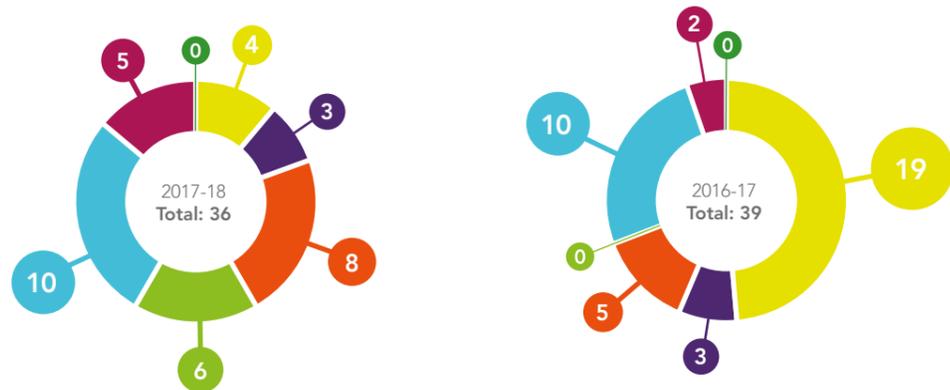
3. Source of investigations:



Referring Body

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

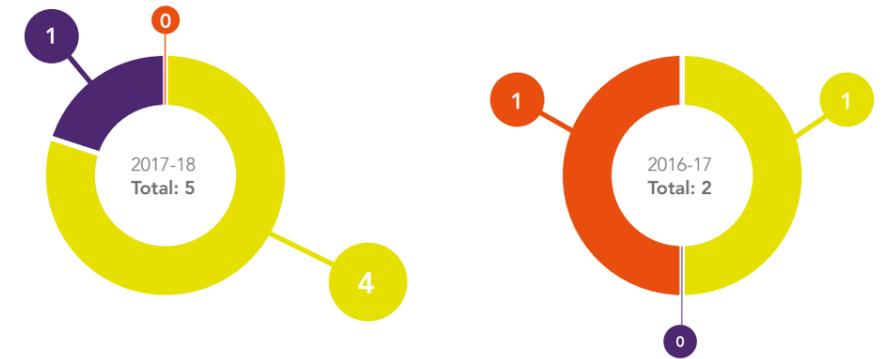
4. Type of investigation:



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):

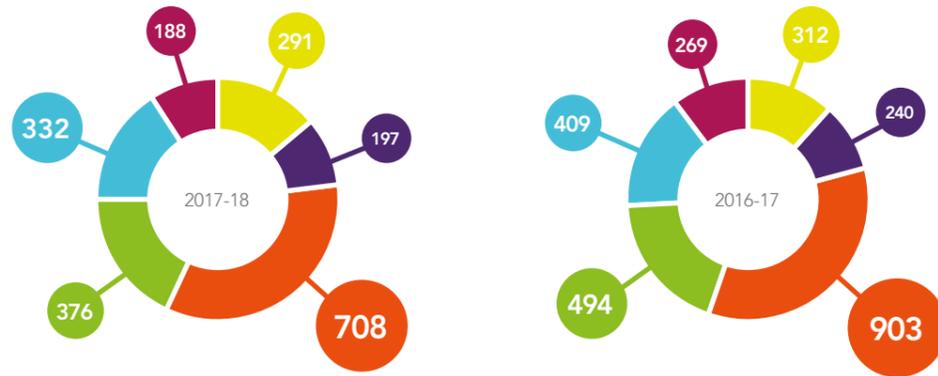


Reports

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

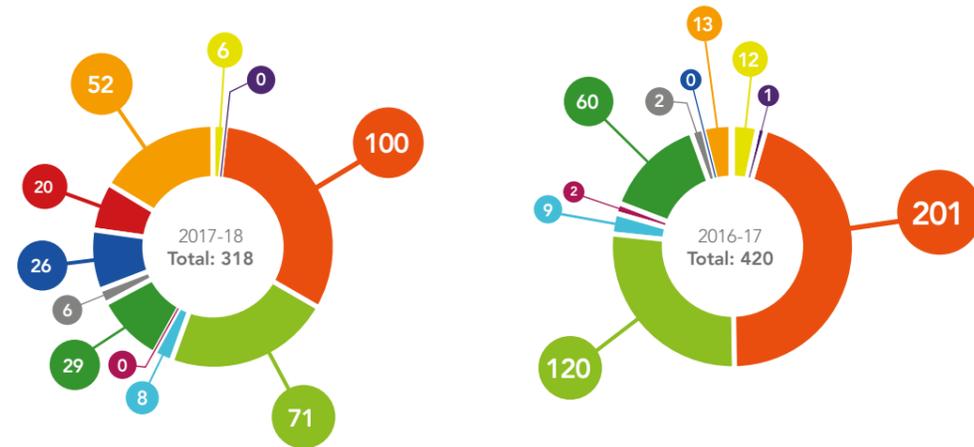
Independent Complaint Handling Reviews

1. Complaint Handling Reviews overview



- 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

2. Recommendations and reconsideration directions issued



- Apologise
- Change policy/procedure
- Provide further response
- Conduct further enquiry
- Other
- Reclassify complaint
- Record complaint and respond
- Review policy/procedure
- Reassess complaint and respond
- Record as complaint
- Reconsideration direction

Recommendations Accepted



Recommendations Not Accepted



Recommendations Implemented



Recommendations Not Implemented



¹This figure was correct at the time of publication, although it is likely to increase as and when outstanding recommendations are implemented. It also excludes reconsideration directions. At the time of writing, 26 of 52 reconsideration directions (50%) had been carried out.

²This figure was reported as 92% in last year's annual report, but has since increased.

Corporate Services



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

Balance of probabilities – in applying the ‘balance of probabilities’ test, the complaint handler must determine, based on the evidence available, whether one account is more probable than the other

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 (2018)

The PIRC Commissioner's Annual Report
presents highlights of the PIRC's achievements
for the financial year 2017-18 and details the
organisation's performance against its objectives.

Copies can be downloaded from our website:
pirc.scot

Design by StudioSVN

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