

# pirc

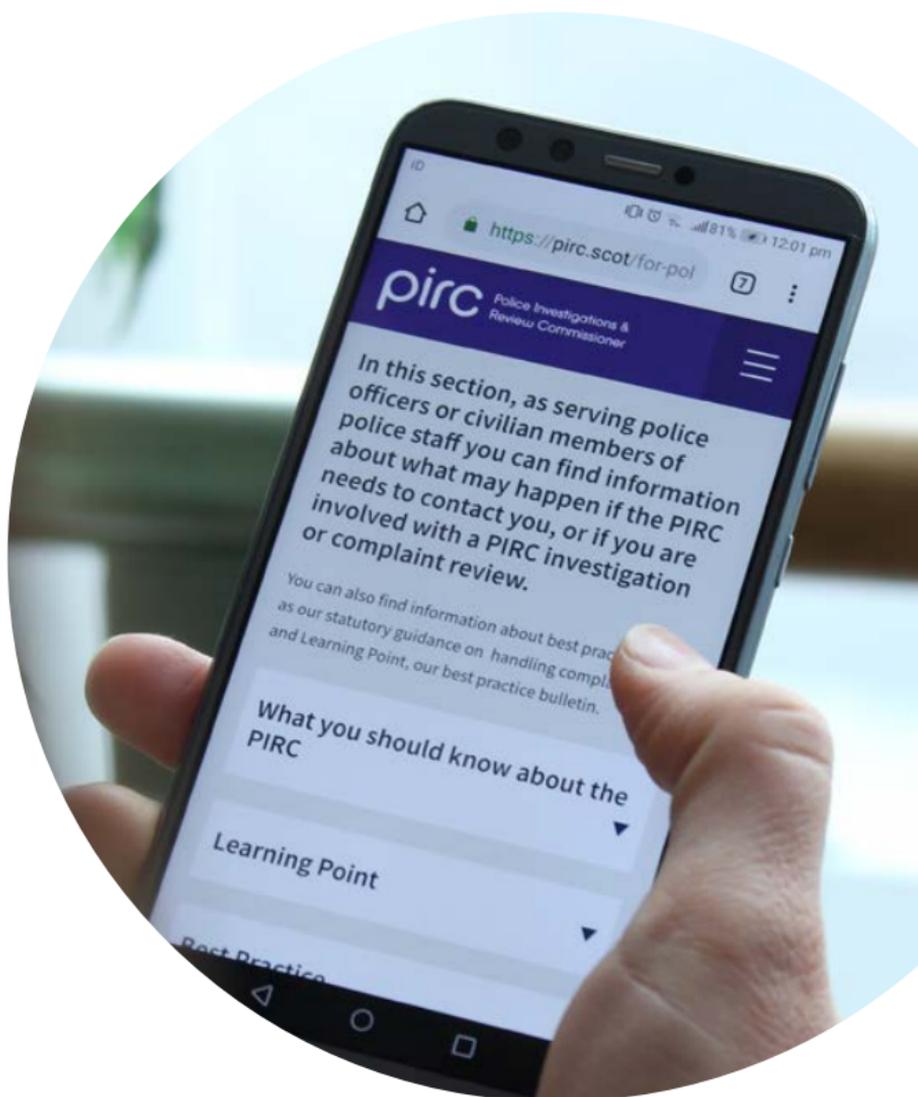
Police Investigations &  
Review Commissioner

## A guide for **police and staff** on the role of the PIRC



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## About the Police Investigations & Review Commissioner (PIRC)

### WHAT DOES THE PIRC DO?

- The PIRC carries out independent investigations into certain incidents involving the police.
- The PIRC reviews how policing bodies in Scotland have handled complaints made about them by the public.
- The PIRC ensures that Police Scotland and the Scottish Police Authority (SPA) have suitable systems in place for handling complaints.



## **WHICH POLICING BODIES FALL WITHIN THE PIRC'S REMIT?**

All policing bodies operating in Scotland fall within the PIRC's remit. These include: Police Scotland, Scottish Police Authority, British Transport Police, British Transport Police Authority, Civil Nuclear Constabulary, Civil Nuclear Police Authority, Ministry of Defence Police and The National Crime Agency.

Additionally immigration officers, general customs officials, revenue and customs officials or any other person carrying out specified enforcement functions in Scotland fall within the PIRC's remit.

## **WHY DO WE NEED THE PIRC?**

As Scotland has a single police service, in order to maintain public confidence in policing it is essential that there is an independent body to investigate serious incidents involving the police and to examine the way in which the police deal with complaints made about them by the public.

When an independent investigation is required, the Crown Office and Procurator Fiscal Service (COPFS) can direct the PIRC to carry out an investigation on its behalf. Similarly, the Chief Constable or Chair of the SPA can ask the PIRC to investigate.

If a member of the public is unhappy with how the police have handled their complaint, they can ask the PIRC to review how their complaint was handled.

The PIRC's investigation and review reports issue findings and recommendations and promote learning to ensure continuous improvement in the service delivered by the police in Scotland.

## **IS THE PIRC INDEPENDENT OF THE POLICE?**

The PIRC provides a free and impartial service and is independent of the police.

The Commissioner is appointed by Scottish Ministers and it is a condition of that appointment that they are not, and have never been, a member of a policing body or an elected politician.



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# Investigations

## **WHAT CAN THE PIRC INVESTIGATE?**

The Police and Fire Reform (Scotland) Act 2012 allows the PIRC to carry out independent investigations into the most serious incidents involving the police.

Under the Police Service of Scotland (Senior Officers) Conduct Regulations 2013 the PIRC may investigate cases of misconduct by senior officers. The PIRC has no remit to investigate similar matters pertaining to lower ranking officers or staff.

The PIRC carries out investigations into:

- Incidents involving the police when directed by the Crown Office and Procurator Fiscal Service (COPFS), such as deaths in custody and allegations of criminality.
- Incidents involving the police when requested by the Chief Constable or SPA, such as the serious injury of a person in custody, the death or serious injury of a person following police contact, 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, when requested by the SPA.
- Relevant police matters which the Commissioner considers would be in the public interest.

## **WHO DECIDES WHICH INCIDENTS ARE INVESTIGATED?**

All sudden, suspicious and unexplained deaths are reported to the COPFS who will then examine the circumstances of the death and decide whether to instruct the PIRC to investigate.

The legislation allows the PIRC to investigate serious incidents (referred by the Chief Constable or SPA) where a person has died following direct or indirect contact with the police. There must be an indication that the contact may have caused or contributed to the death.

Otherwise, it is the PIRC's decision whether or not to investigate other types of serious incidents or a matter that is in the public interest.

The PIRC has discretion on whether or not to investigate allegations of misconduct referred by the SPA. By law, it must investigate allegations of gross misconduct.

## **WHO IS IN CONTROL AT THE SCENE?**

In the case of a death or alleged criminal act, the senior PIRC investigator is under the direct instruction of the COPFS.

The senior police officer at the scene of an incident will be expected to liaise with the PIRC as soon as possible, to allow the PIRC to oversee management of the scene. The senior PIRC investigator will liaise closely with the senior police officer in what is anticipated will be a spirit of mutual co-operation.

There may be cases where the dual investigation and management of a crime scene is necessary. An example might be the scene of a robbery, where the police have used firearms and there has been a fatality: CID may investigate the robbery while the PIRC looks into the circumstances of the death.



## WHAT POWERS DO PIRC INVESTIGATORS HAVE?

PIRC investigators have the powers and privileges of a police constable when undertaking an investigation on behalf of the Commissioner. This includes the power to detain, arrest, question, report for prosecution and seize productions (including firearms, drugs and any other relevant materials or documents).

When carrying out an investigation following a referral from the Chief Constable or SPA, PIRC investigators may enter Police Scotland or SPA premises to inspect and/or remove anything considered relevant to the investigation.

## WHAT IF THE PIRC WANTS TO INTERVIEW ME?

PIRC investigators will normally want to interview you because you are a witness to an incident that they are investigating.

If this is not the case and you are a suspect in an investigation, the PIRC will make this clear to you. In this situation you will have the same rights as any other suspect and you may wish to seek advice and support from your staff association.

Remember: the PIRC has no power to conduct a ***misconduct*** interview with a person under the rank of Assistant Chief Constable.

# Reviews

## **WHAT KIND OF COMPLAINTS DOES THE PIRC REVIEW?**

The PIRC reviews the way in which policing bodies handle complaints made about them by the public. This includes complaints about the on and off-duty behaviour of police officers and staff, as well as complaints about the quality of service the public receives.

## **WHAT COMPLAINTS IS THE PIRC UNABLE TO REVIEW?**

The PIRC cannot review allegations of criminal behaviour by police officers or staff. These are dealt with by the Crown Office & Procurator Fiscal Service. The PIRC also cannot consider complaints made by individuals currently or formerly serving with the police about employment matters, such as grievances, disciplinary issues, and terms and conditions of service.

In certain circumstances the PIRC may decline to carry out a complaint handling review, for example if a complaint is deemed vexatious or wholly lacking in foundation.

## **WHAT CONSTITUTES A COMPLAINT ABOUT THE POLICE?**

A complaint about the police is defined as: a statement (whether oral, written or electronic) expressing dissatisfaction about an act or omission by the Scottish Police Authority, Police Scotland or someone who, at the time of the act or omission, was serving with the police.

## **WHO CAN MAKE A COMPLAINT ABOUT THE POLICE?**

Any member of the public from any of the categories below may make a complaint:

- The person to whom the alleged act or omission occurred.
- Any other person who claims to be adversely affected by the alleged act or omission.
- Any person who claims to have witnessed the alleged act or omission.

Or:

- Any person acting on behalf of those listed above.



## **HOW DOES THE PIRC REVIEW COMPLAINTS?**

Members of the public must always submit their complaint to the policing body concerned first. If at the conclusion of that body's complaints process they remain dissatisfied, they can then ask the PIRC to review how their complaint was handled. They must do this within three months of the date of the final response from the policing body, otherwise the PIRC may be unable to accept the case.

If the PIRC agrees to conduct a complaint handling review, it will request the file from the policing body. After examining all of the evidence it will form a view on whether the complaint was dealt with to a reasonable standard.

## **WHAT KIND OF PENALTIES OR SANCTIONS CAN THE PIRC IMPOSE FOLLOWING THE REVIEW?**

The PIRC has no punitive powers.

Following a complaint handling review, irrespective of its findings, the PIRC may make recommendations to policing bodies in order to minimise the likelihood of similar problems arising in the future.

In some cases the PIRC may issue a reconsideration direction. This means the PIRC has concluded that the complaint must be looked at again in full by someone who has had no prior involvement with it. In certain circumstances the PIRC may decide that it should supervise the reconsideration.

We expect recommendations and reconsideration directions to be implemented within two months of the date of a review report being issued.

If a member of the public brings a criminal allegation about the police to the attention of the PIRC and the COPFS has not already dealt with it, the PIRC will refer the allegation to the COPFS.



# Accessibility

This leaflet and other materials may be available in other formats. Please contact the PIRC to discuss your requirements.

This leaflet is intended as a guide and does not cover every aspect of the PIRC's work. It sets out in broad terms how the PIRC fulfils the investigations and review responsibilities of the post under the relevant legislation:

- The Police, Public Order and 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.

It should not be regarded as a comprehensive statement of practice, procedure or of the law.

The leaflet is also available from **pirc.scot**, where you can also find more information on the role of the Police Investigations & Review Commissioner.

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