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Police Investigations &  
Review Commissioner

**COMMISSIONER'S  
ANNUAL REPORT  
2018-19**

# Police Investigations & Review Commissioner

COMMISSIONER'S ANNUAL REPORT FOR THE YEAR ENDED 31 MARCH 2019

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 2018-19 and details the organisation's performance against its objectives.

The report (SG/2019/SG/2019/240) was laid before the Scottish Parliament in November 2019 under section 43 (5) of the Police Public Order and Criminal Justice (Scotland) Act 2006.

## Our Purpose and Vision

To increase public confidence in policing through independent scrutiny of police actions and to promote continuous improvement.

### Our Priorities

- Carry out thorough and timely investigations of incidents involving the police;
- Carry out thorough and timely reviews of the way police handle complaints made about them and improve the quality of police complaint handling;
- Carry out our functions with a high level of efficiency, governance and accountability.



## Contents

The Commissioner's Foreword	06
Who is the Commissioner and What is her Role?	08
Senior Management Team	10
Our Values	12
The Work of the Investigation Team	14
The Work of the Review Team	20
The Work of the Corporate Services Team	26
Key Statistics 2018-19	28
Glossary and List of Relevant Bodies	34

# The Commissioner's Foreword

As my five-year term as Commissioner draws to a close, I recognise that I have been privileged to lead the organisation through a period of profound change in policing and unprecedented demand for the independent scrutiny of police actions.

Our current operating model was established with some degree of haste in the wake of the decision to form a single Police Service of Scotland in April 2013. Experience over the six years since then, has convinced me that further fine-tuning of our remit and powers would be beneficial. I am hopeful that, as the organisation moves forward into the next phase, there will be further necessary refinement to the independent police oversight framework.

I therefore welcomed the post-legislative scrutiny work of the Police and Fire Reform (Scotland) Act 2012, undertaken by the Justice Committee this year. I also believe that Dame Elish Angiolini DBE, QC's review of the police complaints system in Scotland, which began in September 2018, is timely. Both pieces of work present opportunities to remedy inherent weaknesses in the current system and shape any future model. Last May, we submitted our recommendations to the Committee, flagging up areas that we believe would benefit from reform and thereby strengthening our ability to perform our role. In addition, myself, and several members of staff continue to contribute to Dame Elish Angiolini's review, which I anticipate will consider some of the following matters:

- The level of discretion granted to Police Scotland in handling complaints about its officers;
- The powers afforded PIRC investigators in Crown-directed investigations;
- The powers afforded PIRC investigators in investigations about retired officers;
- Increased PIRC engagement with victims and the families of those whose Article 2 or 3 human rights may have been breached;
- Policing and police oversight bodies' compliance with all human rights principles.

The outcomes of both these strands of work will provide an opportunity to transform the way police actions are independently scrutinised in Scotland. They will also shape the future powers and remit of the Scottish model of independent police scrutiny. Parliament and public appetite will, of course, determine the pace of any recommended change. Nonetheless, I hope that the change process will begin shortly and evolve to meet future public expectations.

As I highlighted in last year's Annual Report, during 2017-18 we experienced a dramatic rise in Category A investigations (i.e. our most serious category of investigation). The Scottish Government responded to our requests for additional resources to meet that higher demand by increasing our budget to £4,254,000. This allowed us to recruit further investigatory staff, providing much needed additional capacity.

Notwithstanding this uplift, the 12 months since then saw another significant rise in the number of investigations directed to us. This resulted in an overall increase in our investigations of 86%.

Within this, the number of investigations from both the Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland more than doubled. Notably, the COPFS alone directed 36 investigations to me this year, equalling the total number of investigations received from all referring agencies last year. In contrast to last year, however, we received no referrals containing allegations of misconduct by senior police officers from the Scottish Police Authority (SPA).

In respect of the Review team, this year we saw a reduction of 12% in the number of complaint handling review (CHR) applications we received (from 291 to 258). This reduction may signify greater public satisfaction with the way in which Police Scotland dealt with their complaints. However, of the applications we did receive, it was disappointing to see that less than half of the complaints had been reasonably handled by the police. We will continue to work with Police Scotland to help improve this figure.

Undoubtedly, this has been a challenging year for the Review team, with a number of gaps in staffing levels because of some short-term issues around recruitment in that team last year. This has led to a backlog of cases which the team, now up to full strength, is working hard to reduce.

The recruitment of additional staff was made possible by the adjustment to our budget in April 2018, which also allowed us to bring in additional Corporate Services support staff. Due to the numbers of new staff and the need to provide accommodation and facilities for them, demand on the Corporate Services team too this year has been intense.

I am grateful to the Heads of Department and the Communications Team for collating the 2018-19 material and data rapidly, to allow me to submit this report to Scottish Ministers in June 2019, before I completed my tenure as Commissioner, and to provide information on our activities last year, as close as possible to the end of the 2018-19 financial year.

My successor will now take the organisation forward into its next phase, guided by a programme of reform that will strengthen the PIRC's ability to provide robust and independent scrutiny of police actions. He or she will do so with the support of a dedicated and highly professional team, and I take this opportunity to put on record my thanks to all staff for their hard work and support during the past five years.

I wish them and my successor well for the future.



**Kate Frame,**  
Commissioner

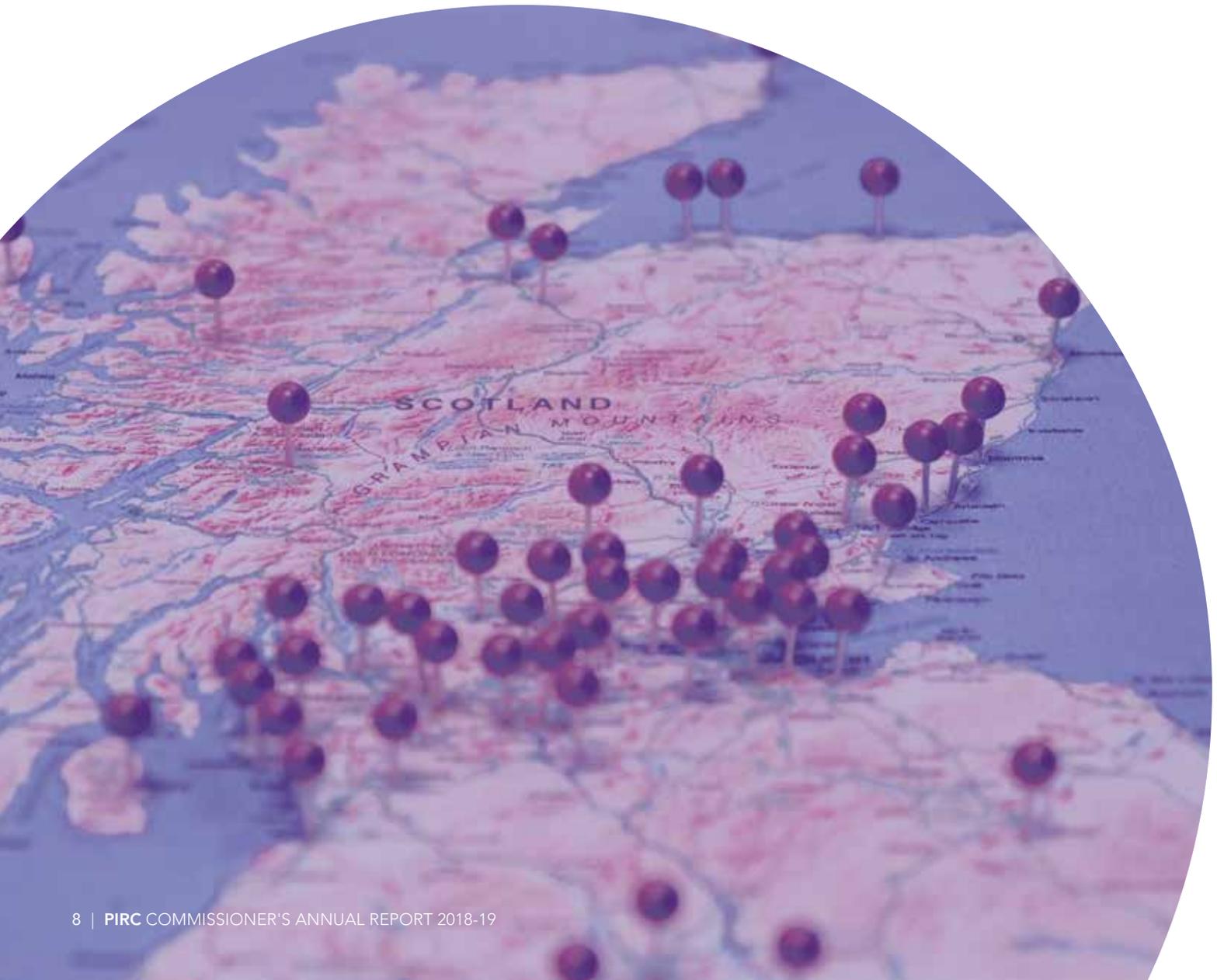


## Who is the Commissioner and what is her role?

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 PIRC seeks to ensure that the SPA and the Chief Constable maintain a suitable system for handling complaints.



### **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 to the way the police operate and deliver services to the public in Scotland.

### **The Police Investigations & Review Commissioner can review:**

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

The purpose of the Complaint Handling Review (CHR) process is to determine whether or not the complaint was handled to a reasonable standard by the police.

#### **The PIRC cannot carry out CHRs into:**

- Complaints of Criminality;
- Complaints made by individuals currently serving, or who formerly served, with the police about the terms and conditions of their service.

At the conclusion of a CHR, the commissioner can make recommendations, identify learning points, and direct the policing body to reconsider their response.

## 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



**Alan Buchanan**  
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 are honest, open and accountable.

### **IMPARTIALITY**

We carry out our work fairly and independently, ensuring that all evidence is considered objectively and decisions are based on sound professional judgement.

### **RESPECT**

We treat everyone with courtesy and dignity, irrespective of their background and needs.

**INTEGRITY**

**OUR  
VALUES**

**RESPECT**

**IMPARTIALITY**



## The Work of the **Investigation Team**

This year, policing bodies and the Crown Office and Procurator Fiscal Service (COPFS) referred 508 incidents to our Investigation Team, an increase of 21% on last year's figure of 421. They 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. In contrast with previous years, we received no referrals from the Scottish Police Authority (SPA) containing allegations of misconduct by senior police officers.

In addition to gathering and assessing evidence for each of the 508 incidents, we carried out 67 new, substantive investigations. This is an 86% rise on the number we initiated last year.

Of these 67 cases, 36 (54%) were directed to us by the COPFS:

- 4 deaths in custody;
- 11 deaths following police contact;
- 21 investigations into allegations of criminal behaviour by police officers.

This is more than double the 16 investigations that COPFS directed to us last year. In particular, the largest areas of growth can be seen for deaths following police contact (up from 3 to 11) and criminal investigations (up from 10 to 21).

The number of investigations resulting from a referral to us by Police Scotland also more than doubled this year, from 14 last year to 30:

- 4 deaths following police contact;
- 2 conventional firearms cases;
- 4 CS/PAVA spray discharge cases;
- 13 serious injuries following police contact;
- 7 uses of a Taser.

We also investigated a firearms incident referred by the Ministry of Defence Police. However, as is clear from the above, the main sources of our investigations continue to be the COPFS and Police Scotland.

Looking at the nature of these investigations, those labelled Category A are major investigations or investigations of particular public concern requiring significant resources. The number falling into this category rose for the fourth consecutive year, from 15 to 18.

We also experienced the largest ever increases in both Category B and Category C investigations. Category B investigations are those that may turn out to be lengthy but where lines of enquiry are apparent from the outset. Category C investigations are routine, lower-level investigations. The number of Category B investigations rose from 12 to 25, and Category C investigations from 9 to 24.

Not surprisingly, these figures placed unprecedented demands on our investigators at a time when they were already dealing with a high volume of investigations, in some cases involving deaths or allegations of criminal behaviour by police officers. It is hoped that with the recruitment of more specialist staff this year some of this pressure will begin to ease.

In all our investigations, regardless of which agency refers them, the role of the Investigation Team is to interview relevant witnesses, seize productions and examine the available evidence. The resulting investigation reports set out 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.

We continue to publish our reports of these investigations. Doing so brings greater transparency to our work. It also extends the reach of our recommendations and advice, strengthening our ability to support effective policing and ultimately to increase public confidence.

Stakeholder engagement remains an integral part of the work of the Investigation Team. We continue to give training on our role, purpose, functions and powers 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 the 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.

During the year, in conjunction with the Commissioner, members of the Investigation Team gave evidence to the review being undertaken by the Rt Hon Dame Elish Angiolini DBE QC. The review is assessing current law and practices relating to complaints handling, investigations and misconduct, with a view to identifying recommendations for improving the police complaints system.

# Investigations Case Studies

## 1. POLICE SCOTLAND – INCREASE IN TASER DEPLOYMENT

### Background

In December 2017, Police Scotland announced plans to train and equip additional officers with Tasers to improve the safety of the public and its police officers. This followed an increase in both the number of incidents in which officers had been confronted by people with bladed weapons and the number of assaults on officers.

The force trained and equipped around 500 so-called specially trained officers (STOs). These officers were then routinely armed with Tasers from June 2018 onwards.

Human rights and other similar groups had previously raised concerns over the potential for Tasers to be misused or overused when the number of officers investigated with these devices increased. We therefore investigated an initial sample of these cases, whilst continuing to assess every referral of Taser use made to us.

During the year we assessed 34 uses of Tasers, going on to investigate seven of them fully. In the previous year, Police Scotland used Tasers on only three occasions.

### Findings

In all but one of the seven investigations we found that the use of Tasers had been necessary, justified and proportionate.

Unsurprisingly, STOs often used Tasers when confronted with people armed with weapons such as knives, machetes, firearms and crossbows. On other occasions, they used them when being threatened with violence.

Generally, it appears that the use of Tasers by Police Scotland's STOs increased their safety and allowed them to resolve incidents quickly without having to call upon the force's limited number of specialist firearms officers.

We also observed that the use of Tasers had often helped to save the lives of people with mental health issues threatening to commit suicide or self-harm using weapons. In these circumstances, the officers were able to limit the self-harm or even prevent the death of these individuals.



## 2. ATTEMPTED MURDER OF TWO POLICE OFFICERS IN GREENOCK

### Background

On 1 June 2018, two police officers were stabbed by a man as they assisted NHS staff at a house in Greenock. The man, who suffered from a mental illness that included paranoid schizophrenia, was being cared for in the community. Despite receiving serious injuries, the officers attempted to arrest him. Not having Tasers, they used PAVA spray to subdue him. However, the PAVA spray appeared to have no effect and the man managed to run off.

Both officers radioed for immediate assistance and updated the police control room on the situation. Responding to their request, a number of police officers made their way to the scene. The first officers arrived in a marked police car and saw the man walking towards them, armed with a knife.

The driver of the police car, aware that two officers had already been seriously injured, assessed that the man posed an immediate risk to the lives of police officers and members of the public. Believing that he had no other option, the driver decided to use the police car to hit the man in an attempt to either disarm or incapacitate him.

The officer drove at low speed and struck the man, who hit the car's bonnet and fell to the ground. The man then got back onto his feet and attempted to stab the officer driving the car before running off again. He was arrested after a short chase.

The man later appeared at Glasgow High Court and was ordered to be detained at the State Hospital, Carstairs for an unlimited period of time.

### Referral to the PIRC

Police Scotland referred the incident to the PIRC on 1 June 2018 under the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended, and the Police Investigations and Review Commissioner (Investigations, Serious Incidents and Specified Weapons) Regulations 2013.

### PIRC Investigation

The PIRC was asked to investigate the circumstances that took place immediately after the original two officers were injured. In particular, the investigation focused on the actions and decision-making of the other officers attending the scene, including one officer's decision to use a police vehicle to deliberately strike the man, bring him under control and arrest him.

During the course of the investigation, PIRC investigators examined the incident scenes and vehicles, obtained statements from police officers, police staff and members of the public, and interviewed key witnesses. They also examined STORM command and control incident logs, telephone and Airwave recordings, briefing papers, Scottish Police Authority photographs, the PAVA Discharge report, the Use of Force form and Standard Operating Procedures (SOPs).

### Findings

Our investigation found that:

- The man was not known to Police Scotland or recorded on any of its systems at the time of the incident;
- Two police officers were seriously injured during the incident;
- Police officers discharged PAVA spray at him on three occasions but with little effect. In the circumstances, the discharge of PAVA spray was necessary, proportionate and justified;
- The officer driving the police car made a dynamic risk assessment of the situation. Having considered both the tactical options available to him and the level of threat posed by the man, who was still armed with a knife, the officer deliberately drove at and struck the man with the car. In the circumstances, the officer's action was proportionate and justified;
- Police officers subsequently arrested the man, during which he sustained minor injuries having been struck several times by an officer using a police-issue baton. In the circumstances, the use of the baton was necessary, proportionate and justified;
- The police officers involved in the initial incident with the man and his subsequent arrest, displayed professionalism, sound judgment and extreme bravery.

### 3. DEATH FOLLOWING POLICE CONTACT - MUSSELBURGH

#### Background

Around 2.30 in the morning of Wednesday 9 May 2018, Police Scotland officers found the body of a 39-year-old woman in her home in Musselburgh.

A family member had first contacted Police Scotland on 5 May 2018 to report her concern for the woman's welfare. Local officers were sent to the woman's home later that day. They found the woman safe and well and updated her family with this information.

Around 1.55pm on 8 May 2018, the same family member contacted Police Scotland again to report her concern for the woman as she had not heard from her since 5 May 2018. An officer went to the woman's house around 5pm that afternoon, but received no reply. He went back again at around 9pm that night. Having managed this time to let himself in, he searched the house but did not find the woman.

After gaining more information from the family member about the woman's health, officers returned to the house at 2.30am on Wednesday 9 May 2018 and found the woman lying dead in a cupboard.

#### Referral to the PIRC

On 9 May 2018, Police Scotland referred the incident to the Police Investigations & Review Commissioner (PIRC) under the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended, and the Police Investigations and Review Commissioner (Investigations Procedure, Serious incidents and Specified Weapons) Regulations 2013.

#### PIRC Investigation

The PIRC investigation focused on the police handling of the incident, their decision-making processes in light of the family's concerns for the woman and the actions that were subsequently taken by the police.

PIRC investigators visited the scene and obtained statements from police officers, police staff and civilians. They also examined Command and Control incident logs, telephone and Airwave recordings, Police Scotland Standard Operating Procedures and documents.

#### Findings

Our investigation identified a number of failings in the way Police Scotland responded to the reports about the woman, and made the following findings and recommendations:

- Between 1.55pm and 10.27pm on 8 May 2018, Police Scotland treated the incident as a 'Concern for Person' rather than a 'Missing Person' enquiry. Police officers explained that this was because they were aware that the woman had been found safe on 5 May 2018 following a similar call.
- During her initial call to police at around 1.55pm on 8 May 2018, the family member informed them that the woman was on Police Scotland's interim Vulnerable Person Database (iVPD). Despite this, Police Scotland graded her initially as a Low-Risk Missing Person.
- The family member's call was correctly identified as a Grade 2 call, which requires ACR staff to make every effort to assign officers to the call within 15 minutes of accepting it. However, because of other priority incidents at that time, there were no officers available.
- As no police officers had been assigned by 5pm, a police sergeant, acting on his own initiative, went to the woman's home. However, he got no response when he knocked on the door. Having received no further information by 9pm, and remaining concerned for the woman's safety, he returned to the address. This time he managed to get into the house by slipping the lock. He then conducted a cursory search of the property.
- On his return to the police office, the sergeant learned that further information about the woman had been received from a family member and the Social Work Department. As a result of this information, the incident was declared a Missing Person Enquiry. Other officers then went to the woman's home where, following a search at around 2.30am on 9 May 2018, they found her body in a cupboard.
- It cannot be determined from the medical evidence whether the woman would have been found alive had an effective search of the property taken place at around 9pm in the evening of 8 May 2018.

The Commissioner recommended to Police Scotland that they:

- Review their resource management and their failure to allocate officers to the incident and take necessary action to resolve any shortcomings. Despite the fact that the incident had been given Grade 2 status—denoting a *'Crime/incident where there is a degree of urgency associated with police action'*— the Area Control Room failed to send any officers to the woman's home throughout the entire incident. The only officers to attend did so on their own initiative;
- Examine their risk-assessment and decision-making processes throughout the entire incident (between 1.55pm on 8 May 2018 and 2.30am on 9 May 2018), taking particular cognisance of the fact that they graded the woman as a Low-Risk Missing Person, despite information from a family member and Police Scotland's own systems indicating that she had serious health problems;
- Examine options for managing and deploying other officers to incidents in Edinburgh, Lothian and Scottish Borders divisions when local officers are tied up dealing with other priority incidents;
- Revisit their commitment to reviewing 'resource allocation and call handling issues', which it announced in response to a PIRC investigation in 2016.

## The Work of the Review Team

This year proved to be one of the most challenging for the Review Team. The significant number of applications received in the last quarter of the previous year, coupled with gaps in staffing levels, meant that we started 2018-19 with a backlog of applications for complaint handling reviews (CHRs).



Following the recruitment of additional staff, we have been working hard to reduce this backlog. Thus, in addition to receiving a further 258 new applications, this year the Team reviewed 527 individual heads of complaint and completed 137 CHR reports. Within those reports we made 217 recommendations, issued 55 reconsideration directions and identified 49 learning points for the police.

The Review Team also makes sure that policing bodies go on to implement our recommendations. Of the 217 we made in 2018-19, 98% had already been implemented at the time of going to print. Furthermore, where the 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 2018-19 the Commissioner issued 55 such directions. Here too, by the end of the year Police Scotland had completed 89% of these.

Regrettably, last year we saw a reduction of nine percentage points (down to 44%) in the proportion of complaints we considered policing bodies to have handled to a reasonable standard. This shows that there is still significant work to be done to improve the standards of complaint handling, and we remain committed to working collaboratively with Police Scotland's Professional Standards Department to achieve this.

To this end, during the year the Review Team gave four presentations to senior police officers and complaint handlers across Scotland. The presentations were intended to improve the quality of the final response letters issued by the police to members of the public, one of the most common shortcomings identified by our review process. Likewise, as part of our external stakeholder engagement we gave a presentation to Scottish Police Federation staff representatives about complaint handling issues relevant to its members.

We also issued two editions of "Learning Point", our best practice bulletin: one in July 2018, the other in March 2019. Focusing again on the final response letters from the police, the first contained practical examples and advice for complaint handlers on how to improve these. The second, issued in conjunction with the Investigation Team, highlighted recurring problems in the seizure and preservation of CCTV evidence during complaint enquiries. In many of the cases that we deal with, CCTV recordings provide irrefutable evidence, allowing complaints to be determined quickly and definitively. In a number of the complaints we reviewed, CCTV evidence had not been preserved, was lost or could not be downloaded. Failure to secure such evidence is likely to significantly undermine public confidence in the complaint handling process.

Another way in which we work closely with Police Scotland is through our monthly meetings with its Professional Standards Department. Such regular, constructive discussion enables us to resolve many complex matters as they arise and helps to build mutual understanding, respect and co-operation.

Finally, this year we have also been working with Police Scotland to improve its procedures for resolving complaints as they arise (what we call 'front-line resolution') and to design and run new training inputs and interactive workshops for police complaint handlers. We look forward to seeing the positive impact of this work in 2019-20.

# Review Case Studies

## 1. TEENAGERS STOPPED, SEARCHED AND HANDCUFFED

### Background

The applicant in this case was on holiday in Scotland with his wife and his two teenage foster sons. Both teenagers are asylum seekers. On 30 October 2017, whilst walking through the town centre on their own, the applicant's foster sons were detained under section 23 of the Misuse of Drugs Act 1971, handcuffed and subjected to a drug search. No illegal drugs were found, however both teenagers were taken to a local police office to confirm their identity and asylum status.

The applicant was unhappy that the officers stopped and searched his foster sons and implied that their actions were racially motivated. He was also dissatisfied about the use of handcuffs and his interaction with the officers at the police office. The applicant also criticised police complaint procedures

### Complaints

The applicant submitted six complaints, that:

1. Officers from Police Scotland unlawfully stopped and searched his foster sons;
2. Officers unreasonably handcuffed both teenagers in a public place, one of whom remained in handcuffs until his release into the applicant's care;
3. Officers failed to build a reasonable rapport with his foster sons in order to establish their background and did not tell them why they were being searched;
4. Officers failed to contact the applicant directly to explain what was happening to his foster sons. Instead it was left for one of his sons to make contact;
5. Officers did not make sufficient enquiries with the applicant at the police office to establish his sons' identity and background;
6. Police Scotland's complaints procedure appears to be geared to closing discussion down and is unfit for purpose.

Police Scotland did not uphold any of the complaints.

### Conclusions

Our review concluded that two of the applicant's six complaints were handled to a reasonable standard.

In respect of the applicant's first complaint, we determined that officers did have lawful basis for detention and search of the applicant's foster sons. The complaint response provided a detailed explanation, was well-reasoned and supported by material information available.

Regarding his second complaint we determined that the complaint response provided a detailed and well-reasoned explanation as to why the teenagers were handcuffed during the search. However, the response failed to consider any lawful basis for continued detention after the drug search was concluded or explain why it was necessary or proportionate in the circumstances.

With reference to the third complaint, we considered that police were justified in not upholding the complaint in so far as it related to informing the teenagers why they were being detained and searched. However, in relation to building rapport, the response did not accurately reflect the available evidence and did not apply the balance of probabilities test.

In considering the fourth complaint, we determined that insufficient enquiry was undertaken and the response was not supported by the available evidence. Officers did not explain why, given that one of the foster sons was still a child, no contact with parents was made by the police officers.

Concerning the fifth complaint, we determined that the complaint response, although it did not refer to the relevant protocols and procedures, provided sufficient explanation and was supported by the available evidence.

In relation to the sixth complaint, in this case, Police Scotland attempted to resolve the applicant's complaints via Front Line Resolution (FLR). Whilst correct FLR procedures were followed, we considered that given the serious nature of the allegation, i.e. unlawful detention of a child and the racial element involved, it was inappropriate to attempt FLR in this case.

### Outcomes

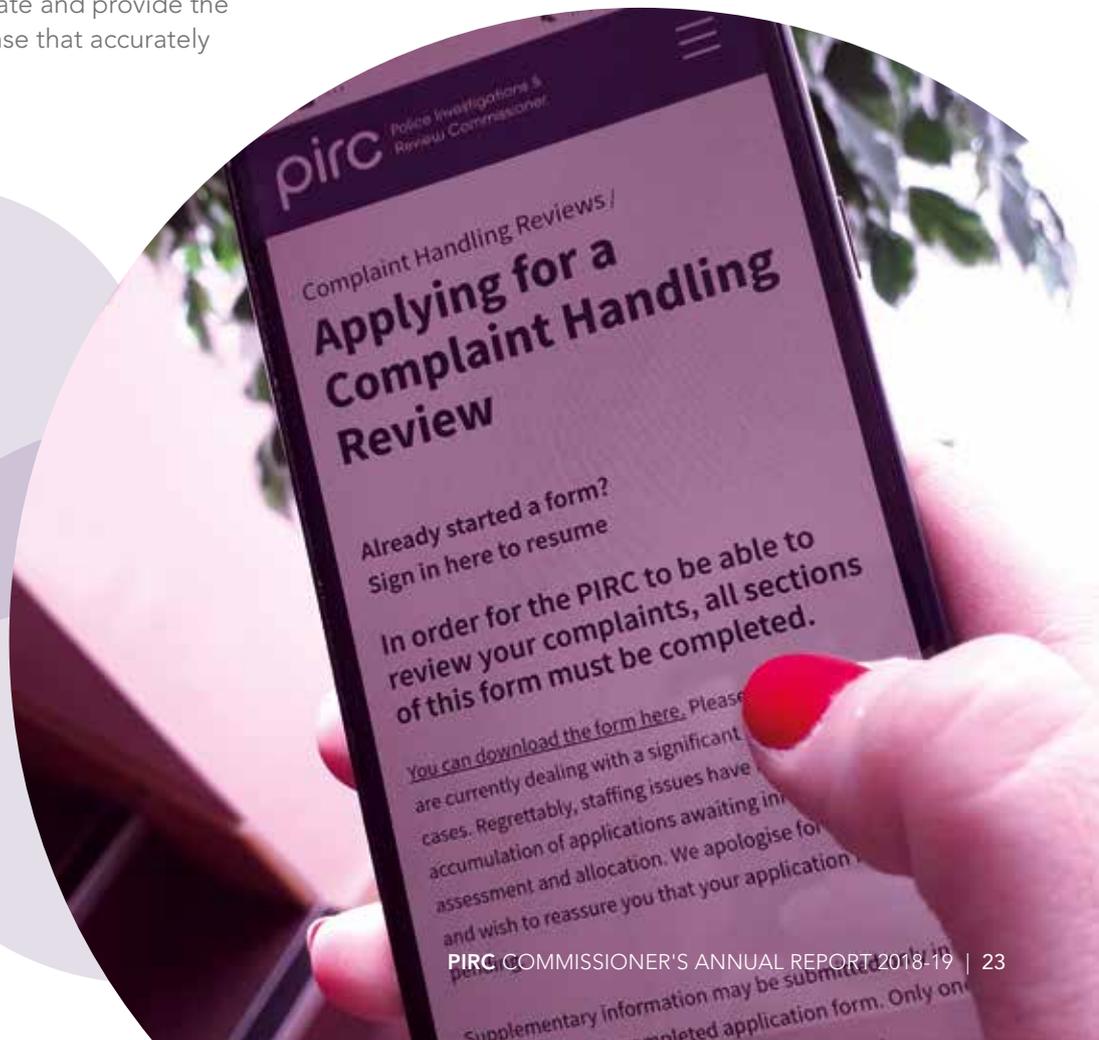
In light of the significant shortcomings identified during our review, we issued three Reconsideration Directions in relation to Complaints 2, 3 and 4.

In respect of complaints 2 and 3, we directed Police Scotland to record each element of those complaints as a separate allegation in line with the provisions of the Complaints About Police Standard Operating Procedure. We also directed police to obtain more detailed statements from the officers involved in order to address each complaint. We asked Police Scotland to consider whether continued detention and application of handcuffs was necessary and proportionate and provide the applicant with a further response that accurately reflects the evidence.

In relation to complaint 4, we directed Police Scotland to undertake further enquiry; consider whether the officers should have contacted the parents themselves; and provide the applicant with a further response that accurately reflects the available evidence.

In considering complaint 6, we identified an organisational Learning Point: The final letter issued to the applicant following the Front Line Resolution process contained insufficient detail in order to allow the complainer to reasonably consider that his complaint had been appropriately dealt with. We asked Police Scotland to consider improving FLR letters by providing sufficient detail about the complaint itself and how it was resolved.

The reconsideration directions in this case have now all been implemented by Police Scotland. The complaints were reassessed and two out of three have now been upheld by Police Scotland, with a more detailed explanation being given as to why the one remaining complaint was not upheld.



## 2. COMPLAINT NOT UPHELD IN RELATION TO FORCED ENTRY TO PROPERTY

### Background

In this case the applicant managed a tenanted rental property on behalf of his father-in-law.

On 1 September 2017, officers from Police Scotland executed a search warrant and forced entry to the property. The applicant incurred the costs of repairing the front door.

The applicant believed that Police Scotland had made a mistake, and that they had executed the warrant at the wrong address. As a result, he was seeking to be compensated for the costs that he incurred for repairing the door.

The applicant made his complaint by both telephone and in writing on 6 September 2017. The complaint was initially resolved by Police Scotland by Front Line Resolution (FLR). The applicant received a letter from Police Scotland dated 6 October 2017 to the effect that, as the applicant had accepted the explanation provided, they considered the matter resolved.

However, the applicant contacted Police Scotland again shortly thereafter and made it clear that he was not happy with the proposed resolution. The complaint was then further investigated.

Police Scotland responded to the applicant's complaint in a letter dated 23 November 2017, stating that the complaint was not upheld. The applicant was not satisfied with the response that he received and asked the PIRC to review how Police Scotland handled his complaint.

### Complaints

Our review considered that there were two distinct elements to the applicant's complaint, namely that:

- Police Scotland had forced entry to the wrong address under a search warrant; and
- The applicant was dissatisfied that he had incurred the cost of repairing the damage that had been caused to the door of the property.

### Conclusions

Following our review, we concluded that Police Scotland handled the complaint to a reasonable standard. We considered each element of the applicant's complaint in turn.

The first element of the complaint was in relation to the assertion that entry had been forced at the wrong address. In relation to this complaint, Police Scotland explained to the applicant in great detail the robust system of checks that exist regarding intelligence-led warrant applications and that these require to be satisfied prior to the application being presented to the Procurator Fiscal. The response letter explained the purpose of such checks and that ultimately, the final decision to grant a warrant lies with the Sheriff.

In addition to the above, the final response letter also explained to the applicant in considerable detail the guidance and protocols in place in relation to the recording and retention of intelligence on the Scottish Intelligence Database.

Having viewed the provisions of the relevant police Standard Operating Procedures (SOPs), alongside a copy of the warrant application and the intelligence used to obtain the warrant, we were in a position to confirm that the response given to the applicant was accurate. We therefore concluded that we agreed with Police Scotland's position that entry was forced to the correct address by officers in possession of a lawfully granted warrant that had been obtained in accordance with the relevant guidance and SOPs.

Regarding the second aspect of the applicant's complaint about incurring the cost of damage to the property, Police Scotland's response explained to the applicant the provisions of the Forced Entry SOP. This SOP makes clear that on occasions where entry is forced to a property with a lawful warrant, the responsibility for any costs thereafter incurred rests with the owner/occupier of the property or their insurance company. Having viewed the relevant SOP, we considered that it had been accurately reflected in the response letter.

## Outcomes

Following our review of Police Scotland's handling of this complaint, we considered that the applicant was provided with a thorough and well-reasoned response that addressed both aspects of his complaint in full.

Furthermore, we were able to confirm that the available evidence relied upon by Police Scotland in their final response letter was accurately presented.

This case demonstrated a very good standard of complaint handling which was transparent and focused on addressing the applicant's concerns.

As the complaint was handled very well by Police Scotland, we made no recommendations in this case.



# The Work of the **Corporate Services Team**

The dual pressures of continuing high demand for our services and an increase in budget and headcount in 2018-19, saw the Corporate Services Team having to adapt and reassess its priorities throughout 2018-19.

Rising demand for our services has been a recurring theme of the last five years. In light of this, we submitted several business cases to the Scottish Government for additional resources to strengthen our capacity and longer-term resilience.

We duly received a one-off payment of £100,000 in December 2017. Our annual budget was also increased, rising to £4.25 million in April 2018. Consequently, we were able to embark on the biggest recruitment campaign we have undertaken since the organisation was formed.

Inevitably, this had a knock-on effect on our already stretched Corporate Services Team, whose human resources, facilities management, procurement, finance and communications staff were all affected. In addition to administering the recruitment process itself, changes to policies, procedures, and terms and conditions for all staff had to be put in place.

In order to accommodate our growing workforce, we also needed to modify our existing office space and facilities. This exercise alone took over eight weeks to complete and involved considerable planning, designing and changes to shift patterns, as well as managing the existing work space while these changes were being implemented.

On top of all this, May 2018 saw the introduction of the most significant change to data protection legislation in 20 years. In preparation, the Corporate Team carried out extra work and training to make certain that the organisation would fully comply with the requirements of both the General Data Protection Regulation (GDPR) and the UK Data Protection Act 2018.

Our internal Information Governance Group (IGG) is responsible for monitoring how we respond to these changes. Led by the Corporate Team, it will ensure that we continue to carry out our data protection duties to the highest standards.

In addition to the above, throughout the year the Corporate Services Team dealt with:

- 31 Data Protection (DPA) requests, handling 97% within statutory timescales which have been reduced from 40 days to one calendar month;
- 38 Freedom of Information (FOISA) requests, responding to 100% within the statutory timescale of 20 working days;
- 21 complaints made to the organisation;
- payments to suppliers, 99.5% of which were made within 10 days.

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 97%, 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 in raising public confidence in policing. This year we published 24 investigation reports, which generated a great deal of media attention and further interest in the organisation.

Our Communications Team liaises continually with the media to keep journalists informed about our role and functions, as well as our activities and findings. Regular updates on the latter are posted on our website and on social media.

Effective internal communication is vitally important too, particularly given our newly expanded staff complement. For these reasons, we also boosted our internal messaging and provided more opportunities for staff engagement throughout the year.

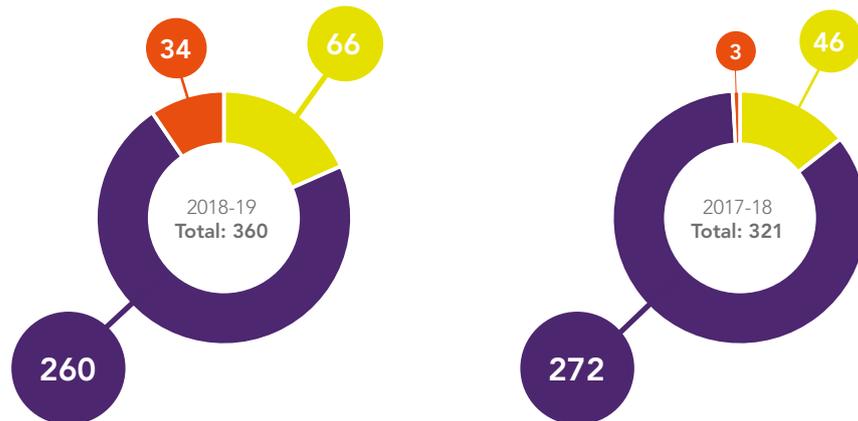


# Key Statistics 2018-19



# Independent Assessments

## 1. Independent assessments of police firearms incidents:



### Assessment Type of Firearm

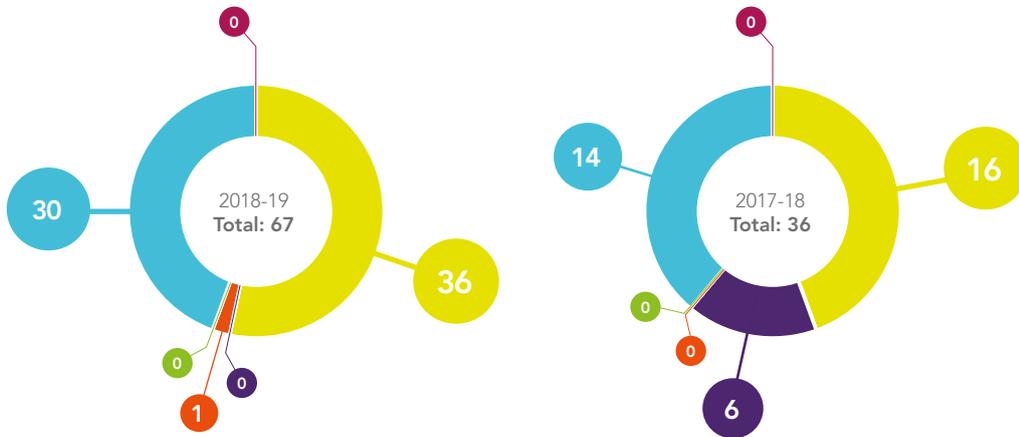
- Conventional
- CS/Pava
- Taser/other

## 2. Independent assessment of other matters:



# Independent Investigations

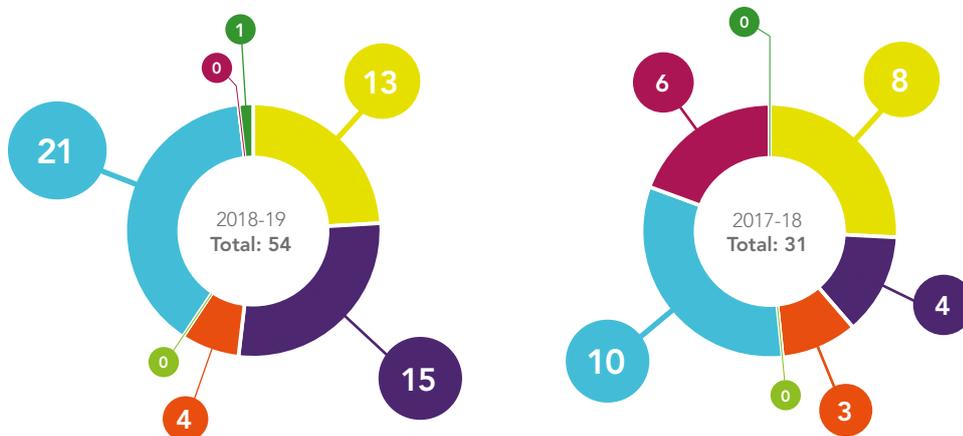
## 3. Source of investigations:



### Referring Body

- Crown Office and Procurator Fiscal Service (COPFS)
- British Transport Police (BTP)
- Scottish Police Authority (SPA)
- Police Scotland (PS)
- Ministry of Defence Police (MDP)
- Other policing bodies

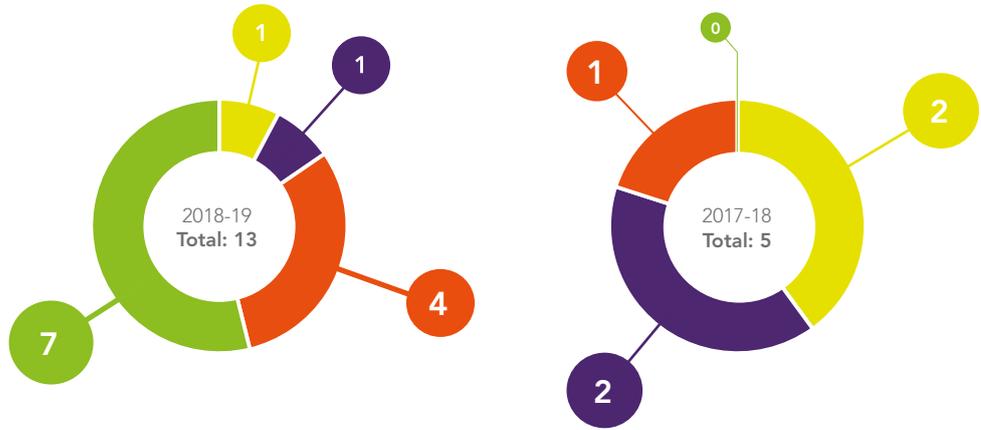
## 4. Types of Investigation (non-firearms):



### Category

- Serious Injury following police contact
- Criminal Investigation
- Death following police contact
- Misconduct
- Death in custody
- Other
- Public Interest

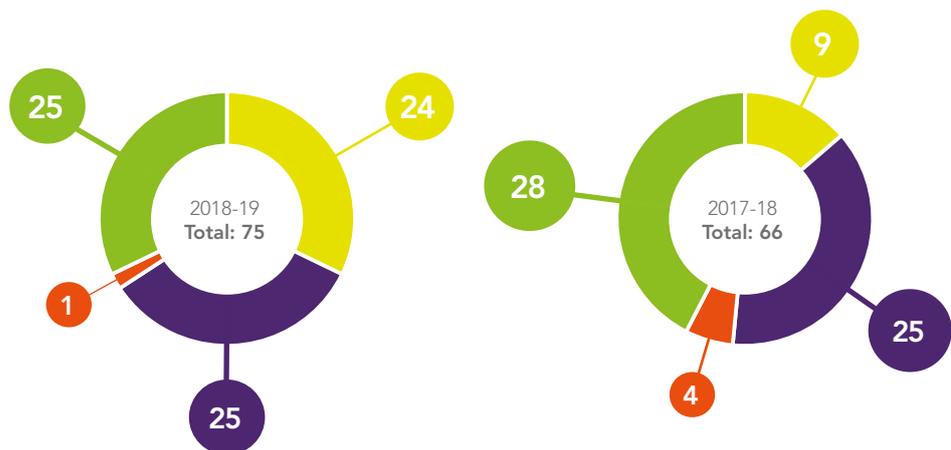
### 5. Firearms investigations by type:



#### Type of Firearm

- Conventional Firearms presented
- Conventional Firearms discharged
- CS/PAVA spray
- Taser/other

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

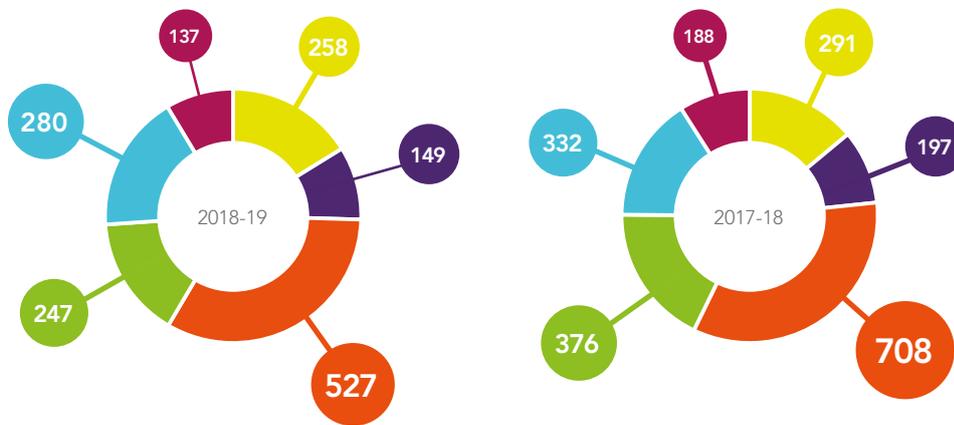


#### Reports

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

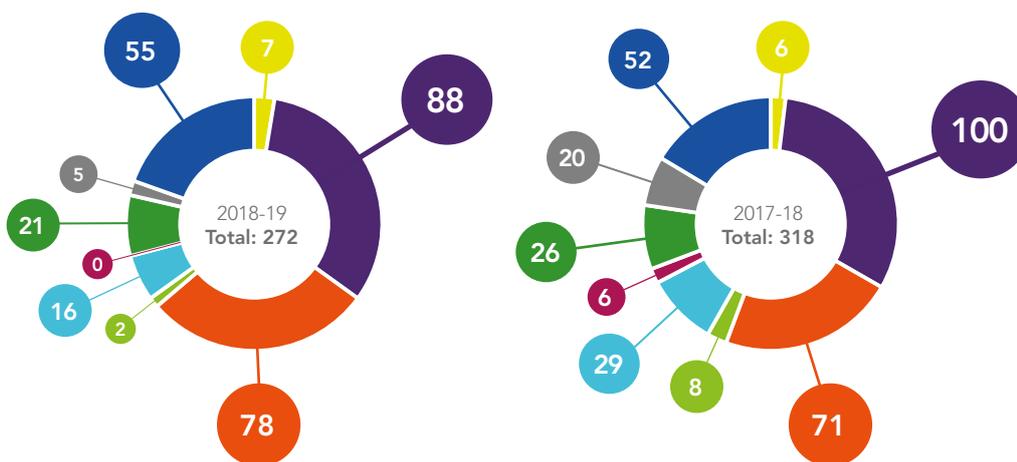
# Independent Complaint Handling Reviews

## 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
- Provide further response
- Conduct further enquiry
- Other
- Record complaint and respond
- Revisit policy/procedure
- Reassess and respond
- Record as complaint against police
- Reconsideration directions

Some of the methodology for recording this data has changed since our last report, and as such fewer categories are now required.

### Recommendations Accepted

2018-19



2017-18



### Recommendations Not Accepted

2018-19



2017-18



### Recommendations Implemented

2018-19



2017-18



### Recommendations Not Implemented

2018-19



2017-18



<sup>1</sup>This 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, 49 of 55 reconsideration directions had been carried out (89%).

<sup>2</sup>This figure was reported as 83.8% in last year's annual report, but has since increased.

## Corporate Services

### FOI Requests

2018-19



2017-18



### DPA Requests

2018-19



2017-18



### Complaints about PIRC

2018-19



2017-18



### **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 (2019)

The Commissioner's Annual Report presents highlights of the PIRC's achievements for the financial year 2018 - 19 and details the organisation's performance against its objectives.

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

Design by StudioSVN

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