

LEARNING POINT

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Police Investigations &
Review Commissioner



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WELCOME

This bulletin is for everyone who deals with complaints and works in any of the policing bodies and organisations, located in Scotland, for whom the Police Investigations and Review Commissioner (PIRC) is legislatively responsible.

We offer guidance, updates and best practice based on real recommendations made by our review and investigations teams. These will help you better understand best practice when dealing with complaints and ultimately encourage improvements to the service being delivered to the public.



FURTHER READING

[A guide for police and staff on the role of PIRC](#)
[PIRC website](#)





PIRC Reviews

Complaint Handling

In this edition of Learning Point we look at the importance of noting statements of complaint and agreeing heads of complaint.

Police Scotland's Standard Operation Procedure regarding Complaints about the Police states:

- There should be a clear understanding between the person noting the complaint and the complainer as to what is being investigated.

In a number of recent complaint handling reviews (CHRs), we have identified instances where enquiry officers elect not to obtain a statement of complaint from the complainer and/or agree the heads of complaint with them.

This can result in a lack of clarity at the initial stages of the complaints process, which is likely to compromise the efficiency and relevancy of the complaint investigation. It will also make it difficult for the final response to adequately address the central points of the complaint.

Here are some useful reminders about the processes you should follow and some recent examples where officers could have responded more fully, as well as a positive example of good complaint handling practice.

Role of the enquiry officer

It is crucial that there is consensus between the enquiry officer and the complainer from the outset on what is the heart of the complaint and what will, and will not, be covered in the complaint investigation.

This allows the complaint enquiry officer to fully understand the root cause of the complainer's dissatisfaction and thereafter tailor their complaint enquiry to ensure that it is proportionate and sufficient to establish material facts and enable the police to provide a comprehensive complaint response.

Keeping the complainer informed

Following the appointment of an enquiry officer, contact should be made with the complainer at the earliest opportunity to make them aware that their complaint is being progressed.

The enquiry officer should advise the complainer of the various steps in the complaints process and the amount of contact they should expect, as well as seeking to establish their preferred method of contact.

It is essential for enquiry officers to keep complainers updated at regular intervals, preferably every four or six weeks. Auditable records, such as file notes, emails or call recordings, must be retained in respect of all contact with the complainer and it is essential that enquiry officers maintain a complainer contact log.

We accepted that complaint investigations can often be protracted, but these steps should help to manage a complainer's expectations from the outset. Keeping complainers regularly updated is a key aspect of efficient complaint handling.



Statements of complaint

Our [Statutory Guidance](#) recognises the importance of noting statements of complaint and provides:

- Obtaining a statement has a number of benefits for both the complainer and the policing body. A comprehensive, signed statement acts as the framework for any subsequent investigation. It focuses the complainer on their issues of concern. It also provides the enquiry officer with an opportunity to explain the basis for any police action and, by doing so, allows an opportunity to resolve concerns at that stage.
- Obtaining a statement also provides an opportunity to assess the complainer's expectations and to put on record the enquiry officer's view as to whether these can be realised.

It is best practice for enquiry officers to:

- Note full statements of complaint.
- Identify the scope of the complaint.
- Develop an understanding of why the complainer is dissatisfied.
- Assess whether the outcome they are seeking is realistic.

While noting a statement of complaint allows the enquiry officer to ascertain the nature of the complaints, it also provides an opportunity to understand a complainer's expectations of the complaint process and their desired outcome.

This is a critical part of the complaints process and failure to manage complainer expectations at an early stage can result in continued dissatisfaction, regardless of the enquiry officer's efforts to investigate and respond to their complaint.

If the nature of the complaint is serious, complex, or if complainer's initial submissions/correspondence is extensive or unclear, it is essential that statements of complaint are noted.

The following two examples demonstrate cases where the complaints arose from serious matters and further clarity was required, but statements of complaint were not obtained.



Example 1

The complaints in this case arose after the complainer reported her ex-partner for domestic abuse. Police Scotland recorded several complaints, including that officers failed to gain additional evidence by neglecting to speak to witnesses of the abuse. Although the enquiry officer met with the complainer, a statement of complaint was not obtained.

- We considered that it was unclear which witnesses the complainer was referring to when submitting her complaint, and that the complainer should have been asked to clarify which witnesses she believed had been missed. In our view, although the enquiry officer met with the complainer to discuss her complaints, the notes obtained from that meeting were completely inadequate to assist the complaint investigation, as there were no details contained therein.
- We concluded that, as the complaint enquiry failed to establish the crux of the complaint, the final letter could not provide an adequate explanation to the complainer. We also identified a learning point to Police Scotland in connection to this, requesting that the officers involved be reminded of the importance of obtaining a full statement of complaint at the beginning of a complaint enquiry.
- The statement of complaint should cover all points referred to in the complainer's initial contact with the police. It should also document any allegations that were potentially resolved during the initial engagement with the complainer and any they no longer wish to pursue. This should help avoid any future misunderstanding in relation to whether complaints have been 'missed' or overlooked during the investigation.





Where complaints are of a very general nature, i.e., an officer was unprofessional, the onus is on the enquiry officer to seek further clarification and establish the root of the complainer's dissatisfaction. Example 2 shows a case where we considered that Police Scotland could have taken further steps to clarify the reason behind the complaint.



Example 2

The complainer alleged that officers failed to provide him with an update. The complaint enquiry was undertaken on the basis that officers did not provide the complainer with an update about a criminal investigation for which a search warrant was carried out.

- **We observed that, when attempting to agree the heads of complaint, the complainer sent the police a draft heads of complaint form. In our view, the information provided in the form suggested that the complainer's concern about a lack of updates could relate to matters that predated the search.**
- **We found that, although the enquiry officer asked the complainer for more information, they could have taken further steps to note the details of the complaint. As the enquiry officer did not clarify the precise nature or scope of the complaint, the final letter was not properly focussed and did not fully address the complaint.**

Heads of complaint form

In all cases, the complainer must be asked to agree and sign a 'heads of complaint' form and a copy must be provided to them. The 'heads of complaint' form should contain a brief description of each allegation that the complainer wishes to be progressed.

Value of noting statements and agreeing heads of complaint

Noting a statement of complaint and agreeing the heads of complaint ensures that the enquiry officer understands all aspects of the complaint and can address all of the complainer's concerns. Agreeing clear and unambiguous heads of complaint with the complainer at the start of the process will help to ensure that the complaint investigation considers all of the relevant issues.

Where statements of complaint are not obtained and/or the heads of complaint are not agreed:

- It is likely that the enquiry officer will be unable to identify the precise nature of the complainer's dissatisfaction.
- The complaint enquiry will lack focus on the issues that are of utmost importance to the complainer.
- It will be difficult for the final response to adequately address the complaint fully.

In such circumstances, we often make recommendations for Police Scotland to:

- Undertake further enquiries with the complainer.
- Reassess the complaints.
- Provide further well-reasoned responses.

Recognising the value of noting statements of complaint and agreeing the heads of complaint could therefore help reduce the number of PIRC recommendations made in this area and reduce the workload of all involved in the complaint handling process.





Potential barriers

We understand that there are various factors which may hinder the enquiry officer's ability to note a statement of complaint and/or agree the heads of complaint. Although the list is not exhaustive, this may include circumstances where:

- The complainer is unwilling or unable to engage, or is vulnerable.
- The complainer's first language is not English.
- The complainer has disabilities, difficulties, or health conditions.
- The complainer resides abroad.
- The complainer requires a representative or advocate to support them.
- There is difficulty contacting the complainer, i.e., they do not use email or have limited access to a telephone.

There can be many situations where it is not possible or practical to obtain a full statement from the complainer. We encourage enquiry officers to be flexible, make reasonable adjustments or other special arrangements depending on the particular circumstances of the complaint and the complainer.

The key consideration for the enquiry officer is not the method of getting the necessary information, but rather that they have a clear understanding of the complainer's concerns.

It is imperative that, in cases where statements are not obtained or the 'heads of complaint' form is not signed, the enquiry officer clearly records the rationale for not doing so and documents the attempts that have been made to engage with the complainer. Detailed notes must be made of any verbal interactions with the complainer, which should be retained on the complaint file.

The following example shows a case where the complainer did not provide a statement of complaint or agree the heads of complaint, despite being given ample opportunity to do so. This is an example of good complaint handling practice of maintaining an audit trail in circumstances where the complainer is reluctant or unwilling to engage.



Example 3

The complainer corresponded extensively with the enquiry officer over a two year period. From this correspondence, the complaint enquiry officer identified a number of potential heads of complaint for investigation. However, the complainer thereafter disengaged and heads of complaint were not agreed. The complaint enquiry proceeded based on the heads of complaint identified by the enquiry officer and listed in the draft 'heads of complaint' form.

The paperwork supplied to us by Police Scotland contained a complainer contact log, which evidenced that the enquiry officer made numerous attempts to discuss and agree the nature of the complainer's complaints. The complainer contact log also documented that the complainer was advised of the importance of agreeing the heads of complaint and encouraged to engage to assist with the complaint enquiry. Given the serious nature of complaints and, in line with our Statutory Guidance, the enquiry proceeded based on the information that was available to the enquiry officer. If a complainer disengages with the process where the complaints are of a serious nature, the enquiry officer should nevertheless proceed with the investigation.



Overcoming the barriers

While we understand that obtaining a statement of complaint and/or agreeing the heads of complaint can be challenging at times, it is a crucial part of the complaints process.

Our Statutory Guidance states that the enquiry officer should, in certain circumstances, consider whether reasonable adjustments are required to accommodate the complainer's needs:

- Enquiry officers must apply a degree of flexibility regarding the method used to obtain a statement. Some complainers may have been affected by tragic or traumatic circumstances which led to their interaction with the police.
- Enquiry officers should consider whether reasonable adjustments are required to accommodate the complainer's individual needs and vulnerabilities. If the complainer is unwilling or unable to provide a statement by conventional means, they should be given the opportunity to communicate in other forms, for example, by a pre-prepared statement or email.

We would always encourage enquiry officers to proactively consider, and check with complainers, whether there are any reasonable adjustments or additional support measures that could help remove or reduce the barriers they may face in providing a statement of complaint or agreeing the heads of complaint.

For example, the enquiry officer may consider:

- Providing translation or British Sign Language interpretation services.
- Assisting with access to an independent advocacy service.
- Providing correspondence in Braille, by audio CD, using larger font or reading the information aloud to the complainer.
- Using 'easy to read' to translate difficult information by making it easier for the complainer to understand.
- Arranging face to face meetings for complainers who may suffer from visual or hearing impairments, where telephone communication is not appropriate.
- Permitting the complainer to provide a pre-prepared statement or agree the heads of complaint by alternative means, i.e., email or letter.

Enquiry officers should not assume what reasonable adjustments are required and consult with the complainer regularly to ensure they feel supported.

Example 4 shows a case where the enquiry officer supported the complainer in making his complaint through a reasonable adjustment, which we highlighted as good complaint handling practice.



Example 4

The complainer explained to Police Scotland that he had a diagnosed mental health condition that prevented him from being able to verbally engage with the complaint enquiry. We agreed with the enquiry officer's approach in advising the complainer to provide information and agree the heads of complaint by email. We regarded this as an example of good complaint handling practice pursuant to the aim of supporting the complainer throughout the complaint process by making a small reasonable adjustment to Police Scotland's usual procedures for noting statements.





In summary, here are some useful tips

If you deal with complaints and are allocated a new enquiry, you should consider the following points:

- It is best practice to note statements of complaint in all cases, but essential to do so in cases where the complaint is serious, complex, detailed, or unclear.
- Do not assume what the crux of the complaint might be - clarify with the complainer.
- The complainer must always be asked to agree and sign a 'heads of complaint' form and be provided with a copy of the form for their own records.
- You should proactively consider whether reasonable adjustments are required to accommodate the complainer's individual needs and vulnerabilities.
- Where a statement of complaint is not noted and/or a 'heads of complaint' form is not signed, you should ensure that the reasons for this are documented on the complaint record and that all relevant correspondence is retained.
- You should ensure that early contact is made with the complainer, and they are regularly updated throughout the complaint investigation, with all contact being documented in a complainer contact log.



PIRC Investigations

Serious injury in police custody

We would like to raise awareness amongst officers and custody staff of particular incidents, of a similar nature, which have recently happened when persons have been taken into custody.

There have been a number of occasions where individuals have consumed drug packages or substances which they have concealed or secreted within or on their body. This has happened while being searched, or after being searched and placed in a cell.

The following example highlights a recent incident when a male person was taken into custody in connection with a housebreaking.

Example

The individual was taken into custody and whilst being processed became incoherent, unable to answer questions or stand unaided. The custody process was paused, and he was taken to hospital for medical assessment.

Following the medical assessment, which confirmed there were no medical concerns, he was returned to custody where, due to his previous history for concealing drugs in police custody, a full strip search was authorised.

It was recorded on police systems that that he had warning signals for drugs, on his Criminal History System record that he had previously hidden drugs in his underwear and on the National Custody system it was documented on three occasions that he:

- Had consumed tablets from a trouser pocket.
- Had a polythene bag containing cocaine and heroin recovered from a cell – not considered to have been internally concealed.
- Had resisted arrest and in doing so managed to consume a quantity of suspected Valium, which were not concealed.

During the search the Police personnel saw what appeared to be a package concealed on his person, which he attempted to retrieve, began to struggle and broke free, before placing the package in his mouth.

The struggle continued and, after a short time, the individual became unresponsive and appeared to be choking. Cardiopulmonary resuscitation (CPR) chest compressions were commenced, and an ambulance was summoned. Medical staff were able to remove the package from his mouth and place him in a medically induced coma.

The staff concerned confirmed they were not fully briefed about his previous history of concealing and consuming drugs when in police custody.



Our guidance

Appropriate briefings are imperative to relay any information which may be relevant to assist staff making risk assessments when engaged in such duties.

It is important that when officers are instructed to undertake a strip search of a person that they are fully aware of why it has been authorised and are informed of any historical information in order to gauge whether additional assistance should be sought in order to potentially prevent such incidents from occurring.



PIRC Investigations

Safe handling of firearms and surrendered weapons

We wish to highlight the issue of Police officers and staff being unfamiliar with the safe handling of firearms.

On occasions, firearms are surrendered to the police when a property is being cleared or they are no longer wanted by their owner.

It is recognised that, due to the geography of the Police Scotland force area and sometimes the lack of availability of Authorised Firearms Officers (AFO's), officers who are not firearms trained have to deal with and take possession of viable weapons.

Staff involved in such enquiries must make sure they are aware of the relevant guidance on the safe handling of weapons.

On a recent occasion, a member of the public discovered two revolver style starter pistols and a Self-Loading Pistol (SLP) along with a quantity of ammunition whilst clearing a house and surrendered them to the police.

The weapons were uplifted by non-firearms trained officers who took them to a local police office in a cardboard box. The weapons were, thereafter, believed to have been made safe by two AFO's who, in line with the Firearms Licensing standard operating procedure (SOP), attached green labels indicating that the weapons were safe.

However, the officers concerned were unfamiliar with the style of the SLP and, as such, should have taken it in a ballistic proof bag to the Scottish Police Authority (SPA) Ballistics department for the, 'make safe' declaration to be properly discharged.

Despite believing they had made the weapon safe, the two officers concerned, entered the details of the firearms onto the production system and when one of the officers picked up the SLP, it discharged.

Our guidance



Officers should familiarise themselves with the appropriate guidance and information to remind them how to deal with firearms surrendered by members of the public.

In particular, they should be aware of the storage location of ballistic bags in the division, and any associated guidance for use of bags and handling firearms.

If AFO's or non-firearms trained officers or staff are unfamiliar with a particular firearm, then ballistic bags should be used to secure the weapon.

If in any doubt about it being safe, contact should be made with SPA Ballistics department.



News

PSD Induction training

We recently provided some practical input to the Professional Standards Department (PSD) induction training course. Our Reviews team talked through the six-stage complaint handling process, focussing on the do's and don't's of complaint handling and providing some operational examples of good complaint handling.

Our Investigations team also attended the session and, using real PIRC investigations, discussed the investigation of criminal complaints. The training was positively received and we look forward to presenting at future induction training sessions.

PIRC Audit

Following the recommendations in the [Dame Elish Angiolini report](#), we will shortly be undertaking an audit of PSD's six-stage complaint handling process. The field work stage of the audit will commence on receipt of the relevant files from Police Scotland, with the aim of publishing the audit results in April 2024.

PIRC's new website

Our newly designed site, pirc.scot, supports our ongoing commitment to transparency about our work and provides a fully accessible, online application process for those who wish to request a Complaint Handling Review.

Please take a look and discover more about:

- [Guidance for policing bodies](#)
- [Our published reports on completed Investigations and Complaint Handling Reviews](#)
- [Opportunities to work for PIRC](#)
- [Our Investigations work](#)
- [How to apply for a Complaint Handling Review](#)

National Complaint Handling Development group

The National Complaint Handling Group has been re-established with a focus on practical complaint handling trends and themes. The group, chaired by Superintendent Kate Stephen, has representatives from PIRC, PSD, and the Scottish Police Authority (SPA). The group also act as a forum to discuss any recommendations arising from the previous PIRC/SPA/National Complaint Assessment and Resolution Unit (NCARU) audit.



Who we are

The Police Investigations and Review Commissioner (PIRC) carries out independent investigations into certain incidents involving the police.

- We review how policing bodies in Scotland have handled complaints made about them by the public.
- We ensure that Police Scotland and the Scottish Police Authority (SPA) have suitable systems in place for handling complaints.
- We are independent, and make our decisions entirely independently of the police and government.



Contact us

Both our Reviews team and Investigations team are happy to offer support and guidance on any questions you may have around related work.

Please use the following details to contact the relevant team:

Reviews team

enquiries@pirc.gov.scot

(01698 542900)

Investigations team

referrals@pirc.gov.scot

(01698 542905)

pirc

Police Investigations &
Review Commissioner

Hamilton House, Hamilton Business Park, Caird Park, Hamilton ML3 0QA
T: 01698 542 900 E: enquiries@pirc.gov.scot [in](#) | [@PIRCNews](#) | pirc.scot

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