

LEARNING POINT

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Police Investigations &
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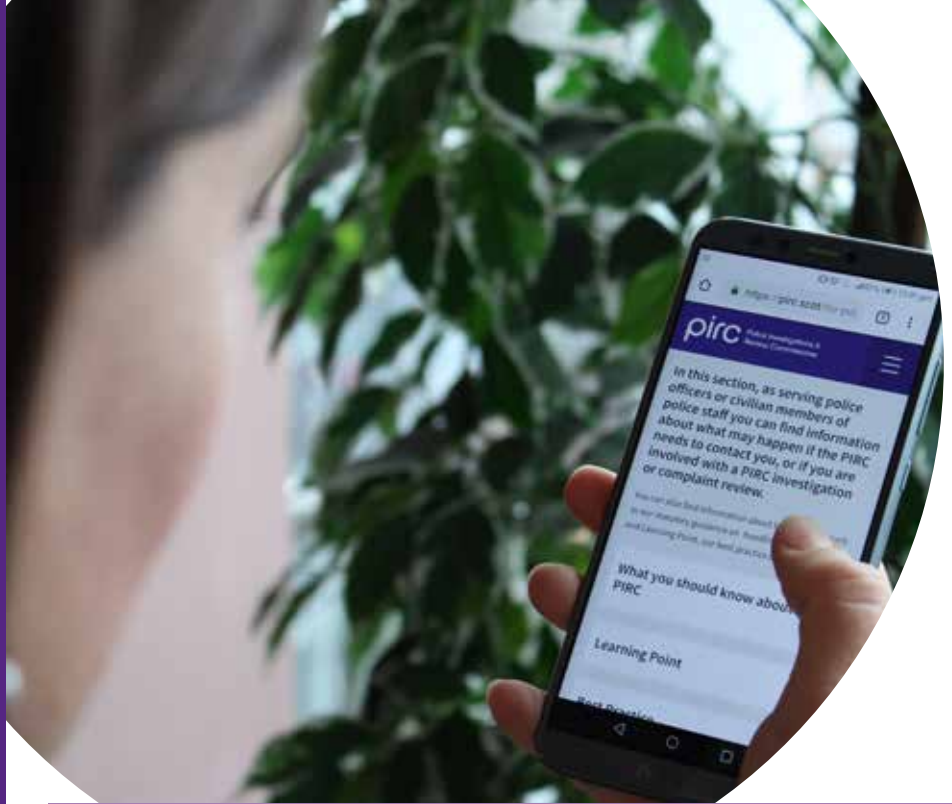
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WELCOME

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](#)





Operational guidance – Reviews

Final letters to complainers

In recent Complaint Handling Reviews (CHR's), we have identified a recurring issue where final letters to complainers often lack a detailed assessment of the evidence available. As this is an important part of the CHR process, we have detailed below how those involved in writing final letters should approach this task.

Around 33% of PIRC recommendations are for Police Scotland to reassess the evidence available and provide the complainer with a further response. As these recommendations generate additional work for both the PSD and PIRC, we would like to take this opportunity to offer some guidance on how to ensure the final letter provides sufficient detail.

We have identified instances of a lack of detail in relation to fairly serious complaints, for example, the use of excessive force by officers during an arrest. While the complaint enquiries have established material evidence in relation to the allegations, the final response letters have not fully addressed this evidence or explained how it was taken into account when determining the complaint outcome.

Where final letters contain a lack of detailed assessment of the evidence available, PIRC often makes recommendations for Police Scotland to reassess the complaints based on all of the evidence available; and provide further well-reasoned responses, which outline how this evidence has been assessed.

If you are involved in the compilation of final letters, please ensure you include a detailed assessment of all of the available evidence which has been established by the complaint enquiry.

Remember - in line with Section 6.14.7 of the Complaints Standard Operating Procedure (SOP), all final letters should:

- Be based on the facts established by the Enquiry Officer; and
- Explain the facts and how they were used to inform the conclusions reached.

Employing the principles of the SOP in final letters could help reduce the number of PIRC recommendations made in this area, and lessen the workload of all involved in the complaint handling process.



EXAMPLE

In relation to a complaint regarding the use of excessive force, photographs of injuries said to have been sustained during the incident from which the complaint originated were available to the complaint enquiry. However, the final letter did not provide any assessment of the injuries or address whether/how they were taken into account when determining whether the force used by the officer was excessive.





Operational guidance – Reviews

Assessing whether a complaint is suitable for Front Line Resolution

Front Line Resolution (FLR) is an important part of the complaint handling procedure and should be applied wherever and whenever it is appropriate. The following guidance highlights how to use FLR.

WHAT IS FLR?

When a complaint is made, a supervisor may be able to resolve the complaint without the need to progress through the full six stage complaint process. Rather than conducting an investigation, the matter may be resolved by explanation, apology or assurance.¹

WHEN IS FLR APPROPRIATE?

FLR is only suitable where complaints are: non-criminal; non-serious (i.e. minor or trivial); non-complex; and are capable of resolution without a full complaint enquiry.²

WHEN IS FLR NOT APPROPRIATE?

In determining whether FLR is appropriate, the primary consideration is the nature of the complaint rather than the incident from which it has arisen.³ Complaints involving allegations of a complex or serious nature are not suitable for FLR. This includes allegations that an individual's human rights have been interfered with and other serious complaints alleging, for example:

- Excessive force
- Unlawful or unnecessary arrest or detention
- Denial of access to a solicitor or interpreter
- Allegations of discrimination; and
- Unjustified searches of persons or premises.⁴

INAPPROPRIATE USE OF FLR

A number of recent CHRs have identified instances where FLR has been used or attempted where the nature of the circumstances giving rise to the complaint are not suitable for FLR.

EXAMPLE

In a recent CHR, FLR was attempted where the applicant's complaints arose from his interaction with Police Scotland following his report of a theft allegation. The applicant accused the investigating officers of discriminatory behaviour, by failing to take the appropriate action against the main suspect due to his ethnicity.

Officers attempted to resolve the applicant's complaints by FLR which was inappropriate given the perception of the complainer that the officers were motivated by discriminatory behaviour. The FLR was unsuccessful.

We would highlight that officers dealing with complaints should give careful consideration to whether FLR is appropriate in the circumstances of the complaint, having regard to the terms of the Complaints about the Police SOP and PIRC's Statutory Guidance.

1 Section 6.5.1 of the Complaints about the Police Standard Operating Procedure, Version 6.00

2 Section 6.5.2 of the Complaints SOP

3 Statutory Guidance on the handling of complaints about the police in Scotland, March 2022- Publications | Police Investigations & Review Commissioner (PIRC) paragraph 36

4 PIRC Statutory Guidance, paragraph 35





POLICE

Operational guidance – Reviews

Identification of police officers in final letters

When responding to complaints about the police, the rights of police officers and members of police staff have to be balanced with the complainer’s right to understand the terms of Police Scotland’s response to their complaint.

Around 40% of Learning Points identified during our CHR process relate to identification of officers in the final response letters.

In accordance with our Statutory Guidance, we expect officers in a complaint response to be identified by either their name or shoulder number, unless there is specific reason not to do so, such as a concern for officer safety.

In a number of recent CHRs, we have identified instances where final response letters have not provided the names of the officers involved in the applicant’s complaints, referring to them instead as ‘the reporting officer’, ‘the subject officer’ or ‘the officer(s)’, with the same officer often being referred to by multiple different generic titles as part of the same complaint response.

To ensure that the police complaints process is efficient and effective, it is essential to public confidence that care is taken in explaining the findings and conclusions as clearly as possible. The failure to clearly designate the officers subject to the complaint, and who have provided information to inform the complaint enquiry, creates confusion for the complainer.

It also has the potential to impact upon the review process. This matter is often raised in CHRs as a Learning Point, where we have asked Police Scotland to remind complaint handlers of the requirements of the Statutory Guidance in relation to identification of officers in final response letters.

In light of the above, we would like to take this opportunity to highlight that officers dealing with complaints should take care to ensure that all officers referenced in final response letters are clearly designated either by their name or shoulder number.

Alternatively, in cases where it has been assessed that there is a specific reason not to include this information, the final response letters should provide an explanation why such information has not been included in the individual circumstances of that case.



The role of a PIRC scene manager



When undertaking an investigation on behalf of the Commissioner, PIRC Investigators have all the powers and privileges of a constable throughout Scotland (Schedule 4, para 7B of the Police, Public Order and Criminal Justice (Scotland) Act 2006).

PIRC has the same capability to deploy specialist resources as policing bodies and organisations involved in investigatory work.

One such specialism is the role of a PIRC scene manager who will deploy the same examination principals and, on occasions, work in conjunction with a Police crime scene manager. The role of the PIRC scene manager is to proactively control and supervise the examination of a scene (including the management of staff, processes and resources) based on available intelligence and in accordance with our senior investigator's direction and agreed investigative priorities.

They also assist to resolve any investigative challenges through facilitating the input of forensic science specialists to effect the maximum potential recovery of physical evidence and intelligence.

PIRC has secured accredited training delivered by Detective Training at the Scottish Police College which now allows for PIRC scene managers to attend the same training as Police Scotland, further developing the shared knowledge of the respective organisations roles and how they can complement each other, without damaging the integrity or undermining public trust in such investigations.



EXAMPLE

Earlier this year, Police Scotland referred an incident to PIRC that required close cooperation particularly in the area of scene management. The incident scene was challenging in that a property had been set on fire and was deemed by the Fire and Rescue Service to be structurally unsafe. However, due to the nature of the incident, there was a requirement to ensure that all forensic opportunities were maximised and undertaken timeously.

Early dialogue took place between the PIRC senior investigator and the Police Scotland Senior Investigating Officer (SIO), through the medium of a Gold Group. There was further engagement through the forensic strategy meeting with representatives from PIRC, Police Scotland, Scottish Police Authority Fire Services and the Crown Office and Procurator Fiscal Service.

Priority actions were identified and undertaken, requiring close cooperation between each of the organisations under the direction of the PIRC scene manager and Police Scotland's crime scene manager whilst representatives from the Fire Service provided an overview of the structural integrity of the building. A safety plan was developed with the Fire Officer in charge maintaining control on access and evacuation of the scene.



Operational guidance – Investigations

Positive outcomes for Body Worn Video footage

Prior to COP26 in November 2021, Police Scotland issued Body Worn Video (BWV) cameras to all their Authorised Firearms Officers (AFOs) deployed in the Armed Response Vehicles (ARVs) and Counter Terrorist Specialist Firearms Unit (CTSFU). This was to essentially to provide operational integrity and support in what could have been a very challenging deployment.

This was not the first deployment of BWV by Police Scotland; it has been used in an operational capacity for a number of years originally within North East division.

We have found the evidence obtained from BWV has greatly enhanced our ability to assess referrals made to us when firearms or tasers are presented by the Police.

We have experienced the benefits to be derived from BWV on a number of occasions, ranging from complex multi resource incidents involving specialist firearms personnel through to single ARV deployments. The evidential capture has been a game changer in terms of the ability of PIRC to quickly secure best evidence, in the form of live high quality audio and video capture of an incident from a variety of angles and indeed perspectives.

We would take this opportunity to remind operational officers and AFOs, who are deployed with the benefit of having a BWV Unit, to ensure that the cameras are activated before attending incidents. The ability of capturing best evidence of any incident benefits everyone involved, particularly Police officers, who can find themselves involved in complex and dynamic incidents and being asked to provide detail and minutia many months afterwards.

To those charged with the responsibility of investigating Police complaints or, in the case of PIRC, investigating a wide range of Police incidents, it has proved invaluable to establishing the facts and circumstances, at pace, to the benefit of not just the officers but for the public. The ability to have the best evidence and take expeditious decisions is vital to increasing trust and confidence in the quality of Policing services.

EXAMPLE

- We recently utilised footage from an operational officer who deployed their Taser within a flat after negotiating with an individual armed with a knife.
- The footage from the BWV allowed us to make a comprehensive assessment of the incident and support our decision making process with a comprehensive rationale.
- This allows PIRC to take decisions in significantly reduced timescales, which is a much better outcome for all parties concerned.





News in brief

Statutory Guidance updated

We recently issued an update to our Statutory Guidance. The purpose of our Statutory Guidance is to set standards for police complaint handling in Scotland, by providing practical advice on how complaints should be dealt with.

Following recent discussions with the Equality and Human Rights Commission in Scotland, we made a small number of revisions to our Statutory Guidance.

Please read or download the Statutory Guidance document on our website
www.pirc.scot

If you require any further information or support with the guidance, please contact our Reviews team by email at
enquiries@pirc.gov.scot

Annual Report 2021-2022

Our annual report for 2021-2022 is available online now at
www.pirc.scot

Published CHR's

We publish an anonymised executive summary of our complaint handling reviews on the PIRC website. A small number are not published, where there is a risk that publication could lead to the identification of any of those involved or cause distress to the applicant.

Read our newest, published CHR's on the [publications page of the PIRC website](#).

PSD/PIRC event – September 2022

A successful engagement event with participants from both PIRC and PSD was delivered in September 2022.

The aim of the day was to enable engagement and development for both PSD and PIRC colleagues with a view to improving the way the teams work together.

Throughout the day, teams shared their knowledge, and made positive use of the networking opportunities on offer. The event was the first of many steps to improving the way both PSD and PIRC work together.

As a result of positive event feedback, a number of short life working groups are currently being developed to take forward some of the key discussion points from the day. The departmental leads / owners of the actions will be contacted to progress these actions.

The main areas of interest include:

Information sharing between PIRC, PSD and COPFS

- NCARU processes
- PIP processes
- A review of the MOU
- PSD on-call guidance
- Reviewing options to improve officer awareness of learning points identified by PIRC

Similar events will be run in the future to ensure continual improvement.



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.





PIRC – quick facts

What kind of complaints does PIRC review?

We review 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 type of complaints can't PIRC review?

We cannot review allegations of criminal behaviour by police officers or staff. These are dealt with by the COPFS.

We also cannot consider complaints made by individuals currently or formerly serving with the police about employment matters, such as grievances.

How does 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 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.

If PIRC agrees to conduct a CHR, 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.

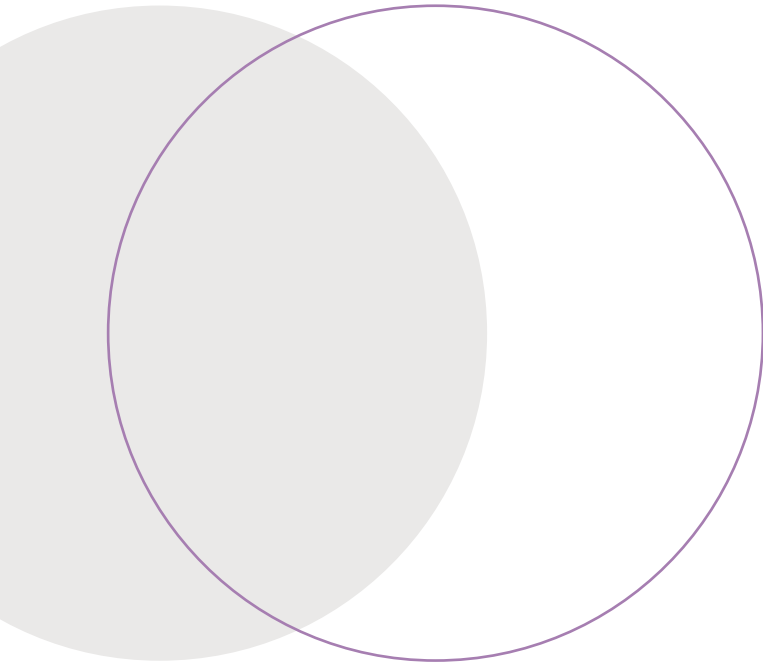
What happens at the end of a PIRC complaint review?

We have no punitive powers.

Following a CHR, irrespective of its findings, we may make recommendations to policing bodies in order to minimise the likelihood of similar problems arising in the future.

In some cases PIRC may issue a reconsideration direction. This means 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 PIRC may decide that it should supervise the reconsideration. Recommendations and reconsideration directions should be implemented within two months of the date of a review report being issued.



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

enquiries@pirc.gov.scot

(01698 542905)



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