

LEARNING POINT

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pirc

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 Investigations

Domestic Abuse Incidents

We would like to remind officers and their supervisors of their responsibilities when dealing with incidents of domestic abuse and to ensure that such incidents are dealt with in line with the Domestic Abuse Standard Operating Procedure (SOP).

Case study

In a domestic incident which occurred in April 2023, officers from a neighbouring sub-division were assigned to the incident. While their Sergeant was made aware of their attendance, the Sergeant with responsibility for the geographical area in which the domestic incident occurred was not made aware of the incident.

The officers completed a Domestic Abuse Questionnaire (DAQ) and an Interim Vulnerable Persons Database (iVPD) in connection with the incident and submitted these to the workbasket of their own Sergeant who by that time had concluded his shift. This resulted in the associated documents not receiving a supervisory footprint and a subsequent delay of five days before they were submitted to the division's Risk and Concern Hub. This delay prevented the opportunity for safeguarding measures to be considered by Police Scotland in conjunction with partner agencies.

During the period, the DAQ and iVPD were awaiting supervisor assessment, the victim of the original domestic incident was subject to a further domestic assault, committed by the same perpetrator.

Currently the Domestic Abuse SOP is silent on oversight arrangements in instances where Police Scotland officers attend a domestic incident out with their sub-division or command area. It does not specify whether management responsibility sits with attending officers' line manager or the duty supervisor with geographical responsibility for the incident.

PIRC has recently recommended that Police Scotland revise the SOP to provide clarity on who has supervisory responsibility in such circumstances to ensure that there is effective management overview of such incidents.



Concern for Persons



In this item we highlight Concern for Persons incidents where anxieties are raised for a person who fails to collect a regular methadone prescription and have subsequently been found dead.

When conducting such enquiries any failure to collect a daily prescription of methadone, should act as an immediate red flag and result in heightened concern and action.

Case studies

One such instance occurred in February 2023, when an addiction worker contacted Police Scotland expressing concern for a male person who had failed to uplift his methadone and had not responded to efforts to contact him.

A STORM incident (STORM is a Command and Control System) was raised and a response policing supervisor, who was made aware of the call, reviewed the incident, and determined that there was no requirement for police to attend.

Three days later the person's social worker contacted Police Scotland repeating concerns for him and advising that no update had been received in respect of the previous reported concerns. Officers then made a number of enquiries including attending at the dispensing pharmacy. They also attended at his home and on forcing the door found him lying on a couch, clearly deceased.

In another case in June 2023, officers had dealings with a female at a disturbance but, at that time, had no need to take any formal action and conveyed her to her partner's address.

Three days later an employee from Drug Addiction Services tried to contact the female as she had not collected her daily methadone prescription and had stopped visiting her partner who had been in hospital for an extended period.

The addiction worker attended at the local police station to report his concerns. A STORM incident was created, and officers later forced entry to her home without any success.

As there had been reported sightings of her after she had been dropped off at her partners' address policing supervisors decided not to classify her as a Missing Person. Subsequent CCTV enquiries identified the information of sightings to be incorrect.

After a further three days, a member of staff from the pharmacy contacted Police Scotland and reported concerns as she had not collected her methadone prescription for six days and had appeared unwell on her last visit. A further Concern for Person incident was created, and officers forced entry to the partner's address and found the female deceased.

In both instances earlier investigations with the pharmacies and drug addiction workers would have provided important lifestyle information and prompted a more coordinated investigative approach.

A peer review of the second example found that the failure to attend to obtain a daily methadone prescription was a significant factor and should have resulted in a Missing Persons enquiry being established.





PIRC Reviews

How much is enough?

During this financial year, we have observed a significant increase in the number of complaint enquiries deemed to be insufficient during our Complaint Handling Reviews (CHR). At the end of quarter three in the current financial year, almost 60 percent of all our recommendations related to asking Police Scotland to conduct further enquiries into relevant complaints. In order to assist the police complaint handlers to get it right the first time, and to reduce the number of adverse CHR findings and recommendations made in this area, this edition of Learning Point will focus on the proportionality and sufficiency of the complaint enquiry.

Our Statutory Guidance encourages policing bodies to deal with complaints in a timely, efficient and proportionate manner. Whilst some complaints require a significant level of enquiry due to the complexity of the issues raised, others can be handled or resolved relatively quickly. A considerable proportion of police complaints are service complaints that are suitable for the less formal resolution process. Our statutory guidance encourages the policing bodies to attempt to resolve relatively minor, straightforward complaints quickly by Frontline Resolution (FLR).

However, for a variety of reasons, it is not always possible to achieve a successful resolution of a complaint. In such circumstances, the policing body must decide whether it is proportionate to progress the complaint to a full complaint enquiry. In our Learning Point Issue 22 (March 2023) we provided detailed guidance on how policing bodies can best utilise the non-investigation provisions in relation to complaints that are suitable for FLR.

In this Issue, we will discuss how to balance the concept of proportionality, in terms of the extent or level of complaint enquiries, with the need to ensure that the complaint enquiry is sufficiently thorough, ensuring that all obvious material lines of enquiry are pursued.

Complaints that are assessed as not suitable for early resolution, or FLR, during the initial assessment, and therefore progressed to the full complaint enquiry, are usually complex and serious complaint allegations. Such complaints often arise out of police investigations into serious incidents or crimes, likely to involve a number of police and/or civilian witnesses, significant volumes of documentary/audio/video productions, and may often involve or require engagement of specialist departments.

However, not every complaint arising out of serious incident or complex crime investigation requires extensive complaint enquiry.



In the context of any complaints enquiry, the overarching principle is that enquiries must be sufficient to enable an effective and properly reasoned response to be issued to the complainer.





Ultimately, it is for the enquiry officer to decide the proportionate level of investigation required to conclude a complaint. However, in every complaint enquiry, the complaint handlers must consider:

- **The need to establish the material facts** – or in other words, “What did happen” and “What should have happened.”
- **Whether particular facts are in dispute** – the enquiry should focus on establishing those facts that are in dispute.
- **The availability of potentially material evidence** – Where the facts giving rise to a complaint are in dispute and potentially material evidence is available (e.g. CCTV, Body Worn Video (BWV) or the account of an independent witness) it must be obtained and preserved at the earliest opportunity. Where the decision is taken not to carry out particular enquiries (e.g. obtaining statements from certain witnesses), enquiry officers should note the reasons for their decisions.
- **The seriousness and/or complexity of the complaint and any public concern** – where the complaint may entail serious consequences for a complainer, police officer or third party, greater time and resources will generally require to be allocated to the investigation.
- **The extent to which the complaint may give rise to learning** – this is not a decisive factor in itself, but may justify additional enquiries where otherwise these may not be necessary.



In many complaint cases, the level of enquiry required to be undertaken will often depend on the information already available to the enquiry officer and any further information that could be considered necessary in order to establish the key facts surrounding the complaint. In some cases, the availability of CCTV footage or audio recordings may allow the enquiry officer to conclude the investigation quickly and provide a clear determination of the complaint.

In other cases, more extensive enquiries may be required. For example, when a complainer has made a specific allegation about the actions of an officer (e.g. incivility, unlawful entry, excessive force), the complaint enquiry should not rely solely on information recorded on police systems (e.g. details from STORM reports or PRONTO entries, which is an electronic notebook system) to reach a determination. Rather, an account should be sought from the subject officer(s) in which the specific allegation made by the complainer is put directly to the officer(s) for their comment and explanation.

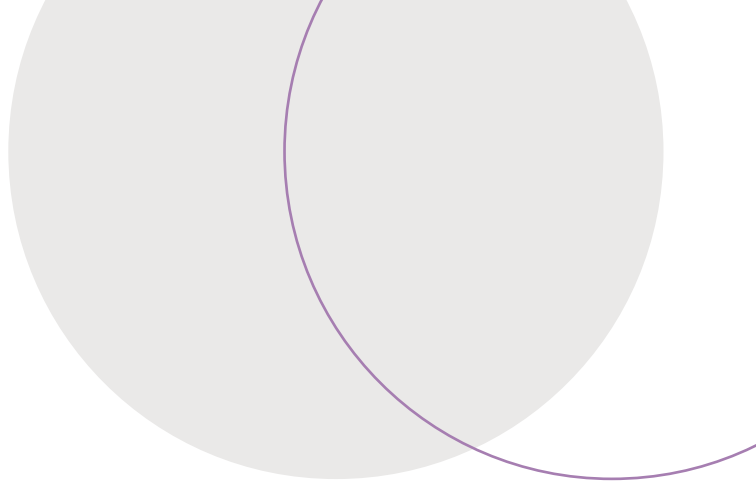
Similarly, in cases where the evidence is finely balanced, the enquiry officer should consider whether there are any obvious outstanding lines of enquiry that could potentially tip the evidential balance one way or the other.



Example

The complainer made an allegation of incivility against the subject officer. The subject officer provides an account denying the allegation. There are no other witnesses present during the conversation which gave rise to the complaint, so the evidence can be said to be finely balanced. There is, however, an audio recording of this interaction, provided by the complainer. The audio recording must be examined as it can provide definitive material evidence which can tip the balance of the available evidence and alter the final complaint determination.





Example

The complainer made an allegation that an officer told her she could not answer 'no comment' to a question during a police interview. During the complaint enquiry, no statement of complaint was obtained from the complainer, no accounts were obtained from the officers subject to the applicant's complaint or the interpreter present during the interview. This resulted in material information relevant to the applicant's complaint not being sought, nor were the officers subject to the complaint afforded an opportunity to respond. Instead, the complaint was determined based on what was recorded in the subject officer's PRONTO device. We concluded that the complaint enquiry was insufficient and made a recommendation to undertake further necessary enquiries.

Where the complaints made are of a very general nature, i.e. an officer was unprofessional or uncivil, we would encourage the enquiry officer to seek further clarification from complainers. In such cases, the onus is on the enquiry officer to try to establish why the complainer has reached such a view and determine the root of their dissatisfaction. In our CHRs, we have observed an increase in the number of instances where complaint enquiry officers elect not to engage with the complainer at the start of the complaint enquiry, relying on the principle of proportionality. In such cases the complaint enquiry proceeds on the basis of the initial complaint submissions by the complainer. In our experience, a decision not to engage with the complainer to develop a better understanding of their dissatisfaction, often leads to misunderstanding or misinterpretation of the crux of the complaint, and invertedly diverts the complaint enquiry from the issues that lie at the heart of the complaint. In our Learning Point Issue 23 (November 2023) we examined in detail the importance of obtaining statements from the complainers and the benefits of such engagement in terms of streamlining and focusing the complaint enquiry on the main points of the complaint.



Example

The complainer made an allegation that Police Scotland's delay of around three months in investigating his report of theft had resulted in their failure to recover his property. During the complaint enquiry, no accounts were obtained from the officers responsible for the early stages of the investigation. Instead, the complaint was determined based on the information contained in the incident and crime reports and accounts from the officers who took over the enquiry at a later stage. We concluded that the complaint enquiry was insufficient and made a recommendation to undertake further necessary enquiries.

The proportionality of complaint enquiry is a key aspect of an effective and efficient complaint handling system. However, it is imperative that considerations of proportionality do not adversely affect the quality of the complaint enquiry and are carefully assessed against the requirement to secure all material information necessary in order to provide an effective and properly reasoned response to the complainer.



News

PIRC/PSD liaison event

Our latest PIRC/PSD liaison event was held on Wednesday 17 January 2024. This was another well received event which encouraged engagement and positive discussions around a variety of themes and topics. The workshops provided an opportunity for PIRC staff to highlight particular areas of improvement and gave PSD staff a chance to ask specific questions around processes and the PIRC Statutory Guidance.

Over seventy attendees from across Investigations, Complaints/Reviews and Admin teams fed back that they felt this was a valuable opportunity to meet face-to-face with partners and discuss in detail concerns and solutions in an open forum. Each section has agreed to continue with regular meetings outwith the liaison event cycle. We look forward to delivering actions and to the next event later this year.

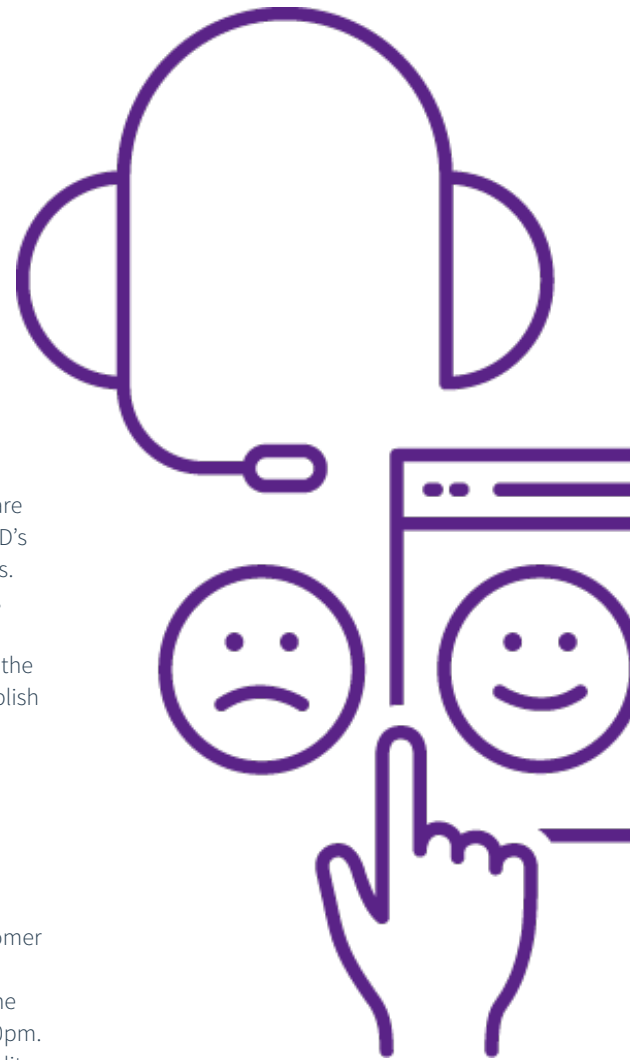
PSD Audit

Following the recommendations in the Dame Elish Angiolini report, we are currently undertaking an audit of PSD's six-stage complaint handling process. The field work stage of the audit was completed in January, and we are currently in the process of analysing the information gathered. We aim to publish the audit results in April 2024.

Customer enquiry phone line

The opening times of our main customer enquiry phone line, (01698 542900) changed on Friday 15 March 2024. The new operating hours are 9am to 3.30pm. This change will provide a better quality of customer service, with more staff available to help with enquiries during the busier hours of the day.

Individual PIRC officers can still be contacted by PSD staff via their direct lines or mobile phones during office hours.



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:

enquiries@pirc.gov.scot

(01698 542900)

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